

**FRANCES J. PAYNE and HESTER HUFF, Appellants, vs. THE REPUBLIC  
OF LIBERIA,  
Appellee.  
LRSC 8; 1 LLR 101 (1878)**

[January Term, A. D. 1878.]

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

Infraction of the Peace—Lewdness.

The offence of lewdness is a misdemeanor punishable by indictment, and although falling under the head of infractions of the peace, the penalty attached by statute makes it cognizable before the Court of Quarter Sessions and Common Pleas upon indictment.

This case is brought up on an appeal from the Court of Quarter Sessions and Common Pleas, Montserrado County. The defence of the appellee, the Republic of Liberia, was abandoned by the Attorney General in the words, "I decline to defend this case because that this charge of lewdness cannot now be sustained as an indictable offence by the laws of the Republic of Liberia," Imperfect judgment having thereupon been asked for and granted, it remains for this court to give perfect judgment on the case. Before doing so, however, we regard it as necessary to give some expression on the issue raised, that lewdness cannot be sustained as an indictable offence.

Our law places this offence with others under the general head of "infractions of the peace"; but it also makes distinctions with regard to infractions, giving in one place justices of the peace jurisdiction over all "petty infractions of the peace where the fine is not more than ten dollars," in another the Court of Common Pleas, in all infractions of the peace where the fine is more than twenty dollars.

Having adopted the common law among others as a part of the laws of this Republic, with certain restrictions, it becomes necessary, when our statutes are not clear enough, to have recourse thereto, and to apply the analogies thereof to the case. We find by the common law that lewdness was regarded as a misdemeanor, and as such was an indictable offence, and though our law has removed it to the head of "infractions of the peace," yet these, too, are indictable.

Bouvier defines a "breach of the peace" as a violation of the public order, the offence of disturbing the public peace; "an act of public indecorum is also a breach of the peace"; and says, "The remedy for this offence is indictment." And we also find from other authorities that there are certain infractions or breaches of the peace which are indictable offences.

Now while we would not infer that all of the offences classed under the head of "infractions of the peace" are indictable, yet since the statute itself does not state the punishment for each of them, it is left for the courts, by an application of the analogies of the common law to each case, to adjudge whether the common law penalties will reach such; and the statute gives authority to decide on the magnitude of the infraction when it gives the court jurisdiction in all cases where the fine is more than twenty dollars.

While, therefore, it is the opinion of the court that lewdness as an infraction of the peace is an indictable offence, yet as the case has been abandoned by the appellee it only remains for the court to render perfect judgment. The judgment of the lower court is reversed, appellee ruled to pay costs.

**Key Description: Appeal and Error (Abandonment; Voluntary dismissal or withdrawal)**