The Republican platform contains a fascinating sleeper provision. It proposes to “transform the EPA into an independent bipartisan commission, similar to the Nuclear Regulatory Commission.” What makes this proposal so interesting is that it violates what used to be a core tenet of conservative belief: the unitary executive doctrine. Under the unitary executive doctrine, independent agencies are unconstitutional. All agencies must serve directly under the President’s control. This was an article of faith for Justice Scalia, as it is for Justice Thomas. But now the Party proposes to expand the realm of independent agencies.

Political platforms these days don’t mean much as commitments to future action. Still, they do reflect the views of the party faithful. So it’s startling that a major tenet of conservative thought should be so casually tossed out the window.

I haven’t been able to find anything online about the origins of this proposal. There was a proposal a couple of years ago from the Heartland Institute to replace EPA with a council of state representatives (also quite inconsistent with the unitary president theory, by the way). But the idea of an independent commission seems to have come out of nowhere. I’ve checked with conservative friends, and they’re as baffled as I am about the origin of this proposal.

Wherever it came from, the proposal to create a bipartisan regulatory commission fit with one of the major themes of the platform: restraining presidential power — though the party celebrated such power when exercised by a Reagan or a Bush. The proposal may also reflect a different shift in the party: the weakening of party elites – the absence of the sort of Federalist Society-types who would have adhered to traditional conservative views. There simply may not been anyone on the committee who had ever heard of the unitary executive doctrine – as there may not be any such person in the Trump campaign.