SUPREME COURT OF THE UNITED STATES

No. 25–332

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, ET AL., PETITIONERS *v.* REBECCA KELLY SLAUGHTER

ON WRIT OF CERTIORARI BEFORE JUDGMENT TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

[June 29, 2026]

JUSTICE SOTOMAYOR, with whom JUSTICE KAGAN and JUSTICE JACKSON join, dissenting.

For most of this Nation's history, Congress and the President together have decided that some Government functions should operate at a distance from partisan politics. Those include the management of nuclear energy; the security of the monetary supply; and the safety of American workplaces, consumer products, and chemical hazards. In these and many other areas, the wisdom of the centuries has taught that some decisions should depend not only on who is in office—much less on who is disfavored or owed a favor by those in office—but also on judgment, expertise, and the public good.

Since the founding, Congress has created agencies that in various ways have embodied this goal of independence. Over the last 140 years especially, the political branches have done so by establishing agencies like the Federal Trade Commission (FTC): bipartisan, multimember bodies with "for-cause" removal protections. This structure allows the agencies to address complex problems while enjoying some independence from Presidential removal and thus absolute partisan control. More than 90 years ago, this Court affirmed, as to the FTC specifically, that the

constitutionality of its members' "for cause" removal protections "cannot well be doubted." *Humphrey's Executor* v. *United States*, 295 U. S. 602, 629 (1935). Ever since, Congress and more than a dozen Presidents have relied on *Humphrey's* to construct a workable Government, creating many other agencies in the FTC's tradition.

Today, this Court undoes centuries of political practice and concludes that all three branches of Government have been acting in open defiance of the Constitution all this time. Its conclusion is wrong. The text of the Constitution, along with its history, the longstanding practices of the political branches, and the precedents of this Court, make clear that Congress may limit the causes for which the heads of Commissions like the FTC can be removed by the President. In holding otherwise, the Court gives the President a power unknown even to the English Crown against which the Founders revolted, elevating him above his once-coequal branches by transforming a duty to take care that the laws be faithfully executed into a license to act in defiance of those very laws. If nothing else, the doctrine of *stare decisis*, which today's decision cursorily dismisses, should have made this a profoundly easy case under *Humphrey's*.

Perhaps worst of all, the Court today forgets its place. For most of our history, the Court has rightly left the removal question primarily to its coequal branches. Today's majority, however, decides that it knows better: better than members of the founding generation who created agencies, like the Sinking Fund Commission and the Bank of the United States, free from unfettered Presidential control; better than a century and a half of Congresses and Presidents, starting with Grover Cleveland and continuing into the 21st century, who created agencies in the FTC's mold; better than even Hamilton, Story, Webster, Holmes, Brandeis, Frankfurter, and Rehnquist. These great statesmen and Justices knew something that today's majority apparently does not: that fealty to the Constitution means

respecting not just what it says, but what it does not say and by its silence leaves to others to decide. It also means respecting precedent—not as a wooden exercise, but out of a recognition that, whatever our confidence in the theories of the present moment, the wisdom of our founding document does not belong to today's Justices alone. Because the Court ignores these foundational tenets, and in doing so upends rather than upholds the separation of powers, I respectfully dissent.

I

In 1914, Congress enacted the Federal Trade Commission Act, which established the FTC primarily to prevent "unfair methods of competition in commerce." 38 Stat. 719, as amended, 15 U. S. C. §41 *et seq*. Then, as today, the Commission included five Commissioners appointed by the President and confirmed by the Senate; no more than three Commissioners at a given time could be from the same political party; the Commissioners generally served staggered 7-year terms; and, central here, the Commissioners could be removed by the President only for "inefficiency, neglect of duty, or malfeasance in office." 38 Stat. 717–718, 15 U. S. C. §41. At the time of enactment, the Commissioners elected their own Chair from among their membership. 38 Stat. 718. Today, the President appoints the Chair. See §41; 16 CFR §0.8 (2025).

In 2018, President Trump nominated, and the Senate unanimously confirmed, Democrat Rebecca Slaughter to serve as an FTC Commissioner. In 2024, Slaughter was reconfirmed to serve a second term. In January 2025, soon upon assuming office, President Trump exercised his statutory authority to designate Andrew Ferguson as the new FTC Chair, 15 U. S. C. §41, and (as is customary) the former Chair who had served under President Biden resigned her seat. At that point, the FTC was split down the middle with two Democratic and two Republican Commissioners.

While the nomination of the President's choice to replace the Chair was pending before the Senate in March 2025, he fired the two remaining Democratic Commissioners, including Slaughter, leaving only the two Republican Commissioners. He did not identify any "inefficiency, neglect of duty, or malfeasance in office" on either removed Commissioner's part. *Ibid.* Instead, he simply asserted that these Commissioners were removed pursuant to the President's "authority under Article II of the Constitution." App. 28.

Slaughter sued, and the District Court granted her motion for summary judgment, holding that "the law on the removal of FTC Commissioners is clear" under *Humphrey's* and prohibits Slaughter's removal without cause. 791 F. Supp. 3d 1, 6 (DC 2025). The Court of Appeals denied the Government's request for a stay, holding it "highly unlikely to succeed on appeal because th[e] exact question" presented in this case "was already asked and unanimously answered by the Supreme Court adversely to the government's position 90 years ago in *Humphrey's Executor*." 2025 WL 2551247, *2 (CADC, Sept. 2, 2025). This Court, however, granted a stay and then certiorari before judgment, permitting Slaughter's removal. 606 U. S. 1051 (2025). Today, the FTC has only two remaining Commissioners.

II

Six years ago, this Court announced that the President generally must be able to fire executive officials "at will" (that is, for any reason or even no reason at all). *Seila Law LLC* v. *Consumer Financial Protection Bureau*, 591 U. S. 197, 204–205 (2020). In so holding, the Court recognized "two exceptions" to that "general rule" of "unrestricted removal power," *id.*, at 215: one for inferior officers and one that allowed Congress to "create expert agencies led by a group of principal officers removable by the President only for good cause," *id.*, at 204 (emphasis deleted). Today, the Court doubles back on the second exception for agencies like

the FTC, and doubles down on its "general rule" that the President's removal power cannot be cabined in any way. Its decision is grievously wrong.

A

1

This case should have begun and ended with this Court's unanimous decision from almost a century ago: *Humphrey's Executor* v. *United States*, 295 U. S. 602. *Humphrey's* addressed the very statute at issue here, which allows the President to remove FTC Commissioners only "'for inefficiency, neglect of duty, or malfeasance in office,'" and upheld its constitutionality against the very same challenge levied in this case. *Id.*, at 620; see *id.*, at 629, 631–632.

In reaching that conclusion, the Court focused on the FTC's "character." *Id.*, at 629, 631. The FTC, the Court explained, is a "body of experts" tasked with "carry[ing] into effect legislative policies embodied in the [FTC Act] in accordance with the legislative standard therein prescribed," including by determining what constitutes "'unfair methods of competition.'" *Id.*, at 624, 628. The agency thus was not purely executive; instead, it "act[ed] in part quasi-legislatively and in part quasi-judicially" by "filling in and administering the details embodied [in the law's] general standard." *Id.*, at 628. "[F]rom the very nature of its duties," it was clear that the FTC "must . . . act with entire impartiality," as "[i]t is charged with the enforcement of no policy except the policy of the law." *Id.*, at 624; see *id.*, at 625 (relying on legislative history emphasizing the "advantage" to be found in the FTC's "independence" and immunity from "suspicion of partisan direction").

For an agency of this "character," the Court held that Congress permissibly could forbid Presidential "removal except for cause." *Id.*, at 631–632. Given the FTC's role in "carrying into operation" Congress's legislative goals, it needed some independence from Presidential domination.

Id., at 630. It was "quite evident" to the Court, moreover, "that one who holds his office only during the pleasure of another . . . cannot be depended upon to maintain an attitude of independence against the latter's will." *Id.*, at 629. Indeed, the Court explained, James Madison had suggested much the same thing when discussing the office of the Comptroller of the Treasury in 1789. See *id.*, at 631 (citing 1 Annals of Cong. 611–612 (1789)). For executive officers whose duties "partak[e] strongly of the judicial character," Madison explained, "there may be strong reasons why an officer of this kind should not hold his office at the pleasure of the Executive branch." 1 Annals of Cong. 612. For the FTC too, the Court held, removal protections complied with the Constitution. *Humphrey's*, 295 U. S., at 631–632.

As Congress constructed a variety of agencies to serve the public's needs over the decades that followed, see *infra*, at 10–11, this Court repeatedly applied and expanded the rule announced in *Humphrey's*. In *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U. S. 579 (1952), *Humphrey's* was the only example Justice Jackson provided of a case in which the President's "power [wa]s at its lowest ebb" and the President was thus prevented from "tak[ing] measures incompatible with the expressed or implied will of Congress." 343 U. S., at 637–638, and n. 4 (concurring opinion). Later, in *Wiener* v. *United States*, 357 U. S. 349 (1958), Justice Frankfurter's opinion for a unanimous Court relied on *Humphrey's* (describing it as a "*cause célèbre*") to approve removal protections for the War Claims Commission, which settled claims by American prisoners of war and civil internees who suffered harm during World War II. 357 U. S., at 350, 353, 356. The Court explained that "the essence of the decision in Humphrey's case" was that certain Government officials, depending on their "function," require and may be given independence "'to exercise [their] judgment without the leave or hindrance of any other official.'" *Id.*, at 353 (quoting *Humphrey's*, 295 U. S., at 625–626).

In later decades, the Court reaffirmed *Humphrey's* rule that certain executive officers may enjoy for-cause protections. In *Morrison* v. *Olson*, 487 U. S. 654 (1988), Chief Justice Rehnquist, writing for a 7-to-1 Court, applied and expanded *Humphrey's* in a new context, approving removal protections for an independent counsel tasked with investigating allegations of crime by high executive officers. 487 U. S., at 688–691. Rejecting the idea that the only officers who could permissibly be granted removal protections were those who exercised "'quasi-legislative'" or "'quasi-judicial' powers," the Court held that the more fundamental question was whether removal protections unduly "interfere[d] with the President's exercise of the 'executive power.'" *Id.*, at 688–690. Still, the Court explained, *Humphrey's* "analysis of the functions served by the officials at issue" remains "[r]elevant" to answering that question. 487 U. S., at 691. Considering the "functions of the" independent counsel, alongside the President's remaining ability to exercise control over the office, the Court held that the for-cause removal statute at issue was constitutional. *Id.*, at 691–692.

Even in more recent cases in which the Court has declined to "extend *Humphrey's* to a 'new situation,'" *ante*, at 20, the Court has underscored that *Humphrey's* remains good law in its core application to multimember bodies like the FTC, see *Seila Law*, 591 U. S., at 215–218; *Free Enterprise Fund* v. *Public Company Accounting Oversight Bd.*, 561 U. S. 477, 483 (2010). In *Seila Law*, for instance, the Court held that removal protections were incompatible with an agency headed by a single director (rather than a multimember commission). 591 U. S., at 218–219. Even so, the principal opinion explicitly suggested that Congress could fix that problem by "converting" the single-headed Consumer Financial Protection Bureau, with all of the powers it possessed, "into a multimember agency" just like the FTC that *Humphrey's* had addressed. 591 U. S., at 237 (opinion of ROBERTS, C. J., joined by ALITO and KAVANAUGH, JJ.).

Searching for a distinction, the Government (echoed by the majority) contends that *Humphrey's* should not control as to the present-day FTC because the FTC's powers have expanded over the years since *Humphrey's* was decided. See Brief for Petitioners 25–28; *ante*, at 25–27. The premise that the FTC has fundamentally changed, however, is untrue: Contrary to the Government's assertions, the FTC of 1935, like today's FTC, had the power to conduct investigations, make rules, and bring enforcement actions. See Federal Trade Commission Act, 38 Stat. 719–723.[1] To the extent the FTC has gained power since 1914 (for example, the Government cites its ability to seek civil penalties, see Brief for Petitioners 25–26), those changes at the margins do not so transform the "character of the office" as to bring the agency outside of *Humphrey's* rule. 295 U. S., at 631. If, it was true that the political branches went too far in assigning certain powers to the FTC over the years, moreover, it is unclear why the appropriate remedy at this point would not be to sever these additional, objectionable powers. Cf. *United States* v. *Arthrex, Inc.*, 594 U. S. 1, 24–25 (2021) (opinion of ROBERTS, C. J.) (remedying Appointments Clause violation by altering the officers' powers); see also *id.*, at 44 (Breyer, J., concurring in judgment in part and

[1] *Humphrey's* did not explicitly identify each power, but the idea that "a court including Charles Evans Hughes, Louis Brandeis, Benjamin Cardozo, and Harlan Stone somehow misunderstood [the FTC's] powers lacks all plausibility." *Seila Law LLC* v. *Consumer Financial Protection Bureau*, 591 U. S. 197, 287, n. 10 (2020) (KAGAN, J., concurring in judgment with respect to severability and dissenting in part) (citation omitted). It is also true that, despite these powers existing at the time, *Humphrey's* described the FTC as sharing "no part of the executive power." 295 U. S., at 625, 628; see *ante*, at 18–19, 21, 33–34 (highlighting this point). For decades, however, this Court has recognized that even for agencies exercising powers that "would at the present time be considered 'executive,'" *Humphrey's* rule applies. *Morrison* v. *Olson*, 487 U. S. 654, 689–690, and n. 28 (1988). Congress, even before *Morrison*, extensively legislated, creating many agencies like the FTC, based on that understanding. See *infra*, at 10–11, 35–38.

dissenting in part) (joining this remedial holding). There then would be no need to adopt a sweeping new rule that will transform the balance of power across the Federal Government and deprive the public of Government impartiality in serving the public's needs. See *infra*, at 35–38.

Far from the minimal impact that the majority imagines *Humphrey's* to have had, *ante*, at 18–21, *Humphrey's* has sat at the center of this Court's separation-of-powers jurisprudence for nearly a century. If precedent were any guide, this case would be open and shut: The FTC's removal protections, as the Court has long held and repeatedly recognized, are constitutional.[2]

2

Humphrey's is not just a longstanding precedent of this Court. It also reflects a "deeply rooted tradition" embraced by all three branches of Government and the American people. *PHH Corp.* v. *Consumer Financial Protection Bureau*, 881 F. 3d 75, 177 (CADC 2018) (Kavanaugh, J., dissenting).

Such "longstanding practice" is entitled to "'great weight'" in separation-of-powers cases like this one. *Trump* v. *Mazars USA, LLP*, 591 U. S. 848, 862 (2020). On "doubtful question[s]" regarding the meaning of the Constitution, historical practice, when "deliberately established" through "legislative acts," can "put at rest" the Constitution's meaning. *McCulloch* v. *Maryland*, 4 Wheat. 316, 401 (1819); see *ante*, at 9. That is so even for practices that "began after the founding era." *NLRB* v. *Noel Canning*, 573 U. S. 513, 525 (2014).[3] As Justice Scalia explained, constitutional

[2]The majority also attacks *Humphrey's* reasoning and compatibility with later decisions. See *ante*, at 16–21. These arguments, flawed as they are, may be relevant to the *stare decisis* analysis, see *infra*, at 34–47, but they cannot change the fact that, until now, *Humphrey's* squarely controlled.

[3]See, *e.g.*, *Noel Canning*, 573 U. S., at 528–529 (relying on practices beginning after the Civil War); *Mistretta* v. *United States*, 488 U. S. 361,

interpretation should reflect "the principles adhered to, over time, by the American people, rather than those favored by the personal (and necessarily shifting) philosophical dispositions of a majority of this Court." *Rutan* v. *Republican Party of Ill.*, 497 U. S. 62, 96 (1990) (dissenting opinion). Like a "more democratic" form of *stare decisis*, respecting historical practice "promotes . . . stability, equality, and predictability." M. McConnell, Time, Institutions, and Interpretation, 95 B. U. L. Rev. 1745, 1776 (2015).

These principles apply with full force here. Today's decision addresses one of the oldest, most vigorously debated questions in constitutional law. See *infra*, at 18–24. Fifty years before *Humphrey's* was decided, Congress and the President began to reach a settled answer to that question, at least as to multimember agencies like the FTC. In 1887, as the railroads grew in strength across the American economy, Congress responded by creating the Interstate Commerce Commission (ICC), a powerful new agency with five Commissioners, appointed by the President by and with the consent of the Senate, who were removable only "for inefficiency, neglect of duty, or malfeasance in office." Act of Feb. 4, 1887, 24 Stat. 383. Three years later, Congress established the nine-member Board of General Appraisers to regulate American customs and granted it the same form of removal protection. Act of June 10, 1890, 26 Stat. 136; see A. Bamzai, Taft, Frankfurter, and the First Presidential For-Cause Removal, 52 U. Rich. L. Rev. 691, 694–695 (2018) (describing this Board as "one of the most powerful entities within the federal government" at the time). The

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390 (1989) (relying on "more than a century" of experience); *Ex parte Grossman*, 267 U. S. 87, 118 (1925) (relying on "long practice" since 1841); see also *United States* v. *Curtiss-Wright Export Corp.*, 299 U. S. 304, 327–328 (1936) (explaining that "[a] legislative practice . . . marked by the movement of a steady stream for a century and a half of time goes a long way in the direction of proving the presence of an unassailable ground for the constitutionality of the practice").

Federal Reserve Board followed with similar removal protections in 1913. Act of Dec. 23, 1913, 38 Stat. 260–261. The next year, Congress created the FTC with removal protections aimed at ensuring "a continuous policy," "free from the effect of . . . changing [White House] incumbency." 51 Cong. Rec. 10376 (1914).

From here, "many more . . . for-cause removal provisions followed." *Seila Law*, 591 U. S., at 275–276 (opinion of KAGAN, J.). Today, dozens of agencies are headed by commissioners or board members removable only for cause. *Id.*, at 276; see J. Manners & L. Menand, The Three Permissions: Presidential Removal and the Statutory Limits of Agency Independence, 121 Colum. L. Rev. 1, 74–79 (2021) (Manners & Menand) (collecting additional agencies). Thus, unlike in other recent cases, in which the Court considered agencies that it deemed "historical anomal[ies]" with "no foothold in history or tradition," here history and tradition point in the opposite direction. *Seila Law*, 591 U. S., at 222; see *Free Enterprise Fund*, 561 U. S., at 505.

Congress, moreover, has taken this action not only with the Executive Branch's "acquiesce[nce]," but also with the active participation of Presidents across the ideological spectrum. *Zivotofsky* v. *Kerry*, 576 U. S. 1, 23 (2015); see also, *e.g.*, *United States* v. *Midwest Oil Co.*, 236 U. S. 459, 473 (1915) (endorsing the "wise and quieting rule that in determining . . . the existence of a power, weight shall be given to the usage itself—even when the validity of the practice is the subject of investigation"). President Lincoln, even before the creation of the ICC in 1887, "asked Congress to establish" a Comptroller of the Currency and then signed the bill enacting that office into law even though it restricted the President's power to remove the Comptroller.

Seila Law, 591 U. S., at 274 (opinion of KAGAN, J.).[4] In fact, other than Humphrey's own removal, the Government struggles to find any Presidential objections to, let alone repudiations of, for-cause removal protections like the FTC's since they came into existence in the late 1800s. See Reply Brief 10–11 (noting one Presidential signing statement "questioning" removal protections but still signing them into law). Even if *Humphrey's* had never been decided, this longstanding practice, jointly undertaken by Congresses and Presidents, should be entitled to significant weight.

The majority's only response is *INS* v. *Chadha*, 462 U. S. 919 (1983), which held unconstitutional a 50-year-old procedure by which a single House of Congress could override an executive action. See *ante*, at 33. *Chadha*, however, is no model for today's decision. For one thing, *Chadha* did not involve a practice that had been repeatedly approved by this Court for nearly a century. Moreover, *Chadha* rested on "[e]xplicit and unambiguous provisions of the Constitution" (specifically, Article I's bicameralism and presentment requirements) in disapproving the challenged practice. 462 U. S., at 945. The majority here, by contrast, identifies no constitutional provision referencing or requiring an unfettered removal power. See *infra*, at 14–18. Instead, it rests heavily on structural inferences, legislative inaction, congressional debates, legal commentary, and private correspondence. See *ante*, at 9–13. Thus, unlike *Chadha*, this case does not ask whether 50 years of practice can overcome plain constitutional text. It asks whether the Constitution privileges the majority's flawed historical account as the final word on the subject, impervious to more than a century of later historical development.

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[4] The majority suggests that it is unlikely that President Lincoln would have supported a bill limiting his own removal power, see *ante*, at 32, n. 8, but that flies in the face of the fact that he did sign this bill into law without objection. Nor does the fact that Congress later repealed this law erase the historical record of Lincoln's actions. *Ibid.*

The answer is no. Although the majority suggests that its view reflects a settled construction of the Constitution, the opposite is true. For more than a century, the Nation has firmly rejected the majority's view and has recognized that Congress, not this Court, has primary say over whether multimember commissions like the FTC should have some insulation from direct Presidential control. It is thus the majority, not *Humphrey's* or the FTC, that improperly "transform[s] the 'established practice' of the political branches." *Mazars*, 591 U. S., at 867.

B

Ninety years of precedent and 140 years of consistent political practice should have been more than enough to resolve this case. They are not enough, however, for the majority. Instead, the majority disregards "a venerable and accepted tradition" after placing it "on the examining table" and "scrutiniz[ing] its conformity to" the majority's own "abstract" theory of unitary executive control. *Rutan*, 497 U. S. 62, at 95–96 (Scalia, J., dissenting).

There is no need for this renewed analysis, but even if we must return to fundamentals, the majority remains deeply wrong. Until 2010, this Court had generally allowed Congress to impose reasonable limits on the President's default power to remove Executive Branch officials if doing so did not impair his ability to perform his constitutional duties. See *Free Enterprise Fund*, 561 U. S., at 515–516, 532–533 (Breyer, J., dissenting). Recently, however, the Court has seized the issue from the political branches by fashioning a "general rule" of mandatory, illimitable at-will Presidential removal. *Seila Law*, 591 U. S., at 215. From the start, the majority's theory rested on shaky ground. Over time, its arguments have grown weaker still, as historical evidence has undermined key pillars of its theory. Today, the Court faced a choice: plow ahead, or acknowledge that the foundations on which the "general rule" of illimitable removal

power rests are less stable than the Court has previously asserted. Unfortunately, the Court repeats and expands upon several prior errors that require correction.

1

Beginning at the founding, there is no evidence that those who shaped or ratified the Constitution adopted the majority's general rule of at-will removal. Indeed, the Court has long noted that, for the most part, "[t]he Constitution is silent with respect to the power of removal from office, where the tenure is not fixed." *Ex parte Hennen*, 13 Pet. 230, 258 (1839). The one exception, and only explicit removal power granted in the Constitution, is for impeachment of the "President, Vice President, and all Civil Officers," a power placed in Congress's hands, not the President's. See Art. I, §3, cls. 6–7; Art. II, §4.

Still, the majority begins by claiming that its theory of Presidential removal comes from Article II's "vest[ing of] '[t]he executive Power'" in the President. *Ante*, at 1, 4 (quoting Art. II, §1, cl. 1). That assertion begs the question. Does the "executive Power," in fact, contain an illimitable removal power beyond Congress's power to "establis[h] by Law" certain offices, as "necessary and proper" to structure the Executive Branch? Art. I, §8, cl. 18; Art. II, §2, cl. 2. After all, agencies like the FTC would not even exist if not for Congress's exercise of its Article I power to create them.

There is little to suggest that "executive Power," as understood at the time of the founding, was as capacious as the Court today asserts. The powers held by the English Crown and state governors before ratification did not include a removal power that the legislature could not modify. Instead, Parliament often restricted the Crown's ability to remove even high-level royal officers, and States with vesting clauses like the Constitution's similarly allowed for limits on gubernatorial removal powers. See *Seila Law*, 591

U. S., at 267–268 (opinion of KAGAN, J.). Recent, post-*Seila Law* scholarship overwhelmingly confirms this point.[5]

Nor is there evidence that the Constitution was intended to give the President more expansive removal powers than those enjoyed by the Crown. For good reason: Doing so would have been inconsistent with the Constitution's very foundation. The Framers "never intended" to give the President "the complete set of powers" that the English Crown held, let alone more. C. Chabot, Interring the Unitary Executive, 98 Notre Dame L. Rev. 129, 140 (2022) (Chabot). They carefully parsed the "'royal prerogative[s]'" and assigned many, including the power of office creation, to Congress. *Ibid.*; see G. Lawson, Command and Control: Operationalizing the Unitary Executive, 92 Ford. L. Rev. 441, 442–443 (2023) (Lawson) (explaining that the Constitution's vesting of the power to create offices in Congress was a "monumental change from English practice").

Removal also "was not discussed in the Constitutional Convention," *Myers* v. *United States*, 272 U. S. 52, 109–110 (1926), making an expansion of preratification executive power unlikely. Alexander Hamilton, then writing to support the States' ratification of the Constitution, explained that because the power to remove traditionally followed the power to appoint, "[t]he consent of [the Senate] would be necessary to displace as well as to appoint." The Federalist No. 77, p. 458 (C. Rossiter & C. Kesler eds. 1999). This was a selling point for the Constitution, as it meant that "[a] change of the [President] would not occasion so violent or so

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[5] See, *e.g.*, A. Bamzai & S. Prakash, The Executive Power of Removal, 136 Harv. L. Rev. 1756, 1790 (2023) (acknowledging that "parliamentary laws [could] nullify the common backdrop of at-pleasure removal"); Manners & Menand 18–21 (collecting English and early American removal limits); J. Shugerman, Venality: A Strangely Practical History of Unremovable Offices and Limited Executive Power, 100 Notre Dame L. Rev. 213, 216–218 (2024) (In England, "many high offices, and even 'great offices,' department heads, and cabinet-level offices were unremovable" by the Crown).

general a revolution in the officers of the government as might be expected if he were the sole disposer of offices." *Ibid.*[6] Madison also explained that "[t]he tenure of the ministerial offices, generally, will be a subject of legal regulation, conformably to the reason of the case and the example of the State constitutions." *Id.*, No. 39, at 238.

The Constitution may have been intended, as the majority argues at length, to "forg[e] a new path," in contrast to some state governments at the time, by "opting for one President" and not a "'committee-style'" Presidency. See *ante*, at 1–2, 4–9. This new path, however, does not lead where the majority wishes to go. Whether executive power vests in a single President or a council, the question remains whether the Vesting Clause forecloses any limitations on that person's (or body's) power to remove subordinate officials. For proof, look no further than Hamilton, who certainly agreed that executive power ought to be "placed in a 'single hand.'" *Ante*, at 6 (quoting The

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[6] Far from a "passing commen[t]" by Hamilton that the majority imagines this to have been, *ante*, at 29, Joseph Story later wrote that Federalist No. 77 "den[ied] the existence of the [unlimited presidential removal] power" and, in doing so, "had a most material tendency to quiet the just alarms of the overwhelming influence, and arbitrary exercise of this prerogative of the executive, which might prove fatal to the personal independence, and freedom of opinion of public officers, as well as to the public liberties of the country." 3 Commentaries on the Constitution of the United States §§1533–1534, pp. 390, 392 (1833) (Story). When the political branches ultimately concluded that, contrary to Hamilton, the President did have authority to remove officials without the Senate's consent, James Kent marveled at the "striking fact" that they did so based "upon inference merely" and "in opposition to the high authority of the *Federalist*." 1 Commentaries on American Law 290 (1826) (Kent). The majority's suggestion that Hamilton might have meant something entirely different in Federalist No. 77, *ante*, at 29, is also doubtful given Story's and Kent's understandings. Moreover, to the extent the majority identifies other later statements by Hamilton arguably in tension with his initial view in The Federalist, see *ante*, at 29–30, "changing minds and inconstant opinions don't usually prove the existence of constitutional rules." *Seila Law*, 591 U. S., at 270, n. 4 (opinion of KAGAN, J.).

Federalist No. 70, p. 424 (C. Rossiter ed. 1961)). Yet Hamilton also saw this choice as entirely compatible with his view that "[t]he consent of" the Senate would be necessary "to displace as well as to appoint" officers. The Federalist No. 77, at 458 (Rossiter & Kessler eds. 1999). He plainly did not view "the power to remove at will [a]s a necessary corollary of the Constitution's design," *ante*, at 8, and the majority is wrong to assume that a unitary Presidency implies an unlimited removal power.

The majority relatedly places undue weight on the notion that "'[t]he power of appointing and removing executive officers [is] inherent in [the] Executive.'" *Ibid.* Under the Constitution, the President does not have unlimited appointment powers either. His power is to "nominate"; only "by and with the Advice and Consent of the Senate" may he "appoint" the "Officers of the United States." Art. II, §2, cl. 2. What is more, the President can appoint officers only to offices "established by Law"—that is, by Congress. *Ibid.* Any link between appointment and removal thus undermines the existence of any inherent illimitable executive removal power. See, *e.g.*, Lawson 452–453. Given that the Constitution did not grant the President alone an illimitable power to appoint, it is all the less likely that it silently vested in the President an unbounded power to remove.

Nor does the Take Care Clause serve as a plausible source for the expansive removal power the majority posits. Contra, *ante*, at 4. "[T]he provision—'he shall take Care that the Laws be faithfully executed'—speaks of duty, not power." *Seila Law*, 591 U. S., at 268 (opinion of KAGAN, J.) (quoting Art. II, §3). As recent scholarship has explained, "'[f]aithful execution' was proto-fiduciary legal language from centuries of English law that limited the discretion of executive officials" and did "not expan[d] their power." J. Shugerman, The Misuse of Ratification-Era Sources by Unitary Executive Theorists, 58 U. Mich. J. L. Reform 591, 603–604 (2025); see A. Kent, E. Leib, & J. Shugerman,

Faithful Execution and Article II, 132 Harv. L. Rev. 2111, 2120 (2019) (explaining that the original public meaning of the Take Care Clause "supports readings of Article II that tend to subordinate presidential power to congressional direction"). At-will removal might be one good way of fulfilling those duties. There is no evidence, however, that anyone understood the Take Care Clause at or near the founding to imply a mandatory, inflexible rule of at-will removal that Congress could never modify.

In sum, nothing in the text of the Constitution, as understood at the time of the founding by those who ratified it, suggests the illimitable removal power the Court today endorses. The majority can shut its eyes to this evidence and point back to its past mistakes as support for the new ones of today. See *ante*, at 20 (citing *Seila Law* and *Free Enterprise Fund*). To the extent "'[o]riginal history'" is seen as "generally dispositive," however, see *United States* v. *Rahimi*, 602 U. S. 680, 738 (2024) (BARRETT, J., concurring), this background should have prevented the Court from continuing to build on the uncertain foundation of a general rule of illimitable Presidential removal.

2

The majority quibbles with some of the evidence discussed above, but in the end cites nothing from the ratification debates or the Constitution's text endorsing its view of unbounded removal power. Instead, the majority rests mostly on postratification commentary and congressional inaction. On this score, though, the majority also comes up short. Presidential removal has long evoked strong, conflicting views from American political leaders, but the available evidence from 1789 through the end of the 19th century reflects that the political branches have long believed, and acted upon the belief, that Congress has the power to set limits on the President's removal authority and that the President was not free to flout such limits when enacted.

a

Starting where the majority starts, the debates of the First Congress over the removal process for early department heads (which culminated in the "Decision of 1789") in no way resolve the question presented here. See *ante*, at 9–11. To begin, the majority's own theory is inconsistent. If "[t]ext and structure" already "taught that the President had to be able to remove" all of his inferiors in order to "'be *personally responsible* for everything'" within the Executive Branch, *ante*, at 9, then it is unclear what was left for the First Congress to "decide," much less spend days debating. The very need for a Decision of 1789 suggests that the removal question was still unanswered by 1789.

In any event, the debates from 1789 do not support the majority's understanding of executive power. The House in 1789 did not address whether Congress could place limits on the President's power to remove; it debated whether the President could remove officers *at all* without Senate consent. "[T]he great question" in 1789 "was whether the removal was to be by the President alone, or with the concurrence of the Senate." *Hennen*, 13 Pet., at 259. Some, as the majority explains, believed (as Hamilton did) that the Constitution required Senate consent for all removals; another group believed that Congress could choose whether to give the Senate a say; and a third believed the Constitution prohibited all Senate involvement in the removal process (outside of impeachment). *Ante*, at 9–10.[7]

The one "'[d]ecision'" that emerged from this debate was that "a congressional role in the removal process was rejected." *Bowsher* v. *Synar*, 478 U. S. 714, 723 (1986). To be clear on this, given the majority's elliptical treatment of what took place in the summer of 1789, here is what

[7] A fourth, smaller group believed that impeachment alone, without reserved power to the President, was the only way to remove an executive officer. See, *e.g.*, 1 Annals of Cong. 456–457 (1789) (Rep. Smith).

actually happened: The bill the House initially debated provided that the head of the Department of Foreign Affairs would "be removable by the President." 1 Annals of Cong. 370–371. Madison and his allies at first argued that this language should be "retain[ed] . . . in the bill" because it was "explanatory of the meaning of the Constitution" (that is, they thought it confirmed the President's power to remove), *id.*, at 464 (Madison), while the other camps opposed this language. Several days later, however, Madison and his allies "reversed course," arguing that the language they originally favored might wrongly suggest that the President lacked any removal power unless Congress provided for it by statute. J. Shugerman, The Indecisions of 1789: Inconstant Originalism and Strategic Ambiguity, 171 U. Pa. L. Rev. 753, 760 (2023); 1 Annals of Cong. 578 (Madison's ally, Egbert Benson, moving to amend the bill for these reasons). Ultimately, the House settled on a vague clause detailing who would have custody of certain books and records "whenever the said principal officer shall be removed from office by the President." Act of July 27, 1789, 1 Stat. 29. This language assumes that the President can remove officers without an express grant from Congress and without Senate involvement. No version of the bill debated or voted upon, however, suggested that Congress was prohibited entirely from limiting the causes for such removal.

As a result, nearly every scholar to have studied this episode, even those broadly supportive of the majority's view, has come to agree that "the Decision of 1789 did not endorse the view that Congress lacked authority to modify the Constitution's grant of removal power to the President." S. Prakash, New Light on the Decision of 1789, 91 Cornell L. Rev. 1021, 1073 (2006); see J. Manning, Separation of Powers as Ordinary Interpretation, 124 Harv. L. Rev. 1939, 1964–1965, n. 135 (2011); see also Shugerman, 171 U. Pa. L. Rev., at 759–762. Instead, Congress in 1789 left that question to later generations.

Fumbling for a response, the majority asserts that there is no constitutional difference between a rule against congressional participation in removals, on the one hand, and a rule against tenure protections, on the other. See *ante*, at 30 (arguing that these are "one and the same"). That is not how the Court has understood matters. The Court has long distinguished between impermissible efforts by Congress to "reserve for itself the power of removal of an officer charged with the execution of the laws except by impeachment" (the issue decided in 1789), and the permissible "power of Congress to limit the President's powers of removal of a" principal officer. *Bowsher*, 478 U. S., at 724–726. "Madison's position ultimately prevailed" in "urg[ing] rejection of a congressional role in the removal of Executive Branch officers," *id.*, at 723, but *Humphrey's* "involved an issue not presented" by that triumph, 478 U. S., at 724.

The majority also compares the President's removal power to the pardon and veto powers, suggesting that once Congress rejected the Senate's role in removals, that power became "as much outside Congress's control as" these other powers and so now "'cannot be modified, abridged, or diminished by the Congress.'" *Ante*, at 30 (quoting *Schick* v. *Reed*, 419 U. S. 256, 266 (1974)). The comparison is inapt. *Schick*'s conclusion that the pardon power is not subject to modification by Congress rested on the "history of the English pardoning power," the text of the Constitution, and "unbroken practice since 1790." 419 U. S., at 266. As explained throughout this opinion, the majority's version of the removal power, by contrast, draws no support from any of those sources. The majority's rule breaks from English practice; it derives from no constitutional text speaking of a Presidential removal power (instead, it is Congress that has power over office creation); and it is inconsistent with the bulk of the American historical tradition.

b

The majority attempts to shore up its view of the Decision of 1789 with commentary from the years that followed, but several of its own sources show its errors. The first slew of citations shows only that Senate consent was unnecessary for removal. See *ante*, at 11–12. The debate that was, in James Kent's words, "firmly and definitively settled" in 1789, was not whether at-will removal was constitutionally required, as the majority suggests; it was whether "participation in [the removal] authority by the senate" was necessary or permitted. 1 Kent 289–290. Joseph Story confirmed that the decision in which "[t]he public . . . acquiesced" was Congress's "affirm[ance] of the power of removal in the [P]resident, without any co-operation of the [S]enate." 3 Story §§1536–1537, at 394–395. Daniel Webster, too, decried the Decision of 1789 as wrongly allowing the President to remove independently, rather than "concurrently" with the Senate. 11 Cong. Deb. 466 (1835) (1835 Debates). Contrary to the majority, even by 1835, Webster still "believe[d] it to be within the just power of Congress to reverse the decision of 1789." *Id.*, at 468.

The power of the President to remove without Senate consent does not, however, mean that Congress was forbidden from placing any restraints on that power. Even Madison seems to have agreed. In 1789, he argued that for officers who "partak[e] strongly of the judicial character," "there may be strong reasons why an officer of this kind should not hold his office at the pleasure of the Executive [B]ranch." 1 Annals of Cong. 611–612; see *Humphrey's*, 295 U. S., at 631 (describing Madison's view). Others thought similarly. Asked by President Monroe whether at-will removal was permitted without explicit statutory authorization, Attorney General William Wirt answered in the affirmative, but only because "[w]henever Congress intend[s] a more permanent tenure . . . they take care to express that intention clearly and explicitly." 1 Op. Atty. Gen. 212, 213 (1818).

This shows both that Monroe did not assume an at-will removal power and that Wirt believed it could be curtailed.

Story did note, in 1833, that Congress had until then generally left the President free to remove officers at will. It is unclear, however, if he believed Congress could provide more durable tenures of office. As the majority observes, Story suggested in a footnote that the vote in 1789 "seems to have expressed the sense of the legislature, that the power of removal by the executive could not be abridged by the legislature." 3 Story §1531, at 390, n. 1. On the prior page, though, Story identified, as an open question, "whether congress can give any duration of office . . . not subject to the exercise of this power of removal." *Id.*, §1531, at 389. Given Story's view that the "vote finally taken" in 1789 was merely "affirmative of the power of removal in the president, without any co-operation of the senate," *id.*, §1536, at 394, it is most likely that the "sense of the legislature" described in his footnote was the view that Congress could not insert itself into removal decisions by requiring Senate consent. The majority thus mischaracterizes Story when it attempts to enlist his equivocal presentation of the issues as an authoritative endorsement of its position.[8]

Webster was much clearer. In 1835, "proceed[ing] upon the admission that [the President's power to remove without Senate consent] does at present exist," he urged that Congress nonetheless retained the authority to "regulat[e] . . . the tenure of office." 1835 Debates 468. In his view, "no one could doubt [the] constitutional validity" of a law "declaring that district attorneys, or collectors of customs," could be "removed [only] on conviction for misbehaviour," or even of an "unwise" law imposing a similar removal restriction on "the Attorney General, or the Secretary of

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[8]Story, after all, was no enthusiast of a muscular executive removal power. See *supra*, at 16, n. 6 (detailing the "'just alarms'" raised over the prospect of such power); *infra*, at 31, 48 (similar).

State." *Id.*, at 468–469. He was not alone. Henry Clay and John C. Calhoun, often rivals to each other and to Webster, also agreed: Clay argued at length that "the legislative authority is competent to regulate the exercise of the power of dismission" (that is, removal), *id.*, at 524, and Calhoun confessed that, although he had once believed the issue settled in favor of the President's power to remove, he had changed his mind and was "forced to conclude that the power of dismissing is not lodged in the President, but is subject to be controlled and regulated by Congress," *id.*, at 554–555.[9]

Far from "settled" in 1789, these continuing discussions show that the removal issue remained an open, contested question long after the founding. See, *e.g.*, *Hennen*, 13 Pet., at 259 (describing the "power of removal" as "a subject much disputed, and upon which a great diversity of opinion was entertained in the early history of this government").

c

Even as the President's ability to remove executive officers was the subject of spirited debate in the early republic, limitations on Presidential removal nevertheless were enacted. The majority is correct that Presidents generally "utilized their removal power" when not limited by law, see *ante*, at 13, but the 19th-century history of Presidential removal is not as absolute as the majority suggests.

To start, the First Congress itself created administrative bodies that, although not identical to agencies like the FTC, enjoyed significant independence in ways that undermine the majority's simplistic history of uniform at-will removal. For instance, in 1790 Congress enacted (and President

[9] The majority has no response regarding Clay and Calhoun, but notes that Webster, in 1850, may have come around to the majority's view of the Decision of 1789. See *ante*, at 13. If the majority's case depends on the shifting views of individual Senators between 1835 and 1850, it is unclear why Congress similarly was not free, a mere 37 years later in 1887, to change course again and impose modest limitations on the President's removal power like those at issue in this case. See *infra*, at 27.

Washington signed) a law creating the Sinking Fund Commission, a five-member agency responsible for stabilizing the Nation's debt. See Act of Aug. 12, 1790, 1 Stat. 186; Chabot 172–173. Three Cabinet Secretaries, the Vice President, and the Chief Justice headed the Commission, and the latter two could not be removed by the President—making the body at least semi-independent.[10] It is true that the other three members were removable at will, see *ante*, at 32, but the independence of some members meant that Presidential control of the fund was not complete. This structure did not stand alone: In 1790, Congress included the Chief Justice as a member of the Mint Board, again allowing an independent individual to carry out important Treasury functions and partake in the exercise of executive power. See Act of Apr. 2, 1792, 1 Stat. 250.

Nor was this the only way in which the First Congress legislated to achieve agency independence. It also established the Revolutionary War Debt Commission: a board of "three commissioners" created "to settle the accounts between the United States, and the individual states," whose decisions would be "final and conclusive" without further review. Act of Aug. 5, 1790, ch. 38, 1 Stat. 178. Hamilton would later describe the Commission as made up of "distinct and Independant Officers." 16 Papers of Alexander Hamilton 145 (H. Syrett ed. 1972). The majority correctly notes that the statute did not expressly speak of removal. See *ante*, at 31–32. It did, however, specify that the Commissioners would "continue" in office "until the first day of July [1792]." 1 Stat. 179. Scholarship has recently shown,

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[10] The majority hypothesizes that the President, though he could not fire the Chief Justice or Vice President from their principal jobs, could remove them from their positions on the Commission. *Ante*, at 32. There is no evidence of this ever occurring, however; and even if it could have happened, that would have just left the Commission down a member, since the President could not add a new Vice President or Chief Justice on his own.

consistent with precedent, *infra*, at 27–28, that at the founding, such fixed-term tenures were broadly understood to preclude removal "before the end of th[e] ter[m]." Manners & Menand 5. On this understanding, the Commissioners truly were, as Hamilton claimed, independent.[11]

As the years went by, Congress continued to implement forms of tenure protection. In 1791 and then 1816, it created the First and Second Banks of the United States, the former run by directors accountable only to private stockholders and the latter with only 5 (out of 25 total) removable directors. See Act of Feb. 25, 1791, 1 Stat. 192–193 (First Bank); Act of Apr. 10, 1816, 3 Stat. 269–270 (Second Bank); see *Trump* v. *Cook*, 609 U. S. ___, ___–___, ___–___ (2026) (slip op., at 3–4, 22–23) (charting development of the Banks of the United States and emphasizing the importance of their "independence"). In 1820, it passed a law making clear that a wide swath of executive officials "shall be appointed for the term of four years, but shall be removable from office at pleasure"—with the use of "but" suggesting that the 4-year fixed-term appointment otherwise would not have permitted at-will removal. Act of May 15, 1820, ch. 102, 3 Stat. 582. In 1867, Congress enacted the Tenure of Office Act, which (most recognize today) overstepped by

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[11] Other executive officers, who may not have been given formal removal protections, nevertheless enjoyed forms of independence from Presidential control. JUSTICE KAGAN has explained, for example, how the Comptroller of the Treasury, also created by the First Congress, was understood to "exercis[e] independent judgment." *Seila Law*, 591 U. S., at 272. Thomas Jefferson, while President, declared that he had "'no right to interfere in the least'" with the Comptroller's activities within the Treasury, explaining that the Comptroller "'would no more receive a direction from me' than would 'one of the judges of the supreme court.'" *Ibid.*, n. 5 (quoting Letter from T. Jefferson to B. Latrobe (June 2, 1808), in Thomas Jefferson and the National Capital 429, 431 (S. Padover ed. 1946)); see also Brief for Professor Victoria Nourse et al. as *Amici Curiae* 25–36 (collecting other agencies and offices created by Presidents John Adams and Jefferson that in practice enjoyed significant independence from Presidential control).

requiring Senate consent to the removals of many officers until its repeal in 1887. See Act of Mar. 2, 1867, ch. 154, 14 Stat. 430. Even so, "the two-decade-long existence of the Tenure of Office Act reveals the 19th-century political system's comfort with expansive restrictions on presidential removal." *Seila Law*, 591 U. S., at 275, n. 6 (opinion of KAGAN, J.).

Finally, in 1887, Congress created the ICC with removal protections that would later serve as the template for those of many other agencies, including the Federal Reserve and the FTC. See *supra*, at 10–11. For the next century and a half, that model would go on to be embraced by Congress and Presidents alike, quickly built upon, and ultimately ratified by this Court's decision in *Humphrey's*.

Against this backdrop, the majority at most can point to the paucity of many removal protections enacted during most of the 19th century. The majority's view thus appears to be that Congress's inaction, in declining to impose provisions identical to the FTC's until 1887, forfeited its ability ever to do so in the future. If that is how the majority sees things, then it is the majority that endorses an unsupported, use-it-or-lose-it "adverse possession" theory of constitutional powers. *Ante*, at 24.

3

Even before *Humphrey's*, the Court's precedents likewise made clear that it is the majority's radical theory of unitary executive power, not the sustained practice of the political branches over the centuries, that is out of step with traditional notions of separation of powers in this country.

No case before the turn of the 20th century suggested that the President's removal power was not regulable by Congress. In *Marbury* v. *Madison*, 1 Cranch 137 (1803), Chief Justice Marshall approvingly recognized that an office with a 5-year fixed-term tenure was "not removable at the will of the executive" and thus was "independent of the

executive." *Id.*, at 162, 172. That protection meant that, "having once made [a fixed-term] appointment, [the President's] power over the office [was] terminated in all cases." *Id.*, at 162. Indeed, the historic dispute in that case, over whether Marbury had been commissioned to his office as a justice of the peace, would have been academic if President Jefferson could have removed Marbury at pleasure once commissioned. It mattered only if Marbury, at that point, was safe from removal.[12]

The majority cites *Hennen*, 13 Pet. 230, which in 1839 addressed a territorial court's power to remove a clerk of that court. *Id.*, at 258. In discussing background removal principles supporting such power, *Hennen* recognized that the power to remove Presidential appointees was generally "vested in the President alone," *i.e.*, "the concurrence of the Senate" was not required. *Id.*, at 259. It also made clear, however, that the tenure of offices could vary if "limited by law." *Ibid.* A case the majority ignores, *United States* v. *Perkins*, 116 U. S. 483 (1886), held that Congress "'no doubt'" may "'limit and restrict the power of removal'" as to inferior officers and expressly left open the question whether Congress may do the same as to principal officers. *Id.*, at 484–485. The majority also cites *Parsons* v. *United States*, 167 U. S. 324 (1897), which addressed whether Congress had, in fact, granted a district attorney an unremovable tenure in office. *Id.*, at 342–343. *Parsons* carries little weight here because the Court there construed the statute at issue "to concede to the President the power of removal," *id.*, at 343, making it "unnecessary" to decide any "question of constitutional power" regarding removals, *id.*, at 335. In short, the 19th century closed with no judicial endorsement of an illimitable removal power.

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[12] The majority argues that the office at issue in *Marbury* (a justice of the peace) may not have exercised executive power at all, *ante*, at 33, n. 9, but even assuming that assertion is correct, nothing in *Marbury*'s reasoning relied upon the distinctions the majority draws.

That brings us to *Myers*, authored by former-President and then-Chief Justice Taft. If *Myers* is the "best" support for the majority's position, *ante*, at 16, its theory is a castle built on sand. For one thing, as the majority admits, *Myers* did not address for-cause removal protection; the challenged statute instead required Senate consent to removal. See *ante*, at 14. Thus, despite the grand pretentions of the opinion, it decided no more than that the President could "remove a postmaster of the first class, without the advice and consent of the Senate." *Humphrey's*, 295 U. S., at 626.

Even in doing so, *Myers* managed to get a great many things wrong. Its expansive reading of Article II lacked any mooring in text or preratification history, conceding the lack of any "express provision respecting removals in the Constitution" or "discuss[ion] in the Constitutional Convention" and instead leaping to the Decision of 1789. 272 U. S., at 109–111. Further, "[m]ost contemporary scholars agree that Taft's account of the Decision of 1789 is tendentious and historically inaccurate"; in *Myers*'s own time, moreover, "scholars and jurists attacked its historical arguments." A. Katz & N. Rosenblum, Becoming the Administrator-in-Chief, 123 Colum. L. Rev. 2153, 2239, and nn. 642–643 (2023) (collecting sources). In addition, *Myers*'s claim that there was "no act of Congress . . . at variance" with its view of an illimitable removal power for the Nation's first 74 years, see 272 U. S., at 163, is at best incomplete, see *supra*, at 24–27. That is not to mention the *Myers* dissenters (Justices Holmes, Brandeis, and McReynolds), who demonstrated at great length the majority's many other errors. See 272 U. S., at 177–295.

Perhaps for those reasons, and despite the majority's contrary presentation, it is *Myers* that had little impact when it was decided and has only waned in influence since. Within a decade, and with four Justices from the *Myers* majority still on the Court, the Court in *Humphrey's* "reexamined the precedents referred to in the *Myers* case, and

f[ou]nd nothing in them to justify a conclusion contrary to" the one it reached as to the FTC. 295 U. S., at 630. The Court unanimously abandoned *Myers*'s expansive dicta, approving only "the narrow point actually decided" on the removability of postmasters "without the advice and consent of the Senate." 295 U. S., at 626. All other statements "out of harmony" with *Humphrey's* were "disapproved." *Ibid.*

For decades after that, the Court continued to cabin *Myers* to its "essence," explaining that it stands only for the proposition that "Congress [may not] 'dra[w] to itself'" the power to remove, *Morrison*, 487 U. S., at 686, and says nothing about provisions merely "limit[ing] the President's powers of removal," *Bowsher*, 478 U. S., at 724. As Justice Frankfurter put it in *Wiener*, *Myers*'s "assumption" of "the President's inherent constitutional power to remove officials, no matter what the relation of the executive to the discharge of their duties and no matter what restrictions Congress may have imposed regarding the nature of their tenure," was "short-lived." 357 U. S., at 352. The majority is thus free to complain about the "shabby treatment" *Myers* has received, *ante*, at 34, but it has decades of precedent to blame for that, not this dissent. From *Humphrey's* to *Wiener* to *Bowsher* to *Morrison*, *Myers* had been left on the sidelines long before today, at least until the Court reinvigorated a maximalist view of Presidential power a few years ago. *Humphrey's* approval of removal protections for agencies like the FTC, to the contrary, has supplied the rule that governed the creation of the modern state over the course of the following century. See *supra*, at 6–7.

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The majority thus has very little support in text, history, or precedent. What it does have is a theory. As the majority sees things, "the buck stops" with the President, *ante*, at 4, who holds all executive power and thus can be "'blame[d]'" or held "'responsib[le]'" for all executive conduct, *ante*, at

1–2. Yet the President cannot "execute the laws alone and unaided." *Ante*, at 4. To ensure that the President can carry out his job and remain responsible for all exercises of executive power, the majority says, his inferiors must "remain accountable to [him]." *Ibid.* The only way for that accountability to exist, according to the majority, is for "those officers [to] be removable by the President" at will, for any reason or no reason at all. *Ibid.*

Responsiveness and responsibility are certainly valuable, but they are not the only values countenanced by our Constitution. Others are the continuity and stability of Government, see, *e.g.*, The Federalist No. 77, at 458 (explaining that limitations on removal would prevent the "violent or . . . general . . . revolution in the officers of the government" at every election), and the impartiality and fair administration of justice, see, *e.g.*, 1 Annals of Cong. 612 (Madison) (arguing that some executive officials with judicial functions "ought to hold . . . office by such a tenure as will make him responsible to the public generally," not just the President). Depending on the situation, one value or another may be more or less important. Today, the majority places accountability to the President above all else.

Yet the accountability prized by the majority is not an unalloyed good. From the start, Americans distrusted the "arbitrary authority" that could result from a broad removal power, citing the "baleful influence of the royal prerogative when officers h[e]ld their commission during the pleasure of the Crown." *Id.*, at 488 (Jackson). Story saw unchecked removal authority as carrying a "monarchical and arbitrary" danger, risking the "conver[sion of] all the officers of the country into the mere tools and creatures of the president." 3 Story §1533, at 391. He also feared that unrestrained Presidential removal would "deter [those] of high and honourable minds from engaging in the public service." *Ibid.* Webster, too, observed the "obvious" risk that such a power would breed "complaisance," "indiscriminate

support of executive measures," "pliant subserviancy, and gross adulation" in place of "patriotic labors," "toils for the public good," "independence, and public spirit." 1835 Debates 459; see also *Cook*, 609 U. S., at ___ (KAVANAUGH, J., concurring) (slip op., at 2) (arguing that "political influences" can "jeopardize" administrative "efficacy").

Balancing all these concerns, and the tradeoffs they entail, has historically fallen to those who know the most about them: the political branches. This Court, on the other hand, has proven itself time and again to be the least competent branch to make these judgments. Consider just one (highly salient) example: the Court's fixation on removal. As others have explained, a "wealth of features" other than at-will removal in fact determines an agency's responsiveness to the President. *Seila Law*, 591 U. S., at 283 (opinion of KAGAN, J.); see *Free Enterprise Fund*, 561 U. S., at 524 (Breyer, J., dissenting). The President often names the Chair. See, *e.g.*, §41. He also, through the White House Office of Management and Budget, can "frequently" use the budget process to "'influence [agencies'] policies.'" *Seila Law*, 591 U. S., at 226; see also Brief for Bipartisan Former Chairs of the Federal Trade Commission as *Amici Curiae* 14–22 (discussing additional mechanisms). Even with the removal protections the Court today holds unconstitutional, the President can still remove an FTC Commissioner who fails to perform her duties adequately or commits malfeasance in office.

In sum, agencies like the FTC do enjoy some measure of independence by virtue of removal protections, but they also remain accountable in other ways. No one can seriously doubt, for instance, that the FTC's priorities shifted between the Bush, Obama, Trump, and Biden administrations. See, *e.g.*, K. Rozga & D. Gossett, Major Leadership and Policy Changes at the FTC, Davis Wright Tremaine LLP (July 14, 2021), https://www.dwt.com/insights/2021/07/biden-ftc-archive-antitrust-initiatives (archived at https:

//perma.cc/E24P-48DF) (detailing "potential sea change" and "major policy shifts" at the FTC between administrations). There are also a variety of ways in which the President (and Congress) remain accountable for the conduct of executive officials, even without at-will removal. See, *e.g.*, *Arthrex*, 594 U. S., at 12 (explaining that the Appointments Clause "guarantees accountability" for poorly performing officers). In no way, then, does the FTC's structure, in purpose or effect, do away completely with Presidential influence. Instead, Congress's design (approved by many Presidents over decades) balances that influence with other values equally cognizable under the Constitution. The majority's rigid, inflexible rule goes badly astray by declaring one side of this balance constitutionally irrelevant.[13]

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[13] The Government argues, in the alternative, that even if *Humphrey's* remains enforceable, the courts still lack power to provide effective relief by reinstating Slaughter to her position. That is incorrect. If the Constitution permits Congress to adopt modest removal protections like the FTC's, there is no additional Article II barrier to courts enforcing them. The Government also argues that, at common law, equitable relief like an injunction was unavailable to provide reinstatement. That argument neglects that a "critical reason" for that rule was that "nonequitable remedies," like mandamus and declaratory relief, were available "to vindicate the rights at issue." S. Bray, Remedies in the Officer Removal Cases, 17 J. Legal Analysis 236, and n. 2, 246, 255 (2025); see 3 W. Blackstone, Commentaries on the Laws of England 110 (1768); see also *Trump* v. *Cook*, 609 U. S. ___, ___ (2026) (slip op., at 15) (explaining that, at common law, "a court of law could settle" title to public office "by *quo warranto* or mandamus"). In any event, this Court also has long affirmed "injunction[s] requiring [an executive officer's] reinstatement." *Vitarelli* v. *Seaton*, 359 U. S. 535, 537, 546 (1959). The District Court here correctly found each form of relief appropriate.

Finally, the Government argues that Congress displaced any remedy here by enacting the Civil Service Reform Act (CSRA). That is quite a claim, given that the CSRA explicitly "does not apply to" principal officers like Slaughter. 5 U. S. C. §§7511(b)(1), (3). In any event, this novel theory is not properly before this Court, as the Government failed to raise it in any proceedings below or even in its initial application here.

III

Nothing in the text, history, or values of the Constitution shows that *Humphrey's* was wrong or that FTC Commissioners cannot enjoy for-cause removal protection. Yet even if the majority were right about all of that, it still would not be enough to justify today's destabilizing decision.

The reason, of course, is *stare decisis*, which the majority all but disregards. Faithful "[a]dherence to precedent is a 'foundation stone of the rule of law.'" *Kisor* v. *Wilkie*, 588 U. S. 558, 586 (2019). *Stare decisis* "contributes to the actual and perceived integrity of the judicial process" by promoting "the evenhanded, predictable, and consistent development of legal principles," *Payne* v. *Tennessee*, 501 U. S. 808, 827 (1991), and ensuring that decisions are "founded in the law rather than in the proclivities of individuals," *Vasquez* v. *Hillery*, 474 U. S. 254, 265 (1986). At bottom, this doctrine recognizes that, even if today's Justices might decide an issue differently than their predecessors did, greater institutional values usually counsel "sticking to some wrong decisions." *Kimble* v. *Marvel Entertainment, LLC*, 576 U. S. 446, 455 (2015).

Along every metric that the Court usually considers in this context, *Humphrey's* should have survived. *Humphrey's* is not wrong, let alone egregiously so. The majority hardly "even acknowledge[s] the important reliance interests that [*Humphrey's*] ha[s] generated." *Students for Fair Admissions, Inc.* v. *President and Fellows of Harvard College*, 600 U. S. 181, 376 (2023) (SOTOMAYOR, J., dissenting). It "discards a known, workable, and predictable standard in favor of something novel and probably far more complicated," with revolutionary consequences for our Government. *Dobbs* v. *Jackson Women's Health Organization*, 597 U. S. 215, 394 (2022) (joint opinion of Breyer, SOTOMAYOR, and KAGAN, JJ., dissenting). In the end, it is the majority's rule, not *Humphrey's*, that "short-circuit[s] the democratic process" by eliminating an option for the political branches

that has existed at least since *Humphrey's* was decided in 1935. 597 U. S., at 269 (majority opinion).

A

Begin with a consideration the majority all but ignores: the tremendous reliance interests engendered by *Humphrey's*. "*Stare decisis* has added force when the legislature, in the public sphere, and citizens, in the private realm, have acted in reliance upon a previous decision." *Hilton* v. *South Carolina Public Railways Comm'n*, 502 U. S. 197, 202 (1991). When overruling a prior decision would "require an extensive legislative response" or "dislodge settled rights and expectations," *ibid.*, the force of *stare decisis* is "at [its] acme," *Payne*, 501 U. S., at 828.

Few cases implicate these concerns to a greater degree than *Humphrey's*. For the better part of the last century, *Humphrey's* has guided Congress in constructing the modern system of Government, including dozens of independent agencies that remain central to protecting the Nation's economy, health, safety, and more. At times, Congress has done so in express reliance upon the rule stated in *Humphrey's*. Within weeks of *Humphrey's* being decided, for instance, the House amended the bill establishing the National Labor Relations Board (NLRB) to include removal protections, with the express aim of "provid[ing] that the decision of the Supreme Court in the recent *Humphreys case* shall be embodied in the statute." H. R. Rep. No. 1147, 74th Cong., 1st Sess., 14 (1935). Similarly, after *Myers*, Congress was reconsidering removal protections for the Federal Reserve Board of Governors. After first being advised to await the decision in *Humphrey's*, but then assured by witnesses that *Humphrey's* "provide[d] ample legal grounds for the incorporation" of removal protections, Congress promptly reaffirmed for-cause removal protections for the Federal Reserve Governors. Hearings on S. 1715 before the Subcommittee on Monetary Policy, Banking, and

Deposit Insurance of the Senate Committee on Banking and Currency, 74th Cong., 1st Sess., pt. 2, pp. 397, 998 (1935) (Hearings on S. 1715); see Banking Act of 1935, 49 Stat. 704–705. Although not always in terms quite so express, over the decades that followed, Congress would go on to enact dozens of laws creating similar independent agencies premised on the validity of the FTC structure that this Court blessed in *Humphrey's*. See *supra*, at 10–11.

Independence was centrally important to Congress in creating these agencies. "[I]t was essential that the[se] commission[s]" were not "open to the suspicion of partisan direction" and thus possessed the independence "necessary to the effective and fair administration of the law." *Humphrey's*, 295 U. S., at 624–625. In creating and empowering administrative agencies throughout the late-19th and 20th centuries, Congress recognized not only the need for efficient and effective regulation of the increasingly complex American economy, but also the risks of concentrating such power in the hands of the President with no check against the influence of partisan control. For the FTC, "[t]he two ideas, a commission and independence for the commission, were inextricably bound together. At no point was it proposed that a commission ought to be set up unless it be independent." R. Cushman, The Independent Regulatory Commissions 188 (1941). For the NLRB, which was patterned expressly on the FTC, "complete independence was necessary to insure complete impartiality." *Id*., at 363. In hearings considering new powers to be granted to the Federal Reserve Board, witnesses emphasized the need for "protective safeguards of the strongest character" against "'political control'" and the "danger[s]" of allowing the Federal Reserve to become "a political instrumentality of the party in power." Hearings on S. 1715, at 687, 998; see *Cook*, 609 U. S., at ___ (slip op., at 14) (explaining that "[n]ot only the *fact* of independence but also the *appearance* of independence is key to the Federal Reserve's design").

The checks the political branches devised—bipartisan membership requirements, the multimember structure, lengthy fixed terms, and for-cause removal protections—struck an essential balance in this respect. Creating these agencies under the President gave the Executive Branch the tools needed to execute the law and accomplish the modern work of Government, preserving "ample authority" for the President to ensure the "competen[t] perform[ance]" of the officers leading the agency. *Morrison*, 487 U. S., at 692. At the same time, ensuring expertise, bipartisanship, and limiting the causes of removal guarded against these new agencies becoming mere political instruments, which could be turned against political enemies with one hand and used to grant favors to allies with the other.

Indeed, without removal protections, many of the other features of these agencies' structures risk losing their force. Bipartisan-appointment requirements can easily be evaded simply by firing all Commissioners of the opposite party. Just look at the FTC today. See *supra*, at 3–4. Lengthy fixed terms, aimed at ensuring stability, continuity, and the development of expertise within an agency, can also be cut short at the President's will. Again, look at today's FTC. *Ibid.* With the most extreme exercises of at-will removal, the multimember structure itself could be eliminated, by executive fiat, with sufficient arbitrary firings to winnow a commission down to a sole remaining chair. Cf. *Cook*, 609 U. S., at ___ (opinion of KAVANAUGH, J.) (slip op., at 2) (noting the "upheaval" that could result from "[e]ven temporary uncertainty" about agency independence in the wake of such firings). The very existence of independent commissions like the FTC thus depended on (and Congress's decision to create the agencies relied upon) the premise that these agencies would exist at some remove from partisan politics and enjoy the removal protections necessary to achieve that goal.

Today's decision profoundly undermines this reliance and, as a result, undercuts one side of the balance that the political branches struck. Put simply, today the majority reshapes our Government. Dozens of independent commissions are now likely to become purely executive agencies, shifting tremendous power over broad swaths of American life into the President's hands: the Federal Energy Regulatory Commission, with responsibility for managing the Nation's energy supply, see 42 U. S. C. §7171(b)(1); the Consumer Product Safety Commission, which protects Americans against harms caused by dangerous goods, see 15 U. S. C. §2053(a); the Chemical Safety Board, tasked with investigating chemical disasters, see 42 U. S. C. §7412(r)(6)(B); the Nuclear Regulatory Commission, responsible for the regulation of nuclear power, see 42 U. S. C. §§5841(a), (c), (e); and the Merit Systems Protection Board (MSPB), charged with ensuring the integrity of the civil service, see 5 U. S. C. §1202. The list of agencies potentially modified by today's decision goes on.

Seldom, if ever, has this Court worked such a profound bait and switch on a coequal branch: For more than 90 years, Congress believed, with this Court's express approval, that it was allowed to create a workable Government, including by granting certain agencies tasked with certain responsibilities some independence from Presidential control. In rejecting that project, after decades of promising the political branches that structures like the FTC's were permissible, the Court creates an Executive Branch that Congress never dreamed of establishing and that it now has little hope of ever reining in. Cf. *Learning Resources, Inc.* v. *Trump*, 607 U. S. 229, 244–245 (2026) (opinion of ROBERTS, C. J.) (emphasizing Congress's difficulty in paring back executive power once granted, given the need for a veto-proof supermajority). The concurrence acknowledges the "real risks" implicated by the Court's abandonment of *Humphrey's*. *Ante*, at 13 (opinion of GORSUCH, J.).

The majority's responses fail across the board. It first asserts that congressional reliance "is relevant only in the context of severability," *ante*, at 24, n. 3, but this Court has been clear that "[*s*]*tare decisis* has added force when the legislature, in the public sphere, . . . ha[s] acted in reliance upon a previous decision," *Hilton*, 502 U. S., at 202; see *Payne*, 501 U. S., at 828. None of the majority's severability cases overruled any precedent, see *ante*, at 24, n. 3, and so say nothing about the role of congressional reliance in the *stare decisis* analysis. The majority also suggests that Congress's reliance interests are somehow not "'legitimate'" here because *Humphrey's* recognized congressional power at the President's expense. *Ante*, at 24. This assertion is perplexing. *Humphrey's* endorsed Congress's authority to create agencies "to carry into effect legislative policies embodied in the statute," with "independence against [the President's] will." 295 U. S., at 628–629. It was that holding on which Congress has reasonably relied. If the majority means to say that this reliance was improper because *Humphrey's* was wrong, it gets *stare decisis* backwards. The doctrine's entire point is to recognize that greater institutional values can support adhering to past decisions, even if a later majority might think them mistaken.

Finally, and equally important, the reliance interests here are not limited to Congress. Ordinary Americans and regulated firms alike have organized their affairs understanding that some Government decisions will depend not on political favoritism or partisan advantage (or at least not only on those considerations), but on expertise, adherence to law, judgment, and the public good. See, *e.g.*, *Cook*, 609 U. S., at ___ (opinion of KAVANAUGH, J.) (slip op., at 2) (arguing that uncertainty about agency independence would "risk destabilizing the U. S. economy"). America's economy works in large part due to the "stability" and predictability fostered by such expectations. *Id.*, at ___ (slip op., at 3). Today, by demanding unmediated, unmitigated

Presidential control of agency decisionmaking, the majority upends all of that. The majority responds by announcing, in short, that it knows best and that its abrupt destruction of a century and a half of precedent is broadly supportive of "'constitutionally promised liberties.'" *Ante*, at 24–25. Never mind that the elected officials representing the American people (including over a dozen Presidents) have consistently understood the people to be best served, including in their liberty interests, by agencies that are not entirely subject to Presidential whim. Because today's majority has come to believe that the American people are better off without independent agencies, it does not matter how much anyone has relied on that arrangement.

B

1

The majority's assertion that *Humphrey's* has proved unworkable also blinks reality. *Ante*, at 22–23. As just shown, for over 90 years Congress has legislated, and the Government ably functioned, against the "commonly understood" rule that heads of certain multimember agencies can enjoy modest tenure protections from at-will Presidential removal. *Free Enterprise Fund* v. *Public Co. Accounting Oversight Bd.*, 537 F. 3d 667, 695 (CADC 2008) (Kavanaugh, J., dissenting). These agencies, in short, have become ubiquitous over the last century and a half.

To be sure, independent agencies are not carbon copies of one another, and there is some variation among their structures. Given the sensitive regulatory interests at stake and Congress's general flexibility in designing federal offices, that nuance should come as no surprise. By and large, however, these agencies follow a remarkably consistent pattern: multimember commissions, with a chair selected by the President, often with bipartisan membership requirements, sometimes with a background-expertise requirement, and, often, with a restriction permitting removal only

"for cause" or for specified causes. So too do these agencies generally carry out functions like the FTC's: rulemaking, in-house adjudications, investigations, and occasional enforcement actions in court. In establishing agencies like the FTC, Congress has thus shown little difficulty applying the rule the majority today finds too murky.[14]

Nor has this Court had trouble applying *Humphrey's* over the course of the past century. It is true that, at times over those decades, disputes have arisen over the principles at play in *Humphrey's*. That is to be expected for any legal doctrine. If anything, however, those disputes have been remarkably few and far between. As to multimember commissions, this Court has returned to the issue only once, making clear that "[t]he philosophy of *Humphrey's*" plainly supported protections for members of the War Claims Commission. *Wiener*, 357 U. S., at 356. The majority claims that this paucity of cases marks a "retrea[t] from *Humphrey's*." *Ante*, at 22. The reality, however, is that the Court has seldom needed to address these issues because disputes have seldom arisen. That is so even though Congress all the while, and with minimal objection (and no vetoes) from over a dozen Presidents, has constructed the Executive Branch in reliance upon *Humphrey's* and its progeny. See *supra*, at 10–11, 35–38.

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[14] The majority suggests that its rule is necessary because, without it, *Humphrey's* might permit Congress to turn the Environmental Protection Agency into a multimember commission with removal protections. *Ante*, at 35. *Humphrey's*, however, has been the law for nearly 100 years and this (apparently intolerable) result has not come to pass. In any event, the Constitution does not prohibit every unwise policy choice, even when it comes to structural questions. If, moreover, Congress at some point did pass a law preventing the President from "carrying out his own constitutionally assigned functions in areas like war or foreign affairs," *Seila Law*, 591 U. S., at 275, n. 6 (opinion of KAGAN, J.), nothing in *Humphrey's* would stop the Court from ensuring that the President can "accomplish his constitutional role," *Morrison*, 487 U. S., at 690.

No other decisions of this Court, as to other agency structures, suggest any inability to police the bounds established by *Humphrey's*. Contra, *ante*, at 19–20. In fact, they show the opposite. *Morrison* accepted and broadened *Humphrey's* functionalist approach, clarifying only that the exercise is not meant to "define rigid categories" of officials who exercise executive power or perform executive functions, "but to ensure that Congress does not interfere with the President's" constitutional duties. *Morrison*, 487 U. S., at 689–690. As to the officer at issue in *Morrison*, the Court held that the removal protections left the President with "ample" control. *Id.*, at 692. *Free Enterprise Fund* recognized *Humphrey's* rule, accepted it as to the Securities and Exchange Commission (SEC), and held that a second layer of protection for a subsidiary Board (a "novel structure" never considered before) was unconstitutional. 561 U. S., at 496; see *id.*, at 487. *Seila Law* also took *Humphrey's* as a given and held that a different structure (a single-director agency head) was an "almost wholly unprecedented" "historical anomaly" that fell outside *Humphrey's* scope. 591 U. S., at 217, 220–223. These conclusions were, to be sure, subject to vigorous disagreement at the time. See, *e.g.*, *id.*, at 269–296 (opinion of KAGAN, J.). Far from showing *Humphrey's* to be unworkable, however, those cases show how legal precedents work: They extend to some situations, but not to others, and Justices sometimes disagree about where to draw the lines. Whatever its outer limits, *Humphrey's* core holding as to the FTC and multimember bodies like it has never proven too difficult for courts to apply.

The majority points to a handful of recent lower court decisions from the past year or so that purportedly show that "no one knows how to apply *Humphrey's* in practice." *Ante*, at 22–23. That tumult, though, is more fairly attributed to the Court's recent emergency-docket abandonment of *Humphrey's*. See, *e.g.*, *Space Exploration Technologies Corp.* v. *NLRB*, 151 F. 4th 761, 776–777 (CA5 2025); see

also *Trump* v. *Wilcox*, 605 U. S. ___, ___ (2025) (KAGAN, J., dissenting) (slip op., at 2) (criticizing the majority for using the "emergency docket . . . to overrule or revise existing law"). When the Court fails to adhere to its own precedents in a principled manner, it is hard to expect consistency from the lower courts that must keep up with the Court's rapidly shifting views. For decades before this Court upended the doctrine, however, *Humphrey's* was a stable, easily understood precedent of this Court.

Last, the majority takes aim at *Humphrey's* use of the terms "'quasi-legislative'" and "'quasi-judicial.'" *Ante*, at 22. *Humphrey's*, however, did not draw these terms from thin air. They were "well-established term[s]-of-art," recognized by figures from Madison to Taft by the time *Humphrey's* was decided. See Brief for Legal Historian N. Rosenblum et al. as *Amici Curiae* 14; see *id.*, at 4–5, 13, 20–21. Madison, recall, recognized that even executive officers may "partak[e] strongly of the judicial character" and that such officers raise distinct considerations when it comes to removal. 1 Annals of Cong. 612. By the early-19th century, courts, too, were using the term "'quasi-judicial' to describe the duties of specialist officers whose work bore functional and procedural similarities with that of the judiciary" and the term "quasi-legislative" to refer to functions served by "'subordinate agencies'" tasked with filling in the details left open by general laws. Brief for Legal Historian N. Rosenblum et al. as *Amici Curiae* 10, 15; see *id.*, at 9–11, 15–18 (collecting cases developing these categories); see also B. Baumann & J. Shugerman, Quasi-Judicial: A History and Tradition, 127 Colum. L. Rev. (forthcoming 2026) (manuscript, at 4) (tracing the "deep historical pedigree" of independence for "quasi-judicial" officers). The majority can feign ignorance and deem these terms devoid of meaning, but it cannot change the historical record: Independence has long been associated with, and accepted as to, executive officers who carry out functions like the FTC's.

In the end, this Court has not "been forced to clarify the doctrine" in this arena "again and again." *Loper Bright Enterprises* v. *Raimondo*, 603 U. S. 369, 409 (2024). Nor has *Humphrey's* spurred major "confusion and disagreement" in the lower courts, or "generated a long list of Circuit conflicts." *Dobbs*, 597 U. S., at 283–284. Instead, the *Humphrey's* rule is long established and has been easily applied for decades.

2

The case for retaining *Humphrey's* becomes even stronger when compared against the majority's theory, which itself promises to unleash only chaos. With remarkable steadfastness, the majority simply refuses to explain where its theory leads or where it ends. See, *e.g.*, *ante*, at 27. Although declining to consider the consequences of its decision might make it easier for the majority to cast *Humphrey's* aside, it leaves courts, agencies, and Congress with little guidance, and many new questions, on how they are supposed to assess removal questions going forward.

The majority, for example, suggests that its rule might not apply to adjudicatory agencies, including non-Article III courts like the Tax Court. See *ante*, at 28. That is welcome news, but why is it so? As the majority explains, it cannot be because such agencies are exercising judicial power. Adjudications by Executive Branch agencies "are exercises of—indeed, under our constitutional structure they *must be* exercises of—the 'executive Power.'" *Arlington* v. *FCC*, 569 U. S. 290, 305, n. 4 (2013); see *ante*, at 19. Nor, after today, is it obvious that such agencies could safely depend on a precedent like *Wiener*, which did address an adjudicatory agency but rested squarely on "[t]he philosophy of *Humphrey's*." 357 U. S., at 356. Still, the majority says, a narrow exception for non-Article III adjudicators might yet survive. If that is true, questions immediately arise: What, exactly, is the "'different set of questions'" raised by these agencies?

Ante, at 28. Do they depend on such entities' quasi-judicial functions? How should bodies like the MSPB or NLRB, which are mostly adjudicatory but may also possess some other functions, be treated? See, *e.g.*, Brief for Cathy Harris as *Amicus Curiae* 3 (distinguishing "legislative courts," including the MSPB, from the FTC); Brief for Gwynne Wilcox as *Amicus Curiae* 2 (similar for the NLRB). More questions, which have long been at rest under *Humphrey's*, are sure to follow.

Today's decision may also have major implications for inferior officers and civil-service employees, which the majority studiously ignores. The Court's precedents, to date, continue to support removal protections for such individuals. See, *e.g.*, *Perkins*, 116 U. S., at 484–485 (holding, in 1886, that inferior officers appointed by a department head could be protected against at-will removal). Until today, however, *Perkins* and *Humphrey's* were the "two exceptions to the President's unrestricted removal power" this Court had recognized. *Seila Law*, 591 U. S., at 204. With one of those exceptions now wiped away, the majority's silence on the other one provides cold comfort. Nor is there much in the majority's logic that supports drawing a line at principal officers. Inferior officers (and likely many employees within the civil service) wield some executive power. Regardless of their rank, if the President cannot have such individuals removed at will, then there is a break in "'the chain of dependence'" all the same (which, the majority emphasizes, must reach down all the way to the "'lowest officers'"). *Ante*, at 10. The Government, at least, has the candor not to deny that the "logic" of its position "extends to inferior officers" and, perhaps, career civil servants, too. Tr. of Oral Arg. 23–24. The majority, however, at best consigns these issues to years of future uncertainty and at worst risks the end of the employment protections that apply to members of the civil service.

Perhaps most strikingly, the Court today also makes clear that, whatever the logic of its decision, there are some ad hoc historical exceptions to its totalizing view of Article II, at least for the Federal Reserve. See *ante*, at 27–28; *Cook*, 609 U. S., at ___–___ (slip op., at 22–23). For most agencies, the majority here says, removal protections like the FTC's make the President's job "'impossible'" and so are unlawful. *Ante*, at 2. For agencies that follow in the "lineage" of the First and Second Banks of the United States, however, the Court recognizes that the Founders were acutely aware "of the calamities that could arise from even the 'suspicion' of political manipulation of monetary policy" and that they therefore "guaranteed [such agencies] independence from Presidential control." *Cook*, 609 U. S., at ___ (slip op., at 22). As a result, the Court holds, removal protections remain permissible (perhaps even indispensable) for agencies, including the Federal Reserve, that follow in "this tradition." *Ibid.*

As discussed above, this is all partly right. Yes, the Founders did "kn[ow] from experience" that some Government functions "should not be subject to political interference." *Id.*, at ___–___ (slip op., at 22–23); see *supra*, at 24–26. Yes, this tradition need not remain "'trapped in amber'" while Congress continues to devise new agencies and structures to "manag[e] a vastly more complex economy in a vastly more complex world." *Cook*, 609 U. S., at ___–___ (slip op., at 22); see *supra*, at 26–27. What is unclear is why these principles should be limited only to agencies, like the Federal Reserve, that in some respects influence "monetary policy." *Ante*, at 28.

Even assuming the majority is right that the Federal Reserve's historical pedigree gives it a special place in the constitutional structure, that just leaves the majority with yet additional workability problems. How close is close enough for a historical analogue of this kind? Does any agency that "influence[s] monetary policy" qualify? *Ibid.* Is it relevant

that the modern agency, like the Bank of the United States, is "quasi-private"? *Wilcox*, 605 U. S., at ___ (slip op., at 2). What happens if Congress adds new functions beyond the historical baseline? See, *e.g.*, 12 U. S. C. §504 (granting the Federal Reserve authority to secure civil penalties of up to $1 million per day); see also A. Bamzai & A. Nielson, Article II and the Federal Reserve, 109 Cornell L. Rev. 843, 863, 887 (2024) (describing executive powers of the Federal Reserve). In short: When, exactly is our law "'trapped in amber,'" and when is it not? See *Cook*, 609 U. S., at ___ (slip op., at 22).

These line-drawing problems are the inevitable result of the majority's ruling, yet never arose under *Humphrey's*. Today, the majority replaces 90 years of proven, workable practice with a half-baked theory of executive power that is simultaneously all encompassing yet also subject to necessary but undefined exceptions. The one thing that does appear to be clear going forward is that chaos will follow.

C

Finally, the majority suggests that *Humphrey's* has been "undermined" by later cases. *Ante*, at 20, 22. That is incorrect. See *supra*, at 6–7 (collecting cases reaffirming *Humphrey's*). *Morrison* did not "'repudiat[e]'" *Humphrey's*. *Ante*, at 19. It extended its holding to uphold removal protections for a distinct, inferior officer. *Morrison*, 487 U. S., at 687–691. The case that *Morrison* repudiated was *Myers*. See 487 U. S., at 687 (rejecting "the implication of some dicta in *Myers*" that "the President's power to remove . . . was . . . 'all-inclusive'"). In *Free Enterprise Fund*, the Court accepted the lawfulness of "one level of good-cause protection" for the SEC. 561 U. S., at 484. Although *Seila Law* criticized *Humphrey's* at times, its conclusion was simply that *Humphrey's* could not resolve the distinct question at issue. 591 U. S., at 215–216, and n. 2, 229. Each of these cases left *Humphrey's* firmly in place, until today.

IV

Not two years ago, I wrote of a "disconcerting trend" in this Court's cases: "When it comes to the separation of powers, this Court tells the American public and its coordinate branches that it knows best." *SEC* v. *Jarkesy*, 603 U. S. 109, 201 (2024) (dissenting opinion). Matters that for centuries had been left to the political branches have been subordinated, one after another, to this recent Court's rigid theories of how Government should operate. See *id.*, at 201–202 (collecting cases).

The majority's decision continuing that trend today is egregiously wrong. In this case, the Court takes one of the oldest debates in American history and decides that the six Justices in the majority, alone, ought to be the ones to settle it for all time. That decision does not just overrule precedent; it all but ignores that precedent exists. It does not just hamstring the political branches' ability to respond to new challenges; it rewinds the clock nearly 150 years, holding that a common agency structure is, and always has been, forbidden. It is true that today's decision does not eliminate the FTC or the many other agencies whose structures are implicated by overruling *Humphrey's*. It is undeniable, however, that those agencies will be transformed in ways that those who created them never could have expected and actively sought to avoid, fundamentally recalibrating the balance of power in this country in the process.

Will these transformations yield the benefits, sounding in responsiveness and accountability, that the majority touts? Or will they risk placing "in the hands of a bold and designing man, of high ambition, . . . an instrument of the worst oppression," which will "sacrific[e] every principle of independence to the will of the [President]"? 3 Story §1533, at 390–392. Neither I, nor the majority, knows with certainty. That is exactly why the Constitution leaves decisions like this one, involving sensitive tradeoffs and difficult

judgment calls, to those best positioned to make them, and then to be held accountable for doing so: the political branches.

Today, the Court discards that democratic regime in favor of one that distorts the structure of Government to fit the majority's theory of unitary, total executive control. The result is a President who emerges with far greater power than ever before. It is a power, however, that neither the People, nor Congress, nor the Constitution bestowed upon him. In granting the President this unbridled authority, the Court upends its precedent, misconstrues our history, and sheds any pretense of judicial modesty. I respectfully dissent.