tee exercising significant authority pursuant to the laws of the United States be appointed in the manner prescribed by the Appointments Clause.[508] The Court did hold, however, that the Commission so appointed and confirmed could be delegated the powers Congress itself could exercise, that is, those investigative and informative functions that congressional committees carry out were properly vested in this body.

Congress is authorized by the Appointments Clause to vest the appointment of "inferior Officers," at its discretion, "in the President alone, in the Courts of Law, or in the Heads of Departments." The principal questions arising under this portion of the clause are "Who are 'inferior officers,'" and "what are the 'Departments'" whose heads may be given appointing power?[509] "[A]ny appointee exercising significant authority pursuant to the laws of the United States is an 'Officer of the United States,' and must, therefore, be appointed in the manner prescribed by § 2, cl. 2, of [Article II]."[510] "The Constitution for purposes of appointment very clearly divides all its officers into two classes. The primary class requires a nomination by the President and confirmation by the Senate. But foreseeing that when offices became numerous, and sudden removals necessary, this mode might be inconvenient, it was provided that, in regard to officers inferior to those specially mentioned, Congress might by law vest their appointment in the President alone, in the courts of law, or in the heads of departments. That all persons who can be said to hold an office under the government about to be established under the Constitution were intended to be included within one or the other of these modes of appointment there can be but little doubt."[511]

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[508] Buckley v. Valeo, 424 U.S. 1, 109–143 (1976). The Court took pains to observe that the clause was violated not only by the appointing process but by the confirming process, inclusion of the House of Representatives, as well. Id. at 137. *See also* Metropolitan Washington Airports Auth. v. Citizens for the Abatement of Aircraft Noise, 501 U.S. 252 (1991).

[509] Concurrently, of course, although it may seem odd, the question of what is a "Court[] of Law" for purposes of the Appointments Clause is unsettled. *See* Freytag v. Commissioner, 501 U.S. 868 (1991) (Court divides 5-to-4 whether an Article I court is a court of law under the clause).

[510] Freytag v. Commissioner, 501 U.S.868, 881 (1991) (quoting Buckley v. Valeo, 424 U.S. 1, 126 (1976)).

[511] United States v. Germaine, 99 U.S. 508, 509–510 (1879) (quoted in Buckley v. Valeo, 424 U.S. 1, 125 (1976)). The constitutional definition of an "inferior" officer is wondrously imprecise. *See* Freytag v. Commissioner, 501 U.S. 868, 880–882 (1991); Morrison v. Olson, 487 U.S. 654, 670–73 (1988). *See also* United States v. Eaton, 169 U.S. 331 (1898). There is another category, of course, employees, but these are lesser functionaries subordinate to officers of the United States. Ordinarily, the term "employee" denotes one who stands in a contractual relationship to her employer, but here it signifies all subordinate officials of the Federal Government receiving their appointments at the hands of officials who are not specifically recognized by