

**Case No. 16,155.** UNITED STATES v. RICHARDSON.  
[5 Cranch, C. C. 348.]<sup>1</sup>

Circuit Court, District of Columbia.

Nov. Term, 1837.

ASSAULT—WHAT CONSTITUTES.

If a man raise a club over the head of a woman within striking distance, and threaten to strike her if she open her mouth, this is an assault in law. He has no right to impose such a condition.

Indictment for an assault upon one Susan Shelton. The evidence was that the defendant [Allison Richardson] came into the house where Mrs. Shelton was sitting at a window. He was armed with a musket and a club; and raising the club over her head in an attitude for striking, and within striking distance, said to her that if she said a word (or if she opened her mouth) he would strike her; and this without any provocation on her part.

Bradley & Hoban, for defendant, contended that this was not, in law, an assault; that there can be no assault without a present intent to strike; and his saying, "if she opened her mouth," showed that he had not such a present intent, and they cited the old case, "If it were not the assizes, I would stab you."

But THE COURT (THRUSTON, Circuit Judge, absent) said that he had no right to restrain her from speaking; and his language showed an intent to strike upon her violation of a condition which he had no right to impose. Suppose a stranger comes to my house armed, and raises his club over my head, within striking distance, and threatens to beat me unless I will go out of and abandon my house, surely that would be an assault. So if a highwayman puts a pistol to my breast, and threatens to shoot me unless I give him my money, this would be evidence of an assault, and would be charged as such in the indictment.

Verdict, "Guilty." Fined ten dollars.

<sup>1</sup> [Reported by Hon. William Cranch, Chief Judge.]