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Silverthorne Lumber Co., Inc. Vs. United States

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Court : US Supreme Court

Decided On : Jan-26-1920

Appeal No. : 251 U.S. 385

Appellant : Silverthorne Lumber Co., Inc.

Respondent : United States

Judgement :

Silverthorne Lumber Co., Inc. v. United States - 251 U.S. 385 (1920)

U.S. Supreme Court Silverthorne Lumber Co., Inc. v. United States, 251 U.S. 385 (1920)

Silverthorne Lumber Co., Inc. v. United States

No. 358

Argued December 12, 1919

Decided January 26, 1920

251 U.S. 385

ERROR TO THE DISTRICT COURT OF THE UNITED STATES

FOR THE WESTERN DISTRICT OF NEW YORK

SYLLABUS

The Fourth Amendment protects a corporation and its officers from compulsory production of the corporate books and papers for use in a criminal proceeding against them when the information upon which the subpoenas were framed was derived by the Government through a previous unconstitutional search and seizure, planned and executed by its officials under color of a void writ, provided the defense of the Amendment be seasonably interposed, and not first raised as a collateral issue at the trial of the indictment. P. [251 U. S. 391](#) .

The rights of a corporation against unlawful search and seizure are to be protected even if it be not protected by the Fifth Amendment from compulsory production of incriminating documents. P. [251 U. S. 362](#) .

Reversed.

The case is stated in the opinion.

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MR. JUSTICE HOLMES delivered the opinion of the Court.

This is a writ of error brought to reverse a judgment of the District Court fining the Silverthorne Lumber Company two hundred and fifty dollars for contempt of court and ordering Frederick W. Silverthorne to be imprisoned until he should purge himself of a similar contempt. The contempt in question was a refusal to obey subpoenas and an order of Court to produce books and documents of the company before the grand jury to be used in regard to alleged violation of the statutes of the United States by the said Silverthorne and his father. One ground of the refusal was that the order of the Court infringed the rights of the parties under the Fourth Amendment of the Constitution of the United States.

The facts are simple. An indictment upon a single specific charge having been brought against the two Silverthornes mentioned, they both were arrested at their homes early in the morning of February 25, and were detained in custody a

number of hours. While they were thus detained, representatives of the Department of Justice and the United States marshal, without a shadow of authority, went to the office of their company and made a clean sweep of all the books, papers and documents found there. All the employes were taken or directed to go to the office of the District Attorney of the United States, to which also the books, &c., were taken at once. An application, was made as soon as might be to the District

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Court for a return of what thus had been taken unlawfully. It was opposed by the District Attorney so far as he had found evidence against the plaintiffs in error, and it was stated that the evidence so obtained was before the grand jury. Color had been given by the District Attorney to the approach of those concerned in the act by an invalid subpoena for certain documents relating to the charge in the indictment then on file. Thus, the case is not that of knowledge acquired through the wrongful act of a stranger, but it must be assumed that the Government planned or at all events ratified, the whole performance. Photographs and copies of material papers were made, and a new indictment was framed based upon the knowledge thus obtained. The District Court ordered a return of the originals, but impounded the photographs and copies. Subpoenas to produce the originals then were served, and, on the refusal of the plaintiffs in error to produce them, the Court made an order that the subpoenas should be complied with, although it had found that all the papers had been seized in violation of the parties' constitutional rights. The refusal to obey this order is the contempt alleged. The Government now, while in form repudiating and condemning the illegal seizure, seeks to maintain its right to avail itself of the knowledge obtained by that means which otherwise it would not have had.

The proposition could not be presented more nakedly. It is that, although, of course, its seizure was an outrage which the Government now regrets, it may study the papers before it returns them, copy them, and then may use the knowledge that it has gained to call upon the owners in a more regular form to produce them; that the protection of the Constitution covers the physical

possession, but not any advantages that the Government can gain over the object of its pursuit by doing the forbidden act. *Weeks v. United States*, [232 U. S. 383](#) , to be sure, had established that laying the papers directly before the grand jury was

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unwarranted, but it is taken to mean only that two steps are required instead of one. In our opinion, such is not the law. It reduces the Fourth Amendment to a form of words. [232 U. S. 232](#) U.S. 393. The essence of a provision forbidding the acquisition of evidence in a certain way is that not merely evidence so acquired shall not be used before the Court, but that it shall not be used at all. Of course, this does not mean that the facts thus obtained become sacred and inaccessible. If knowledge of them is gained from an independent source they may be proved like any others, but the knowledge gained by the Government's own wrong cannot be used by it in the way proposed. The numerous decisions, like *Adams v. New York*, [192 U. S. 585](#) , holding that a collateral inquiry into the mode in which evidence has been got will not be allowed when the question is raised for the first time at the trial, are no authority in the present proceeding, as is explained in *Weeks v. United States*, [232 U. S. 383](#) , [232 U. S. 394](#) , [232 U. S. 395](#) . Whether some of those decisions have gone too far or have given wrong reasons it is unnecessary to inquire; the principle applicable to the present case seems to us plain. It is stated satisfactorily in *Flagg v. United States*, 233 Fed.Rep. 481, 483. In *Linn v. United States*, 251 Fed.Rep. 476, 480, it was thought that a different rule applied to a corporation, on the ground that it was not privileged from producing its books and papers. But the rights of a corporation against unlawful search and seizure are to be protected even if the same result might have been achieved in a lawful way.

Judgment reversed.

THE CHIEF JUSTICE and MR. JUSTICE PITNEY dissent.

