The plaintiff in this lawsuit seeks relief in civil damages from a former President of the United States. The claim rests on actions allegedly taken during the former President’s tenure in office. The issue before us is the scope of the immunity possessed by the President of the United States.

I

In January 1970 the respondent A. Ernest Fitzgerald lost his job as a management analyst with the Department of the Air Force. Fitzgerald’s dismissal occurred in the context of a departmental reorganization and reduction in force, in which his job was eliminated. In announcing the reorganization, the Air Force characterized the action as taken to promote economy and efficiency in the armed forces.

Respondent’s discharge attracted unusual attention in Congress and in the press. Fitzgerald had attained national prominence approximately one year earlier, during the waning months of the presidency of Lyndon B. Johnson. On November 13, 1968, Fitzgerald appeared before the Subcommittee on Economy in Government of the Joint Economic Committee of the United States Congress. To the apparent embarrassment of his superiors in the Department of Defense, Fitzgerald testified that cost-overruns on the C-5A
transport plane could approximate $2 billion. He also re-
vealed that unexpected technical difficulties had arisen dur-
ing the development of the aircraft.
Concerned that Fitzgerald might have suffered retaliation
for his congressional testimony, the Subcommittee on Econ-
omy in Government convened public hearings on Fitzgerald's
dismissal. The press reported those hearings prominently,
as it had the earlier announcement that his job was being
eliminated by the Department of Defense. At a news con-
ference on December 8, 1969, President Richard Nixon was
queried about Fitzgerald’s impending separation from gov-
ernment service. The President responded by promising to

1 See Economics of Military Procurement: Hearings Before the Sub-
committee on Economy in Government of the Joint Economic Comm.,
90th Cong., 2d Sess., Part I, at 199-211 (1968-1969). It is not disputed
that officials in the Department of Defense were both embarrassed and an-
gered by Fitzgerald’s testimony. Within less than two months of respond-
ent’s congressional appearance, staff had prepared a memorandum for the
outgoing Secretary of the Air Force, Harold Brown, listing three ways in
which Fitzgerald might be removed from his position. See Joint Appendix
(JA), at 208-211 (Memorandum of John Lang to Harold Brown, Jan. 6,
1969). Among these was a “reduction in force”—the means by which Fitz-
gerald ultimately was removed by Brown’s successor in office under the
new Nixon administration. The reduction in force was announced publicly
on November 4, 1969, and Fitzgerald accordingly was separated from the
Air Force upon the elimination of his job on January 5, 1970.

2 See The Dismissal of A. Ernest Fitzgerald by the Department of De-
fense: Hearings Before the Subcomm. on Economy in Government of the
of Congress also signed a letter to the President protesting the “firing
of this dedicated public servant” as a “punitive action.” Ibid., at 115-116,
JA, at 177-179.

3 A briefing memorandum on the Fitzgerald matter had been prepared
by White House staff in anticipation of a possible inquiry at the fortizoom-
ing press conference. Authored by aide Patrick Buchanan, it advanced
the view that the Air Force was “firing . . . a good public servant.” JA, at
269 (Memorandum of Patrick Buchanan to Richard Nixon, December 5,
1969). The memorandum suggested that the President order Fitzgerald’s
retention by the Defense Department.
look into the matter. Shortly after the news conference the petitioner asked White House Chief of Staff H.R. Haldeman to arrange for Fitzgerald’s assignment to another job within the Administration. It also appears that the President suggested to Budget Director Robert Mayo that Fitzgerald might be offered a position in the Bureau of the Budget.

Fitzgerald’s proposed reassignment encountered resistance within the Administration. In an internal memorandum of January 20, 1970, White House aide Alexander Butterfield reported to Haldeman that “Fitzgerald is no doubt a top-notch cost expert, but he must be given very low marks in loyalty; and after all, loyalty is the name of the game.” Butterfield therefore recommended that “We should let him bleed, for a while at least.” There is no evi-

1 JA, at 228.
2 See JA, at 129–112 (Deposition of H.R. Haldeman); JA, at 137–141 (Deposition of petitioner Richard Nixon). Haldeman’s deposed testimony was based on his handwritten notes of December 12, 1969. JA, at 275.
3 See JA, at 128 (Deposition of Robert Mayo); JA, at 141 (Deposition of Richard Nixon).
4 Both Mayo and his deputy, James Schlesinger, appear to have resisted at least partly due to a suspicion that Fitzgerald lacked institutional loyalty to Executive policies and that he spoke too freely in communications with friends on Capitol Hill. Both also stated that high level positions were presently unavailable within the Bureau of the Budget. See JA, at 126 (Deposition of Robert Mayo); JA, at 146–147 (Deposition of James Schlesinger).

5 Quoted in Decision on the Appeal of A. Ernest Fitzgerald (CSC Decision), JA, at 60, 84 (September 18, 1973).
6 Id., at 85. The memorandum added that “We owe first choice on Fitzgerald to [Senator] Proxmire and others who tried so hard to make him a hero [for exposing the cost overruns].” Suspicion of Fitzgerald’s assumed loyalty toward Senator Proxmire was widely shared in the White House and in the Defense Department. According to the CSC Decision, supra, JA, at 85:

“While Mr. Fitzgerald has denied that he was ‘Senator Proxmire’s boy in the Air Force,’ and he may honestly believe it, we find this statement difficult to accept. It is evident that the top officials in the Air Force, without
dence of White House efforts to reemploy Fitzgerald subsequent to the Butterfield memorandum.

Absent any offer of alternative federal employment, Fitzgerald complained to the Civil Service Commission. In a letter of January 20, 1970, he alleged that his separation represented unlawful retaliation for his truthful testimony before a congressional committee. The Commission convened a closed hearing on Fitzgerald’s allegations on May 4, 1971. Fitzgerald, however, preferred to present his grievances in public. After he had brought suit and won an injunction, Fitzgerald v. Hampton, 467 F. 2d 755 (1972), public hearings commenced on January 26, 1973. The hearings again generated publicity, much of it devoted to the testimony of Air Force Secretary Robert Seamans. Although he denied that Fitzgerald had lost his position in retaliation for congressional testimony, Seamans testified that he had received “some advice” from the White House before Fitzgerald’s job was abolished. But the Secretary declined to be more specific. He responded to several questions by invoking “executive privilege.”

At a news conference on January 31, 1973, the President was asked about Mr. Seamans’ testimony. Mr. Nixon took the opportunity to assume personal responsibility for Fitzgerald’s dismissal:

“I was totally aware that Mr. Fitzgerald would be fired or discharged or asked to resign. I approved it and Mr. Seamans must have been talking to someone who had discussed the matter with me. No, this was

specifically saying so, considered him to be just that. . . . We also note that upon leaving the Air Force Mr. Fitzgerald was employed as a consultant by the Proxmire Committee and that Senator Proxmire appeared at the Commission hearing as a character witness for [Fitzgerald].”

"See CSC Decision, JA, at 61.
"See id., JA, at 88-89.
"See id."
not a case of some person down the line deciding he should go. It was a decision that was submitted to me. I made it and I stick by it."

A day later, however, the White House press office issued a retraction of the President's statement. According to a press spokesman, the President had confused Fitzgerald with another former executive employee. On behalf of the President, the spokesman asserted that Mr. Nixon had not had "put before him the decision regarding Mr. Fitzgerald."

After hearing over 4,000 pages of testimony, the Chief Examiner for the Civil Service Commission issued his decision in the Fitzgerald case on September 18, 1973. *Decision on the Appeal of A. Ernest Fitzgerald, JA,* at 60. The Examiner held that Fitzgerald's dismissal had offended applicable civil service regulations. *Ibid.,* JA, at 86-87. The Examiner based this conclusion on a finding that the departmental


"JA, at 196 (transcription of statement of White House press secretary Ronald Ziegler, Feb. 1, 1973). In a conversation with aide John Ehrlichman, following his conversation with Charles Colson, see supra note 13, the President again had claimed responsibility for Fitzgerald's dismissal. When Ehrlichman corrected him on several details, however, the President concluded that he was "thinkin' of another case." *JA,* at 218 (recorded conversation of Jan. 31, 1973). See *id.,* at 220. It was after this conversation that the retraction was ordered.

"Fitzgerald's position in the Air Force was in the "excepted service" and therefore not covered by civil service rules and regulations for the competitive service. *Fitzgerald v. Hampton,* 467 F. 2d 755, 758 (CADC 1972); see *CSC Decision,* JA, at 63-64. In *Hampton,* however, the court held that Fitzgerald's employment nonetheless was under "legislative protection," since he was a "preference eligible" veteran entitled to various statutory protections under the Veterans Preference Act. See 467 F. 2d, at 758-758. Among these were the benefits of the reduction in force procedures established by civil service regulation. See 467 F. 2d, at 758.
reorganization in which Fitzgerald lost his job, though purportedly implemented as an economy measure, was in fact motivated by "reasons purely personal to" respondent. *Id.*, at 86. As this was an impermissible basis for a reduction in force, the Examiner recommended Fitzgerald's reappointment to his old position or to a job of comparable authority.

The Examiner, however, explicitly distinguished this narrow conclusion from a suggested finding that Fitzgerald had suffered retaliation for his testimony to Congress. As found by the Commission, "the evidence in the record does not support [Fitzgerald's] allegation that his position was abolished and that he was separated . . . in retaliation for his having revealed the C-5A cost overrun in testimony before the Proxmire Committee on November 13, 1968." *Ibid.*, at 81.

Following the Commission's decision, Fitzgerald filed a suit for damages in the United States District Court. In it he raised essentially the same claims presented to the Civil Service Commission. As defendants he named eight offi-

"The Examiner found that Fitzgerald in fact was dismissed because of his superiors' dissatisfaction with his job performance. *CSC Decision*, JA, at 86-87. Their attitude was evidenced by "statements that he was not a 'team player' and 'not on the Air Force team.'" *Ibid.*, JA, at 83. Without deciding whether this would have been an adequate basis for an "adverse action" against Fitzgerald as an "inadequate or unsatisfactory employee," *Ibid.*, at 86, the Examiner held that the Commission's adverse action procedures, current version codified at 5 CFR § 732, implicitly forbade the Air Force to employ a "reduction in force" as a means of dismissing respondent for reasons "personal to" him. JA, at 87.

"The Commission also ordered that Fitzgerald should receive back pay. *CSC Decision*, at 20-21, JA, at 87-88. Despite the Commission's order, respondent avers that he "has still not obtained reinstatement to a position equivalent to his former one," *Brief for Respondent*, at 11, n. 17, and that he therefore has brought an enforcement action in the District Court.

"The complaint alleged a continuing conspiracy to deprive him of his job, to deny him reemployment, and to besmirch his reputation. Fitzgerald alleged that the conspiracy had continued through the Commission hearings and remained in existence at the initiation of the lawsuit. See *Fitzgerald v. Seamans*, *supra*, 384 F. Supp., at 690-692.
of officials of the Defense Department, White House aide Alexander Butterfield, and "one or More" unnamed "White House Aides" styled only as "John Does."

The District Court dismissed the action under the District of Columbia's three-year statute of limitations, Fitzgerald v. Seamans, 384 F. Supp. 688 (D.D.C. 1974), and the Court of Appeals affirmed as to all but one defendant, White House aide Alexander Butterfield, Fitzgerald v. Seamans, 553 F. 2d 229 (CADC 1977). The Court of Appeals reasoned that Fitzgerald had no reason to suspect White House involvement in his dismissal at least until 1973. In that year, reasonable grounds for suspicion had arisen, most notably through publication of the internal White House memorandum in which Butterfield had recommended that Fitzgerald at least should be made to "bleed for a while" before being offered another job in the Administration. 553 F. 2d, at 225, 229. Holding that concealment of illegal activity would toll the statute of limitations, the Court of Appeals remanded the action against Butterfield for further proceedings in the District Court.

Following the remand and extensive discovery thereafter, Fitzgerald filed a Second Amended Complaint in the District Court on July 5, 1978. It was in this amended complaint—more than eight years after he had complained of his discharge to the Civil Service Commission—that Fitzgerald first named the petitioner Nixon as a party defendant.19 Also included as defendants were White House aide Bryce Harlow and other officials of the Nixon administration. Additional discovery ensued. By March 1980, only three defendants remained: the petitioner Richard Nixon and White House aides

19 The general allegations of the complaint remained essentially unchanged. In averring Nixon's participation in the alleged conspiracy against him, the complaint quoted petitioner's press conference statement that he was "totally aware" of and in fact "approved" Fitzgerald's dismissal. Second Amended Complaint, at 6.
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Bryce Harlow and Alexander Butterfield. Denying a motion for summary judgment, the District Court ruled that the action must proceed to trial. Its order of March 26 held that Fitzgerald had stated triable causes of action under two federal statutes and the First Amendment to the Constitution. The Court also ruled that petitioner was not entitled to claim absolute presidential immunity.

Petitioner took a collateral appeal of the immunity decision to the Court of Appeals for the District of Columbia Circuit. The Court of Appeals dismissed summarily. It apparently did so on the ground that its recent decision in Halperin v. Kissinger, 606 F. 2d 1192 (CADC 1979), aff'd by an equally

See Appendix to Petition for Certiorari, at 1a-2a. The District Court held that respondent was entitled to "infer" a cause of action under 5 U. S. C. § 7211 and 18 U. S. C. § 1505. Neither expressly confers a private right to sue for relief in damages. The first, 5 U. S. C. § 7211 (Supp. III 1979), provides generally that "The right of employees ... to ... furnish information to either House of Congress, or to a committee or a Member thereof, may not be interfered with or denied." The second, 18 U. S. C. § 1505, is a criminal statute making it a crime to obstruct congressional testimony. The correctness of the decision that a cause of action could be "implied" under these statutes is not currently before us. Neither is the question whether the courts, under the direct authority of the First Amendment, may recognize a private action against the President for relief in damages. Cf. Carlson v. Green, 446 U. S. 14, 19 (1980) (in direct constitutional actions against officials with "independent status in our constitutional scheme ... judicially created remedies ... might be inappropriate."). Bivens v. Six Unknown Federal Narcotics Agents, 403 U. S. 388, 396 (1971) (upholding judicial recognition of a nonstatutory damages remedy for Fourth Amendment violations in cases "involv[ing] no special factors counselling hesitation in the absence of affirmative action by Congress"). As explained infra, this case is here under the "collateral order" doctrine, for review of the District Court's denial of petitioner's motion to dismiss on the ground that he enjoyed absolute immunity from civil suit. The District Court also held that respondent had stated a claim under the common law of the District of Columbia, but respondent subsequently abandoned his common law cause of action. See Respondent's Supplemental Brief, at 2 (May 14, 1980).
divided vote, 452 U. S. 713 (1981), had rejected this claimed immunity defense.

As this Court has not ruled on the scope of immunity available to a President of the United States, we granted certiorari to decide this important issue. 452 U. S. 957 (1981).

II

Before addressing the merits of this case, we must consider two challenges to our jurisdiction. In his opposition to the petition for certiorari, respondent argued that this Court is without jurisdiction to review the non-final order in which the District Court rejected petitioner's claim to absolute immunity. We also must consider an argument that an agreement between the parties has mooted the controversy.

A

Petitioner invokes the jurisdiction of this Court under 28 U. S. C. § 1254, a statute that invests us with authority to review "cases in" the courts of appeals. When the petitioner in this case sought review of an interlocutory order denying his claim to absolute immunity, the Court of Appeals dismissed petitioner's appeal for lack of jurisdiction. Emphasizing the "jurisdictional" basis for the Court of Appeals' decision, respondent argued that the District Court's order was not an appealable "case" properly "in" the Court of Appeals within the meaning of § 1254. We do not agree.

Under the "collateral order" doctrine of Cohen v. Benefi-
National Industrial Loan Corp., 387 U. S. 541 (1949), a small class of interlocutory orders are immediately appealable to the courts of appeals. As defined by Cohen, this class embraces orders that "conclusively determine the disputed question, resolve an important issue completely separate from the merits of the action, and [are] effectively unreviewable on appeal from a final judgment." Coopers & Lybrand v. Livesay, 437 U. S. 463, 468 (1978); see Cohen, supra, 337 U. S., at 546-547. As an additional requirement, Cohen established that a collateral appeal of an interlocutory order must "present[] a serious and unsettled question." 337 U. S., at 547. At least twice before this Court has held that orders denying claims of absolute immunity are appealable under the Cohen criteria. See Helstoski v. Meany, 442 U. S. 500 (1979) (claim of immunity under the Speech and Debate Clause); Abney v. United States, 410 U. S. 651 (1977) (claim of immunity under Double Jeopardy Clause). In previous cases the Court of Appeals for the District of Columbia Circuit also has treated orders denying absolute immunity as appealable under Cohen. See Briggs v. Goodwin, 569 F. 2d 10, 13-20 (CADC 1977) (Wilkey, J., writing separately for the Court on the appealability issue); McSurely v. McClellan, 521 F. 2d 1024, 1032 (1975), aff'd in pertinent part en banc, 553 F. 2d 1277, 1283-1284 n. 18 (1976), cert dismissed sub nom. McAdams v. McSurely, 438 U. S. 189 (1978).

In "dismissing" the appeal in this case, the Court of Appeals appears to have reasoned that petitioner's appeal lay outside the Cohen doctrine because it raised no "serious and unsettled question" of law. This argument was pressed by the respondent, who asked the Court of Appeals to dismiss on the basis of that court's "controlling" decision in Halperin v. Kissinger, supra.

Under the circumstances of this case, we cannot agree that petitioner's interlocutory appeal failed to raise a "serious and unsettled" question. Although the Court of Appeals had ruled in Halperin v. Kissinger that the President was not en-
titled to absolute immunity, this Court had never so held. And a petition for certiorari in Halperin was pending in this Court at the time petitioner's appeal was dismissed. In light of the special solicitude due to claims alleging a threatened breach of essential presidential prerogatives under the separation of powers, see United States v. Nixon, 418 U.S. 683, 691-692 (1974), we conclude that petitioner did present a "serious and unsettled" and therefore appealable question to the Court of Appeals. It follows that the case was "in" the Court of Appeals under § 1254 and properly within our certiorari jurisdiction. 23

B

Shortly after petitioner had filed his petition for certiorari in this Court and respondent had entered his opposition, the parties reached an agreement to liquidate damages. 24 Under its terms the petitioner Nixon paid the respondent Fitzgerald a sum of $142,000. In consideration Fitzgerald agreed to ac-

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23. There can be no serious doubt concerning our power to review a court of appeals' decision to dismiss for lack of jurisdiction—a power we have exercised routinely. See, e.g., Gardner v. Westinghouse Broadcasting Co., 437 U. S. 478 (1978). If we lacked authority to do so, decisions to dismiss for want of jurisdiction would be insulated entirely from review by this Court.

Nor, now that we have taken jurisdiction of the case, need we remand to the Court of Appeals for a decision on the merits. The immunity question is a pure issue of law, appropriate for our immediate resolution. Especially in light of the Court of Appeals' now-binding decision of the issue presented, concerns of judicial economy fully warrant our decision of the important question presented.

24. Respondent filed a copy of this agreement with the Clerk of this Court on August 24, 1981, as an appendix to his Brief in Opposition to a Motion of Morton, Ina, David, Mark and Gary Halperin to Intervene and for Other Relief. On June 10, 1980, prior to the Court's action on the petition for certiorari, counsel to the parties had advised the Court that their clients had reached an agreement to liquidate damages, but that there remained a live controversy. Counsel did not include a copy of the agreement in their initial submission.
cept liquidated damages of $28,000 in the event of a ruling by this Court that petitioner was not entitled to absolute immunity. In case of a decision upholding petitioner's immunity claim, no further payments would be made.

The limited agreement between the parties left both petitioner and respondent with a considerable financial stake in the resolution of the question presented in this Court. As we recently concluded in a case involving a similar contract, "Given respondents' continued active pursuit of monetary relief, this case remains 'definite and concrete, touching the legal relations of parties having adverse legal interests.'" Havens Realty Co. v. Coleman, — U. S. —, — (1982), quoting Aetna Life Ins. Co. v. Haworth, 300 U. S. 227, 240–241 (1937).

III

A

This Court consistently has recognized that government officials are entitled to some form of immunity from suits for civil damages. In Spalding v. Vilas, 161 U. S. 488 (1896), the Court considered the immunity available to the Postmaster General in a suit for damages based upon his official acts. Drawing upon principles of immunity developed in English cases at common law, the Court concluded that "[t]he interests of the people" required a grant of absolute immunity to public officers. Id., at 498. In the absence of immunity, the Court reasoned, executive officials would hesitate to exercise their discretion in a way "injuriously affect[ing] the claims of particular individuals," id., at 499, even when the public interest required bold and unhesitating action. Considerations of "public policy and convenience" therefore compelled a judicial recognition of immunity from suits arising from official acts.

"In exercising the functions of his office, the head of an Executive Department, keeping within the limits of his
authority, should not be under an apprehension that the motives that control his official conduct may, at any time, become the subject of inquiry in a civil suit for damages. It would seriously cripple the proper and effective administration of public affairs as entrusted to the executive branch of the government, if he were subjected to any such restraint."

Id., at 498.

Decisions subsequent to Spalding have extended the defense of immunity to actions besides those at common law. In Tenney v. Brandhove, 341 U. S. 367 (1951), the Court considered whether the passage of 42 U. S. C. §1983, which made no express provision for immunity for any official, had abrogated the privilege accorded to state legislators at common law. Tenney held that it had not. Examining §1983 in light of the "presuppositions of our political history" and our heritage of legislative freedom, the Court found it incredible "that Congress ... would impinge on a tradition so well grounded in history and reason" without some indication of intent more explicit than the general language of the statute. Id., at 376. Similarly, the decision in Pierson v. Ray, 386 U. S. 547 (1967), involving a §1983 suit against a state judge, recognized the continued validity of the absolute immunity of judges for acts within the judicial role. This was a doctrine "'not for the protection or benefit of a malicious or corrupt judge, but for the benefit of the public, whose interest it is that the judges should be at liberty to exercise their functions with independence and without fear of consequences.'" Id., at 554, quoting, Scott v. Stansfield, L.R. 3 Ex. 220, 223 (1868). See Bradley v. Fisher, 13 Wall. 335 (1872). The Court in Pierson also held that police officers are entitled to a qualified immunity protecting them from suit when their official acts are performed in "good faith." Id., at 557.

In Scheuer v. Rhodes, 416 U. S. 232 (1974), the Court considered the immunity available to state executive officials in a
§ 1983 suit alleging the violation of constitutional rights. In that case we rejected the officials' claim to absolute immunity under the doctrine of *Spalding v. Vilas*, finding instead that state executive officials possessed a "good faith" immunity from §1983 suits alleging constitutional violations. Balancing the purposes of §1983 against the imperatives of public policy, the Court held that "in varying scope, a qualified immunity is available to officers of the executive branch of government, the variation being dependent upon the scope of discretion and responsibilities of the office and all the circumstances as they reasonably appeared at the time of the action on which liability is sought to be based." *Id.*, at 247.

As construed by subsequent cases, *Scheuer* established a two-tiered division of immunity defenses in §1983 suits. To most executive officers *Scheuer* accorded qualified immunity. For them the scope of the defense varied in proportion to the nature of their official functions and the range of decisions that conceivably might be taken in "good faith". This "functional" approach also defined a second tier, however, at which the especially sensitive duties of certain officials—notably judges and prosecutors—required the continued recognition of absolute immunity. See, e. g., *Imbler v. Pachtman*, 424 U. S. 409 (1976) (state prosecutors possess absolute immunity with respect to the initiation and pursuit of prosecutions); *Stump v. Sparkman*, 435 U. S. 349 (1978) (state judge possesses absolute immunity for all judicial acts).

This approach was reviewed in detail in *Butz v. Economou*, 438 U. S. 478 (1978), when we considered for the first time the kind of immunity possessed by federal executive officials who are sued for constitutional violations.22 In *Butz* the Court rejected an argument, based on decisions involving federal officials charged with common law torts, that all high

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22*Spalding v. Vilas*, supra, was distinguished on the ground that the suit against the Postmaster General had asserted a common law—and not a constitutional—cause of action. See *Butz*, supra, 438 U. S., at 489-495.
federal officials have a right to absolute immunity from constitutional damage actions. Concluding that a blanket recognition of absolute immunity would be anomalous in light of the qualified immunity standard applied to state executive officials, 438 U. S., at 504, we held that federal officials generally have the same qualified immunity possessed by state officials in cases under §1983. In so doing we reaffirmed our holdings that some officials, notably judges and prosecutors, "because of the special nature of their responsibilities," id., at 511, "require a full exemption from liability." Id., at 508. In Butz itself we upheld a claim of absolute immunity for administrative officials engaged in functions analogous to those of judges and prosecutors. Ibid. We also left open the question whether other federal officials could show that "public policy requires an exemption of that scope." Id., at 506.

B

Our decisions concerning the immunity of government officials from civil damage liability arguably have not defined a straight line of doctrinal development. Nonetheless, a consistent approach has run throughout. In addressing claims of entitlement to immunity, this Court has recognized that "the law of privilege as a defense to damage actions against officers of Government has 'in large part been of judicial making,'" Butz v. Economou, supra, 438 U. S., at 501-502, quoting Barr v. Matteo, 360 U. S. 564, 569 (1959); Doe v. McMillan, 412 U. S. 306, 318 (1973), and that the "federal courts are . . . competent to determine the appropriate level of immunity" of state and federal officials, Butz v. Economou, supra, 438 U. S., at 503. Our decisions of course have been guided by federal statutes and the Constitution. Our cases under §1983 formally have involved statutory construction. See, e. g., Tenney v. Brandhove, 341 U. S. 367 (1951). Other decisions rest either on the literal text of the Constitution, e. g., Powell v. McCormack, 395 U. S. 486, 506 (1969) (recognizing immunity of Congressmen under Speech and Debate Clause),
or on inferences of purpose drawn from constitutional language and structure, e. g., Gravel v. United States, 408 U. S. 606, 618 (1972) (extending congressional immunity to a congressional aide, in order to "implement [the] fundamental purpose" of the Speech and Debate Clause). Cf. Butz v. Economou, supra, 438 U. S., at 508–517. Nonetheless, at least in the absence of explicit guidance from the Congress, in deciding immunity questions we have relied explicitly on consideration of public policy comparable to those traditionally recognized by courts at common law. 26 We also have examined the scope of the immunity historically afforded to particular officials at common law. See Butz v. Economou, supra, 438 U. S., at 508; Imbler v. Pachtman, 424 U. S. 409, 421 (1976).

This case now presents the claim that the President of the United States is shielded by absolute immunity from civil damages liability. In the case of the President the historical and policy inquiries tend to converge. Because the Presidency did not exist through most of the development of common law, any historical analysis must draw its evidence primarily from our constitutional structure and heritage. From both sources the relevant evidence involves an ongoing effort to identify the appropriate separation of powers among the branches of government—a concern that also forms the core of our inquiry involving those considerations of public policy traditionally weighed by courts at common law.

26 At least three basic rationales support immunity for public officials. First, competent and responsible individuals may be deterred from entering public service in the first place. Second, the prospect of damages liability may render officials unduly cautious in the discharge of their public responsibilities. See Gregoire v. Biddle, 177 F. 2d 579, 581 (CA2 1949), cert. denied, 339 U. S. 949 (1950). Third, public servants may be distracted from their duties by the need to defend frequent lawsuits. See generally Freed, Executive Official Immunity for Constitutional Violations: An Analysis and a Critique, 72 Nw. L. Rev. 526, 529–530 (1977).
Here a former President asserts his immunity from civil damage claims of two kinds. He stands named as a defendant in a direct action under the Constitution and two statutory actions under federal laws of general applicability. In neither case has Congress taken express legislative action to subject the President to civil liability for his official acts.

Applying the principles of our cases to claims of this kind, we hold that petitioner, as a former President of the United States, is entitled to absolute immunity from damages liability predicated on his official acts. We consider this immunity a functionally mandated incident of the President's unique office, rooted in the constitutional tradition of the separation of powers and justified by considerations of public policy.

A

The President occupies a unique position in the constitutional scheme. Article II of the Constitution provides that "The executive Power shall be vested in a President of the United States. . . ." This grant of authority establishes the President as the chief constitutional officer of the Executive branch, entrusted with supervisory and policy responsibilities of utmost discretion and sensitivity. These include the administration of justice—it is the President who is charged constitutionally to "take care that the laws be faithfully executed"; the conduct of foreign affairs—a realm in which the Court has recognized that "It would be intolerable that courts, without the relevant information, should review and perhaps nullify actions of the Executive taken on information..." We know of no instance in the history of our country in which Congress has given serious consideration to imposing civil damage suit liability on a President. A congressional attempt to do so would present a serious constitutional issue that we have no occasion to consider in this case.

27 U. S. Const., Art II, § 3.
properly held secret”; and management of the personnel of the Executive branch—a task for which “imperative reasons require an unrestricted power [in the President] to remove the most important of his subordinates in their most important duties.”

In arguing that the President is entitled only to qualified immunity, the respondent relies on cases in which we have recognized immunity of this scope for governors and cabinet officers. E. g., Butz v. Economou, supra; Scheuer v. Rhodes, supra. We find these cases to be inapposite. The President’s unique status under the Constitution distinguishes him from other executive officials.

31 Under the “good faith” standard, as formulated in such cases as Wood v. Strickland, 420 U. S. 388, 322 (1976), an official would be held immune from damages liability unless “he knew or reasonably should have known that the action he took within his sphere of official responsibility” was unconstitutional or “he took the action with malicious intention to cause a deprivation of constitutional rights or other injury. . . .”
32 Noting that the “Speech and Debate Clause” provides a textual basis for congressional immunity, respondent argues that the Framers must be assumed to have rejected any similar grant of Executive immunity. Petitioner, on the other hand, offers historical arguments that the Framers affirmatively assumed presidential immunity to have been established by the adoption of the constitutional scheme. Although we need not embrace petitioner’s argument in order to decide this case, we do reject respondent’s contention that the constitutional text and structure somehow prohibit a judicial recognition of absolute immunity. There are two difficulties with respondent’s argument. First, a specific textual basis has not been considered a prerequisite to the recognition of immunity. No provision expressly confers judicial immunity. Yet the immunity of judges is well settled. See, e. g., Bradley v. Fisher, 13 Wall 335 (1872); Stump v. Sparkman, supra. Second, this Court already has established that absolute immunity may be extended to certain officials of the Executive Branch. Butz v. Economou, supra, 438 U. S., at 511–512; see Imbler v. Pachtman, supra, (extending immunity to prosecutorial officials within the Executive branch).
Similarly, the importance and scope of the President's powers and duties render him particularly vulnerable to suits for civil damages. The matters with which a President must concern himself are likely to "arouse the most intense feelings." Pierson v. Ray, supra, 386 U.S., at 554. Yet it is precisely in such cases that there exists the greatest public interest in providing the President "the maximum ability to deal fearlessly and impartially with" the duties of his office. Ferri v. Ackerman, 444 U. S. 193, 203 (1979) (footnote omitted). For example, it would be intolerable to instill in the President a hesitancy to remove inefficient or even disloyal personnel. Exposure of the President to damages actions also could distort the process of decisionmaking at the highest levels of the executive branch. Anticipating lawsuits against the President, the President and his advisers naturally would have an incentive to devote scarce energy, not to performance of their public duties, but to compilation of a record insulating the President from subsequent liability. In view of the singular importance of the President's duties, the threatened diversion of his energies by private lawsuits would raise unique risks to public policy.

33 Cf. J. Story, Commentaries on the Constitution of the United States, § 1563, at 418-419 (1833 ed.): "There are . . . incidental powers, belonging to the executive department, which are necessarily implied from the nature of the functions, which are confided to it. Among these, must necessarily be included the power to perform them . . . . The president cannot, therefore, be liable to arrest, imprisonment, or detention, while he is in the discharge of the duties of his office; and for this purpose his person must be deemed, in civil cases at least, to possess an official inviolability."

34 These dangers are significant even though there is no historical record of numerous suits against the President, since a right to sue federal officials for damages for constitutional violations was not even recognized until Bivens v. Six Unknown Fed. Narcotics Agents, 403 U. S. 388 (1971).

35 Even in the case of officials possessing absolute immunity, this Court generally has held that this immunity extends only to acts in performance...
In deference to the President's singular constitutional mandate, the courts traditionally have asserted their jurisdiction over him with respectful caution and restraint. This Court of particular functions. See Butz v. Economou, supra, 438 U. S., at 508-517; cf. Imbler v. Pachtman, supra, 424 U. S., at 430-431. In the case of the President, however, powerful reasons counsel rejection of a selective approach.

Under the Constitution and laws of the United States the President has discretionary responsibilities in a broad variety of areas, many of which are highly sensitive. In many cases it would be difficult to determine which Presidential "function" encompassed a particular action. Thus, in order to administer functional distinctions among Presidential actions, judges frequently would need to inquire into the purpose for which acts were taken. Inquiries of this kind could be highly intrusive.

In determining the proper scope of an absolute privilege, this Court repeatedly has refused to draw lines finer than history and reason would support. See, e. g., Spalding v. Vilas, supra, 161 U. S., at 490 (privilege extends to all matters "committed by law to [an official's] control or supervision"); Barr v. Matteo, supra, 360 U. S., at 575 (fact "that the action here taken was within the outer perimeter of petitioner's line of duty is enough to render the privilege applicable"); Stump v. Sparkman, supra, 445 U. S., at 365 and n. 12 (judicial privilege applies even to acts occurring outside "the normal attributes of a judicial proceeding"). In view of the special nature of the President's constitutional office, we think it appropriate to extend to him absolute immunity from damage actions based on acts within the "outer perimeter" of the area of his official responsibility.

In this case respondent argues that petitioner Nixon would have acted outside the perimeter of his duties by ordering the discharge of respondent Fitzgerald, who was lawfully entitled to retain his job in the absence of "such case as will promote the efficiency of the service." Brief for Respondent, at 38, citing 5 U. S. C. § 7512(a). Because Congress has granted this legislative protection, petitioner argues, no federal official could, within his authority, cause Fitzgerald to be dismissed without satisfying this standard of proof. This construction of the President's authority would subject him to trial on every allegation that an allegedly tortious action was taken for a forbidden purpose. Adoption of this construction thus would deprive absolute immunity of its intended effect.

It clearly is within the President's authority to "prescribe" the manner in which the Secretary will "conduct the business" of the Air Force. 10
never has held that courts may compel the President to perform even ministerial functions. By contrast, injunctions compelling action by other officials long have been upheld. A similar distinction is reflected in the approach of this Court

The President's powers are derived from the Constitution, and the Court has never held that courts may compel the President to perform even ministerial functions. By contrast, injunctions compelling action by other officials long have been upheld. A similar distinction is reflected in the approach of this Court.

U. S. C. § 8012(b). Because this mandate includes the authority to prescribe reorganizations and reductions in force, petitioner's alleged wrongful acts lay well within the outer perimeter of his authority.

Although this issue has not been faced squarely by the Court, there have been strong statements in previous opinions asserting the immunity of the President from judicial orders. In Mississippip v. Johnson, 71 U. S. 478, 501 (1866), the Court stated: "we are fully satisfied that this court has no jurisdiction of a bill to enjoin the President in the performance of his official duties; and that no such bill ought to be received by us." And in Kendall v. United States, 12 Pet. 524, 610 (1838), it is stated: "The executive power is vested in a President; and as far as his powers are derived from the constitution, he is beyond the reach of any other department, except in the mode prescribed by the constitution through the impeaching power."

Even in United States v. Nixon, the court held that Presidential conversations and correspondence enjoy a "presumptive privilege" that is "inextricably rooted in the separation of powers." 418 U. S., at 708. We suggested that this privilege may be more absolute when matters of diplomacy or national security are involved. Id., at 706, 710-711.

Strong historical considerations support the traditional judicial reluctance to enjoin action by the President. At the time of the first Congress, Vice President John Adams and Oliver Ellsworth, Senator from Connecticut, were reported as stating that "the President, personally, was not subject to any process whatever; could have no action, whatever, brought against him; and above the power of all judge, justices, etc." since otherwise a court could "stop the whole machinery of government." 2 W. Maclay, Sketches of Debate in the First Senate of the United States 152 (Harris ed. 1880). Justice Story offered a similar argument somewhat later. See 3 J. Story, Commentaries on the Constitution of the United States § 158, at 418-419 (1st ed. 1833).

It is clear that Thomas Jefferson believed the President not to be subject to judicial process. When Chief Justice Marshall held in United States v. Burr, 25 Fed. Cas. 36 (1807), that a subpoena duces tecum can be issued to a President, Jefferson protested strongly, and stated his broader view of the proper relationship between the Judiciary and the President:

"The leading principle of our Constitution is the independence of the Legislature, executive and judiciary of each other, and none are more jealous of this than the judiciary. But would the executive be independent of
to cases in which various officials have claimed an evidentiary privilege. The courts generally have looked to the common law to determine the scope of an official's privilege. In considering claims by the President, however, we have recognized that Presidential immunity is "rooted in the separation of powers under the Constitution." United States v. Nixon, 418 U. S. 683, 708 (1974).

It is settled law that the separation of powers doctrine does not bar every exercise of jurisdiction over the President of the United States. See, e. g., United States v. Nixon, supra; United States v. Burr, 25 Fed. Cases 191, 196 (1807); cf. Youngstown Sheet & Tube Co. v. Sawyer, 343 U. S. 579 (1952). But our cases also have recognized that a court, before exercising jurisdiction, must balance the constitutional weight of the interest to be served against the dangers of intrusion on the authority and functions of the executive branch. When judicial action is needed to serve broad pub-

the judiciary, if he were subject to the commands of the latter, & to imprisonment for disobedience; if the several courts could bandy him from pillar to post, keep him constantly trudging from north to south & east to west, and withdraw him entirely from his constitutional duties? The intention of the Constitution, that each branch should be independent of the others, is further manifested by the means it has furnished to each, to protect itself from enterprises of force attempted on them by the others, and to none has it given more effectual or diversified means than to the executive." 10 The Works of Thomas Jefferson 404n. (P. Ford ed. 1905) (quoting a letter from President Jefferson to a prosecutor at the Burr trial) (emphasis in the original). See also 5 D. Malone, Jefferson and His Time: Jefferson the President 320-325 (1974).

39 Although the President was not a party, the Court enjoined the Secretary of Commerce from executing a direct presidential order. See 343 U. S., at 583.

40 See Nixon v. General Services Administration, 433 U. S. 425, 439
lic interests—as when the Court acts, not in derogation of the separation of powers, but to maintain their proper balance, cf. Youngstown Sheet & Tube Co. v. Sawyer, supra—the exercise of jurisdiction has been held warranted. In the case of this merely private suit for damages based on a President's official acts, we hold it is not.41

V

A rule of absolute immunity for the President will not leave the Nation without sufficient remedies for misconduct on the part of the chief executive.42 There remains first the constitutional remedy of impeachment.43 In addition, Presi-


41 It never has been denied that absolute immunity may impose a serious cost on the individuals whose rights have been violated. As Judge Learned Hand wrote in Gregoire v. Biddle, 177 F. 2d 579, 581 (CA2 1949), cert denied, 339 U. S. 949 (1950):

"It does indeed go without saying that an official, who is in fact guilty of using his powers to vent his spleen upon others, or for any personal motive not connected with the public good, should not escape liability for the injuries he may so cause; and, if it were possible in practice to confine such complaints to the guilty, it would be monstrous to deny recovery. The justification for . . . [denying recovery] is that it is impossible to know whether the claim is well founded until the case has been tried, and to submit all officials, the innocent as well as the guilty, to the burden of trial and to the inevitable danger of its outcome, would dampen the ardor of all but the most resolute. . . . As is so often the case, the answer must be found in a balance between the evils inevitable in either alternative."

In weighing the balance of advantages, this Court has found that there is a lesser public interest in actions for civil damages than, for example, in criminal prosecutions. See United States v. Gillock, 446 U. S. 390, 371-373 (1980); cf. United States v. Nixon, supra, 418 U. S., at 711-712 and n. 19 (basing holding on special importance of evidence in a criminal trial and distinguishing civil actions as raising different questions not presented for decision).

"The presence of alternative remedies has played an important role in our previous decisions in the area of official immunity. E. g., Imbler v. Pachtman, supra, 424 U. S., at 428-429 ("We emphasize that the immunity of prosecutors from liability in suits under § 1983 does not leave the public powerless to deter misconduct or to punish that which occurs.").

"The same remedy plays a central role with respect to the misconduct of
dent may be prosecuted criminally, at least after they leave office. Moreover, there are informal checks on Presidential action that do not apply with equal force to other executive officials. The President is subjected to constant scrutiny by Congress and by the press. The vigilance of these institutions may serve to deter Presidential abuses of office, as well as to make credible the threat of impeachment.44 Other incentives to avoid misconduct may include a desire to earn re-election, the need to maintain prestige as an element of presidential influence, and a President's traditional concern for his historical stature.

The existence of alternative remedies and deterrents establishes that absolute immunity will not place the President "above the law." For the President, as for judges and prosecutors, absolute immunity merely precludes a particular private remedy for alleged misconduct in order to advance compelling public ends.

VI

For the reasons stated in this opinion, the decision of the Court of Appeals is reversed and the case remanded for action consistent with this opinion.

So ordered.
