The Daily Dish

The More Things Change

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Remember the Consumer Financial Protection Bureau (CFPB)? That misbegotten camel of an agency assembled by the Dodd-Frank reform law featured all its powers vested in a director that was removeable only "for cause" and funded by the Federal Reserve Board. The Supreme Court ruled that the former was unconstitutional but the latter passed constitutional muster. Regardless, nothing has changed at the CFPB, which continues to beaver away right down the street from AAF.

Remember the Federal Housing Finance Agency (FHFA)? It was led by a single director, removable only "for cause." The Supreme Court ruled 8-1 that it violates the Constitution's separation of powers. As you may have noticed, life goes on at the FHFA.

Which brings us to the National Labor Relations Board (NLRB). As reported by *National Review*, a federal district court in Texas ruled that:

> …[M]embers of the NLRB and its administrative-law judges are too insulated from the president's control because they can only be removed from office in limited circumstances. It's unconstitutional, the court reasoned, to permit Congress to 'eliminate the President's ability to remove principal officers,' given that Article II of the Constitution vests the president with the full power of the executive branch.

The background is that the NLRB general counsel had taken aim at SpaceX's use of arbitration agreements, asserting that they were an unfair labor practice. SpaceX countered by arguing that the basic structure of the NLRB was unconstitutional. What happens next?

Read the full article for the possible legal pathways going forward, including a Supreme Court ruling of unconstitutionality. But I'm betting nothing.