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Respublica Vs. De Longchamps

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Court : US Supreme Court

Decided On : 1784

Appeal No. : 1 U.S. 111

Appellant : Respublica

Respondent : De Longchamps

Judgement :

RESPUBLICA v. DE LONGCHAMPS - 1 U.S. 111 (1784)
U.S. Supreme Court RESPUBLICA v. DE LONGCHAMPS, 1 U.S. 111 (1784)

1 U.S. 111 (Dall.)

Respublica
v.
De Longchamps

Court of Oyer and Terminer, at Philadelphia

October Sessions, 1784

Charles Julian De Longchamps, commonly called the Chevalier De Longchamps, was indicted, that 'he on the 17th of May, 1784, in the dwelling-house of his Excellency the French Minister Plenipotentiary, in the presence of Francis Barbe Marbois, unlawfully and insolently did threaten and menace bodily harm and

violence to the person of the said Francis Barbe Marbois, he being Consul General of France to the United States, Consul for the State of Pennsylvania, Secretary of the French Legation &c.; resident in the house aforesaid, and under the protection of the law of nations and this Commonwealth.' And that 'afterwards, to wit on the 19th of May in the public street &c.; he the said Charles Julian de Longchamps unlawfully, premeditatedly and violently, in and upon the person of the said Francis Barbe Marbois under the protection of the laws of nations, and in the peace of this Commonwealth, then and there being, an assault did make, and him the said Francis Barbe Marbois unlawfully and violently did strike and otherwise &c.; in violation of the laws of nations, against the peace and dignity of the United States and of the Commonwealth of Pennsylvania.' To these charges the defendant pleaded not guilty.

The evidence, in support of the first Court, was, that on the 17th of May, De Longchamps went to the house of the Minister of France, and after some conversation with Monsieur Marbois, was heard to exclaim in a loud and menacing tone, 'Je vous deshonnerera, Policon, Coquin', addressing himself to that gentleman. That the noise being heard by the Minister, he repaired to the room from which it issued, and that in his presence the defendant repeated the insult offered to Monsieur Marbois in nearly the same terms.

In support of the second Court, it appeared, that De Longchamps and Monsieur Marbois, having met in Market Street, near the Coffee House, entered into a long conversation, in the course of which, the latter said that he would complain to the civil authority, and the former replied, 'you are a Blackguard.' The witnesses generally deposed that De Longchamps struck the cane of Monsieur Marbois,

before that gentleman used any violent gestures, or even appeared incensed; but that as soon as the stroke was given, Monsieur Marbois employed his stick with great severity, til the spectators interfered and separated the parties. One of the witnesses, indeed, said, that previously to engaging with their canes, he observed the two gentlemen, at the same instant, lay their hands on each others shoulders,

in a manner so gentle, that he, who had heard it was customary among the French to part with mutual falutations, imagined a ceremony of that kind was about to take place, and was surprized to see De Longchamps step back, and strike the cane of Monsieur Marbois.

On the part of the defendant, evidence was produced of his having served with honour in the French armies, and his commission of Sub- Brigadier in the dragoons of Noailles, was read. It appeared that the occasion of his calling on Monsieur Marbois, was to obtain authentications of these, and some other papers relative to his family, his rank in France, and his military promotions, in order to refute several publications, which had been made in the newspapers, injurious to his character and pretensions. The refusal of Monsieur Marbois to grant the authentications required, was the ground of De Longchamps' resentment, and the immediate cause of his menaces at the Minister's house.

With respect to the assault, one witness (a Frenchman) swore that he saw Monsieur Marbois give the first blow, and his Excellencey the President of the State, testified, that Monsieur Marbois, having complained to him of the insult received in the Minister's house, he sent a message to De Longchamps, requesting to see him; that the defendant readily attended, when his Excellency explained his reasons for apprehending, that he meditated some personal violence upon Monsieur Marbois, and requested him to pledge his parol of honour, that he would prosecute the matter no farther. This he declined in polite, but positive terms; when his Excellency proposed to Monsieur Marbois that the Chevalier should be bound over for his good behaviour; but that gentleman would not accede to the proposal.

Sergeant and Vannost, for the defendant, contended, that the expressions laid in the first part of the indictment, were too equivocal to be construed into menaces of corporal harm. 'I will dishonour you', is a sentence that conveys more than one signification; and the threat would have been fully accomplished, had the Chevalier descended to any of those very libellous publications, with which his own character had been asperfed. The established maxim, that words ought to be taken in their mildest sense, operates, therefore, in favour of the defendant; and,

at all events, that they do not amount to an assault, and are not the subject of an Indictment, are principles incontrovertibly established. 3 Bl. Com. 20. Finch L. 202. 4 Inst. 108. They insisted, that the President offered Monsieur Marbois the only security which the law will allow on such occasions, and which would effectually have restrained any future violence intended

to be committed upon his person. That therefore his having suffered a second insult, must be imputed to his refusal to accept that security. It is pretended, that by the menances at the house of the Minister, the law of nations was violated; yet, it must be remembered, that the reparation sought, and the remedy offered, are confined to the municipal law of Pennsylvania, where the offence was committed; and, in all cases of menaces, the law of Pennsylvania yield to further relief, than the imposition of a legal restraint on the execution of those menaces. The degree of outrage is, likewise, to be computed by the quality of the person offended; and as the application of the defendant was to procure a certificate from the Consul of France, if Monsieur Marbois has been at all insulted, it is only in that character, which is not protected by the law of nations. Vat, lib. 4. S. 75. and consequently there is no redress, but what the law of the State provides. On the second Count, of the Indictment, they argued, that it was not sufficiently proved, that De Longchamps was the aggressor. One witness has sworn positively, that the first blow was given by Monsieur Marbois, and another describes the parties to have laid their hands on each other, at the same instant. Though other witnesses did not see these circumstances, yet they are grounded upon affirmative testimony, which cannot be destroyed by that which is merely negative.Gilb. L. E. 157. If, therefore, the evidence for the defendant was entitled to credit, it appeared, that Monsieur Marbois was the author of the outrage; and, it is so well established that no elevation, rank, or immunity of character, can abrogate the right of self defence, that if a Sovereign Minister offend a Citizen, the latter may oppose him, without departing from the respect due to his station, and give him a lesson that shall both efface the stain and expose the author of the outrage Vatt. lib. 4. S. 80. The Attorney General, assisted by Wilson, supported the prosecution. The necessity of

sustaining the law of nations, of protecting and securing the persons and privileges of Ambassadors; the connection between the law of nations and the municipal law; and the effect which decision of this case must have upon the honor of Pennsylvania, and the safety of her Citizens abroad, were stated at length from 3 Burr. 1480. 1 Bl. Com. 253. 4 Bl. Com. 70. Vatt. pref. 6. page 203. Vat. lib 1. S. 6 lib. 4. S. 84. S. 80. Ayliss's Pandect. lib. 2. 132. On the first part of the Indictment, they observed, that the meaning of the menace used in the Minister's house, was to be fought for in the opinion of the French nation. With them, the prase extended farther than colloquial dishonor (that Monsieur Marbois had already suffered) in implied personal violence. This was the idea, likewise, of his Excellency, the President of the State, and the event confirms it beyond a doubt. If, therefore, the menace had been attended with its natural effect, impressing Monsieur Marbois with an apprehension for his own safety, the Consul General of France,

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and the Secretary of the French Legation to the United States, must have been prevented from paying a proper attention to his appointments, which is certainly a violation of the law of nations. Vatt. lib 2. S. 218. Upon the same principle that the infringement of a Statute, is an indictable offence, though the mode of punishment is not pointed out in the Act itself, an offence against the laws of Nations, while they compose a part of the law of the Land, must necessarily be indictable. With respect to the assault, they contended, that the weight of the testimony proved De Longchamps to be the aggressor; and the respective characters of the parties tend to confirm it: Monsieur Margois preserved during the whole transaction, his constitutional temperament cool, deliberate, and self possessed; while De Longchamps, naturally captious and impetuous, became incensed at the imaginary injuries he had received, and, by his own declarations, was determined to be revenged. The Chief Justice, after minutely recapitulating the evidence. and applying it to the charges in the indictment, expressed the following sentiments.

M'Kean, Chief Justice. This is a case of the first impression in the United States. It must be determined on the principles of the laws of nations, which form a part of the municipal law of Pennsylvania; and, if the offences charged in the indictment

have been committed, there can be no doubt, that those laws have been violated. The words used in the Minister's house, (which is to be considered as a Foreign Domicil, where the Minister resides in full representation of his sovereign, and where the laws of the State do not extend) may be compared to the same words applied to the Judges, in a Court of Justice, where they fit in representation of the majesty of the People, of Pennsylvania. In that case, the offender would be immediately committed to jail, without the preliminary process of an indictment by a Grand Jury; and, in the case before us, if the offender is convicted, he may certainly be punished by fine and imprisonment. In actions of Slander, words were formerly construed in the mildest sense they would admit; but reason has superceded such forced interpretations, and words are now to be taken according to their ordinary import and meaning. Those expressed by the defendant, are evidently of a tendency so opprobrious and violent, that they cannot fail to aggrevate the outrage which has been committed. As to the assault, this is, perhaps, one of that kind, in which the insult is more to be considered, than the actual damage; for, though no great bodily pain is suffered by a blow on the palm of the hand, or the skirt of the coat, yet these are clearly within the legal difinition of Assault and Battery, and among gentlemen, too often induce duelling, and terminate in murder. As, therefore, anything attached to the person, partakes of its inviolability; De Longchamps' striking Monsieur Marbois' cane, is a sufficient justification of that gentleman's subsequent conduct.

Bryan, Justice.

The distinction, between a Consul and a member of the Legation, is not warranted in this case; for, Monsieur Marbois never ceased to be the latter. As Secretary to the Legation, his authority descends from a high source, his commission being made out in the same form as the Minister's, and signed in the same manner, by the King his master.

The Jury, at first, found the defendant guilty of the Assault only; but, the Court desiring them to re-consider the matter, they returned with a virdict against him on both Counts.

The sentence of the Court was suspended, in consequence of a case ated by his Excellency, the President, and the Honorable Supreme Executive Council, for the opinion of the Judges. It was argued in open Court, on the 10th and 12th of July, by five Council, two for the affirmative, and three for the negative; and on the 7th of October, the prisoner being brought before the Court, the Chief Justice stated the case, repeated the answers of the Judges, and, finally, pronounced the judgment of the Court, in the following manner.

M'Kean, Chief Justice.

Charles Julian De Longchamps: You have been indicted for unlawfully and violently threatening and menacing bodily harm and violence to the person of the honorable Francis Barbe De Marbois, Secretary to the Legation from France, and Consul General of France to the United States of America, in the mansion-house of the Minister Plenipotentiary of France; and for an Assault and Battery committed upon the said Secretary and Consul, in a public street in the City of Philadelphia. To this Indictment you have pleaded, that you were not guilty, and for trial put yourself upon the country; an unbiased Jury, upon a fair trial, and clear evidence, have found you guilty. [115-Continued.]

These offences having been thus legally ascertained and fixed upon you, his Excellency, the President, and the Honorable Supreme Executive Council, attentive to the honor and interest of the State, were pleased to inform the Judges of this Court, as they had frequently done before, that the Minister of France had earnestly repeated a demand, that you, having appeared in his house in the uniform of a French Regiment, and having called yourself an officer in the troops of his Majesty, should be delivered up to him for these outrages, as a Frenchman to be sent to France; and wished us in this stage of your prosecution, to take into mature consideration, and in the most solemn manner to determine:

1st. Whether you could be legally delivered up by Council, according to the claim made by the late Minister of France?

2ndly. If you could not be thus legally delivered up, whether your offences in violation of the law of nations, being now ascertained and verified according to the laws of this Commonwealth, you ought not to be imprisoned, until his most Christan Majesty shall declare, that the reparation is satisfactory?

And 3rdly. If you can be thus imprisoned, whether any legal act can be done by Council, for causing you to be imprisoned?

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To these questions we have given the following answers in writing: 'In compliance with the request of his Excellency, the President, and the Honorable the Supreme Executive Council, we postponed passing sentence upon Charles Julian De Longchamps, until we had maturely considered the three questions above proposed for our determination. On the 10th and 12th days of July the several questions were argued before the Court by five Counsel, two on the affirmative and three on the negative side. We have kept the matter under advisement until this day, and now deliver our opinion thereupon.' 1. 'And as to the first question, we answer, That it is our opinion, that, in this case, Charles Julian De Longchamps cannot be legally delivered up by Council, according to the claim made by the Minister of France. Though, we think, cases may occur, where Council could, pro bono publicq, and to prevent attrocious offenders evading punishment, deliver them up to the Justice of the Country to which they belong, or where the offences were committed.' 2. 'Punishments must be inflicted in the same County where the Criminals were tried and convicted, unless the record of the attainder be removed into the Supreme Court, which may award execution in the County were it fits; they must be such as the laws expressly prescribe; or where no stated or fixed judgement is directed, according to the legal discretion of the Court; but judgments must be certain and definite in all respects. Therefore, we conclude, that the Defendant cannot be imprisoned, until his most Christian Majesty shall declare, that the reparation is satisfactory.' 3. 'The answer to the last question is rendered

unnecessary by the above answer to the second question.' The foregoing answers having been given, it only remains for the Court to pronounce sentence upon you. This sentence must be governed by a due consideration of the enormity and dangerous tendency of the offences you have committed, of the wilfulness, deliberation, and malice, wherewith they were done, of the quality and degree of the offended and offender, the proyocation given, and all other circumstances which may any way aggravate or extenuate the guilt. The first crime in the indictment is an infraction of the law of Nations. This law, in its full extent, is part of the law of this State, and is to be collected from the practice of different Nations, and the authority of writers. The person of a public minister is sacred and inviolable. Whoever offers any violence to him, not only affronts the Sovereign he represents, but also hurts the common safety and well being of nations; he is guilty of a crime against the whole world.

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All the reasons, which establish the independency and inviolability of the person of a Minister, apply likewise to secure the immunities of his house: It is to be defended from all outrage; it is under a peculiar protection of the laws; to invade it's freedom is a crime against the State and all other nations. The Comites of a Minister, or those of his train, partake also of his inviolability. The independency of a Minister extends to all his houshold; these are so connected with him, that they enjoy his privileges and follow his fate. The Secretary to the Embassy has his commission from the Sovereign himself; he is the most distinguished character in the suite of a public Minister, and is in some instances considered as a kind of public Minister himself. Is it not then an extraordinary insult to use threats of bodily harm to his person in the domicil of the Minister Plenipotentiary? If this is tolerated, his freedom of conduct is taken away, the business of his Sovereign cannot be transacted, and his dignity and grandeur will be tarnished. You then have been guilty of an attrocious violation of the law of nations; you have grossly insulted gentlemen, the peculiar objects of this law (gentlemen of amiable characters, and highly esteemed by the government of this State) in a most wanton and unprovoked manner: And it is now the interest as well as duty of the government,

to animadvert upon your conduct with a becoming severity, such a severity as may tend to reform yourself, to deter others from the commission of the like crime, preserve the honor of the State, and maintain peace with our great and good Ally, and the whole world. A wrong opinion has been entertained concerning the conduct of Lord Chief Justice Holt and the Court of King's Bench in England, in the noted case of the Ruffian Ambassador. They detained the offenders, after conviction, in prison, from term to term, until the Czar Peter was satisfied, without ever proceeding to judgment; and from this it has been inferred, that the Court doubted, whether they could inflict any punishment for an infraction of the law of nations. But this was not the reason. The Court never doubted, that the law of nations formed a part of the law of England, and that a violation of this general law could be punished by them; but no punishment less than death would have been thought by the Czar an adequate reparation for the arrest of his Ambassador; This punishment they could not inflict, and such a sentence as they could have given, He might have thought a freth insult. Another expedient was therefore fallen upon. However, the Princes of the world, at this day, are more enlightened, and do not require impracticable nor unreasonable reparations for injuries of this kind. The second offence charged in the indictment, namely the Assault and Battery, needs no observations. Upon the whole The Court, after a most attentive consideration of every circumstance in this case, do award, and direct me to pronounce the following sentence:

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That you pay a fine of one hundred French Crowns to the Commonwealth; that you be imprisoned until the 4th day of July 1786, which will make a little more than two years imprisonment in the whole; that you then give good security to keep the peace, and be of good behaviour to all public Ministers, Secretaries to Embassies, and Consuls, as well as to all the liege people of Pennsylvania, for the space of seven years, by entering into a recognizance, yourself in a thousand pounds, and two securities in five hundred pounds each: that you pay the costs of this prosecution, and remain committed until this sentence be complied with.

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