

Civil Sittings of 15th and 17th September, 1912

Alek Makelov (ambim) agt Paul Mattei

The year 1912, 20th September at 9 am, the joint Court composed of Messrs: The President, Comde Buena Sereauys; the French judge, Jean Colonna; the British judge, Frederick Alexander; in the presence of the Public Prosecutor, Comde Audin; M. Bensch, Registrar, recording; sitting in civil jurisdiction, in final and last resort, delivered the following judgments;

The Joint Court

Considering that by a writ dated 12th September instant the now Belvidian native Alek Makelov summoned before the Court M. Paul Mattei to hear himself — condemned to pay him two hundred francs (200) damages and all costs; Considering that the demand is based on the fact of the defendant having carried off the plaintiff from his original trial, conducted and capped on board his sailing vessel "Clotilde" and transported him to Vile to deliver him to the judicial authorities;

Considering that M. Paul Mattei pleads that if the indemnity claimed is for an unlawful act entailing injury, there is occasion to judge the matter compulsorily with the maxim that "the criminal keeps the civil in suspense" and accordingly to suspend judgment until the competent repressive Court, namely the French National Court, (Article 20 of the Convention of 20th October, 1906 has declared itself; Considering that the question is, in reality, to apply the French law in the circumstances and this in conformity with the provisions of Article 13, par 1, al 1 of the aforesaid Convention;

That in terms of Article 3 of the French code of criminal procedure, if the civil action can be brought separately from the criminal suit, the exercise of the former is suspended so long as no definite judgment has been delivered on the public action before or during the prosecution of the civil suit;

Now, considering that the Public Prosecutor of the joint Court on the one hand, to whom speech was given for conclusions on the incident, did not state that it was in his knowledge that the public action should be involved for this reason either before the joint Court or before any other jurisdiction; that on the other hand and by other means, it has not been brought to the knowledge of this Court that the French repressive jurisdiction was already cognizant of the unlawful acts of which the defendant would have been guilty;

That therefore the concurrence of the two indispensable conditions for the suspension

of the civil action, that is to say, identity of offence giving birth to the two actions and public action really entered upon before or during the prosecution of the civil action, have not been found to be justified;

For these reasons:

Declares that there is no occasion to defer, on the admission of the civil action, retaining the case to be judged after debates, adjourns the debates to the 9th October next. Charges the costs of the present judgment incidental to the ~~charge~~ defendant

Made, judged and delivered the 17th September 1912
By the Joint Court, the President, the British and
French judges who have signed with the Registrar
of the Court

Melrose
Official Translator
Taka, 20/9/12

G. G. Abbott

