in the following passage in his opinion: "There is nothing in the Constitution which permits a distinction between the removal of the head of a department or a bureau, when he discharges a political duty of the President or exercises his discretion, and the removal of executive officers engaged in the discharge of their other normal duties. The imperative reasons requiring an unrestricted power to remove the most important of his subordinates in their most important duties must, therefore, control the interpretation of the Constitution as to all appointed by him." [557]

Thus spoke the former President Taft, and the result of his prepossession was a rule that, as was immediately pointed out, exposed the so-called "independent agencies"—the Interstate Commerce Commission, the Federal Trade Commission, and the like—to presidential domination. Unfortunately, the Chief Justice, while professing to follow Madison's leadership, had omitted to weigh properly the very important observation that the latter had made at the time regarding the office of Comptroller of the Treasury. "The Committee," said Madison, "has gone through the bill without making any provision respecting the tenure by which the comptroller is to hold his office. I think it is a point worthy of consideration, and shall, therefore, submit a few observations upon it. It will be necessary to consider the nature of this office, to enable us to come to a right decision on the subject; in analyzing its properties, we shall easily discover they are of a judiciary quality as well as the executive; perhaps the latter obtains in the greatest degree. The principal duty seems to be deciding upon the lawfulness and justice of the claims and accounts subsisting between the United States and particular citizens: this partakes strongly of the judicial character, and there may be strong reasons why an officer of this kind should not hold his office at the pleasure of the executive branch of the gov-

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was interpreted as establishing "a practical construction of the Constitution" with respect to executive officers appointed without stated terms. However, in the dominant opinion of those best authorized to speak on the subject, the "correct interpretation" of the Constitution was that the power of removal was always an incident of the power of appointment, and that therefore in the case of officers appointed by the President with the advice and consent of the Senate the removal power was exercisable by the President only with the advice and consent of the Senate. For an extensive review of the issue at the time of *Myers*, *see* Corwin, *The President's Removal Power Under the Constitution*, in 4 SELECTED ESSAYS ON CONSTITUTIONAL LAW 1467 (1938).

[557] 272 U.S. at 134. Note the parallelism of the arguments from separation-of-powers and the President's ability to enforce the laws in the decision rendered on Congress's effort to obtain a role in the actual appointment of executive officers in Buckley v. Valeo, 424 U.S. 1, 109–43 (1976), and in many of the subsequent separation-of-powers decisions.