JUSTIA

Hylton v. United States, 3 U.S. 171 (1796)

Justia Opinion Summary and Annotations

Annotation

Primary Holding
Direct taxes, which are those divided among states according to their populations, do not include taxes on the possession of goods.

Syllabus **Case**

U.S. Supreme Court

Hylton v. United States, 3 U.S. 3 Dall. 171 171 (1796)

Hylton v. United States

3 U.S. (3 Dall.) 171

ERROR TO THE CIRCUIT COURT

FOR THE DISTRICT OF VIRGINIA

Syllabus

The act of Congress of 6 June 1794, laying "a tax on carriages for the conveyance of persons, kept for the use of the owner," is a constitutional law, and is within the authority granted to Congress by the eighth section of the first article of the Constitution.

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 5 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, waiving the right of trial by jury, mutually submitted the controversy to the court on a case which stated

"That the defendant, on 5 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

Page 3 U. S. 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, alleging 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 $2,000 dollars, to be discharged by the payment of $16, 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.

Page 3 U. S. 175

PATERSON, JUSTICE.

By the second section of the first article of the Constitution of the United States it is ordained that representatives and direct taxes shall be apportioned among the states according to their respective numbers, which shall be determined by adding to the whole number of free persons, including

numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and including Indians not taxed, three fifths of all other persons.

The eighth section of the said article declares that Congress shall have power to lay and collect taxes, duties, imposts, and excises, but all duties, imposts and excises, shall be uniform throughout the United States.

The ninth section of the same article provides that no capitation or other direct tax shall be laid unless in proportion to the census or enumeration before directed to be taken.

Congress passed a law on 5 June, 1794, entitled, "An act laying duties upon carriages for the conveyance of persons."

Page 3 U. S. 176

Daniel Lawrence Hilton, on 5 June, 1794, and therefrom to the last day of September next following, owned, possessed, and kept one hundred and twenty-five chariots for the conveyance of persons, but exclusively for his own separate use, and not to let out to hire, or for the conveyance of persons for hire.

The question is whether a tax upon carriages be a direct tax? If it be a direct tax, it is unconstitutional, because it has been laid pursuant to the rule of uniformity, and not to the rule of apportionment. In behalf of the plaintiff in error, it has been urged that a tax on carriages does not come within the description of a duty, impost, or excise, and therefore is a direct tax. It has, on the other hand, been contended that as a tax on carriages is not a direct tax, it must fall within one of the classifications just enumerated, and particularly must be a duty or excise. The argument on both sides turns in a circle; it is not a duty, impost, or excise, and therefore must be a direct tax; it is not tax, and therefore must be a duty or excise. What is the natural and common, or technical and appropriate, meaning of the words "duty" and "excise" it is not easy to ascertain. They present no clear and precise idea to the mind. Different persons will annex different significations to the terms. It was, however, obviously the intention of the framers of the Constitution that Congress should possess full power over every species of taxable property, except exports. The term "taxes" is generic, and was made use of to vest in Congress plenary authority in all cases of taxation. The general division of taxes is into direct and indirect. Although the latter term is not to be found in the Constitution, yet the former necessarily implies it. "Indirect" stands opposed to "direct." There may perhaps be an indirect tax on a particular article that cannot be comprehended within the description of duties or imposts or excises; in such case, it will be comprised under the general denomination of "taxes." For the term "tax" is the genus, and includes

1. Direct taxes.

2. Duties, imposts, and excises.

3. All other classes of an indirect kind, and not within any of the classifications enumerated under the preceding heads.

The question occurs how is such tax to be laid, uniformly or proportionately? The rule of uniformity will apply, because it is an indirect tax, and direct taxes only are to be apportioned. What are direct taxes within the meaning of the Constitution? The Constitution declares that a capitation tax is a direct tax, and both in theory and practice a tax on land is deemed to be a direct tax. In this way, the terms "direct taxes" and "capitation and other direct tax" are satisfied. It is not necessary

Page 3 U. S. 177

to determine whether a tax on the product of land be a direct or indirect tax. Perhaps the immediate product of land, in its original and crude state, ought to be considered as the land itself; it makes part of it or else the provision made against taxing exports would be easily eluded. Land, independently of its produce, is of no value. When the produce is converted into a manufacture, it assumes a new shape; its nature is altered; its original state is changed; it becomes quite another subject, and will be differently considered. Whether direct taxes, in the sense of the Constitution, comprehend any other tax than a capitation tax and tax on land is a questionable point. If Congress, for instance, should tax, in the aggregate or mass, things that generally pervade all the states in the Union, then perhaps the rule of apportionment would be the most proper, especially if an assessment was to intervene. This appears by the practice of some of the states to have been considered as a direct tax. Whether it be so under the Constitution of the United States is a matter of some difficulty, but as it is not before the Court, it would be improper to give any decisive opinion upon it. I never entertained a doubt that the principal, I will not say, the only, objects that the framers of the Constitution contemplated as falling within the rule of apportionment were a capitation tax and a tax on land. Local considerations and the particular circumstances and relative situation of the states naturally lead to this view of the subject. The provision was made in favor of the southern states. They possessed a large number of slaves; they had extensive tracts of territory, thinly settled and not very productive. A majority of the states had but few slaves, and several of them a limited territory, well settled, and in a high state of cultivation. The southern states, if no provision had been introduced in the Constitution, would have been wholly at the mercy of the other states. Congress in such case might tax slaves at discretion or arbitrarily, and land in every part of the Union after the same rate or measure: so much a head in the first instance, and so much an acre in the second. To guard them against imposition in these particulars was the reason of introducing the clause in the Constitution which directs that representatives and direct taxes shall be apportioned among the states according to their respective numbers.

On the part of the plaintiff in error it has been contended that the rule of apportionment is to be favored rather than the rule of uniformity, and of course that the instrument is to receive such a construction as will extend the former and restrict the latter. I am not of that opinion. The Constitution has been considered as an accommodating system; it was the

Page 3 U. S. 178

effect of mutual sacrifices and concessions; it was the work of compromise. The rule of apportionment is of this nature; it is radically wrong; it cannot be supported by any solid reasoning. Why should slaves, who are a species of property, be represented more than any other property? The rule therefore ought not to be extended by construction.

Again, numbers do not afford a just estimate or rule of wealth. It is indeed a very uncertain and incompetent sign of opulence. There is another reason against the extension of the principle laid down in the Constitution.

The counsel on the part of the plaintiff in error have further urged that an equal participation of the expense or burden by the several states in the Union was the primary object which the framers of the Constitution had in view, and that this object will be effected by the principle of apportionment, which is an operation upon states, and not on individuals, for each state will be debited for the amount of its quota of the tax and credited for its payments. This brings it to the old system of requisitions. An equal rule is doubtless the best. But how is this to be applied to states or to individuals? The latter are the objects of taxation, without reference to states, except in the case of direct taxes. The fiscal power is exerted certainly, equally, and effectually on individuals; it cannot be exerted on states. The history of the United Netherlands and of our own country will evince the truth of this position. The government of the United States could not go on under the confederation, because Congress was obliged to proceed in the line of requisition. Congress could not, under the old confederation, raise money by taxes, be the public exigencies ever so pressing and great. It had no coercive authority -- if it had it must have been exercised against the delinquent states, which would be ineffectual or terminate in a separation. Requisitions were a dead letter unless the state legislatures could be brought into action, and when they were, the sums raised were very disproportional. Unequal contributions or payments engendered discontent and fomented state jealousy. Whenever it shall be thought necessary or expedient to lay a direct tax on land, where the object is one and the same, it is to be apprehended that it will be a fund not much more productive than that of requisition under the former government.

Let us put the case. A given sum is to be raised from the landed property in the United States. It is easy to apportion this sum or to assign to each state its quota. The Constitution gives the rule. Suppose the proportion of North Carolina to be $80,000. This sum is to be laid on the landed

property in the state, but by what rule, and by whom? Shall every acre pay

Page 3 U. S. 179

the same sum, without regard to its quality, value, situation, or productiveness? This would be manifestly unjust. Do the laws of the different states furnish sufficient data for the purpose of forming one common rule, comprehending the quality, situation, and value of the lands? In some of the states there has been no land tax for several years, and where there has been, the mode of laying the tax is so various and the diversity in the land is so great that no common principle can be deduced and carried into practice. Do the laws of each state furnish data from whence to extract a rule whose operation shall be equal and certain in the same state? Even this is doubtful. Besides, subdivisions will be necessary; the apportionment of the state, and perhaps of a particular part of the state, is again to be apportioned among counties, townships, parishes, or districts. If the lands be classed, then a specific value must be annexed to each class. And there a question arises how often are classifications and assessments to be made? Annually, triennially, septennially? The oftener they are made, the greater will be the expense, and the seldomer they are made, the greater will be the inequality and injustice. In the process of the operation, a number of persons will be necessary to class, to value, and assess the land, and after all the guards and provisions that can be devised, we must ultimately rely upon the discretion of the officers in the exercise of their functions. Tribunals of appeal must also be instituted to hear and decide upon unjust valuations or the assessors will act *ad libitum* without check or control.

The work, it is to be feared, will be operose and unproductive and full of inequality, injustice, and oppression. Let us, however, hope that a system of land taxation may be so corrected and matured by practice as to become easy and equal in its operation and productive and beneficial in its effects. But to return. A tax on carriages, if apportioned, would be oppressive and pernicious. How would it work? In some states there are many carriages and in others but few. Shall the whole sum fall on one or two individuals in a state who may happen to own and possess carriages? The thing would be absurd and inequitable. In answer to this objection, it has been observed that the sum, and not the tax, is to be apportioned, and that Congress may select in the different states different articles or objects from whence to raise the apportioned sum. The idea is novel. What, shall land be taxed in one state, slaves in another, carriages in a third, and horses in a fourth, or shall several of these be thrown together in order to levy and make the quoted sum? The scheme is fanciful. It would not work well, and perhaps is utterly impracticable. It is easy to discern that great and perhaps insurmountable obstacles must arise in forming the subordinate

Page 3 U. S. 180

arrangements necessary to carry the system into effect; when formed, the operation would be slow and expensive, unequal and unjust. If a tax upon land, where the object is simple and uniform

throughout the states, is scarcely practicable, what shall we say of a tax attempted to be apportioned among, and raised and collected from, a number of dissimilar objects. The difficulty will increase with the number and variety of the things proposed for taxation. We shall be obliged to resort to intricate and endless valuations and assessments in which everything will be arbitrary and nothing certain. There will be no rule to walk by. The rule of uniformity, on the contrary, implies certainty, and leaves nothing to the will and pleasure of the assessor. In such case the object and the sum coincide, the rule and the thing unite, and of course there can be no imposition.

The truth is that the articles taxed in one state should be taxed in another; in this way the spirit of jealousy is appeased and tranquility preserved; in this way the pressure on industry will be equal in the several states, and the relation between the different subjects of taxation duly preserved. Apportionment is an operation on states, and involves valuations and assessments which are arbitrary and should not be resorted to but in case of necessity. Uniformity is an instant operation on individuals, without the intervention of assessments or any regard to states, and is at once easy, certain, and efficacious. All taxes on expenses or consumption are indirect taxes. A tax on carriages is of this kind, and of course is not a direct tax. Indirect taxes are circuitous modes of reaching the revenue of individuals, who generally live according to their income. In many cases of this nature the individual may be said to tax himself. I shall close the discourse with reading a passage or two from Smith's Wealth of Nations.

"The impossibility of taxing people in proportion to their revenue by any capitation seems to have given occasion to the invention of taxes upon consumable commodities; the state, not knowing how to tax directly and proportionally the revenue of its subjects, endeavors to tax it indirectly by taxing their expense, which it is supposed in most cases will be neatly in proportion to their revenue. Their expense is taxed by taxing the consumable commodities upon which it is laid out."

Vol. 3, p. 331.

"Consumable commodities, whether necessaries or luxuries, may be taxed in two different ways: the consumer may either pay an annual sum on account of his using or consuming goods of a certain kind or the goods may be taxed while they remain in the hands of the dealer, and before they are delivered to the consumer. The consumable goods, which

Page 3 U. S. 181

last a considerable time before they are consumed altogether, are most properly taxed in the one way, those of which the consumption is immediate or more speedy in the other; the coach tax and plate tax are examples of the former method of imposing; the greater part of the other duties of excise and customs of the latter."

Vol. 3, p. 341.

I am therefore of opinion, that the judgment rendered in the Circuit Court of Virginia ought to be affirmed.

IREDELL, JUSTICE.

I agree in opinion with my brothers, who have already expressed theirs, that the tax in question, is agreeable to the Constitution, and the reasons which have satisfied me can be delivered in a very few words, since I think the Constitution itself affords a clear guide to decide the controversy.

The Congress possess the power of taxing all taxable objects, without limitation, with the particular exception of a duty on exports.

There are two restrictions only on the exercise of this authority:

1. All direct taxes must be apportioned.

2. All duties, imposts, and excises must be uniform.

If the carriage tax be a direct tax within the meaning of the Constitution, it must be apportioned.

If it be a duty, impost, or excise within the meaning of the Constitution, it must be uniform.

If it can be considered as a tax neither direct within the meaning of the Constitution nor comprehended within the term "duty, impost or excise," there is no provision in the Constitution one way or another, and then it must be left to such an operation of the power as if the authority to lay taxes had been given generally in all instances, without saying whether they should be apportioned or uniform, and in that case I should presume the tax ought to be uniform, because the present Constitution was particularly intended to affect individuals, and not states, except in particular cases specified. And this is the leading distinction between the articles of Confederation and the present Constitution.

As all direct taxes must be apportioned, it is evident that the Constitution contemplated none as direct but such as could be apportioned.

If this cannot be apportioned, it is therefore not a direct tax in the sense of the Constitution.

That this tax cannot be apportioned is evident. Suppose $10 contemplated as a tax on each chariot, or post chaise, in the United States, and the number of both in all the United States be computed at 105, the number of Representatives in Congress.

This would produce in the whole $1,050.

The share of Virginia being 19/105 parts, would be $190.

The share of Connecticut being 7/105 parts, would be $70.

Then suppose Virginia had 50 carriages, Connecticut 2.

The share of Virginia being $190, this must of course be collected from the owners of carriages, and there would therefore be collected from each carriage $3.80.

The share of Connecticut being $70, each carriage would pay $35.

If any state had no carriages, there could be no apportionment at all. This mode is too manifestly absurd to be supported, and has not even been attempted in debate.

But two expedients have been proposed of a very extraordinary nature, to evade the difficulty.

1. To raise the money a tax on carriages would produce not by laying a tax on each carriage uniformly, but by selecting different articles in different states, so that the amount paid in each state may be equal to the sum due upon a principle of apportionment. One state might pay by a tax on carriages, another by a tax on slaves, etc.

I should have thought this merely an exercise of ingenuity if it had not been pressed with some earnestness, and as this was done by gentlemen of high respectability in their possession, it deserves a serious answer, though it is very difficult to give such a one.

1. This is not an apportionment of a tax on Carriages, but of the money a tax on carriages might be supposed to produce, which is quite a different thing.

2. It admits that Congress cannot lay a uniform tax on all carriages in the Union in any mode, but that it may on carriages in one or more states. It may therefore lay a tax on carriages in 14 states, but not in the 15th.

3. If Congress, according to this new decree, may select carriages as a proper object in one or more states but omit them in others, I presume it may omit them in all and select other articles.

Suppose, then, a tax on carriages would produce $100,000, and a tax on horses a like sum -- $100,000 -- and $100,000 were to be apportioned according to that mode. Gentlemen might amuse themselves with calling this a tax on carriages or a tax on horses while not a

single carriage nor a single horse was taxed throughout the Union.

4. Such an arbitrary method of taxing different states differently is a suggestion altogether new, and would lead, if practiced, to such dangerous consequences that it will require very powerful arguments to show that that method of taxing would be in any manner compatible with the Constitution, with which at present I deem it utterly irreconcilable, it being altogether destructive of the notion of a common interest, upon which the very principles of the Constitution are founded so far as the condition of the United States will admit.

The second expedient proposed was that of taxing carriages, among other things, in a general assessment. This amounts to saying that Congress may lay a tax on carriages, but that it may not do it unless it blends it with other subjects of taxation. For this no reason or authority has been given, and in addition to other suggestions offered by the counsel on that side, affords an irrefragable proof that when positions plainly so untenable are offered to counteract the principle contended for by the opposite counsel, the principle itself is a right one; for no one can doubt that if better reasons could have been offered, they would not have escaped the sagacity and learning of the gentlemen who offered them.

There is no necessity or propriety in determining what is or is not a direct or indirect tax in all cases.

Some difficulties may occur which we do not at present foresee. Perhaps a direct tax in the sense of the Constitution can mean nothing but a tax on something inseparably annexed to the soil -- something capable of apportionment under all such circumstances.

A land or a poll tax may be considered of this description.

The latter is to be considered so particularly, under the present Constitution, on account of the slaves in the southern states, who give a ratio in the representation in the proportion of 3 to 5.

Either of these is capable of apportionment.

In regard to other articles there may possibly be considerable doubt.

It is sufficient on the present occasion for the Court to be satisfied that this is not a direct tax contemplated by the Constitution in order to affirm the present judgment, since if it cannot be apportioned, it must necessarily be uniform.

I am clearly of opinion this is not a direct tax in the sense of the Constitution, and therefore that the judgment ought to be affirmed.

WILSON, JUSTICE.

As there were only four judges, including myself, who attended the argument of this cause, I

should have thought it proper to join in the decision, though I had before expressed a judicial opinion on the subject in the Circuit Court of Virginia, did not the unanimity of the other three judges relieve me from the necessity. I shall now, however, only add that my sentiments in favor of the constitutionality of the tax in question have not been changed.

CUSHING, JUSTICE.

As I have been prevented by indisposition from attending to the argument, it would be improper to give an opinion on the merits of the cause.

By the Court.

Let the judgment of the circuit court be affirmed.

Disclaimer: Official Supreme Court case law is only found in the print version of the United States Reports. Justia case law is provided for general informational purposes only, and may not reflect current legal developments, verdicts or settlements. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or information linked to from this site. Please check official sources.

Justia Annotations is a forum for attorneys to summarize, comment on, and analyze case law published on our site. Justia makes no guarantees or warranties that the annotations are accurate or reflect the current state of law, and no annotation is intended to be, nor should it be construed as, legal advice. Contacting Justia or any attorney through this site, via web form, email, or otherwise, does not create an attorney-client relationship.