

232 U. S.

Opinion of the Court.

UNITED STATES *v.* BILLINGS.CERTIFICATE FROM THE CIRCUIT COURT OF APPEALS FOR
THE SECOND CIRCUIT.BILLINGS *v.* UNITED STATES.ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR
THE SOUTHERN DISTRICT OF NEW YORK.

Nos. 626 and 67. Argued January 6, 7, 1914.—Decided February 24, 1914.

Decided on authority of *Billings v. United States*, *ante*, p. 261.

190 Fed. Rep. 359, modified and affirmed.

THE facts are stated in the opinion.

Mr. Assistant Attorney General Adkins, with whom *Mr. Karl W. Kirchwey* was on the brief, for the United States.¹

Mr. William D. Guthrie for the yacht owner in this and other cases argued simultaneously herewith.²

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

These two cases are controlled by the two cases between the same parties just decided. In the case which is here on error, the suit was brought by the United States to recover the amount of the tax which became due upon the yacht *Vanadis*, on the first day of September, 1910, under the act of August 5, 1909, which was under consideration in the previous cases. The complaint, leaving aside some additional averments which it is unnecessary to refer to, was the same as the one in the cases already passed upon, and this is true also of the answer. The case

¹ See argument, p. 269, *ante*.

² See argument, p. 263, *ante*.

by stipulation was submitted to the court without a jury and the steps essential to save all the questions in the case were properly taken. The use of the vessel during the taxing period was shown. There was a judgment in favor of the United States for the amount of the tax, but against it for interest and error was prosecuted from the Circuit Court of Appeals to review that subject and such case is here on certificate. Taking jurisdiction of both cases and treating them as one, as was done in the previous cases, and applying the conclusions in those cases expressed, to this, it results that the judgment below must be modified, so far as the interest is concerned, by allowing the claim of the United States in that respect, and in other respects it must be affirmed.

And it is so ordered.

PIERCE *v.* UNITED STATES.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR
THE SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES *v.* PIERCE.

CERTIFICATE FROM THE CIRCUIT COURT OF APPEALS FOR
THE SECOND CIRCUIT.

Nos. 64 and 623. Argued January 6, 7, 1914.—Decided February 24, 1914.

Billings v. United States, ante, p. 261, followed and distinguished, to the effect that the owner of a foreign-built yacht is not liable for the tax imposed by § 37 of the Tariff Act of 1909, if the yacht was not actually used at all during the preceding year.

190 Fed. Rep. 359, reversed.

THE facts are stated in the opinion.

Mr. William D. Guthrie, for the yacht owner in this and other cases argued simultaneously herewith.¹

¹ See argument, p. 263, ante.