

Blackmer v. United States

SUPREME COURT OF THE UNITED STATES

284 U.S. 421 (1932)

Author's Note: This was a tax case arising out of the famous Teapot Dome Scandal during the administration of President Warren Harding in the 1920s. In litigation related to this scandal, the Supreme Court found that some high-ranking politicians had obtained oil leases through corrupt means. Blackmer, a US citizen, had some information needed by the US authorities to investigate them. He had moved to France but had not relinquished his US citizenship.

A US consular officer in Paris served Blackmer with a notice to return to Washington to testify for the US government. His testimony would help to ascertain the facts during criminal and civil investigations of the scandal. After Blackmer ignored this court order to return to the US, the trial judge found him in contempt of court for failing to appear. Blackmer then petitioned the US Supreme Court for relief from the lower court's contempt order and related fine. The following portion of the Supreme Court's opinion succinctly articulates the application of the nationality principle of jurisdiction requiring Blackmer's return.

Court's Opinion:

Mr. Chief Justice Hughes delivered the opinion of the Court.

The petitioner, Harry M. Blackmer, a citizen of the United States resident in Paris, France, was adjudged guilty of contempt of the Supreme Court of the District of Columbia for failure to respond to subpoenas served upon him in France and requiring him to appear as a witness on behalf of the United States at a criminal trial in that court. Two subpoenas were issued, for appearances at different times, and there was a separate proceeding with respect to each. The two cases were heard together, and a fine of \$30,000 with costs was imposed in each case, to be satisfied out of the property of the petitioner which had been seized by order of the court. The decrees were affirmed by the Court of Appeals of the District, and this Court granted writs of certiorari.

The subpoenas were issued and served, and the proceedings to punish for contempt were taken, under the provisions of the Act of July 3, 1926....¹

¹ The Act is as follows: "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever letters rogatory shall issue out of any court of the United States, either with or without interrogatories addressed to any court of any foreign country, to take the testimony of any witness, being a citizen of the United States or domiciled therein, and such witness, having been personally notified by it according to the practice of such court, to appear and testify pursuant to such letters rogatory and such witness shall neglect to appear..., the court out of which said letters issued may upon proper showing order that a subpoena issue addressed to any consul of the United States within any country in which such witness may be, commanding such witness to appear before the said court at a time and place therein designated.

Sec. 2. Whenever the attendance at the trial of any criminal action of a witness, being a citizen of the United States or domiciled therein, who is beyond the jurisdiction of the United States, is desired by the Attorney General or any assistant or district attorney acting under him, its judge of the court before which such action is pending, or who is to sit in the trial of the same, may, upon proper showing, order that a subpoena issue, addressed to any consul of the United States within any country in which such witness may be, commanding such witness to appear before the said court at a time and place therein designated."

The statute provided that whenever the attendance at the trial of a criminal action of a witness abroad, who is “a citizen of the United States or domiciled therein,” is desired by the Attorney General, or any assistant or district attorney acting under him, the judge of the court in which the action is pending may order a subpoena to issue, to be addressed to a consul of the United States and to be served by him personally upon the witness with a tender of traveling expenses. Upon proof of such service and of the failure of the witness to appear, the court may make an order requiring the witness to show cause why he should not be punished for contempt, and, upon the issue of such an order, the court may direct that property belonging to the witness and within the United States may be seized and held to satisfy any judgment which may be rendered against him in the proceeding.

...

While it appears that the petitioner removed his residence to France in the year 1924, it is undisputed that he was, and continued to be, a citizen of the United States. He continued to owe allegiance to the United States. By virtue of the obligations of citizenship, the United States retained its authority over him, and he was bound by its laws made applicable to him in a foreign country. Thus, although resident abroad, the petitioner remained subject to the taxing power of the United States. For disobedience to its laws through conduct abroad, he was subject to punishment in the courts of the United States. With respect to such an exercise of authority, there is no question of international law, but solely of the purport of the municipal law which establishes the duties of the citizen in relation to his own government. While the legislation of the Congress, unless the contrary intent appears, is construed to apply only within the territorial jurisdiction of the United States, the question of its application, so far as citizens of the United States in foreign countries are concerned, is one of construction, not of legislative power. Nor can it be doubted that the United States possesses the power inherent in sovereignty to require the return to this country of a citizen, resident elsewhere, whenever the public interest requires it, and to penalize him in case of refusal....

What in England was the prerogative of the sovereign in this respect pertains under our constitutional system to the national authority which may be exercised by the Congress by virtue of the legislative power to prescribe the duties of the citizens of the United States. It is also beyond controversy that one of the duties which the citizen owes to his government is to support the administration of justice by attending its courts and giving his testimony whenever he is properly summoned. And the Congress may provide for the performance of this duty and prescribe penalties for disobedience....

In the present instance, the ... authority to require the absent citizen to return and testify necessarily implies the authority to give him notice of the requirement. As his attendance is needed in court, it is appropriate that the Congress should authorize the court to direct the notice to be given, and that it should be in the customary form of a subpoena. ... The question of the validity of the provision for actual service of the subpoena in a foreign country is one that arises solely between the government of the United States and the citizen. The mere giving of such a notice to the citizen in the foreign country of the requirement of his government that he shall return is in no sense [*sic*] an invasion of any right of the foreign government and the citizen has no standing to invoke any such supposed right.