

UNITED STATES v. CUSTIS.

{1 Cranch; C. C. 417.}¹

Circuit Court, District of Columbia. July Term, 1807.

OFFICER—APPOINTMENT—NOTICE.

An overseer of a road in Virginia, who has not been notified of his appointment, is not liable for the penalty of the act of Virginia of 5th January, 1786, p. 27.

Presentment against the defendant {G. W. P. Custis}, as overseer of the road, to recover the penalty of fifteen shillings, for neglect of duty, under the sixth section of act Va., Jan. 5, 1786, p. 27.

E. J. Lee, for defendant, objected that there was no evidence of notice to defendant of his appointment. The act of December 10, 1796, (page 372,) required notice in a certain way, and the sheriff's return is to be conclusive evidence, and is the only evidence which the court can regard. ⁷⁴⁰ THE COURT discharged the defendant on the ground of want of notice. DUCKETT, Circuit Judge, absent.

¹ [Reported by Hon. William Cranch, Chief Judge.]