

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS.. JOSE RUBIO, DEFENDANT AND APPELLANT.

G. R. No. L-35500. October 27, 1932

Ponente: MALCOLM, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/1599d8965755/>

MALCOLM, J.:

This is an appeal from an order of the Court of First Instance of Manila, Judge Moran presiding, denying appellant's motion to declare null and void a search warrant issued on December 26, 1930, and to have returned to him the books of account, invoices, and records which were seized by virtue of the warrant. The case was originally assigned to a Division of Five and was there decided, but subsequently, on representations being made that the interpretation of an Act of Congress was involved, the Division ordered its decision set aside and the transfer of the case to the court in banc.

The Administrative Code, section 1434, grants police power to internal revenue agents. Acting pursuant to this authority, the chief secret service agent and a supervising agent of the Bureau of Internal Revenue gave testimony under oath before Judge Revilla, in which they specified the premises situated at No. 129 Calle Juan Luna, District of Binondo, City of Manila, occupied by Jose Rubio, manager of the Simplex Trading Corporation, which it was desired to search. The witnesses, among other things, stated:

"It has been reported to me by a person whom I considered reliable that in said premises there are fraudulent books, invoices and records.

"I have watched personally the foregoing house for several times in company of the complainant and I can assert positively and with a probable cause that the prohibited fraudulent books, invoices and records, exist and being conducted in the said house, and the occupant of the same keeps in his possession effects and devices to wit: fraudulent books of the Simplex Trading Corporation & to subsidiary companies Paramount Trading Corporation & New York Trading Corp."

Upon probable cause thus being shown, a search warrant was issued in the usual form, reading as follows:

"UNITED STATES OF AMERICA

"PHILIPPINE ISLANDS

"IN THE COURT OF FIRST INSTANCE OF THE CITY OF MANILA

"THE PEOPLE OF THE PHILIPPINE ISLANDS, plaintiff,

VERSUS

"JOSE RUBIO, Manager of the Simplex Trading Corporation, Paramount Corporation and New York Trading Corporation, defendant.

"The People of the Philippine Islands, to the Internal Revenue Agents of the City of Manila.

"GREETING:

"Proof by affidavit having this day been made before me, E. P. Revilla, Judge of the Court of First Instance of the City of Manila, Philippine Islands, by the complainant on oath of Juan Evaristo and Augusto Piccio of the City of Manila, P. I., that the defendant Jose Rubio keeps illegally and feloniously fraudulent books, invoices and records, and that he verily believes upon probable cause that the said books, invoices and records, at No. 129, Calle Juan Luna in the City of Manila, P. I., and the said (personal) property is now being used in the commission of felony.

"You are therefore commanded to take with you the necessary and proper assistance and to enter, in the day time or in the night time, into the said dwelling house and there diligently search for fraudulent books, invoices and records, and that you seize and bring them before this court, to be disposed of according to law. "Given under my hand this 26th day of December, 1930.

(Sgd.) "E. P. REVILLA

"Judge, Court of First Instance"

On the same day, internal revenue agents proceeded to the place indicated in the warrant, searched the premises, and took therefrom books, invoices, and documents belonging to the Simplex Trading Corporation of which Jose Rubio was the manager. Thereafter, as indicated, a motion was presented on behalf of Rubio to secure a pronouncement of nullity of the search warrant, which motion, after receiving memoranda in support and in opposition but without taking evidence, was denied.

The particular portions; of the Act of Congress which are relied upon are found in the Philippine Bill of Rights, being paragraphs 3 and 11 of section 3 of the Act of Congress of August 29, 1916, commonly referred to as the Philippine Autonomy Act. These portions of the Organic Act provide: "That the right to be secure against unreasonable searches and seizures shall not be violated" ("sec. 3, par. 11); and "That no person shall * * * be compelled in any criminal case to be a witness against himself" (sec. 3, par. 3). The applicable statutory provisions are sections ,95, 96, 97, 98, and 99 of the Code of Criminal Procedure reading as follows:

"SEC. 95. A search warrant is an order in writing, issued in the name of the People of the Philippine Islands, signed by a judge or a justice of the peace, and directed to a peace officer, commanding him to search for personal property and bring it before the court.

"Sec. 96. It may be issued upon either of the following grounds:

"1. When the property was stolen or embezzled.

"2. When it was used or when the intent exists to use it as the means of committing a felony.

"SEC. 97. A search warrant shall not issue except for probable cause and upon application supported by oath particularly describing the place to be searched and the person or thing to be seized.

"SEC. 98. The judge or justice must, before issuing the warrant, examine on oath the complainant and any witnesses he may produce and take their depositions in writing.

"SEC. 99. If the judge or justice is thereupon satisfied of the existence of facts upon which the application is based, or that there is probable cause to believe that they exist, he must issue the warrant, which must be substantially in the following form:"

The errors assigned on appeal, connecting up with the order of the trial court, -the statement of the case, and the law as herein set forth, are the following:

"1. The lower court erred in not holding that the search warrant was illegal and void for failure to observe the

constitutional and statutory provisions providing for its issue.

"2. The lower court erred in holding that even if the warrant were illegal and void appellant's books and papers might be retained because they were proper subjects for seizure under a search warrant.

"3. The lower court erred in not holding that the seizure of appellant's books and papers was made solely for the purpose of using them as evidence against him in a criminal prosecution and was, therefore, unlawful."

The point made in the first error was not originally pressed upon the trial court, and is plainly without merit. The requirements of the law were substantially, and even literally, complied with in this case. Appellant's contention that the search warrant was issued without the complainants or any witnesses having been examined, is untenable. The depositions speak for themselves. It is also contended that the application and the warrant did not particularly describe the things to be seized. The verified statements of the two internal revenue agents and the warrant issued by the Court of First Instance of Manila all describe the property sought to be seized as "fraudulent books, invoices and records". While it is true that the property to be seized under a warrant must be particularly described therein and no other property can be taken thereunder, yet the description is required to be specific only in so far as the circumstances will ordinarily allow. It has been held that, where, by the nature of the goods to be seized, their description must be rather, general, it is not required that a technical description be given, as this would mean that no warrant could issue. Appellant has not shown that the internal revenue agents exceeded their powers under the warrant by seizing property other than that described in the warrant in question. The list of books, invoices, and records seized by said officers is the best evidence to show that they strictly obeyed the command of their warrant by seizing those things, and only those, described in the search warrant.

Under the second error, it is claimed that "the books, invoices, and records seized are property which one may lawfully possess; they were searched and seized solely for the purpose of using them as evidence to prove an offense supposed to have been committed by appellant against the internal revenue customs laws, which search and seizure for the purpose intended is prohibited by law," Reliance is placed on the Philippine cases of *Regidor vs. Araullo* ([1904], 5 Off. Gaz., 955); *Uy Kheyin vs. Villa-Real* ([1920], 42 Phil., 886); and *United States vs. De los Reyes and Esguerra* ([1911], 20 Phil., 467). An examination of the first two cited cases reveals that the seizures made under the warrants issued therein were irregular and manifestly in violation of law. In the first case, for instance, the court observed:

"A casual examination of the property mentioned in the affidavit and the list of books, papers, and documents actually seized by the said officers, as represented by their signed statement, above quoted, will show that the officers, in executing the said search warrant, did not limit themselves, in seizing property, to that which was described in the affidavit or search warrant." (*Regidor vs. Araullo*, supra.)

In the second case, the court said:

"The important question that remains to be decided is whether, under a search warrant for opium, the officers of the law were authorized to seize books, personal letters, and other property having a remote or no connection with opium." (*Uy Kheyin vs. Villa-Real*, supra.)

Under these circumstances, it is evident that the seizures made were in excess of the authority given to the seizing officers. In the case at bar, however, it has been shown that the internal revenue agents strictly obeyed the command of their warrant by seizing no other property than that described therein.

In the third case cited by the appellant, that of *United States vs. De los Reyes and Esguerra*, supra, the holding was that no public officer has the right to enter the premises of another for the purpose of search or seizure against the will of the occupant and without the proper search warrant. This case is entirely foreign to the point under discussion, inasmuch as in the instant, case a search warrant was issued. From the above, it will be seen that the

three Philippine cases relied upon by the appellant rest upon different facts from those in the case at bar.

After the decision in Division had been promulgated, the opinion of the United States Supreme Court of April 11, 1932, delivered in the case of United States of America vs. Daniel M. Lefkowitz and Pauline Paris, was received, and it is now urged that this opinion is controlling. Of course, if the opinion, on examination, be found to support the views of the appellant, it would become our duty, even as against any pride which one might have in maintaining a position previously taken, to change front to conform to the pronouncements of the higher court. Turning to the opinion just mentioned, we find it said: "All the searches and seizures were made without a search warrant"-in contrast, the searches and seizures in the case at bar were made with a search warrant. Further, it was said: "The only question presented is whether the searches of the desks, cabinet and baskets and the seizures of the things taken from them were reasonable as an incident of the arrests"- an entirely different state of facts from those before us. Again, it was said: "The Fourth Amendment forbids every search that is unreasonable and is construed liberally to safeguard the right of privacy"-an admonition which should be respected in this jurisdiction where constitutional rights are as sacred as in the United States proper. Finally, a contrast was suggested between the search of one's house or place of business made contemporaneously with his lawful arrest therein upon a valid warrant of arrest and a search warrant, and it was said:

"Respondents' papers were wanted by the officers solely for use as evidence of crime of which respondents were accused or suspected. They could not lawfully be searched for and taken even under a search warrant issued upon ample evidence and precisely describing such things and disclosing exactly where they were. (Gouled vs. United States, 255 U. S., 298, 310.)

* * * * *

"Here, the searches were exploratory and general and made solely to find evidence of respondents' guilt of the alleged conspiracy or some other crime. Thdugh intended to be used to solicit orders for liquor in violation of the Act, the papers and other articles found and taken were in themselves unoffending. The decisions of this court distinguish searches of one's house, office, papers or effects merely to get evidence to convict him of crime from searches such as those made to find stolen goods for return to the owner, to take property that has been forfeited to the Government, to discover property concealed to avoid payment of duties for which it is liable, and from searches such as those made for the seizure of counterfeit coins, burglars' tools, gambling paraphernalia and illicit liquor in order to prevent the commission of crime."

We note that the opinion in the Lefkowitz case relies on previous decisions of the United States Supreme Court in Gouled vs. United States ([1920], 255 U. S., 298), and Go-Bart Importing Co. vs. United States ([1930], 282 U. S., 344). In the first case, it was said:

' " * * * search warrants * * * may not be used as a means of gaining access to a man's house or office and papers solely for the purpose of making search to secure evidence to be used against him in a criminal or penal proceeding, but * * * they may be resorted to only when a primary right to such search and seizure may be found in the interest which the public or the complainant may have in the property to be seized, or in the right tp the possession of it, or when a valid exercise of the police power renders possession of the property by the accused unlawful and provides that it may be taken. (Boyd Case, 116 U. S., 623, 624; 29 L. ed., 748; 6 Sup. Ct. Rep., 524.)

"There is no special sanctity in papers, as distinguished from other forms of property, to render them immune from search and seizure, if only they fall within the scope of the principles of the cases in which other property may be seized, and if they be adequately described in the affidavit and warrant. * * * we cannot doubt that contracts may be so used as instruments or agencies for perpetrating frauds upon the Government as to give the public an interest in them which would justify the search for and seizure of them, under a properly issued search warrant, for the purpose of preventing further frauds.

* * * * *

"As to the contract with Steinthal, also a stranger to the indictment. It is not difficult, as we have said, to imagine how an executed written contract might be an important agency or instrumentality in the bribing of a public servant and in perpetrating frauds upon the Government so that it would have a legitimate and important interest in seizing such a paper in order to prevent further frauds, * * *."

As to the second case, it rested on the proposition that a general exploratory search of premises, the seizure of papers therefrom, and their retention for use as evidence in a criminal proceeding cannot be sustained where made at a time when no crime was being committed and under a false claim of possession of a search warrant, by one making an arrest of persons on the premises under color of an invalid warrant, who required one of them, by pretention of right and threat or force, to open, a desk and safe. It was further ruled that, there is no formula for the determination of the reasonableness of a search and seizure, but each case is to be decided on its own facts and circumstances.

This brings us in logical order to the third error and the point often made that the seizure of appellant's books, invoices, and records was made solely for the purpose of using them as evidence against him in a criminal prosecution. The question, in its final analysis, is, were appellant's books, invoices, and records seized solely for use as evidence of a crime of which the appellant was accused or suspected?-or were the books, invoices, and records seized in order to prevent the further perpetration of fraud? In the first place, it is to be observed that the public has an interest in the proper regulation of appellant's books. (Act No. 3292, section 4.) In the second place, the books belonged to a corporation of which the appellant was simply the manager. And in the third place, the search warrant only issued on a showing of probable cause-to adopt the language alike of section 96 of the Code of Criminal Procedure and the search warrant-that "fraudulent books, invoices, and records" were "now being used in the commission of a felony".

Finally, while the assertion is oft-repeated that the books, invoices, and records were taken solely for the purpose of being used as evidence against Rubio, we find no support for this contention in the record. In the trial court, the assistant city fiscal said: "As we have stated above, the search and seizure in this case were made under the provisions of the internal-revenue laws and the authority of a search warrant, and not for the purpose of obtaining evidence, but with a view to seize the instruments used in the violation of said laws committed by the defendant." On appeal, the prosecution persistently maintains its position that the seizure was made with the object of preventing the use of the books of account, documents, and papers in the commission of further offenses or fraud against the Government. Not a scintilla of evidence is to be found in the record to prove that the Government has used the books of account, documents, and papers as evidence against the appellant, or that the Government ever had the intention of so doing. All we "know is, that an information was filed against Rubio, charging him with a violation of the Customs Law, and that he compromised another case with the Bureau of Internal Revenue on the payment of the sum of P100,000 On this showing, we perforce cannot deduce that the books of account, documents, and papers were wanted solely for use as evidence of a crime.

A thorough reexamination of the case, in the light of the arguments presented and the authorities cited, leads us to the same conclusion as before, namely, that no constitutional right of the appellant was violated; that the letter of the law was followed, and that the order of the trial judge was correct in all particulars. Wherefore, the judgment will be affirmed, with the costs of this instance against the appellant.

Avanceña, C. J., Villamor, Ostrand, Hull, Viekers, Imperial, and Butte, JJ., concur.

DISSENTING

ABAD SANTOS, J.,

Convinced that the decision in this case sets at naught important constitutional principles, I dissent.

I am of the opinion that the warrant here in question is null and void, because it was issued not only without authority of law but in contravention of express constitutional and statutory provisions. Section 3, paragraph 11 of the Organic Act, provides "That the right to be secure against unreasonable searches and seizures shall not be violated"; and section 97 of the Code of Criminal Procedure, in turn, provides that "A search warrant shall not issue except for probable cause and upon application supported by oath particularly describing the place to be searched and the person or thing to be seized." These provisions of law are almost an exact reproduction of the Fourth Amendment to the United States Constitution, and they were undoubtedly intended to afford the same protection to the people of these Islands as the Fourth Amendment affords to the people of the United States. We are thus fully justified in relying on American authorities and cases for the purpose of ascertaining the real intent, object and scope of such provisions.

In the leading case of *Boyd vs. United States* (116 U. S., 616, 625; 29 L. ed., 746, 749), the Supreme Court of the United States, through Justice Bradley, dwelt at length on the historical reasons for the adoption of the Fourth Amendment and made, among others, the following pertinent observations: "In order to ascertain the nature of the proceedings intended by the Fourth Amendment to the Constitution under the terms 'unreasonable searches and seizures,' it is only necessary to recall the contemporary or then recent history of the controversies on the subject, both in this country and in England. The practice had obtained in the Colonies of issuing writs of assistance to the revenue officers, empowering them, in their discretion, to search suspected places for smuggled goods, which James Otis pronounced 'the worst instrument of arbitrary power, the most destructive of English liberty, and the fundamental principles of law, that ever was found in an English law book'; since they placed 'the liberty of every man in the hands of every petty officer.' This was in February, 1761, in Boston, and the famous debate in which it occurred was perhaps the most prominent event which inaugurated the resistance of the colonies to the oppressions of the mother country. 'Then and there,' said John Adams, 'then and there was the first scene of the first act of opposition to the arbitrary claims of Great Britain. Then and there the child Independence was born.'" And speaking of the importance and scope of the protection intended to be given by the Fourth Amendment, the same court, in *Weeks vs. United States* (232 U. S., 383, 392; 58 L. ed., 652, 655), said: "This protection reaches all alike, whether accused of crime or not, and the duty of giving to it force and effect is obligatory upon all entrusted under our federal system with the enforcement of the laws. The tendency of those who execute the criminal laws of the country to obtain conviction by means of unlawful seizures and enforced confessions, the latter often obtained after subjecting accused persons to unwarranted practices destructive of rights secured by the Federal Constitution, should find no sanction in the judgments of the courts which are charged at all times with the support of the Constitution and to which people of all conditions have a right to appeal for the maintenance of such fundamental rights."

The historical background of the provision in our Organic Act which recognizes "the right to be secure against unreasonable searches and seizures" clearly reveals that it was intended to protect the people against abuses arising from the issuance of general warrants, thus reaffirming the principle "that a man's house was his castle and not to be invaded by any general authority to search and seize his goods and papers." As stated by Cooley in his *Constitutional Limitations*, Vol. I, p. 611: "The maxim that 'every man's house is his castle,' is made a part of our

constitutional law in the clauses prohibiting unreasonable searches and seizures, and has always been looked upon as-of high value to the citizen." To safeguard the right against unreasonable searches and seizures, we find not only in the Federal Constitution but in every State constitution a provision to the effect that no search warrant shall issue except upon probable cause and upon application supported by oath particularly describing the place to be searched and the person or thing to be seized. "The effect of the Fourth Amendment is to put the courts of the United States and Federal officials, in the exercise of their power and authority, under limitations and restraints as to the exercise of such power and authority, and to forever secure the people, their persons, houses, papers and effects against all unreasonable searches and seizures under the guise of law." (Weeks vs. United States, supra.) In a recent case decided by the Supreme Court of the United States, Go-Bart Importing Company vs. United States (75 L. ed., [Adv. Ops.], 191), it was said: "The first clause of the Fourth Amendment declares: 'The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated.' It is general and forbids every search that is unreasonable; it protects all, those suspected or known to be offenders as well as the innocent, and unquestionably extends to the premises where the search was made and the papers taken. (Gouled vs. United States, 255 U. S., 298, 307; 65 L. ed., 647, 651; 41 S. Ct., 261.) The second clause declares, 'and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.' This prevents the issue of warrants on loose, vague or doubtful bases of fact. It emphasizes the purpose to protect against all general searches. Since before the creation of our government, such searches have been deemed obnoxious to fundamental principles of liberty. They are denounced in the constitutions or statutes of every state in the Union. (Agnello vs. United States, 269 U. S., 20, 33; 70 L. ed., 145, 149; 51 A. L. RM 409; 46 S. Ct., 4.) The need of protection against them is attested alike by history and present conditions. The amendment is to be liberally construed and all owe the duty of vigilance for its effective enforcement lest there shall be impairment of the rights for the protection of which it was adopted. (Boyd vs. United States, 116 U. S., 616, 623; 29 L. ed., 746, 748; 6 S. Ct., 524; Weeks vs. United States, 232 U. S., 389"-392; 58 L. ed., 654, 655; L. R. A., 1915B, 834; 34 S. Ct., 341; Ann. Cas. 1915C, 1177, supra.)"

Turning now to the case before us, is the search warrant sufficient to satisfy the law? It seems clear to me that a perusal of the warrant itself, of the application upon which the same was issued, and of the sworn testimony given in support of the application, requires a finding that the warrant failed to comply with the requirements prescribed by law as to (1) the existence of probable cause, and (2) the description of the property or things to be seized.

It is a well established doctrine that if a warrant is sought for the seizure or search of person or property, the application must be based on a sworn statement of facts, not surmises or beliefs. "No search warrant shall be issued unless the judge has first been furnished with facts under oath-not suspicions, beliefs, or surmises-but facts which, when the law is properly applied to them, tend to establish the necessary legal conclusion, or facts which, when the law is properly applied to them, tend to establish probable cause for believing that the legal conclusion is right. The inviolability of the accused's home is to be determined by the facts, not by rumor, suspicion, or guess-work. If the facts afford the legal basis for the search warrant, the accused must take the consequences. But equally there must be consequences for the, accuser to face. If the sworn accusation is based on fiction, the accuser must take the chance of punishment for perjury. Hence the necessity of a sworn statement of facts, because one cannot be convicted of perjury for having a belief, though the belief be utterly unfounded in fact and law." (Veeder vs. United States, 252 Fed., 414, 418.)

In United States vs. Borkowski (268 Fed., 408), the court held that the finding of probable cause should be based, not on the opinion or belief of a witness or witnesses, but on facts set forth in the affidavit from which the existence of probable cause may be fairly inferred. Otherwise the conclusion would be that of the witness, and not of the judicial officer in whom alone the Constitution has vested the extraordinary power to issue search warrants,

and who is thus legally charged with the duty of preventing unreasonable searches and seizures.

The reason for the doctrine is tersely stated by the Supreme Court of the United States in *Go-Bart Importing Co. vs. United States*, supra, thus: "This prevents the issue of warrants on loose, vague or doubtful bases of fact. It emphasizes the purpose to protect against all general searches. Since before the creation of our government, such searches have been deemed obnoxious to fundamental principles of liberty. They are denounced in the constitutions or statutes of every state in the Union."

Let us now see the sworn statements supporting the application for the search warrant in this case. Do they state facts-rather than suspicions, beliefs, and surmises? In the first statement we find the following questions and answers:

"Q. What is your name, residence and occupation?-A. Juan Evaristo, chief secret service agent. Augusto Piccio, -upervising agent, Bureau of Internal Revenue.

"Q. Are you the applicant for this search warrant?-A. Yes. "Q. Do you know who occupies said premises?-A. I do not know. According to the best of information the house is occupied by Mr. Jose Rubio, manager of the Simplex Trading Corporation and its subsidiary companies.

"Q. What are your reasons for applying for this search warrant?-A. It has been reported to me by a person whom I considered reliable that in said premises there are fraudulent books, invoices and records." In the second statement we also find the following questions and answers:

"Q. What is your name, residence and occupation?-A. Juan Evaristo and Augusto Piccio, internal revenue officers, Bureau of Internal Revenue.

"Q. Are you the witness for this search warrant?-A. Yes, sir.

"Q. Do you know the house situated at No. 129, Calle Juan Luna, District of Binondo, City of Manila?-A. Yes, sir.

"Q. Do you know who occupies said house?-A. Yes. According to the best of my information the house is occupied by Mr. Jose Rubio.

"Q. What do you know about that house?-A. I have watched personally the foregoing house for several times in company of the complainant and I can assert positively and with a probable cause- that the prohibited fraudulent books, invoices and records, exist and being conducted in the said house, and the occupant of the same keeps in his possession effects and devices to wit: fraudulent books of the Simplex Trading Corporation and subsidiary companies Paramount Trading- Corporation and New York Trading Corporation."

The same persons, Juan Evaristo and Augusto Piccio, signed both statements.

It will be observed, in the first place, that the witnesses could not even state positively who occupied the premises or house to be searched. All that they affirmed was "According to the best of information the house is occupied by Mr. Jose Rubio." In the second place, the only reasons given for the application for the search warrant, are as follows: "It has been reported to me by a person whom I considered reliable that in said premises there are fraudulent books, invoices and records" and "I have watched personally the foregoing house for several times in company of the complainant and I can assert positively and with a probable cause that the prohibited fraudulent books, invoices and records, exist and being conducted in the said house, and the occupant of the same keeps in his possession effects and devices to wit: fraudulent books of the Simplex Trading Corporation and subsidiary companies Paramount Trading Corporation and New York Trading Corporation."

As I shall try to explain more fully later, the alleged existence of "prohibited fraudulent books, invoices and

records" and the alleged possession by the appellant of "fraudulent books of the Simplex Trading Corporation and subsidiary companies Paramount Trading Corporation and New York Trading Corporation" furnished no definite bases of fact which could justify the issue of a warrant upon probable cause; and, as declared by the Supreme Court of the United States, the requirement as to the existence of probable cause for the issue of a search warrant "prevents the issue of warrants on loose, vague or doubtful bases of fact".

The other essential requisite for the issuance of a search warrant, which is also lacking in the present case, is that relating to the description of the thing or things to be seized. The law provides in unmistakable language that the application for a search warrant must particularly describe the thing to be seized. The reason for this requirement is explained by Cooley in his work already cited as follows: "Search-warrants are always obnoxious to very serious objections; and very great particularity is justly required in these cases before the privacy of a man's premises is allowed to be invaded by the minister of the law. And therefore a designation of goods to be searched for as 'goods, wares, and merchandises,' without more particular description, has been regarded as insufficient, even in the case of goods supposed to be smuggled, where there is usually greater difficulty in giving description, and where, consequently, more latitude should be permitted than in the case of property stolen." (Cooley's Constitutional Limitations, Vol. I, pp. 621, 622.)

Neither the phrase "fraudulent books of the Simplex Trading Corporation and subsidiary companies Paramount Trading Corporation and New York Trading Corporation", found in the sworn statement, nor the phrase "fraudulent books, invoices and records", found in the search warrant, supplies the particularity of description required by law. Such phrases do not even express a conclusion of fact by which a warrant officer may be guided in making the search and seizure, but they do express a conclusion of law as to the full import of which even lawyers may differ. In the last analysis, therefore the warrant in this case authorized nothing less than a general exploratory search, which is precisely what the law condemns as "obnoxious to fundamental principles of liberty". In *Marron vs. United States* (275 U. S., 192, 196; 72 L. ed., 231, 237), the court said: "The requirement that warrants shall particularly describe the things to be seized makes general searches under them impossible and prevents the seizure of one thing under a warrant describing another. As to what is to be taken, nothing is left to the discretion of the officer executing the warrant."

The constitutional rights of the appellant were also violated when the books and papers in his possession were searched for and seized to be used as evidence against him. The record shows that the books and papers so seized were made the basis for the institution of a criminal action against the appellant. This is expressly admitted in the order appealed from. The order, in fact, says:

"Aplicando los principios arriba mencionados al caso presente, resulta, segun el parrafo 7 de la morion del acusado, que los documentos y papeles secuestrados en poder de este fueron entregados por los agentes de rentas internas al Fiscal de la Ciudad, por lo que e"ste instituye la querella registrada como causa criminal No. 41563. En. esa querella se alega que el acusado Jose Rubio, valiendose de los mencionados documentos y papeles, quiso defraudar al Gobierno de las Islas Filipinas. De suerte que estos documentos y papeles fueron usados como instruments o agencias {instruments or agencies) para la perpetracion de fraudes contra el Gobierno." En tal caso, el publico tiene en esos documentos y papeles un interes que justifica el secuestro de los mismos, al objeto de evitar fraudes ulteriores.

"Se dira que la querella fiscal no es prueba de que los documentos y papeles secuestrados en poder del acusado se han usado realmente para los fines que en la querella se describen. Pero el Juzgado cree que la querella constituye prueba de 'causa probable' de que esos documentos y papeles se han usado para tales fines."

Curiously enough, the order under review sought to justify the search and seizure by the very fact that the books and papers seized, were used as evidence against the appellant. This clearly brings the case within the principle

laid down in *Boyd vs. United States*, supra, followed in a long line of cases, both State and Federal, and recently reaffirmed in *United States vs. Lefkowitz* (76 L. ed. [Adv. Ops.], 563). The principle adverted to is that which declares as illegal searches and seizures whether made with or without a search warrant, when the purpose of making search was solely to secure evidence to be used, in a criminal or penal proceeding, against the person in whose house or office the articles searched for and seized were found. It is true that in the *Lefkowitz* case the court found that "all the searches and seizures were made without a search warrant", but it is also true that the court positively declared that even if they were made with a search warrant they would have been equally held illegal. The searches and seizures were held illegal not because they were made without a search warrant, but because of the purpose for which they were made. So the court said: "Respondents' papers were wanted by the officers solely for use as evidence of crime of which respondents were accused or suspected. They could not lawfully be searched for and taken even under a search warrant issued upon ample evidence and precisely describing such things and disclosing exactly where they were. (*Gouled vs. United States*, 255 U. S., 298, 310; 65 L. ed., 647, 653; 41 S. Ct., 261.)" The court further observed:

"Here, the searches were exploratory and general and made solely to find evidence of respondents' guilt of the alleged conspiracy or some other crime. Though intended to be used to solicit orders for liquor in violation of the Act, the papers and other articles found and taken were in themselves unoffending. The decisions of this court distinguish searches of one's house, office, papers or effects merely to get evidence to convict him of crime from searches such as those made to find stolen goods for return to the owner, to take property that has been forfeited to the Government, to discover property concealed to avoid payment of duties for which it is liable, and from searches such as those made for the seizure of counterfeit coins, burglar's tools, gambling paraphernalia and illicit liquor in order to prevent the commission of crime. (*Boyd vs. United States*, 116 U. S., 616, et seq.; 29 L. ed., 746; 6 S. Ct., 524; *Weeks vs. United States*, 232 U. S., 383, 395; 58 L. ed., 652, 656; L. R. A., 1915B, 834; 34 S. Ct., 341; Ann. Cas., 1915C, 1177; *Gouled vs. United States*, supra [255 U. S., 306; 65 L. ed., 651; 41 S. Ct., 261]; *Carroll vs. United States*, 267 U. S., 132; 69 L. ed., 543; 39 A. L. R. (790; 45 S. Ct. 280, supra.)

"In *Entick vs. Carrington* (19 How. St. Tr., 1029), Lord Camden declared that one's papers are his dearest property, showed that the law of England did not authorize a search of private papers to help forward conviction even in cases of most atrocious crime and said (p. 1073): 'Whether this proceedeth from the gentleness of the law towards criminals, or from a consideration that such a power would be more pernicious to the innocent than useful to the public, I will not say. It is very certain, that the law obligeth no man to accuse himself; because the necessary means of compelling self-accusation, falling upon the innocent as well as the guilty, would be both cruel and unjust,* and it should seem, that search for evidence is disallowed upon the same principle. There too the innocent would be confounded with the guilty.'

"The teachings of that great case were cherished by our statesmen when the Constitution was adopted. In *Boyd vs. United States*, supra (116 U. S., 630; 29 L. ed., 751; 6 S. Ct., 524), this court said: 'The principles laid down in this opinion (*Entick vs. Carrington*) affect the very essence of constitutional liberty and security. * * * They apply to all invasions on the part of the Government and its employees of the sanctity of a man's home and the privacies of life. * * * Any forcible and compulsory extortion of a man's own testimony or of his private papers to be used as evidence to convict him of crime or to forfeit his goods is within the condemnation of that judgment. In this regard the Fourth and Fifth Amendments run almost 'into each other.' And this court has always construed provisions of the Constitution having regard to the principles upon which it was established. The direct operation or literal meaning of the words used do not measure the purpose or scope of its provisions. (*M'Culloch vs. Maryland*, 4 Wheat., 316, 406, 407, 421; 4 L. ed., 579, 601, 602, 605; *Boyd vs. United States*, 116 U. S., 616; 29 L. ed., 746; 6 S. Ct., 524, supra; *Byaf's vs. United States*, 273 U. S., 28; 71 L. ed., 520; 47 S. Ct., 248, ubi supra.)"

In *Federal Trade Commission vs. American Tobacco Company* (264 U. S., 298, 305, 306), the Supreme Court of

the United States, through Justice Holmes, declared that the mere fact "of being organized as a corporation do not make men's affairs public, as those of a railroad company now may be. (Smith vs. Interstate Commerce Commission, 245 U. S., 33, 43.) Anyone who respects the spirit as well as the letter of the Fourth Amendment would be loath to believe that Congress intended to authorize one of its subordinate agencies to sweep all our traditions into the fire (Interstate Commerce Commission vs. Brimson, 154 U. S., 447, 479), and to direct fishing expeditions into private papers on the possibility that they may disclose evidence of crime. We do not discuss the question whether it could do so if it tried, as nothing short of the most explicit language would induce us to attribute to Congress that intent. The interruption of business, the possible revelation of trade secrets, and the expense that compliance with the Commission's wholesale demand would cause are the least considerations. It is contrary to the first principles of justice to allow a search through all the respondents' records, relevant or irrelevant, in the hope that something will turn up. The unwillingness of this court to sustain such a claim is shown in Harriman vs. Interstate Commerce Commission (211 U. S., 407), and as to correspondence, even in the case of a common carrier, in United States vs. Louisville & Nashville R. R. Co. (236 U. S., 318, 335). The question is a different one where the State granting the charter gives its Commission power to inspect."

The internal revenue agents concerned in this case have shown commendable zeal in their efforts to protect the revenues of the Government; but this same zeal, if allowed to override constitutional limitations, would become "obnoxious to fundamental principle of liberty". And if we are to be saved from the sad experiences of some countries which have constitutions only in name, we must insist that governmental authority be exercised within constitutional limits; for, after all, what matters is not so much what the people write in their constitutions as the spirit in which they observe their provisions.

The order appealed from should be reversed, the search warrant issued in this case declared invalid, and the books and papers seized thereunder ordered returned to the appellant.

VILLA-REAL, J.:

I concur in the dissenting opinion of Justice Abad Santos. Order affirmed.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.