

MOTION TO DISBAR A COUNSELLOR.

LRSC 3; 1 LLR 530

Monrovia, Jan. 11th, 1898.

To the Honorable Z. B. Roberts, Chief Justice, and the Honorable

Associates R. B. Richardson and J. J. Dossen:

The undersigned counselors of the Supreme Court of this Republic respectfully showeth to this honorable court that for a long period of time Francis J. Payne, one of the counselors of this court, has conducted himself in a reprehensible manner, first by being habitually intoxicated, and secondly by committing infraction of the peace by using profane and obscene language in the public streets, to the disturbance of good citizens of this community, and is habitually being guilty of conduct unbecoming a gentleman and a member of this honorable court.

We therefore, as counselors of this honorable court, bring these charges, requesting that he may be suspended from all the privileges of a member of this bar; he not even being licensed as an attorney. And this your petitioners will ever pray.

Respectfully submitted,

F. E. R. JOHNSON,

T. W. HAYNES, Counselors at Law.

COURT'S RULING.

In the matter of the petition of counselors F. E. R. Johnson and T. W. Haynes, brought before this court at its present session, in which the petitioners petitioned the court to suspend Counselor Francis J. Payne from all the privileges of a member of this bar, for the following reasons, to wit : First, for being habitually intoxicated ; and secondly, for committing infractions of the peace by using profane and obscene language in the public streets, to the disturbance of the good citizens of this community, and also being guilty of habitual conduct unbecoming a gentleman and member of this honorable court.

The matter being one in which the right of a member of this bar to practice before it is the only point at issue, this court exercises original jurisdiction, and having heard the evidence and the arguments on the part of the prosecution and defense, will now proceed to give decision in the matter.

By reference to the petition now under consideration, we find the grounds upon which the petition is predicated, as indicated above, are "habitual intoxication, infraction of the peace by using profane and obscene language in the public streets, and habitual conduct unbecoming a gentleman and member of this honorable court." What conduct is referred to as "unbecoming a gentleman and member of this honorable court," is not stated and set forth in the petition. The court is therefore bound to deal with those charges only which are clearly, distinctly and specifically set out in the petition; and it will confine itself to the consideration of that portion of the petition only. To ascertain what acts or offences which, if committed by a member of the bar, will render him liable to be disbarred or suspended, recourse must be had to the laws of the country, and as in all other cases, so here, are we bound to confine ourselves to the principles of these laws and must strictly keep within the purview of them. The Statute of Liberia pertaining to attorneys, found on the 129th page, [Art. 9, Sec. 1](#), of the Revised Statute, empowers the several courts of Liberia with the right to withdraw the license of any regularly licensed attorney whenever he should be guilty of indecorous language, either toward the court or jury. By a subsequent act of the Legislature of Liberia, passed by limitation, January 28th, 1878, the right and power to disbar or suspend members of the bar for the cause of contempt, was withdrawn from the inferior courts and conferred solely upon the Supreme Court of Liberia. (Act of Legislature; 1877-78, p. 11, sec. 1.) The right, therefore, to disbar, suspend or otherwise deprive a member of the bar from the enjoyment of the privileges and rights of a lawyer, on the ground of contempt, is a right which under the statutes of Liberia can only be exercised by the Supreme Court of Liberia. But it is clear and obvious that the above cited act relates to contempt only. There are other cases, however, which will warrant a court to disbar or suspend members of its bar, and it is to this class of offences that the petition under consideration strictly relates.

We shall now proceed to notice some of the causes. An attempt to make an opposing attorney drunk in order to obtain an advantage of him in the trial of a cause is good ground for striking an attorney from the roll. (U. S. Digest, Vol. III, p. 85.) So too, where an attorney obtains money by false representations relative to matters entrusted to him in that

capacity. (Idem.) When an attorney has been prosecuted by an indictment or information, and has confessed guilt, or been found guilty by a jury, the courts in which he practised have the power, upon his guilt thus appearing, to strike his name from the roll of attorneys. (Idem.)

It does not appear from the petition before us, nor from the evidence produced, nor was it maintained by the counsellor for the prosecution in his arguments, that the improper conduct alleged against Counsellor Payne had at any time subjected him to prosecution and conviction upon a bill of indictment or information, for an infamous offence. Nor does it appear that he has been guilty of committing any offence above the degree of petty infraction of the peace.

While we admit, without the slightest hesitancy, that habitual intoxication and the use of profane and obscene language is indeed against the morals of good society, and that such conduct may be made the subject of petty prosecution, yet we are inclined to the opinion that such conduct does not constitute an offence sufficiently grave and cogent in its nature, to subject one to such punishment as would disqualify him to be a member of the bar. Mere discreditable acts, if not infamous, and not connected with an attorney's duties, will not give the court the right to strike him from the roll. (U. S. Digest, Vol. III, p. 85; I Bouvier's Law Dict. p. 34: "Disbar.")

Allusion is made in the petition to the fact that Counsellor Payne has failed to renew his license as an attorney, and therefore should be suspended from the privileges of the bar. This fact having been admitted by him, we shall proceed to see how far it will operate against him as a member of the bar. It is an unquestionable fact that no lawyer can be admitted to practice before any court of this Republic before paying into the public treasury the annual tax imposed by law for the privilege, and obtaining a license from the officer designated by law, granting him the right to plead and implead before the several courts of the Republic. The rule governing the formal requisites of the license of an attorney having already been copiously laid down by this court in the case of Reginald A. Sherman against Republic of Liberia, decided by this court at its January term, A. D. 1881, we deem it unnecessary to enter into a lengthy discussion on this point.

While the court is of the opinion that Counsellor Francis J. Payne is not entitled to practise before this or any other court of the Republic before he has renewed his license as an attorney by paying into the public treasury the annual tax fee required by law, still this court does not find him guilty of an offence sufficient in law to disbar or suspend him from the

roll as a member of this bar. For the foregoing reasons the court dismisses the petition, without costs.

Supreme Court, January Term, 1898.