taken a strong protective position on behalf of the President's powers, but such posture has been maintained with only varying degrees of success.[12]

Following this lengthy period of relative inattention to separation-of-powers issues, the Court since 1976[13] has relied on the doctrine in numerous cases, with the result being a substantial curtailing of congressional discretion to structure the National Government. In short order, the Court found constitutional barriers to: a congressional scheme to provide for automatic deficit-reduction based on the critical involvement of an officer with significant legislative ties;[14] the practice set out in more than 200 laws of allowing a congressional veto of executive actions;[15] and the vesting of broad judicial powers to handle bankruptcy cases in officers not possessing security of tenure and salary.[16] On the other hand, the Court upheld the highly debated establishment by Congress of a process by which independent special prosecutors could be appointed to investigate and prosecute cases of alleged corruption in the Executive Branch. This last opinion presaged a judicial approach more accepting of the blending of governmental functions at the federal level.[17]

Important as the results were in this series of cases, it was the development of two separate and inconsistent analytical approaches that has occasioned the greatest amount of commentary. The existence of the two approaches, either of which can apparently be employed at the discretion of the Justices, makes it difficult to predict the outcomes of cases involving alternative fashions of implementing governmental policy. Historically, it appears that the Court most often uses a more strict analysis in cases in which infringements of executive powers are alleged and a less strict analysis when the powers of the other two branches are concerned. The special prosecutor decision, however, followed by a decision sustaining the appointment of judges to the United States Sentencing Commission, may ultimately signal the adoption of the less strict analy-

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[12] The principal example is Myers v. United States, 272 U.S. 52 (1926), written by Chief Justice Taft, himself a former President. The breadth of the holding was modified in considerable degree in Humphrey's Executor v. United States, 295 U.S. 602 (1935), and the premise of the decision itself was recast and largely softened in Morrison v. Olson, 487 U.S. 654 (1988).

[13] Beginning with Buckley v. Valeo, 424 U.S. 1, 109–43 (1976), a relatively easy case, in which Congress had attempted to reserve to itself the power to appoint certain officers charged with enforcement of a law.

[14] Bowsher v. Synar, 478 U.S. 714 (1986).

[15] INS v. Chadha, 462 U.S. 919 (1983).

[16] Northern Pipeline Constr. Co. v. Marathon Pipe Line Co., 458 U.S. 50 (1982).

[17] Morrison v. Olson, 487 U.S. 654 (1988). *See also* Mistretta v. United States, 488 U.S. 361 (1989).