to ensure that Congress does not interfere with the President's exercise of the 'executive power' and his constitutionally appointed duty to 'take care that the laws be faithfully executed' under Article II. *Myers* was undoubtedly correct in its holding, and in its broader suggestion that there are some 'purely executive' officials who must be removable by the President at will if he is to be able to accomplish his constitutional role. . . . At the other end of the spectrum from *Myers*, the characterization of the agencies in *Humphrey's Executor* and *Wiener* as 'quasi-legislative' or 'quasi-judicial' in large part reflected our judgment that it was not essential to the President's proper execution of his Article II powers that these agencies be headed up by individuals who were removable at will. We do not mean to suggest that an analysis of the functions served by the officials at issue is irrelevant. But the real question is whether the removal restrictions are of such a nature that they impede the President's ability to perform his constitutional duty, and the functions of the officials in question must be analyzed in that light."[578]

The Court discerned no compelling reason to find the good cause limit to interfere with the President's performance of his duties. The independent counsel did exercise executive, law-enforcement functions, but the jurisdiction and tenure of each counsel were limited in scope and policymaking, or significant administrative authority was lacking. On the other hand, the removal authority did afford the President through the Attorney General power to ensure the "faithful execution" of the laws by assuring that the counsel is competently performing the statutory duties of the office.

It is now thus reaffirmed that Congress may not involve itself in the removal of officials performing executive functions. It is also established that, in creating offices in the executive branch and in creating independent agencies, Congress has considerable discretion in statutorily limiting the power to remove of the President or another appointing authority. It is evident on the face of the opinion that the discretion is not unbounded, that there are offices which may be essential to the President's performance of his constitutionally assigned powers and duties, so that limits on removal would be impermissible. There are no bright lines marking off one office from the other, but decision requires close analysis.[579]

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[578] 487 U.S. at 689–91.

[579] But notice the analysis followed by three Justices in Public Citizen v. Department of Justice, 491 U.S. 440, 467, 482–89 (1989) (concurring), and consider the possible meaning of the recurrence to formalist reasoning in Granfinanciera, S.A. v. Nordberg, 492 U.S. 33, (1989). *See also* Justice Scalia's use of the Take Care Clause in pronouncing limits on Congress's constitutional power to confer citizen standing in Lujan v. Defenders of Wildlife, 505 U.S. 555, 576–78 (1992), although it is not clear that he had a majority of the Court with him.