

## Sec. 3—Legislative, Diplomatic, and Law Enforcement Duties of the President

*personae*.” He was also of opinion that expenditures from the “secret service” fund, in order to be valid, must be vouched for by the President personally.<sup>692</sup> On like grounds the Supreme Court once held void a decree of a court martial, because, though it has been confirmed by the Secretary of War, it was not specifically stated to have received the sanction of the President as required by the 65th Article of War.<sup>693</sup> This case has, however, been virtually overruled, and at any rate such cases are exceptional.<sup>694</sup>

The general rule, as stated by the Court, is that when any duty is cast by law upon the President, it may be exercised by him through the head of the appropriate department, whose acts, if performed within the law, thus become the President’s acts.<sup>695</sup> *Williams v. United States*<sup>696</sup> involved an act of Congress that prohibited the advance of public money in any case whatever to disbursing officers of the United States, except under special direction by the President.<sup>697</sup> The Supreme Court held that the act did not require the personal performance by the President of this duty. Such a practice, said the Court, if it were possible, would absorb the duties of the various departments of the government in the personal acts of one chief executive officer, and be fraught with mischief to the public service. The President’s duty in general requires his superintendence of the administration; yet he cannot be required to become the administrative officer of every department and bureau, or to perform in person the numerous details incident to services which, nevertheless, he is, in a correct sense, by the Constitution and laws required and expected to perform.<sup>698</sup> As a matter of administrative practice, in fact, most orders and instructions emanating from the heads of the

<sup>692</sup> Cf. 2 Stat. 78. The provision has long since dropped out of the statute book.

<sup>693</sup> *Runkle v. United States*, 122 U.S. 543 (1887).

<sup>694</sup> Cf. *In re Chapman*, 166 U.S. 661, 670–671 (1897), where it was held that presumptions in favor of official action “preclude collateral attack on the sentences of courts-martial.” See also *United States v. Fletcher*, 148 U.S. 84, 88–89 (1893); *Bishop v. United States*, 197 U.S. 334, 341–42 (1905), both of which in effect repudiate *Runkle*.

<sup>695</sup> The President, in the exercise of his executive power under the Constitution, “speaks and acts through the heads of the several departments in relation to subjects which appertain to their respective duties.” The heads of the departments are his authorized assistants in the performance of his executive duties, and their official acts, promulgated in the regular course of business, are presumptively his acts. *Wilcox v. McConnell*, 38 U.S. (13 Pet.) 498, 513 (1839). See also *United States v. Eliason*, 41 U.S. (16 Pet.) 291 (1842); *Williams v. United States*, 42 U.S. (1 How.) 290, 297 (1843); *United States v. Jones*, 59 U.S. (18 How.) 92, 95 (1856); *The Confiscation Cases*, 87 U.S. (20 Wall.) 92 (1874); *United States v. Farden*, 99 U.S. 10 (1879); *Wolsey v. Chapman*, 101 U.S. 755 (1880).

<sup>696</sup> 42 U.S. (1 How.) 290 (1843).

<sup>697</sup> 3 Stat. 723 (1823), now covered in 31 U.S.C. § 3324.

<sup>698</sup> 42 U.S. (1 How.) at 297–98.