Respublica Vs. Shaffer

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Court : US Supreme Court

Decided On : 1788

Appeal No. : 1 U.S. 236

Appellant : Respublica

Respondent : Shaffer

Judgement :

RESPUBLICA v. SHAFFER - 1 U.S. 236 (1788)
U.S. Supreme Court RESPUBLICA v. SHAFFER, 1 U.S. 236 (1788)

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Respublica
v.
Shaffer

Court of Oyer and Terminer, at Philadelphia

February Sessions, 1788

After some conversation with the Grand Inquest, the Attorney General informed the court, that a list of eleven persons had been presented to him by the Foreman, with a request, that they might be qualified and sent to the jury, as witnesses upon a bill then depending before them. He stated that the list had been made out by

the defendant's bail; that the persons named were intended to furnish testimony in favor of the party charged, upon facts with which the Inquest, of their own knowledge, were unacquainted; and he concluded with requesting, that the opinion of the court might be given upon this application. The Chief Justice, accordingly, addressed the Grand Jury to the following effect:

M'Kean, Chief Justice.

Were the proposed examination of witnesses, on the part of the Defendant, to be allowed, the long established rules of law and justice would be at an end. It is a matter well known, and well understood, that by the laws of our country, every question which affects a man's life, reputation, or property, must be tried by twelve of his peers; and that their unanimous verdict is, alone, competent to determine the fact in issue. If then, you undertake to enquire, not only upon what foundation the charge is made, but, likewise, upon what foundation it is denied, you will, in effect, usurp the jurisdiction of the Petty Jury, you will supercede the legal authority of the court, in judging of the competency and admissibility of witnesses, and, having thus undertaken to try the question, that question may be determined by a bare majority, or by a much greater number of your body, than the twelve peers prescribed by the law of the land. This point has, I believe, excited some doubts upon former occasions but those doubts have never

arisen in the mind of any lawyer, and they may easily be removed by a proper consideration of the subject. For, the bills, or presentments, found by a grand Jury, amount to nothing more than an official accusation, in order to put the party accused upon his trial: 'till the bill is returned, there is, therefore, no charge from which he can be required to exculpate himself; and we know that many persons, against whom bills were returned, have been afterwards acquitted by a verdict of their country. Here then, is the just line of discrimination: It is the duty of the Grand Jury to enquire into the nature and probable grounds of the charge; but it is the exclusive province of the Petty Jury, to hear and determine, with the assistance,

and under the direction of the court, upon points of law, whether the Defendant is, or is not guilty, on the whole evidence, for, as well as against, him. You will therefore, readily perceive, that if you examine the witnesses on both sides, you do not confine your consideration to the probable grounds of charge, but engage completely in the trial of the cause; and your return must, consequently, be tantamount to a verdict of acquital, or condemnation. But this would involve us in another difficulty; for, by the law it is declared that no man shall be twice put in jeopardy for the same offence: and, yet, it is certain that the enquiry, now proposed by the Grand Jury, would necessarily introduce the oppression of a double trial. Nor is it merely upon maxims of law, but, I think, likewise, upon principles of humanity, that this innovation should be opposed. Considering the bill as an accusation grounded entirely upon the testimony in support of the prosecution, the Petty Jury receive no biass from the sanction which the indorsement of the Grand Jury has conferred upon it. But, on the other hand, would it not, in some degree, prejudice the most upright mind against the Defendant, that on a full hearing of his defence, another tribunal had pronounced it insufficient? which would then be the natural inference from every true bill. Upon the whole, the court is of opinion, that it would be improper and illegal to examine the witnesses, on behalf of the Defendant, while the charge against him lies before the Grand Jury.

One of the Grand Inquest then observed to the court, that 'there was a clause in the qualification of the Jurors, upon which he, and some of his brethren, wished to hear the interpretation of the Judges to wit-what is the legal acceptation of the words 'diligently enquire?' To this the Chief Justice replied, that 'the expression meant, diligently to enquire into the circumstances of the charge, the credibility of the witnesses who support it, and, from the whole, to judge whether the person accused ought to be put upon his trial. For, (he added) though it would be improper to determine the merits of the cause, it is incumbent upon the Grand Jury to satisfy their minds, by a diligent enquiry, that there is a probable ground for the accusation, before they give it their authority, and call upon the Defendant to make a public defence.'