The Unitary Executive and the Architecture of Unchecked Power

A summary of a dialogue, organized as point and counterpoint — your position set against the theoretical and practical claims of the unitary-executive doctrine.

The Catalyst: Trump v. Slaughter

On June 29, 2026, the Supreme Court ruled 6–3 that the President may remove FTC commissioners at will, formally overruling Humphrey's Executor (1935) and ending nearly a century of for-cause protection for independent multimember agencies. Chief Justice Roberts wrote that anyone wielding the President's executive power must be removable by him. The Federal Reserve was carved out by name; the Tax Court and other non-Article III bodies were left "for another day." The result surprised almost no scholar — the precedent had been visibly eroding for fifteen years. What it triggered here was not surprise but a question about who, exactly, should be cheering.

The Through-Line of Your Position

Your argument stayed consistent across the whole exchange, and it reduces to a single structural conviction: the American republic was founded in rebellion against unchecked power, and a single individual is far more susceptible to monarchical concentration than a deliberative body. From this you drew three consequences — that the people cheering today's expansion of presidential power will not cheer when an opponent inherits it; that the Court's logic is flawed where it must carve out exceptions to avoid intolerable results; and that the doctrine inverts the real danger, casting the bureaucracy as the threat while handing power to the one office history shows is actually prone to becoming a Caesar.

The remainder of this summary tests that position against the doctrine's best defense, on two axes: the theoretical (what the founders can be said to have meant) and the practical (where the risk of tyranny actually lives).

I. The Theoretical Dimension — Does the Doctrine Hold on Founding Grounds?

The doctrine's case. Article II vests "the executive Power" in a President — phrased as a complete grant, unlike Article I's grant of only the legislative powers "herein granted." The Take Care Clause and Opinions Clause assume presidential control over those who execute the law. The "Decision of 1789" is cited as the First Congress recognizing an inherent presidential removal power. Hamilton in Federalist 70 argues a unitary executive is better for liberty, because a single, visible officer can be held responsible where a plural body "conceals faults and destroys responsibility." On this reading, unity is an instrument of accountability, not its enemy.

Your counter. The Revolution was against power unaccountable to the governed, not against executive energy as such — but the historical record beneath the doctrine is far muddier than its confident tone admits. The Decision of 1789, the keystone, was a coalition of incompatible views: some members thought removal inherently presidential, others thought Congress was choosing to vest it by statute, others that the Constitution was simply silent. A holding assembled from people who disagree about why they agree cannot bear the weight of "the founding generation understood Article II to require this." The framers also tolerated independence-like arrangements in practice (the early Comptroller), and "executive power" in 1787 did not contemplate the modern regulatory agency at all.

Where it nets out. The unitary reading is a legitimate, internally coherent construction with real textual support — not a fringe position. But it is not the demonstrable original meaning the Slaughter majority's "clear for a century" rhetoric implies. The honest finding is that the founders left the question underdetermined: they created a single President expected to control administration, but never clearly resolved whether Congress could insulate particular officers performing particular functions, because the question in its modern form never occurred to them. You can reach the majority's result honestly; you cannot honestly call it the only reading the founding permits.

II. The Practical Dimension — Where Does Monarchical Risk Actually Live?

The doctrine's case. An independent commissioner wields executive, quasi-legislative, and quasi-judicial power yet answers to no one the public elected — a "headless fourth branch." The President, by contrast, is checked by elections, impeachment, the courts, and Congress's control of law and money. The sophisticated unitarian therefore claims to share the anti-tyranny goal: the unaccountable bureaucrat is the hidden monarch, and the cure is to drag that power back under an officer the people can actually see and remove.

Your counter — the historical record. The comparative claim buried in that defense is its weakest link, and history runs heavily against it. When American power has genuinely slid toward the unchecked, it has worn the executive's face, repeatedly:

Lincoln (1861) suspended habeas corpus by executive order — a power textually placed in Article I — then ignored Chief Justice Taney's ruling in Ex parte Merryman that it was not his to exercise. Congress ratified it only afterward; the President had already acted alone and dared the courts to stop him.

FDR interned roughly 120,000 people of Japanese ancestry by Executive Order 9066 (1942), two-thirds of them citizens, with no charges or trials — upheld in Korematsu, where Justice Jackson warned the principle would "lie about like a loaded weapon" for

any future authority. Separately, his 1937 Court-packing plan tried to capture the judiciary outright; it was beaten back by his own party and by structure, the clearest case of a check actually holding.

Nixon stated the monarchical premise aloud — "when the president does it, that means it is not illegal" — and acted on it: warrantless domestic surveillance (rejected unanimously in the Keith case), impounding appropriated funds (struck down, then closed off by the 1974 Impoundment Control Act), and an absolute executive-privilege claim (rejected unanimously in United States v. Nixon). The other two branches, working together, barely proved him wrong.

Post-9/11, across two parties. Bush asserted Commander-in-Chief power expansive enough to override an anti-torture statute, ran warrantless NSA wiretapping outside the FISA court, and held detainees indefinitely — checked repeatedly by the courts (Hamdi, Hamdan, Boumediene). The decisive part is the continuity: Obama, elected partly in reaction to those claims, kept and deepened them — bulk metadata collection, the targeted killing of a U.S. citizen on a secret internal memo, sustained war in Libya without congressional authorization. The powers institutionalized regardless of who won. That is your earlier point about inheriting the machinery, documented rather than predicted.

The contrast with Congress, stated fairly. Congress has produced real ugliness — Gilded Age bribery, the Alien and Sedition Acts, and above all McCarthyism, genuine authoritarian behavior originating in the legislature. But even McCarthy was a single individual exploiting committee power, cut down by the body around him. Congress's characteristic failures are paralysis, capture, and graft — sins of dysfunction, not of fusing the three powers and ruling. Five hundred thirty-five rival ambitions do not easily become a monarch. The figure who suspends the writ, interns a population, defies the Court, and kills a citizen on his own say-so is, every time, the President.

The deeper flaw — the backstop problem. The unitarian defense survives only if the accountability it promises is real. It trades a structural check that operates continuously (agency independence) for backstops that operate intermittently and only if politics cooperates (elections, impeachment, courts). But a second-term president faces no election; impeachment has proven nearly unusable in a polarized Senate; courts act slowly and after the damage. The trade is worst precisely when the officeholder is the bad actor — because the bad actor is also the one working to disable the backstops. The doctrine answers the fear of unchecked power by removing structural checks and substituting a promise the most clear-eyed founder, Madison, specifically warned was insufficient on its own (Federalist 51: "auxiliary precautions" are necessary beyond "a dependence on the people").

III. The Federal Reserve Carve-Out as Diagnostic

The exemption of the Fed is the single most revealing feature of the opinion. The majority's operative test is functional — anyone wielding executive power must be removable — yet the Fed unambiguously wields executive power and is spared anyway, on grounds of historical "tradition" traced to the First and Second Banks. That move imports the very methodology the opinion otherwise rejects, rests on a weak analogy (chartered commercial banks are not modern financial regulators), and is most plausibly explained by a consequence the methodology forbids it from weighing: the market chaos of a fireable Fed chair.

Your framing of this as flawed logic is largely right, with one refinement. It is not that the opinion contradicts itself so completely that it collapses; courts draw lines and leave questions open constantly, and removal law has always leaned on historical tradition. It is that the Court announced a clean principle and then exempted the one institution where that principle would bite hardest, on grounds it applies to no one else. The dissent's sharper version is the strongest: the carve-out functions as a reductio. If the principle cannot be applied to the most powerful independent agency in the country, that is evidence the principle proves too much — that "accountability requires at-will removal" is a preference about which agencies should be controllable, dressed as a constitutional command.

IV. Points of Friction — Where the Pushback Ran Against You

Three places where your framing was complicated rather than confirmed, in the interest of an honest record:

"No one can seriously maintain" overstates it. The serious unitarians do not actually argue that a legislature is more monarchy-prone than an individual. They concede the executive is the more dangerous concentration and then reframe the danger as the unaccountable bureaucrat. The target moves; it is not simply denied. Your comparative point is correct on the merits, but it refutes a claim the strongest proponents have already stepped away from.

The Trump-as-corruption premise is doing contested work. Whether Trump "embodies corruption" is exactly the proposition his supporters deny and his critics assert — downstream of partisan priors in a way that "the executive is the historical monarchy-risk" is not. The latter is defensible from the record; the former is a characterization, not a fact. Crucially, your structural argument does not need it. You need only the near-undeniable premise that some president, eventually, will be venal or authoritarian — because over a long enough run one always is. Pinned to the institution, the argument is far harder to escape than when pinned to a specific living president, which hands the unitarian the easy out: "you just don't like this guy."

The genuine unitarian rejoinder deserves to stand. Its claim to principle is real: the theory is agnostic about the officeholder's character, and many of its scholarly

proponents accepted, in the Obama and Biden years, that a president they opposed would wield the same power. That agnosticism is simultaneously its integrity and its blind spot — a theory of government that depends on accountability while being indifferent to whether the accountable person is corrupt has quietly assumed the thing most in doubt.

V. Net Assessment

On the theoretical axis, the doctrine is a defensible construction of an underdetermined founding text — honest as one reading, dishonest as the only reading. On the practical axis, your position is the stronger one: the historical record places the recurring American near-miss with autocracy squarely in the executive, and the doctrine's cure removes a continuous structural check on that proven danger in exchange for intermittent backstops that fail precisely when a bad president arrives. The Fed carve-out is the tell — the Court declining to follow its own logic to the end at the one point where the consequences would be unbearable.

The cleanest statement of your case is not that the doctrine's proponents are defending tyranny or ignoring a particular president's corruption. It is that they have built an anti-tyranny theory whose single load-bearing assumption — that accountability will discipline a bad executive — is the exact assumption that collapses when a bad executive attacks the mechanisms of accountability themselves. They are not necessarily defending corruption. They are defending a structure that has no answer for it, and calling the absence of an answer "accountability."