# WILLIAM N. ROSS, Counsellor-at-law, Appellant-Respondent, *v.* A. C. ROUTH, His Majesty's Chargé d'Affaires and Consul General, Relator.

REVIEW OF SUSPENSION OF COUNSELLOR BY BAR COMMITTEE.

Argued December 9, 15, 16, 22, 23, 1941. Decided December 30, 1941.

1. In order to have this Court review the Bar Committee's suspension of an attorney, it is unnecessary for the Secretary of State to make the complaint to the Bar Committee where the Secretary has referred the relator, an accredited foreign diplomat, to the courts and the Chief Justice has then referred him to the Bar Committee.
2. An attorney who retains money entrusted to him for remission to his client, which money had been entrusted to him because he is an attorney; who makes conflicting statements in Court; and who attempts in Court to surreptitiously extract documents which might disprove his allegations is guilty of such unprofessional conduct as to warrant disbarment.

Respondent was suspended from the practice of law by the Bar Committee of Montserrado County. On review by this Court, *recommendations modified and disbarment ordered.*

*William N. Ross* for himself with *E. W. Williams* and *A. B. Ricks. The Attorney General* and *C. D. B. King, amici curiae.*

CHIEF JUSTICE GRIMES delivered the opinion of the Court.

This case is now before us for a review of the "findings" of the Bar Committee of Montserrado County, sitting to hear a complaint filed with them by His Majesty's Consul General, Mr. A. C. Routh, charging Mr. William N. Ross, a member of this bar, with unprofessional conduct. The matter began as follows:

Mr. A. C. Routh, His Majesty's Chargé d'Affaires and Consul General, complained to the Chief Justice that said appellant had committed certain disreputable acts, whereupon the Chief Justice promptly informed Mr. Routh that he was powerless to intervene in the matter at that stage and referred Mr. Routh to the Bar Committee of Montserrado County, the forum constituted by the Legislature of Liberia at its extraordinary session of 1928,

> "To hear and determine all complaints or charges brought against Lawyers, whether practicing or not, for unprofessional or immoral conduct; their decisions and findings being subject to review only by the Liberian Supreme Court on appeal." L. 1928 (E.S.) ch. III, § 4(d).

The record before us shows that on March 17, 1941, Mr. Routh, His Majesty's Chargé d'Affaires and Consul General, formally complained to the said Bar Committee alleging substantially:

(1) That in October, 1932, appellant had been appointed administrator of the estate of one Joseph A. Salmon, deceased, who had been a native of Manchester on the island of Jamaica.

(2) That on May 30, 1933, Mr. Ross, the said appellant, had sent Mr. Routh a draft power of attorney to be executed by the next of kin, stating that,

> "[I]f the papers I enclose herewith are returned to me by the said David Salmon I will be placed in a position to go into the matters with the Courts of Liberia and in consultation with you will secure the personal property of the said Joseph A. Salmon and forward it to the said David Salmon. No real property that may have been owned by the said Joseph A. Salmon can be claimed by an heir who is not a citizen of Liberia."

(3) That in due course said appellant received the necessary power of attorney from the next of kin to proceed with the collection of the estate.

(4) That appellant had informed him on March 5, 1933 that,

> "[T]he estate of Joseph A. Salmon had been taken in hand by him upon a power of attorney, duly executed by the only heir of Joseph A. Salmon who now lived in Jamaica. As soon as all details have been ascertained I shall inform you of same."

(5) That he had ascertained from the United States Trading Company, banking department, that it had on October 21, 1932 handed appellant £514.14.3 that had been the property of deceased, who was intestate.

(6) That on May 18, 1934, appellant informed him in answer to a query from him of May 16, two days earlier, that he had received from the "Courts of Liberia" the estate of Joseph A. Salmon in the amount of $1,979.92 after deducting court and receiver fees; that he had forwarded all the personal effects and the sum of one hundred pounds to Jamaica and that a further remittance would be sent by next outgoing mail.

(7) That the allegations of appellant were without foundation and totally incorrect.

(8) That in May, 1936, Mr. Yapp, who had succeeded him, had appealed to the Secretary of State for his assistance in the premises. Mr. Simpson, the complaint states, went into the matter with the Attorney General who obtained a statement from Mr. Ross with a copy of a receipt purporting to have been signed by David Salmon for two hundred pounds but, the complaint of Mr. Routh further alleges, this receipt must have been a forgery, as no money had been received in Jamaica nor had any receipt ever been given.

(9) That in April, 1937, through the kind assistance of the Secretary of State the sum of £125.0.0 had been obtained from the appellant, and in May, 1938, through the same medium a further sum of seventy pounds had been obtained, all of which money had been sent to Jamaica.

(10) That on February 9, 1940, the Secretary of State

had written to the Legation of which Mr. Routh is now in charge that,

"The Department has done everything in its power to bring this matter to an amicable close, and if the heirs of the late Joseph A. Salmon are unwilling to give favourable consideration to Mr. Ross' appeal that because of war conditions the Government of Liberia was unable to pay the arrears of salary due him out of which he was making full settlement of the amount due the estate, then he would suggest that they be referred to a lawyer in order that they may seek redress through the regular legal channel thereby relieving this office of any further responsibility in the premises."

The above is the gist of the complaint. On April 7 a notice was issued by the Bar Committee to the said W. N. Ross forwarding him a copy of said complaint, and citing him to appear before the said committee to make answer thereto. On April 17 he replied, denying its jurisdiction and citing it to the case of Francis Payne, *sub nom. Motion to Disbar a Counsellor,* 1 L.L.R. 530, decided by this Court in January, 1896; but the said committee replied on April 17 that his answer was malapropos, and referred him to the enactment of 1928, the relevant portion of which was hereinbefore cited.

The appellant thereafter, on April 24, 1941, filed an amended answer raising the following issues:

(1) That he acted as an individual and not as a lawyer and, unless and until he shall have been convicted by his peers, a jury of twelve men, of some crime, it is irregular and illegal to have him appear before the Bar Committee to answer for unprofessional conduct.

(2) That he holds a legal power of attorney as agent of David Salmon, next of kin of Joseph A. Salmon, which power of attorney Mr. Routh assisted him in obtaining and hence is aware of, and which power of attorney allows him to sue and be sued as such agent.

(3) That he duly administered the estate of Joseph A.

Salmon which was duly closed and the residuum handed over to a receiver who was paid $620.04, leaving a balance of $1,899.45 after said deduction.

(4) That the said receiver was legally discharged when the agent of David Salmon took over from said receiver $1,899.45 and executed a receipt for same, exclusive of fifty dollars for fifty acres of land escheated to the Government of Liberia.

(5) That in said amount of $1,899.45 was included one sweepstake ticket valued at $1.44 and certain perishable goods of the value of $47.15 which he had taken to the British Legation for delivery through said legation to Mr. David Salmon, but said legation refused to take delivery of them because they had lost their value.

(6) That he had forwarded to his principal in Jamaica two hundred pounds in British notes which his principal had denied receiving, and that, having reported said act to the Secretary of State, the Secretary of State had advised him that regardless of said alleged miscarriage of two hundred pounds he should pay two hundred and fifty pounds and close the matter.

(7) That the certificate given by the Secretary of State (presumably that upon which he was admitted to the bar of this Court, as that is the only one of the Secretary of State found in this record) was issued with due regard to the loss he had sustained, and that he had deposited with the Secretary of State limited powers of attorney to the value of sixty-seven pounds, a part of which the Secretary of State had collected in cash and was holding pending an expected payment by the Government of arrears of salaries when the amount of £53.4.8 would be forwarded David Salmon in Jamaica.

(8) That with respect to the perishable goods which he could not sell, they were old and hardly of any value, but he was willing to take the decision of his principal David Salmon as to whether he should pay for them or not.

(9) That he still represents the interests in Liberia of David Salmon who has paid him six hundred dollars for his services; and that the allegations of fraud and embezzlement contained in the complaint are not true.

That is the gist of the amended answer.

After hearings which occurred intermittently from June 10, 1941, the date of the filing of the amended answer, the said committee on August 7, 1941 recorded its "findings and final judgment," finding that the allegations against him had been substantially proved and recommending that: (1) He be prosecuted for embezzlement and extortion; and (2) He be suspended from the practice of law for five years.

To this judgment of the committee appellant excepted and prayed an appeal to this Court at this term.

In the meantime the said committee had itself sent a copy of its decision to the Chief Justice, and upon his orders the said appellant was summoned to appear at this bar and show cause why the decision of said committee so made should not be approved.

At this term as aforesaid the said appellant appeared, objected to this Court's taking original jurisdiction in this cause, and insisted that this Court had been limited by the Acts of 1928 to hear the case only upon appeal. *Amici curiae* had also filed a motion in which they contended that the appeal should be dismissed, and the decision of the Bar Committee affirmed because: (1) Appellant's bill of exceptions had not been approved within ten days after final judgment; (2) Appellant had filed no bond; and (3) Appellant had neglected to have the records sent up to this Court. Appellant replied that: (1) The statute had not indicated who should approve his bill of exceptions, nor when it should be filed; (2) No provision had been made for him to file an appeal bond in such proceedings; and (3) The secretary of the Bar Committee had informed him that the entire record had been either mislaid or lost.

While these issues were being argued, the secretary of the Bar Committee wrote a letter to this Court denying that he had ever informed appellant that the said record had ever been lost or even mislaid. This Court, in the meantime, had carefully examined the special statute and had come to the conclusion that it was defective in several of its provisions, particularly in not providing: (1) When and by whom a bill of exceptions should be approved; (2) What amount of bond should be given, and when and by whom it should be approved; and (3) How and when the notice of appeal should be served. Moreover, we were indisposed to deprive a lawyer of his franchise, even temporarily, by dismissing the appeal under such circumstances without the opportunity which would otherwise be lost of opening the record and satisfying ourselves of the conduct alleged to have been immoral and unprofessional. We, therefore, decided that it would be better to hear the appeal, and, *sua sponte,* ordered a mandate to issue ordering the entire record sent up to this Court for our review. We then also announced that in view of the contention made by appellant that he had not had his day in court, we would allow either party to adduce any evidence not included in the record on the question of unprofessional conduct since proceedings to discipline a lawyer for unprofessional conduct are of a peculiar nature, affecting as they do, the moral and professional character of one who, with the imprimatur of this Court, is representing the most intimate interests of others. Hence this Court is of the opinion that whenever a charge is made that any member of the bar has so improperly conducted himself as to bring reproach upon the profession, we owe it to the dignity and honor of this Court and to the reputation of the bar to inquire by every means within our power into the acts complained of so as to satisfy ourselves of the truth or falsity of the charges so made. This is even more necessary in the present case since indeed it was conceded by both parties during the

argument that the present law is deficient in several aspects, and that the right to inquire into such alleged misbehavior is inherent in the Court itself. We decided to have such an inquiry, as supplemental to the facts brought out on record, confining ourselves to that portion of the Bar Committee's investigation into appellant's alleged unprofessional conduct, and we decided to leave its findings against the appellant of a criminal nature to the proper forum so as to avoid any possibility of disqualifying ourselves in advance should any such proceeding be subsequently brought to this Court on appeal.

First of all it was made clear that the contention of appellant that he had not had his day in court was incorrect insofar as these proceedings are concerned. The record shows that the Bar Committee had sent him a copy of the complaint with a notice to appear and answer; and that he had filed an answer which was duly discussed and, after it had been shown that same was "unethical," he withdrew it, reserving to himself the right to file an amended answer. The points in the amended answer, taken from the record certified to us, have been quoted in condensed form above. Hence, in our opinion he did have his day in court before the said Bar Committee.

Appellant's second submission was that inasmuch as in the administration of the estate of the late Joseph A. Salmon he did not act as an attorney at law, but as an attorney in fact, the Bar Committee could have no jurisdiction over him, since indeed he had not been tried and convicted of any criminal offense.

This brings us to the pith of this case, to decide which is the law bearing thereon.

In the first place, it is provided in *Corpus Juris* that:

> "The right to practice law is not an absolute right, but a privilege only which may be revoked whenever the holder's misconduct makes him unfit to exercise the duties of his office. An attorney is liable to the summary jurisdiction of the court for misconduct and

subject to disbarment, although at the time of an application against him he has ceased to practice as an attorney, and has gone into another business, since an admission to the bar is for life unless the attorney is removed.

"It is well settled that a court authorized to admit an attorney has inherent jurisdiction to suspend or disbar him for sufficient cause, and that such jurisdiction does not necessarily depend on any express constitutional provision or statutory enactment. Not only has it this power, but whenever a proper case is made out it is its duty to exercise it. This inherent power of the courts cannot be defeated by the legislative or executive departments, although statutes may regulate its exercise. The proceeding is not for the purpose of punishment of the attorney, but for the purpose of preserving the courts of justice from the official ministration of persons unfit to practice in them. The action of the court in the exercise of this power is judicial in its character, and the real question for determination in such proceedings is whether or not the attorney is a fit person to be longer allowed the privileges of being an attorney. The power is not an arbitrary and despotic one to be exercised at the pleasure of the court or because of passion, prejudice, or personal hostility; it is rather one to be used with moderation and caution, in the exercise of a sound judicial discretion, and only for the most weighty reasons, and upon clear legal proof." 6 Corpus Juris *Attorney and Client* §§ 36, 37, at 580–82 (1916).

"In order that acts or conduct should be ground for striking the name of an attorney from the rolls it is not essential that they be such as would subject him to indictment or to any civil liability. Conversely, the fact that misconduct charged against an attorney may also render him liable to punishment under the criminal laws does not necessarily deprive the court of

power to hear disbarment proceedings against him. Any conduct on the part of an attorney evidencing his unfitness for the confidence and trust which attend the relation of attorney and client and the practice of law before the courts, or showing such a lack of personal honesty or of good moral character as to render him unworthy of public confidence, constitutes a ground for his disbarment.

**Any conduct which would preclude the admission of an applicant to the bar** will justify his disbarment after he is admitted; among other things, a want of good moral character, insanity, or ignorance of the law. But misconduct previous to the admission of an attorney to practice, while it may be ground for refusing him a license, is none whatever for disbarment, although the evidence of such misconduct is material and relevant and may, under certain circumstances, and in connection with acts shown to have been done after admission, be sufficient to require disbarment." *Id.* § 40, at 583–84.

"It is the generally prevailing rule that when an attorney has violated the laws of the state in a matter distinct from his professional conduct, that is, when the act or offense is committed in his private capacity and not by virtue of his office as an attorney, courts will not entertain any proceedings for his disbarment until after he has been convicted of the offense charged, or at least until sufficient time has elapsed to afford the proper authorities opportunity to prosecute the accused. Yet the rule is not an inflexible one; there may be cases in which it is proper for the court to proceed without such previous conviction, and such power has frequently been exercised. Where the conduct charged as the ground for removal falls within the sphere of official duty, it is of no moment

that it also amounts to an offense against the criminal laws. The power of the court to disbar in such case is not suspended until after conviction, although the court may in its discretion withhold the exercise of this power as the facts of any particular case may suggest would be appropriate." *Id.* § 43, at 586–87.

"Generally speaking, an attorney may be suspended or disbarred for such misconduct as shows him to be an unfit or unsafe person to enjoy the privileges and to manage the business of others in the capacity of an attorney, and it is usually held that any fault which would have been sufficient to prevent the admission of one as an attorney will justify his removal. It is not necessary that the attorney's misconduct should be such as would render him liable to criminal prosecution. If it shows that he is unfit to discharge the duties of his office, or is unworthy of confidence, even though the conduct is outside of his professional dealings, it is sufficient. If an attorney is not honest, or is not moral, or is not of good demeanor, he may be disbarred, and should be. His office is a very badge of respectability, a patent of trustworthiness, derived from his position on the court's roll of counsel. He ought not to be suffered to pass for what he is not. . . . An attorney at law cannot justify his wilful misconduct in his profession, and evade disbarment or suspension from practice therefor, on the ground that such conduct was usual in the practice of law. Nor does youth or inexperience extenuate an offense that is inconsistent with the common honesty which should be an attribute of every attorney having the license of a court." 2 R.C.L. *Attorneys at Law* § 181, at 1089–90 (1914).

"One of the most frequent grounds of disbarment of attorneys is the wrongful retention, misappropriation or misapplication of money or property received by them in their professional character, and there can

be no question that this is a disregard of duty and a sufficient cause for action of the courts under a statute authorizing the disbarment of an attorney for a violation of his duties as such. And while there are statutes making the refusal to pay over on demand moneys collected by an attorney a cause for disbarment, no statute is necessary to warrant such disbarment where there has been any actual appropriation to his own use of moneys collected by an attorney, and which it was his duty to turn over to a person for whose benefit the collection was made. The offense when committed establishes the character of the attorney and his unfitness to be trusted, and while the payment of the moneys fraudulently obtained and withheld releases the attorney from civil liability, it is not a purgation of his offense, nor does it prove that he has become a fit person to remain on the rolls, nor does the bringing of a civil suit to enforce payment of money unlawfully withheld by an attorney from his client, and the recovery of a judgment for the amount so withheld, constitute a bar to proceedings by the client to have the attorney disbarred. Whenever one who is in fact a lawyer accepts employment to act for some one else, in a business transaction, in the course of which he receives money belonging to his employer, his wrongful retention of the money is a sufficient ground for his disbarment, even though he may not have been called upon to give advice on legal questions or to take part in litigation." *Id.* § 189, at 1095–96.

The case of Francis J. Payne, *sub nom. Motion to Disbar a Counsellor,* 1 L.L.R. 530 (1898), one of the cases cited by appellant in his defense, was decided in 1898, thirty years before the passage of the enactment upon which this case was prosecuted; but it is interesting to us for more than one reason. First of all it was commenced upon a mere unverified complaint of two coun-

sellors emphasizing that members of the bar may themselves raise the question of the fitness of one of their colleagues to continue to fraternize with them; and secondly the two specific charges then made against the accused were those of being habitually intoxicated and of using profane and obscene language in the public street, offenses of far less moral turpitude than those alleged against appellant in this case. Hence by no stretch of the imagination can that case be used as a criterion in this.

Appellant's next reliance was on the case *Secretary of State* v. *Gibson,* 6 L.L.R. 3, decided by this Court on April 30, 1937. Appellant argued that His Majesty's Chargé d'Affaires, a diplomatic officer accredited to this Republic, had no *locus standi* in our courts and should have addressed his complaint to the Secretary of State as was done in the case cited, and should have requested him, the Secretary of State, to complain to the Bar Committee as the Secretary of State had done in the case of N. H. Gibson. But the record before us shows that his Majesty's Chargé d'Affaires had made repeated appeals to the Secretary of State, and that finally, on February 9, 1940, the Secretary of State wrote a letter to the British Legation which advised that redress be sought through regular legal channels so as to relieve his office of any further responsibility. Further, in a letter from the Secretary of State to the Chargé d'Affaires #159 D.F. dated March 27, 1941, a copy of which was sent to us for our files as well as to the Bar Committee which included it in the records certified to us, the Secretary of State in more than one paragraph recommended that recourse be had to the courts in this matter. We do not feel that because the Secretary of State evinced a willingness to complain to the Bar Committee in the matter of N. H. Gibson, and an apparent disinclination to complain in this case, the complaint of Mr. Routh in this case can with propriety be ignored by us, as appellant and his counsel

have so strenuously contended during the hearing at the bar of this Court.

In the case of *Gray* v. *Ware,* 6 L.L.R. 61 (1937), also referred to during the argument, it is true that this Court had postponed its final decision of the matter until after this Court had completed its review of the criminal prosecution then pending, but the record makes it clear that that was due to the fact that respondent had been indicted and the prosecution against him had been commenced and was actually pending. Moreover, referring to the record of that case, we find that the complaint made against respondent in that case alleged that he was serving in the revenue service as a collector of internal revenue, and as such official, not as an attorney at law, he had embezzled revenues entrusted to him.

We fail to see any analogy between the case at bar and *Gray* v. *Ware, supra,* for the said A. Dondo Ware was not appointed as Collector of Internal Revenue because of his being an attorney at law, and it was purely incidental that the selection of said official had fallen upon an attorney. Secondly, the case against him for embezzlement had commenced and was actually on its way to this Court for review. It was admitted at this bar that no criminal prosecution against Counsellor Ross has, as yet, been instituted by the proper authority.

In the present case appellant was given a power of attorney because of his connection with the legal profession, in spite of his protestations to the contrary. Not only have several documents been adduced signed by him as attorney at law but there is also at least one letter dated May 30, 1933 written by Ross, appellant, to His Majesty's Chargé d'Affaires in which he signed as attorney and solicitor in the estate of Joseph A. Salmon, and there are in addition two others to Mr. Routh, dated respectively March 5 and May 18, dealing with the same estate which he signed as follows: "W. N. Ross, Solicitor." In addition to these facts, when testifying before the Bar Com-

mittee on June 4, 1941, appellant was asked, "When offering your services to Mr. David Salmon, through the British Legation, did you represent yourself as a lawyer in the courts of Liberia?" His answer on record is, "Mr. Routh was a personal friend of mine, and knew that I was a member of the Bar." The objection of Mr. Routh that Ross was no personal friend of his, and the record then made about one or more business calls which Mr. Routh also denied, are irrelevant here. What is important is appellant's belief that Mr. Routh did know of, and did have in mind, his membership in the bar of Montserrado County when he recommended him to David Salmon as his attorney. Last but not least, during the hearing at this bar said appellant was reading from some receipts which he had in his hand and, on being requested by the Court to hand them up for our inspection, Mr. Justice Tubman, whose seat on the extreme right of the Bench was nearest that of Ross at the counsellors' table, discovered that Ross was surreptitiously tearing off one of the said receipts as if to suppress it. After insisting that said paper must be handed up for the Court to see what appellant was surreptitiously trying to withhold, we discovered that it was a set of receipts on one sheet of paper. One of these receipts appellant had made out to himself as agent for David Salmon, dated November 7, 1933, for $2.75 for probation and registration of his power of attorney and signed by himself as attorney at law; another on the same sheet of paper dated October 3, 1934, purported to be a receipt made out by David Salmon to appellant as attorney and solicitor for two hundred pounds in British notes transmitted by appellant to David Salmon in Jamaica; a third dated January 14, 1934 had been given by himself as attorney at law to David Salmon for $395.96, being twenty percent for services rendered as David Salmon's agent and legal representative in Liberia.

In these and especially the second of the receipts above referred to, Ross alleged that he had received a receipt from the said David Salmon for the two hundred pounds

Ross said he had sent, a copy of which Ross had deposited with the Secretary of State, keeping the original and all other papers in the same place. Before the Bar Committee appellant averred that said receipt and all papers had been eaten by white ants (bug-a-bugs), and appellant did not offer any certified copy thereof from the Department of State or the Department of Justice, in each of which departments he said copies had been filed. It is strange, however, that in this Court appellant exhibited his original power of attorney in good condition. All this has raised grave suspicions in our minds. These suspicions have been enhanced by the following:

On May 18, 1934 appellant wrote a letter to Mr. Routh of the British Legation which reads as follows:

"DEAR SIR:—

"With reference to yours of the 16th instant regarding the estate of Joseph A. Salmon, I beg most respectfully again to inform you that upon power of attorney forwarded to me by Solicitor Walter E. Lewis of Mandeville, duly executed by the next-of-kin David Salmon, I received over from the Courts of Liberia estate of the said Joseph A. Salmon in the amount of $1,979.92 after deducting from the balance reported by Administrator of $2,092.54, the sum of $112.62 representing Court fees and 5% for fees of Receiver in keeping with the laws of Liberia. This amount of $1,979.92 represents the personal effects of the deceased and cash in keeping with Appraisement list already furnished you by the Courts.

"I have already forwarded to Solicitor Lewis all of the personal effects of the deceased and the sum of £100. in British Notes, and shall make a further remittance to Solicitor Lewis by the next outgoing mail. My reason for dealing with Solicitor Lewis is because it was he who transmitted the power of attorney to me.

"Yours faithfully,
(Sgd.) W. N. ROSS
*Solicitor.*"

The Legation on the twenty-second of said month acknowledged receipt of said letter. The second and third paragraphs of said acknowledgement read as follows:

*"22nd May, 1934.*

. . . . .

"I do not see any reason for your not having remitted the total residue of the estate to Jamaica and I must therefore request you to do so. The remittance should be made through the local bank and not by British notes as you state you have done with £100. The method of sending notes through the post is contrary to international postal regulations.

"3. I shall be grateful if you will inform me before the 30th instant of the amount of the balance you will have remitted through the United States Trading Co., Banking Department.

"Yours faithfully,
(Sgd.) A.C.R.
*Acting Consul General.*

"Mr. W. N. Ross,
*Solicitor,*
Monrovia."

No protest was then made that the amount of one hundred pounds, thus stated in said letter in reply to appellant, should have been two hundred pounds, and no request was made to have the figure changed from one hundred pounds to two hundred pounds. Hence we are of the opinion that appellant is estopped in 1941 from insisting, as he did in an affidavit before the Bar Committee on June 10, 1941, that the amount he said he sent was two hundred pounds and from subsequently contending at this bar that the one hundred pounds mentioned in his letter was a typographical mistake. Furthermore, how can it be possible for appellant on May 18, 1934, to have forwarded to David Salmon all the personal effects of the intestate when in the fourteenth plea of appellant's

answer, dated April 24, 1941, and sworn to on May 15 of said year, appellant alleged that the said personal effects had deteriorated and were now of no value and that consequently he was willing to abide by the decision of David Salmon, his principal, as to whether or not he should pay for them as they could not now be sold? The maxim *falsus in uno falsus in omnibus* would seem to us to be pertinent to the letter of Ross in question, especially when taken in conjunction with other inconsistent statements of his herein pointed out.

During the arguments at this bar, Ross alleged that he had deposited with the Secretary of State an L.P.A. [ed. note: limited power of attorney] to the amount of sixty-seven pounds, against which the Secretary of State had drawn "about" thirty-three pounds to be paid to David Salmon, the next of kin of his intestate. Later in the day the Honorable Attorney General made the following statement:

> "As I was due at a conference at the State Department at 1 p.m. today, I took note of Mr. Ross' statement and asked the Secretary of State in the presence of the Secretary of the Treasury about the allegation of Counsellor Ross. The Secretary of State denied that he had any money in keeping for Mr. Ross, and said that in keeping with his letter of 9 February 1940, addressed to the British Legation, he had caused to be returned to Mr. Ross the L.P.A.'s in question, thereby relieving his Department of the embarrassment."

The Court then said:

> "Counsellor Ross said this morning that he had given to the Secretary of State L.P.A.'s amounting to sixty-seven pounds against which the Secretary of State had collected about thirty-three pounds during the present year. The Honorable the Attorney General reported to the Court this afternoon that in a conversation with the Secretary of State today the Secretary of State in-

formed him that he had received no money on account of Mr. Ross, but on the contrary he had returned to Mr. Ross the L.P.A.'s in order to relieve his Department of any embarrassment. Mr. Ross has denied the correctness of the statement made by the Honorable the Attorney General. This Court feels that such a direct challenge by a member of the bar to the authenticity of a statement made by a member of one of the coordinate branches of government requires an investigation by the Court, and therefore when the Court opens at 9 o'clock Mr. Ross must produce a written statement from the Secretary of State that he has about thirty-three pounds in cash collected from L.P.A.'s amounting to sixty-seven pounds given him by Mr. Ross against the estate of Joseph Ambrose Salmon."

The next morning Mr. Ross, appellant, not producing either a receipt or a letter in accordance with the Court's order above quoted, gave the following explanation of his inability so to do:

He said that he had about thirty-three pounds which were in the Department of State. He did not know the exact amount but, upon application to the Chief Clerk of the Department of State who holds the cash collected from the L.P.A.'s, the Chief Clerk informed him that she has in hand £18.6.0. He also stated that the L.P.A. of Mr. W. B. Page which was also paid, amounting to twelve pounds, was captured [*sic*] by the Secretary of the Treasury and four pounds paid on the L.P.A. of G. W. Wallace were mistakenly paid over to the French Company, so that had these amounts been paid into the Department of State the amount the said department held would be increased to over thirty-three pounds. Mr. Ross said he had approached the Secretary of State for the certificate to be brought by him to the Supreme Court and the Secretary of State said to him that he was not going to issue a certificate as the Department of State

was not going to become a party to these proceedings, but that he was willing to hand over to Mr. Routh the £18.6.0, and if the Court would give him an officer about ten o'clock when the Secretary of State would be in the office he would bring the cash to prove that there was cash in hand when he made said statement.

In the meantime the Court had decided to make its own investigation, and accordingly, upon orders from the Bench, a letter was sent to the Secretary of State, which letter now follows:

"SUPREME COURT OF LIBERIA
CLERK'S OFFICE
MONROVIA, *December 23, 1941.*

"YOUR EXCELLENCY,

"I have the honour by direction of the Honourable the Supreme Court of Liberia to inquire whether you would be good enough as to inform the Court whether there are or have been any monies in the Department of State paid in by Counsellor William N. Ross for payment against the amount due the estate of the late Joseph Ambrose Salmon.

"The reason for this request being that he informed the Court that you had collected about £33 (thirty three pounds) which you had not paid over because you were waiting to collect the balance of L.P.A.'s lodged with you approximately £67 (sixty seven pounds).

"I have the honour to remain,
Excellency,
Your obedient servant,
(Sgd) J. D. LAWRENCE,
J. D. Lawrence
*Chief Clerk, Supreme Court of Liberia.*

"HIS EXCELLENCY THE SECRETARY OF STATE,
DEPARTMENT OF STATE,
MONROVIA."

The Secretary of State replied as follows:

"DEPARTMENT OF STATE
MONROVIA, LIBERIA
"582/L. *23rd December, 1941.*

"YOUR HONOURS,

"With reference to your letter of today's date, I have the honour to advise that during the early part of last year the following sums were received from the Treasury Department in behalf of Mr. W. N. Ross:

| | |
|---|---|
| B. T. Collins | £10. 8.4 |
| David Crawford | 1.10.0 |
| W. O. DeShield | 1. 0.0 |
| C. R. Campbell | 3. 2.1 |
| Emmett King | 1.10.0 |
| | £18. 0.5. |

"But later on Mr. Ross called at the Department and withdrew £4.0.0, of the sum aforementioned on the understanding that it would be refunded together with a larger sum at an early date for transmission to the British Legation, but I regret to have to say that the Chief Clerk reported to me this morning that the sum of £4.0.0. alluded to above was returned to her by Mr. Ross only this morning.

"In regard to the L.P.A.'s which Mr. Ross deposited in this office I wish to advise that as the Department encountered some difficulty in obtaining the sum due in respect to them, they were returned to Mr. Ross last year, and the sum referred to above is also at his disposal upon applying to the Chief Clerk.

"I transmit herewith, a copy of Mr. Ross' letter dated February 1, 1940. The letter in point is self-explanatory.

"Your obedient servant,
Sgd. C. L. SIMPSON
*Secretary of State*

"THE HONOURABLE
THE SUPREME COURT OF LIBERIA,
MONROVIA."

The following is the enclosed letter referred to hereinabove in the letter from the Secretary of State:

"MONROVIA, LIBERIA,
*February 1st, 1940.*

"HIS EXCELLENCY,
THE SECRETARY OF STATE, R.L.,
DEPARTMENT OF STATE,
MONROVIA.

"DEAR MR. SECRETARY:-

"I beg most respectfully to acknowledge the receipt of your No. 66/1 enclosing copy of the British Consul General's letter No. 8/87/40, touching the balance due the estate of J. A. Salmon, and requesting payment thereon.

"I regret very much that because of the War conditions the Government of Liberia was not able to pay the arrears of salary due me, from which I was making full settlement of the amount due said estate; but I am presently endeavouring to earn some money and shall make payment thereon as early as possible.

"I have the honour to remain,
Your Excellency's obedient servant,
Sgd. W. N. ROSS."

Summing up this Court finds:

(1) That the appellant as attorney at law received from the United States Trading Company, banking department, a sum of £514.14.3 on October 21, 1932; and that after the administration of the estate had been completed appellant did not remit, or attempt to remit, to his principals the balance admittedly due in one lump sum, but instead appellant remitted in payments which it has been shown were partial payments only, which is incompatible with the manner in which he should have remitted the funds delivered to him in trust after his administration of the estate had been completed;

(2) That the averment in Ross' letter of May 30, 1934, sent to the British Legation, that

> "[I]f the papers I enclose herewith are returned to me by the said David Salmon I will be placed in a position to go into the matters with the Courts of Liberia and in consultation with you will secure the personal property of the said Joseph A. Salmon and forward it to the said David Salmon"

was a deliberate falsehood and an attempt to libel the courts, since indeed the record shows that none of the property of David Salmon was ever in possession of the courts of Liberia, but always in the custody of W. N. Ross either as appraiser, administrator, agent, attorney, or lastly, after the administration had been completed, as receiver;

(3) That appellant admits having had to purchase L.P.A.'s to make up amounts which he had not remitted on demand, and that in 1941, nine years thereafter, appellant is still trying to earn some money to pay to his clients the balance on £514.14.3 which he received in cash in trust for his principal;

(4) That from sums collected and deposited with the Secretary of State to be applied towards the liquidation of his obligation to David Salmon, appellant had borrowed four pounds, which amount of four pounds appellant, as the letter of the Secretary of State rehearses, repaid only when the cause was pending at this bar and only after he had alleged that the Secretary of State had about thirty-three pounds in hand for said account and this Court had ordered him to bring a receipt or letter from the Secretary of State to prove that said amount of thirty-three pounds was in the Secretary of State's possession for appellant;

(5) That even in open Court appellant has made conflicting statements which this Court has been unable to reconcile; and

(6) That even in the presence of the Court appellant has endeavored surreptitiously to extract documents

which he feared might disprove allegations he had been making in this case.

It is our opinion that the conduct of Counsellor Ross in this matter is unworthy of a lawyer and a gentleman; that independently of any question of whether he should, as recommended by the Bar Committee, be or should not be prosecuted for any criminal act, he has shown himself unfit for the confidence and trust which attend the relation of attorney and client and for the practice of law before the courts of this Republic, and hence that badge of respectability and trustworthiness which the continuance of his name on the roll of the Court as counsellor or attorney would imply should be withdrawn, his name struck therefrom, and the decision of the Bar Committee be so modified that instead of suspension for five calendar years he be forthwith disbarred and precluded from again being enrolled as a counsellor or attorney at law; and that he pay all the costs of this Court and of the Bar Committee incurred in these proceedings; and it is hereby so ordered.

*Recommendations modified and disbarment ordered.*