

SWOPE v. COURTNEY.

[1 Cranch, C. C. 33.]¹

Circuit Court, District of Columbia. July Term, 1801.

ASSAULT AND BATTERY—RECOVERY—BAR.

In a joint assault and battery, a recovery in a suit against one is a bar to a suit against the other.

Assault and battery. The defendant [Mary Courtney] pleads that the assault was a joint assault committed by her and Hannah Dyson, and that the plaintiff [Eve Swope] recovered judgment at this term against Joseph Dyson, and the said Hannah, his wife, for the same assault. The evidence was, that Mary Courtney and Hannah Dyson were together, and that Dyson threw a bucket of water at the plaintiff, and dropped the bucket; and that the defendant immediately took up the bucket, and threw it at the plaintiff, for which this action was brought.

On the trial of the case of Dyson and wife, objection was made by the then defendant to the witness giving in evidence the declarations or confessions of the present defendant.

KILTY, Chief Judge, and MARSHALL, Circuit Justice, directed the jury that this was a joint assault and battery, and that the recovery against Dyson and wife was a bar to this action. *Cocke v. Jennor*, Hob. 66; *Esp. N. P.* 416; *Broome v. Wooton*, Yel. 67; *Morton's Case*, Cro. Eliz. 30; *Parker v. Lawrence*, Hob. 70.

CRANCH, Circuit Judge, contra, doubting whether it was a joint assault and battery.

¹ [Reported by Hon. William Cranch, Chief Judge.]

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