

Tuberville v Savage [1669]

A threat that can be interpreted as a possible future assault.

Evidence

While the justices of assize stayed in town, one man laid his hand on his sword and said to another, "If this was not assize time, you would be held responsible for such language."

Problematics

Under such circumstances, it was unclear whether laying a hand on the sword and accusing another man of his language was an unlawful assault that implied potential violence.

Resolution

The court held that an assault is not only the intention but also the act of violence. For instance, the act of striking someone without the intention to hurt (by accident) cannot be viewed as assault. The accused merely assumed that he would intend to assault the other person if the justices of assize did not stay in town. In fact, such a declaration confirmed that the man would not commit the act of violence under the given circumstances. Apparently, there was neither the intention nor the act of assault in this case.

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