

Opinion of the Court.

MR. JUSTICE BLATCHFORD did not sit in this case, or take any part in the decision.

MR. CHIEF JUSTICE FULLER and MR. JUSTICE LAMAR were not members of the court when this case was argued, and took no part in its decision.

WESTERN UNION TELEGRAPH COMPANY *v.*
PENNSYLVANIA.

ERROR TO THE SUPREME COURT OF THE STATE OF PENNSYLVANIA.

No. 56. Submitted October 18, 1888.—Decided October 22, 1888.

On the authority of *Telegraph Co. v. Texas*, 105 U. S. 460, and *Ratterman v. Western Union Telegraph Co.*, 127 U. S. 411, this case is reversed and remanded for such further proceedings as justice may require.

THE case is stated in the opinion of the court.

Mr. M. E. Olmsted for plaintiff in error.

Mr. W. S. Kirkpatrick, Attorney General of Pennsylvania, for defendant in error. *Mr. John F. Sanderson*, Deputy Attorney General, was also on the brief.

MR. CHIEF JUSTICE FULLER delivered the opinion of the court.

Judgment was rendered against plaintiff in error for taxes on telegraphic messages sent from point to point within the State of Pennsylvania; on messages sent from points within the State to points in other States; on messages sent from points in other States to points within the State; and on messages sent to and from points in other States, which passed over lines partly within the State; and the record discloses the several amounts of taxes upon the several classes of messages, which, with commissions and interest, make up the total recovery. It is clear, and this is conceded by the defend-

Syllabus.

ant in error, that, under the decisions of this court in *Telegraph Co. v. Texas*, 105 U. S. 460, and *Ratterman v. Western Union Telegraph Co.*, 127 U. S. 411, the Commonwealth was not entitled to recover for the taxes in question, excepting in respect to the messages transmitted wholly within the State.

The judgment will therefore be reversed and the cause remanded for such further proceedings as justice may require.

UNITED STATES *ex rel.* DUNLAP *v.* BLACK, COMMISSIONER OF PENSIONS.

UNITED STATES *ex rel.* ROSE *v.* SAME.

UNITED STATES *ex rel.* MILLER *v.* SAME.

ERROR TO THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

Nos. 991, 992, 993. Argued October 12, 1888.—Decided October 22, 1888.

The courts will not interfere by mandamus with the executive officers of the government in the exercise of their ordinary official duties, even where those duties require an interpretation of the law; no appellate power being given them for that purpose.

When an executive officer of the government refuses to act at all in a case in which the law requires him to act, or when, by special statute, or otherwise, a mere ministerial duty is imposed upon him, that is, a service which he is bound to perform without further question, if he refuses mandamus lies to compel him to his duty.

The Commissioner of Pensions by receiving the application of a pensioner for an increase of his pension under the act of June 16, 1880, 21 Stat. 281, c. 236, and by considering it and the evidence in support of it, and by deciding adversely to the petitioner, performs the executive act which the law requires him to perform in such case; and the courts have no appellate power over him in this respect, and no right to review his decision.

A decision of the Commissioner of Pensions adverse to the application of a pensioner for an increase of pension, under a statute granting an increase in certain cases, being overruled by the Secretary of the Interior on the ground that the applicant comes under the meaning of the law granting the increase, and the Commissioner refusing to carry out the decision of