In re D. C. CARANDA, D. B. COOPER, and WILLIAM V. S. TUBMAN, Respondents.

CITATION FOR CONTEMPT BEFORE SUPREME COURT.

Argued January 10, 1935. Decided February 1, 1935.

1. It is contempt of court for anyone to endeavor to pry into discussions taking place privately between members of this Bench.
2. Nor will anyone who has obtained, or thinks he has obtained, information in such manner be permitted to file an application with the object of creating a stalemate, and thus preventing a decision.

Counsellors D. C. Caranda, D. B. Cooper, and William V. S. Tubman *adjudged guilty* of contempt.

D. C. Caranda, D. B. Cooper, and *William V. S. Tubman* for themselves.

MR. JUSTICE GRIGSBY delivered the opinion of the Court.

After the arguments on the motion in this case * had been submitted on a motion to refuse jurisdiction, and the Court had retired to its chambers for consultation, and the above named counsels for appellant had apparently entertained an idea that the Court was divided on the points raised for consideration in the motion objecting to the jurisdiction of the Court, the Court was suddenly surprised to receive an application called "a notice of reminder" to the disqualification of Mr. Justice Dixon, which was absolutely without any foundation. At all events, this Court could not escape the conviction that said counsel had noted that expressions made by sundry members of the Bench during the arguments indicated a divergence of views, and that the whole object of the said notice of reminder was to leave the Bench

* See *Yancy* v. *Republic, supra,* p. 268.

divided two against two, thereby preventing any opinion whatever from being rendered.

It is true that at the trial of the case *Yancy and Delaney* v. *Republic,* 4 L.L.R. 3, 1 Lib. New Ann. Ser. 3 (1933), Messrs. Brownell and Caranda, for appellants, had moved for the disqualification of Mr. Justice Dixon on the ground that the prosecution had been commenced in Maryland County while he was Attorney General of Liberia; but, nevertheless, it is also true that the Court after the hearing overruled the motion; that Mr. Justice Dixon sat during the hearing, and was one of those of us who signed the judgment.

The Court took very serious exceptions to this attempt to misrepresent it, and to prevent the rendering of an opinion in the case, especially as a full record of the proceedings was available, and they had neglected to verify therefrom the allegations set out in their motion as facts. However, the Court was favorably impressed with the sportsmanlike attitude of Mr. Tubman, the leading lawyer for appellant, who, in giving evidence, made substantially the following statement:

> "To be candid," said he, "Mr. Cooper had no knowledge of the allegation contained in the notice of reminder that was filed in the case respecting the alleged disqualification of Mr. Justice Dixon during the hearing of the case, *Yancy and Delaney* v. *Republic* at the November term, 1933."

He further submitted that when he, the said Tubman, arrived at the Capital for the aforesaid term of Court, the case of slave trading had then already been determined, and then it was he was informed of the motion filed, and got the impression it had been granted, and Mr. Justice Dixon had been disqualified. When the case out of which the present proceedings arose was first taken up during the present term, the information he had received more than a year before had escaped his memory, but subsequently recalling what he had heard he suggested

to Messrs. Caranda and Cooper that they should file the "notice of reminder" in anticipation of any adverse decision that might be rendered on the motion to the jurisdiction they had filed in the case, but admitted his negligence in not having verified his impressions from the records, nor from any person who had been a participant in the trial. Continuing, he said that before his colleague, Mr. Cooper, signed, he inquired if the allegations therein made were correct, and he, Tubman, had said, "Yes." It was upon those impressions that the said document had been filed, with no intention to deceive the Court, or to pry into the discussions on the Bench for the purpose of creating a stalemate.

The Court, however, feels that Mr. Tubman is too able and experienced a member of the bar to proceed in the way he did, hence we are unwilling to entirely absolve him from blame.

On the other hand Mr. Cooper would have been exonerated entirely upon the representation of his colleagues but for his persistent effort to prevaricate instead of making a clean-breasted declaration as Mr. Tubman did.

Mr. Caranda, on the other hand, was the most responsible of the three as he was an attorney to the record in the case *Yancy and Delaney* v. *Republic,* 4 L.L.R. 3, 1 Lib. New Ann. Ser. 3 (1933), and actually appeared at the trial; hence he could not but have known what decision had been at the time given on the question presented.

However, the Court while censuring the three counsellors for their careless and unprofessional conduct has decided to consider their abject apologies both oral and written and their penitent attitude, and at this time will suspend judgment against them provided that on or before the meeting of the April term they shall have paid all of the costs to be equally divided between the three of them; and it is so ordered.

Guilty of contempt.