

**T. A. JOHNS, Plaintiff in Error, vs. THE REPUBLIC OF LIBERIA, Defendant
in Error.**

LRSC 3; 1 LLR 240

[January Term, A. D. 1892.]

Appeal from the Court of Quarter Sessions and Common Pleas, Montserrado County.

Assault with Intent to Kill.

Until verdict is rendered in open court the jury should be kept together and should not converse with any person except their fellows upon the case submitted to them. It is necessary to a valid verdict that the finding be unanimous and the conclusions voluntary; where threats or other influence have been employed by one jurymen to induce another to agree with him, it is good ground for awarding a new trial, and where a new trial under such circumstances has been refused, the appellate jurisdiction will correct the error of the lower judge by reversing judgment.

This case presents two points into which all others presented in the assignment of errors must fall. Before coming to the points submitted for this court to determine, we deem it proper to say that in the trial of criminal cases the jury empaneled to try the facts should be kept together from the time they are empaneled until they have rendered in open court their verdict. And it would be a reprehensible offence in them to converse with anyone except their fellow jurors, touching the case handed to them, and it is also official misconduct in any constable or other officer attending them to so act and speak as to influence their verdict.

The statute laws of this Republic provide that a jury must be composed of twelve men (this refers to the petit jury), and that the consent of the whole number is necessary to a verdict. So tender are the laws of Liberia as to the life, limb, liberty and property of citizens, that they forbid the taking away of any of the inalienable rights except by verdict of a jury or the laws of the land. It is obvious to the most prejudiced mind that within the meaning of the statute laws of this Republic the conclusion of less than the entire twelve jurors cannot be taken for a verdict.

This case comes up upon a writ of error against the rulings and judgment of the Court of Common Pleas and Quarter Sessions, Montserrado County, at its December term, 1891. We find assigned as one of the errors, that said court during the trial of the plaintiff in

error, who was held upon the indictment of the grand jury to answer the offence of an assault to commit murder, received and rendered judgment against plaintiff in error, upon what was handed into the court as the verdict of the jury, sworn to try the facts, notwithstanding one or more jurors (the jury being polled) disavowed said verdict as his conviction of the truth of the case; stating to the judge, as the record shows, that from fear of beating or other ill treatment threatened him by the other jurymen with him on the case, he only consented. Upon this the plaintiff in error moved that the verdict be set aside and a new trial awarded. This motion the court overruled and proceeded to render sentence of fine and imprisonment.

This court says that the verdict upon which the judgment is founded being unlawful, the judgment rendered thereon must likewise partake of its unlawful nature. The court did err in not granting the new trial prayed for by the plaintiff in error and such new trial would have been warranted in law. It appears further that the plaintiff in error then and there motioned the said court for an appeal, which motion the court also overruled, assuming the idea that under the Statute Laws of this Republic, in criminal cases there can be no appeal taken to the Supreme Court. This idea is without foundation in the laws of the Republic of Liberia and in this ruling the court below did also err. This case terminating on the law, we now proceed to the rendition of the judgment of this court as the law dictates.

This court adjudges that the judgment in this case in the court below be and is hereby reversed and made void and shall have no legal effect whatever; and the clerk of this court is now commanded to issue a mandate informing the lower court of this court's action in the premises.

Key Description: Appeal and Error (Review of objections to verdict, findings, or judgment)