

Respublica Vs. Weidle

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Court : US Supreme Court

Decided On : 1781

Appeal No. : 2 U.S. 88

Appellant : Respublica

Respondent : Weidle

Judgement :

RESPUBLICA v. WEIDLE - 2 U.S. 88 (1781)

U.S. Supreme Court RESPUBLICA v. WEIDLE, 2 U.S. 88 (1781)

2 U.S. 88 (Dall.)

Respublica

v.

Weidle*

Supreme Court of Pennsylvania

November Sessions, 1781

This was an indictment for misprision of Treason, in the defendant's speaking the following words 'that he had lived six years in London, and nine years in Ireland;

and never lived happier in his life, than he had done under the English government; and that the King of England is our King, and

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will be yours.' The words proved, by the evidence on the trial, to have been spoken were, that 'Weedle said he had lived six years in England, and nine in Ireland, and that he lived well, and that is was not so as people took it in this country; and he further said, the King would become King, and that the witness thought so too.' There was, however, some attempt to shew that he was intoxicated at the time of speaking the offensive words.

The indictment was founded on the 4th Sect. of the Act of Assembly (1 Vol. Dall. Edit. p. 728) and charged all the misprisions of treason there enumerated. The words are 'That if any person or persons within this State shall attempt to convey intelligence to the enemies of this State, or the United States of America, or by publicly and deliberately speaking or writing against our public defence; or shall maliciously and advisedly endeavour to excite the people to resist the Governmant of this Commonwealth, or persuade them to return to a dependence upon the Crown of Great Britain; or shall maliciously and advisedly terrify, or discourage, the people from enlisting into the service of the Commonwealth; or shall stir up, excite or raise tumults, disorders, or insurrections in the State, or dispose them to favor the enemy; or oppose and endeavour to prevent the measures carrying on in support of the freedom and independence of the said United States; every such person, being thereof legally convicted by the evidence of two or more credible witnesses, shall be adjudged guilty of misprision of treason, &c.;

Bradford, Attorney General, having closed the testimony for the prosecution, observed that the act of Assembly was couched in general and comprehensive terms; and that the words proved to have been spoken by the defendant were clearly within the sense and meaning of the words laid in the indictment. To shew the heinous nature of the offence, he cited Fost. 200. 201. 4 Bl. C: 117; and he insisted that drunkenness, in itself a vice, could not be an excuse for the perpetration of a crime.

Yeates, for the defendant, premised that the law on which the indictment arose, was new, and could only be justified by the crisis of American affairs at the time of passing it, when it was necessary to seal the lips of the disaffected. The necessity no longer existed; and policy would admit, what legal authorities required, that, as a penal law, it should be strictly construed. The part of the section of the act, to which the evidence applies, is then materially incorrect: For, it is not sense in the present form of wording and pointing; and can only be rendered intelligible by adding some words, and by omitting the semicolon, and the disjunctive 'or.' By that correction, it would read thus: 'If any person, by publicly and deliberately speaking

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or writing against our public defence, shall maliciously and advisedly endeavour to excite the people to resist the Government of this Commonwealth, &c.;" The act, indeed, has, in this respect, been thought so harsh by the Legislature, that the offence has since been reduced to the class of misdemeanors.

But it is the effence of the offence, as well upon general principles, as upon the positive language of the act of Assembly, that the words should be spoken publicly, deliberately, maliciously and advisedly, with a view to persuade others to resist the Government. Words of mere heat and passion will not constitute the crime alledged; they are often uttered when the heart is properly disposed; and they must be construed according to their natural and common import, independent of the paraphrase of inuendos. It is true that the words, in the present instance, are exceptionable; but they manifest in themselves no intention, nor is there any proof of an intention, to persuade others to resist the Government; they merely express a matter of opinion; and cannot fairly be converted into matter of treason. Comb. 460. 4 Bl. C. 79.

Bradford, in reply. It is admitted, that the 4th section of the act of Assembly is inaccurately, and ungrammatically, composed; but the clause which has been the subject of comment, on the other side, has always been deemed a substantive and independent one. Let that clause, however, be rejected on account of its imperfections, there still remains abundant matter to support the indictment; for,

the words being proved, are evidence on another clause, that the defendant 'maliciously and advisedly endeavoured to excite the people to resist the Government of this Commonwealth, and to persuade them to return to a dependence upon the Crown of Great Britain.'

Again; it is agreed, that the words should be spoken maliciously and advisedly; but by malice the law only intends, that the speech be made in an evil and wicked temper of mind; and deliberation is so far essential, that the mere ebullition of a transient passion shall not be rigidly construed into design and criminality.

The Court delivered a charge to the following effect:

M'Kean, Chief Justice:

This indictment charges all the various acts which constitute misprision of treason; and it is the duty of the Jury to enquire, whether the evidence supports any one of the charges. It is said, indeed, that the law on which the indictment is founded, is so inaccurately penned, that it cannot be understood without supplying certain material words; and it is, undoubtedly, true, that although, in a common case, on a mere question of property (as in the case of a Will) the rule of construction is according to the sense of the instrument; yet, a law constituting a crime, must be strictly and literally

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interpreted and pursued. The obscure passage in the Act of Assembly would be rendered perspicuous and intelligible, without the addition of any words, by expunging the femicolon, and the monosyllable 'or': But even that is unnecessary to support the prosecution; since the words spoken tended to excite resistance to the Government of this Commonwealth, to persuade the audience to return to a dependence upon the Crown of Great Britain, and to favor the enemy; which are distinct and substantive charges of misprision of treason.

It is proper to add, that the words must be spoken with a malicious and mischievous intention, in order to render them criminal: A mere loofe and idle

conversation, without any wickedness of heart, may be indiscreet and reprehensible, but ought not to be construed into misprision of treason. On the other hand, drunkenness is no justification, or excuse, for committing the offence; to allow it as such, would open a door for the practice of the greatest enormities with impunity.

Verdict, Guilty: Footnotes

[[Footnote *](#)] This cause was tried at a Session of Oyer & Terminer, held at Lancaster, in November 1781. See the note to the preceeding case.

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