

HYLTON v. U S, 3 U.S. 171 (1796)

3 U.S. 171 (Dall.)

February Term, 1796

Hylton, Plaintiff in Error,  
v.  
the United States.

On the 4th of February, a commission, bearing date the 27th of January, 1796, was read, appointing Samuel Chase, one of the justices of the Supreme Court.

On the 8th of March, a commission, bearing date the 4th of March, 1796, was read, appointing Oliver Ellsworth, Chief Justice.

This was a writ of Error directed to the Circuit Court for the District of Virginia; and upon the return of the record, the following proceedings appeared. An action of debt had been instituted to May Term, 1795, by the attorney of the district, in the name of the United States, against Daniel Hylton, to recover the penalty imposed by the act of Congress, of the 5th of June, 1794, for not entering, and paying the duty on, a number of carriages, for the conveyance of persons, which he kept for his own use. The defendant pleaded nil debet, whereupon issue was joined. But the parties, waving the right of trial by jury, mutually submitted the controversy to the court on a case, which stated 'That the Defendant, on the 5th of June, 1794, and therefrom to the last day of September following, owned, possessed, and kept, 125 chariots for the conveyance of persons, and no more: that the chariots were kept exclusively for the Defendant's own private use, and not to let out to hire, or for the conveyance of persons for [3 U.S. 171, 172] hire: and that the Defendant had notice according to the act of Congress, entitled 'An act laying duties upon carriages for the conveyance of persons,' but that he omitted and refused to make an entry of the said chariots, and to pay the duties thereupon, as in and by the said recited law is required, alledging that the said law was unconstitutional and void.

If the court adjudged the Defendant to be liable to pay the tax and fine for not doing so, and for not entering the carriages, then judgment shall be entered for the Plaintiff for 2000 dollars, to be discharged by the payment of 16 dollars, the amount of the duty and penalty; otherwise that judgment be entered for the Defendant.' After argument, the court ( consisting of Wilson & Justices) delivered their opinions; but being equally divided, the defendant, by agreement of the parties, confessed judgment, as a foundation for the present writ of error; which (as well as the original proceeding) was brought merely to try the constitutionality of the tax. The cause was argued at this term, by Lee, the Attorney General of the United States, and Hamilton, the late Secretary of the Treasury, in support of the tax; and by Campbell, the Attorney of the Virginia District, and Ingersoll, the Attorney General of Pennsylvania, in opposition to it. The argument turned entirely upon this point, whether the tax on carriages for the conveyance of persons, kept for private use, was a direct tax? For, if it was not a direct tax, it was admitted to be rightly laid, within the first clause of the eighth section of the first article of the Constitution, which declares