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WASHINGTON POLICY STRATEGY

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The Supreme Court ruled Thursday that the President can remove members of the National Labor Relations Board (NLRB) and the Merit Systems Protection Board (MSPB), even though the statutes governing both agencies state board members may only be removed for cause — and no such cause was given. The Court also ruled this power does not extend to the Federal Reserve (Fed) Board, because it is a quasi-private entity. The Court's decision clarified the question of Fed Governors, but did not resolve the issue of whether the President can fire the Fed Chairman (i.e. depose the Fed Chair, who would remain on the board).

- In a decision issued late on Thursday afternoon, the U.S. Supreme Court ruled that the President can fire government officials even when a statute states that such officials can only be removed for cause. When President Trump fired board members of the NLRB and MSPB, he gave no reason other than that the officials were not supportive of his agenda.
- This raised the question of whether the President could also fire Governors of the Fed Board or other members of the Federal Open Market Committee. The Court, however, declined to extend this ruling to the Fed, citing the Fed's unique quasi-private structure, which follows the "distinct historical tradition of the First and Second Banks of the United States."
- This does not, however, settle the question of whether the President can fire the Fed Chairman. Clearly, the Fed Chairman cannot be removed from the Board of Governors, but it is unclear whether the Court would also rule that the President cannot remove the Chairman and replace that person with another Governor. The Federal Reserve Act authorizes the President to fire a Governor for cause, but it is silent on the removal of the Fed Chairman.
- President Trump has said that he will not fire current Fed Chairman Jerome Powell, so the issue might be moot for now. However, yesterday's Supreme Court decision does not resolve the matter as clearly as some might believe.

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