

PIERCE *v.* UNITED STATES (NO. 2).

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. 65, 624. Argued January 6, 7, 1914.—Decided February 24, 1914.

Decided on authority of *Pierce v. United States*, *ante*, p. 290.
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

Mr. Assistant Attorney General Adkins, with whom *Mr. Karl W. Kirchwey* was on the brief, for the United States.²

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

These cases concern the right to recover a tax on the yacht *Yacona*, becoming due on the first of September, 1910. The complaint filed by the United States in No. 65 was in substance like that filed in the previous cases and the answer in effect set up the same defenses, especially the defense relating to the non-use of the yacht. The case, by stipulation, was submitted to the court without a jury, a finding of facts was made which distinctly established

¹ See argument, p. 263, *ante*.

² See argument, p. 269, *ante*.

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Statement of the Case.

the non-use during the taxing year and the court gave a judgment for the tax, although it rejected the interest, upon the same construction of the act which it applied in the previous cases. The certificate in this as in the other cases is here in consequence of error prosecuted by the United States to the Circuit Court of Appeals, because of the rejection of the interest claimed. Treating this case as we treated the others and applying the construction in those cases given, it follows that the judgment in this case must be reversed.

And it is so ordered.

UNITED STATES v. GOELET.

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

Nos. 631, 632. Argued January 6, 7, 1914.—Decided February 24, 1914.

Billings v. United States, ante, p. 261, followed to the effect that the tax on the use of foreign-built yachts imposed by § 37 of the Tariff Act of 1909 is not an unconstitutional exercise of power by Congress, and it became due for the year 1909 on the first day of September, 1909.

While Congress may have the power to impose an excise duty on a citizen permanently domiciled abroad, such an imposition is so unusual that an intent to do so will not be presumed unless clearly expressed.

The expectation of those who sought the enactment of legislation may not be used for the purpose of affixing to such legislation, when enacted, a meaning which it does not express.

The tax imposed by § 37 of the Tariff Act of 1909 does not apply to the use of a foreign-built yacht owned by a citizen of the United States who was permanently resident and domiciled in a foreign country for more than one year prior to September 1, 1909, and to the levy of such tax.

THE facts, which involve the construction and constitutionality of § 37 of the Tariff Act of 1909, imposing a tax