

Hayburn's Case

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Court : US Supreme Court

Decided On : 1792

Appeal No. : 2 U.S. 409

Appellant : Hayburn's Case

Judgement :

Hayburn's Case - 2 U.S. 409 (1792)

U.S. Supreme Court Hayburn's Case, 2 U.S. 2 Dall. 409 409 (1792)

Hayburn's Case

2 U.S. (2 Dall.) 409

MOTION FOR MANDAMUS

This was a motion for a mandamus to be directed to the Circuit Court for the District of Pennsylvania commanding the said court to proceed in a certain petition of Wm. Hayburn, who had applied to be put on the pension list of the United States as an invalid pensioner.

The principal case arose upon the act of Congress passed 23 March, 1792.

The Attorney General (Randolph) who made the motion for the mandamus, having premised that it was done *ex officio*, without an application from any particular

person, but with a view to procure the execution of an act of Congress particularly interesting to a meritorious and unfortunate class of citizens, the court declared that it entertained great doubt upon his right, under such circumstances and in a case of this kind, to proceed *ex officio*, and directed him to state the principles on which he attempted to support the right. The Attorney General accordingly entered into an elaborate description of the powers and duties of his office.

But the court being divided in opinion on that question, the motion, made *ex officio*, was not allowed.

The Attorney General then changed the ground of his interposition, declaring it to be at the instance and on behalf of Hayburn, a party interested; and he entered into the merits of the case upon the act of Congress and the refusal of the judges to carry it into effect.

The Court observed that it would hold the motion under advisement until the next term, but no decision was ever pronounced, as the legislature, at an intermediate

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session, provided in another way for the relief of the pensioners. [*](#)

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The Circuit Court for the District of Pennsylvania, consisting of Wilson, and Blair, Justices, and Peters, District Judge, made the following representation in a letter jointly addressed to the President of the United States on 18 April, 1792:

"To you it officially belongs to 'take care that the laws' of the United States 'to faithfully executed.' Before you, therefore, we think it our duty to lay the sentiments which, on a late painful occasion, governed us with regard to an act passed by the legislature of the union."

"The people of the United States have vested in Congress all legislative powers 'granted in the Constitution.'"

"They have vested in one Supreme Court and in such inferior courts as the Congress shall establish 'the judicial power of the United States.'"

"It is worthy of remark that in Congress the whole legislative power of the United States is not vested. An important part of that power was exercised by the people themselves when they 'ordained and established the Constitution.'"

"This Constitution is 'the Supreme Law of the Land.' This supreme law 'all judicial officers of the United States are bound, by oath or affirmation, to support.'"

"It is a principle important to freedom that in government, the judicial should be distinct from and independent of the legislative department. To this important principle the people of the United States, in forming their Constitution, have manifested the highest regard."

"They have placed their judicial power not in Congress, but in 'courts.' They have ordained that the 'judges of those courts shall hold their offices during good behavior,' and that 'during their continuance in office, their salaries shall not be diminished.'"

"Congress has lately passed an act to regulate, among other things, 'the claims to invalid pensions.'"

"Upon due consideration, we have been unanimously of opinion that under this act, the circuit court held for the Pennsylvania District could not proceed"

"1st. Because the business directed by this act is not of a judicial nature. It forms no part of the power vested by the Constitution in the courts of the United States; the circuit court must consequently have proceeded without constitutional authority."

"2d. Because if, upon that business, the court had proceeded, its judgments (for its opinions are its judgments) might, under the same act, have been revised and controlled by the legislature, and by an officer in the executive department. Such revision and control we deemed radically inconsistent with the independence of that judicial power which is vested in the courts, and consequently with that

important principle which is so strictly observed by the Constitution of the United States. "

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"These, Sir, are the reasons of our conduct. Be assured that though it became necessary, it was far from being pleasant. To be obliged to act contrary either to the obvious directions of Congress or to a constitutional principle, in our judgment equally obvious, excited feelings in us which we hope never to experience again."

The Circuit Court for the District of North Carolina (consisting of Iredell Justice, and Sitgreaves, District Judge) made the following representation in a letter jointly addressed to the President of the United States on 8 June, 1792.

"We, the judges now attending at the Circuit Court of the United States for the District of North Carolina, conceive it our duty to lay before you some important observations which have occurred to us in the consideration of an act of Congress lately passed, entitled"

"An act to provide for the settlement of the claims of widows and orphans barred by the limitations heretofore established, and to regulate the claims to invalid pensions."

"We beg leave to premise that it is as much our inclination as it is our duty to receive with all possible respect every act of the legislature, and that we never can find ourselves in a more painful situation than to be obliged to object to the execution of any, more especially to the execution of one founded on the purest principles of humanity and justice, which the act in question undoubtedly is. But however, lamentable a difference in opinion really may be, or with whatever difficulty we may have formed an opinion, we are under the indispensable necessity of acting according to the best dictates of our own judgment after duly weighing every consideration that can occur to us, which we have done on the present occasion."

"The extreme importance of the case and our desire of being explicit beyond the danger of being misunderstood, will, we hope, justify us in stating our observations in a systematic manner. We therefore, Sir, submit to you the following:"

"1. That the Legislative, Executive, and Judicial departments are each formed in a separate and independent manner, and that the ultimate basis of each is the Constitution only, within the limits of which each department can alone justify any act of authority."

"2. That the legislature, among other important powers, unquestionably possess that of establishing courts in such a manner as to its wisdom shall appear best, limited by the terms of the Constitution only, and to whatever extent that power may be exercised, or however severe the duty it may think proper to require, the judges, when appointed in virtue of any such establishment, owe implicit and unreserved obedience to it."

"3. That at the same time, such courts cannot be warranted, as we conceive, by virtue of that part of the Constitution delegating Judicial power, for the exercise of which any act of the legislature is provided, in exercising (even under the authority of another act)

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any power not in its nature judicial, or, if judicial, not provided for upon the terms the Constitution requires."

"4. That whatever doubt may be suggested, whether the power in question is properly of a judicial nature, yet inasmuch as the decision of the court is not made final, but may be at least suspended in its operation by the Secretary at War, if he shall have cause to suspect imposition or mistake, this subjects the decision of the court to a mode of revision which we consider to be unwarranted by the Constitution, for though Congress may certainly establish, in instances not yet provided for, courts of appellate jurisdiction, yet such courts must consist of judges appointed in the manner the Constitution requires and holding their offices by no other tenure than that of their good behavior, by which tenure the office of

Secretary at War is not held. And we beg leave to add with all due deference that no decision of any court of the United States can under any circumstances, in our opinion, agreeable to the Constitution, be liable to a reversion or even suspension by the legislature itself, in whom no judicial power of any kind appears to be vested but the important one relative to impeachments."

"These, sir, are our reasons for being of opinion, as we are at present, that this circuit court cannot be justified in the execution of that part of the act which requires it to examine and report an opinion on the unfortunate cases of officers and soldiers disabled in the service of the United States. The part of the act requiring the court to sit five days for the purpose of receiving applications from such persons we shall deem it our duty to comply with, for whether in our opinion such purpose can or cannot be answered, it is, as we conceive, our indispensable duty to keep open any court of which we have the honor to be judges as long as Congress shall direct."

"The high respect we entertain for the legislature, our feelings as men for persons whose situation requires the earliest as well as the most effectual relief, and our sincere desire to promote, whether officially or otherwise, the just and benevolent views of Congress so conspicuous on the present as well as on many other occasions have induced us to reflect whether we could be justified in acting under this act personally in the character of commissioners during the session of a court, and could we be satisfied that we had authority to do so, we would cheerfully devote such part of our time as might be necessary for the performance of the service. But we confess we have great doubts on this head. The power appears to be given to the court only, and not to the judges of it, and as the Secretary at War has not a discretion in all instances, but only in those where he has cause to suspect imposition or mistake, to withhold a person recommended by the court from being named on the pension list, it would be necessary for us to be well persuaded we possessed such an authority before we exercised a power, which might be a means of drawing money out of the public treasury as effectually as an express appropriation by law. We do not mean, however, to preclude ourselves from a very deliberate consideration whether we can be warranted in executing the

purposes of the act in that manner in case an application should be made."

"No application has yet been made to the court or to ourselves individually, and therefore we have had some doubts as to the propriety of giving an opinion in a case which has not yet come regularly and judicially before us. None can be more sensible than we are of the necessity of judges' being in general extremely cautious in not intimating an opinion in any case extrajudicially, because we well know how liable the best minds are, notwithstanding their utmost care, to a bias which may arise from a preconceived opinion, even unguardedly, much more deliberately, given. But in the present instance, as many unfortunate and meritorious individuals whom Congress have justly thought proper objects of immediate relief may suffer great distress even by a short delay and may be utterly ruined by a long one, we determined at all events to make our sentiments known as early as possible, considering this as a case which must be deemed an exception to the general rule upon every principle of humanity and justice; resolving however, that so far as we are concerned individually, in case an application should be made, we will most attentively hear it, and if we can be convinced this opinion is a wrong one, we shall not hesitate to act accordingly, being as far from the weakness of supposing that there is any reproach in having committed an error, to which the greatest and best men are sometimes liable, as we should be from so low a sense of duty, as to think it would not be the highest and most deserved reproach that could be bestowed on any men (much more on judges) that they were capable from any motive of persevering against conviction in apparently maintaining an opinion which they really thought to be erroneous. "

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RULE.

THE Attorney-General having moved for information relative to the system of practice by which the attorneys and counselors of this Court shall regulate themselves and of the place in which rules in causes here depending shall be obtained, THE CHIEF JUSTICE at a subsequent day stated that:

The Court considers the practice of the Courts of King's Bench and Chancery in England as affording outlines for the practice of this Court, and that it will from time to time make such alterations therein as circumstances may render necessary.

* See an act passed 28 Feb., 1793. As the reasons assigned by the judges for declining to execute the first act of Congress involve a great constitutional question, it will not be thought improper to subjoin them in illustration of *Hayburn's Case*.

The Circuit Court for the District of New York (consisting of Jay, Chief Justice, Cushing Justice, and Duane, District Judge) proceeded on 5 April, 1791, to take into consideration the act of Congress entitled

"An act to provide for the settlement of the claims of widows, and orphans barred by the limitations heretofore established, and to regulate the claims to invalid pensions,"

and was thereupon unanimously of opinion and agreed

"That by the Constitution of the United States, the government thereof is divided into three distinct and independent branches, and that it is the duty of each to abstain from and to oppose, encroachments on either."

"That neither the Legislative nor the Executive branches can constitutionally assign to the Judicial any duties but such as are properly judicial and to be performed in a judicial manner."

"That the duties assigned to the circuit courts by this act are not of that description, and that the act itself does not appear to contemplate them as such, inasmuch as it subjects the decisions of these courts, made pursuant to those duties, first to the consideration and suspension of the Secretary at War and then to the revision of the legislature, whereas by the Constitution, neither the Secretary at War nor any other Executive officer, nor even the legislature, is authorized to sit as a court of errors on the judicial acts or opinions of this court."

"As, therefore, the business assigned to this Court by the act is not judicial nor directed to be performed judicially, the act can only be considered as appointing commissioners for the purposes mentioned in it by official instead of personal descriptions."

"That the judges of this court regard themselves as being the commissioners designated by the act, and therefore as being at liberty to accept or decline that office."

"That as the objects of this act are exceedingly benevolent, and do real honor to the humanity and justice of Congress, and as the judges desire to manifest, on all proper occasions and in every proper manner their high respect for the national legislature, they will execute this act in the capacity of commissioners."

"That as the legislature has a right to extend the session of this court for any term which it may think proper by law to assign, the term of five days, as directed by this act, ought to be punctually observed."

"That the judges of this court will, as usual, during the session thereof, adjourn the court from day to day or other short periods as circumstances may render proper, and that they will regularly, between the adjournments, proceed as commissioners to execute the business of this act in the same courtroom or chamber."