

where they expire on the thirty-first days of December, eighteen hundred and thirty-seven, eighteen hundred and thirty-eight, and eighteen hundred and thirty-nine, respectively, for four years and six months, so as to cause them to terminate on the thirtieth day of June, eighteen hundred and forty-two, eighteen hundred and forty-three, and eighteen hundred and forty-four, to the end that the contract may commence on the first day of July, instead of the first day of January.

APPROVED, March 2, 1837.

ized to make contracts which expire on 31st December, 1837, '8, and '9, and terminate on 30th June, 1842, '3, and '4.

No. 2. *A Resolution granting a pension to Susan Decatur, widow of the late Stephen Decatur.*(a)

March 3, 1837.

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That Mrs. Susan Decatur, widow of the late Commodore Stephen Decatur, be paid from the navy pension fund a pension for five years, commencing from the thirtieth of June, eighteen hundred and thirty-four, in conformity with the provisions of the act concerning naval pensions and the navy pension fund, passed thirtieth June eighteen hundred and thirty-four, and that she be allowed from said fund the arrearages of the half-pay of a post captain, from the death of Commodore Decatur to the thirtieth of June, eighteen hundred and thirty-four, together with the pension hereby allowed her, and that the arrearage of said pension be vested in the Secretary of the Treasury in trust for the use of the said Susan Decatur: Provided, That the said pension shall cease on the death or marriage of the said Susan Decatur.

To be paid from the navy pension fund, a pension for five years, &c.
Act of June 30, 1834, ch. 134.

Proviso.

APPROVED, March 3, 1837.

(a) On the 3d of March, 1837, Congress passed an act giving to the widow of any officer who had died in the naval service of the United States, authority to receive, out of the navy pension fund, half the monthly pay to which the deceased officer would have been entitled under the acts regulating the pay in the navy, in force on the 1st day of January, 1835. On the same day, a resolution was adopted by Congress, giving to Mrs. Decatur, widow of Captain Stephen Decatur, a pension for five years, out of the navy pension fund, and in conformity with the act of 30th June, 1834, and the arrearages of the half-pay of a post captain, from the death of Commodore Decatur, to the 30th June, 1834; the arrearages to be vested in trust for her by the Secretary of the Treasury. The pension and arrearages, under the act of 3d March, 1837, were paid to Mrs. Decatur on her application to Mr. Dickerson, the Secretary of the Navy, under a protest by her, that by receiving the same she did not prejudice her claim under the resolution of the same date. She applied to the Secretary of the Navy for the pension and arrears, under the resolution, which were refused by him. Afterwards, she applied to Mr. Paulding, who succeeded Mr. Dickerson as Secretary of the Navy, for the pension and arrears, which were refused by him. The Circuit Court of the County of Washington, in the District of Columbia, refused to grant a mandamus to the Secretary of the Navy, commanding him to pay the arrears, and to allow the pension under the resolution of March 3d, 1837. Held, that the judgment of the Circuit Court was correct. *Decatur v. Paulding*, 14 Peters, 497.

In general, the official duties of the head of one of the executive departments, whether imposed by act of Congress or by resolution, are not mere ministerial duties. The head of an executive department of the government, in the administration of the various and important concerns of his office, is continually required to exercise judgment and discretion. He must exercise his judgment in expounding the laws and resolutions of Congress, under which he is from time to time required to act. If he doubts, he has a right to call on the Attorney General to assist him with his counsel; and it would be difficult to imagine why a legal adviser was provided by law for the heads of departments, as well as for the President, unless their duties were regarded as executive, in which judgment and discretion were to be exercised. *Ibid.*

If a suit should come before the Supreme Court which involved the construction of any of the laws imposing duties on the heads of the executive departments, the Court certainly would not be bound to adopt the construction given by the head of a department. And if they supposed his decision to be wrong, they would, of course, so pronounce their judgment. But the judgment of the Court upon the construction of a law, must be given in a case in which they have jurisdiction; and in which it is their duty to interpret the act of Congress, in order to ascertain the rights of the parties in the cause before them. The Court could not entertain an appeal from the decision of one of the Secretaries, nor revise his judgment in any case where the law authorized him to exercise his discretion or judgment. Nor can it, by mandamus, act directly upon the officer, or guide and control his judgment or discretion in the matters committed to his care, in the ordinary discharge of his official duties. The interference of the Court with the performance of the ordinary duties of the executive departments of the government would be productive of nothing but mischief; and this power was never intended to be given to them. *Ibid.*