

JAMES H. R. SCOTLAND, Appellant,
v. REPUBLIC OF LIBERIA, Appellee.

APPEAL FROM THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT,
MARYLAND COUNTY.

Decided May 15, 1931.

1. Under our Constitution excessive fines shall not be imposed nor excessive punishments inflicted.
2. When instruments which ought to be stamped are produced in evidence without the required revenue stamps, the Court will, in keeping with statute, allow 48 hours for the omission to be rectified.

In the course of the trial of defendant for forgery in the Circuit Court, the trial judge refused to admit into evidence receipts offered by defendant to which no revenue stamps were affixed, and fined defendant \$350.00 for violation of the Stamp Act. On appeal from this ruling, this Court *reversed*.

William V. S. Tubman for appellant. *Solicitor General Edward Summerville*, for appellee.

MR. CHIEF JUSTICE JOHNSON handed down the opinion of the Court.

James H. R. Scotland, the appellant in the above entitled cause, was indicted by the Grand Jury for Maryland County, for the crime of forgery at the August term of the Circuit Court of the Fourth Judicial Circuit, Maryland County.

During the trial of the case in the said court, Judge James H. Dent presiding, appellant offered in evidence several receipts from sundry persons on which no revenue stamps were affixed. The judge refused to admit them in evidence and fined appellant the sum of three hundred fifty dollars for said omission.

The appellant being dissatisfied with the ruling of the

said judge, excepted to same, and has brought the case up to this Court for review. The bill of exceptions contains the following points:

- "1. Because under the circular of the Department of Justice 401-4-25 the law requiring stamp duty to be paid on sundry documents, shall not apply to causes in which the Republic of Liberia is a party.
- "2. And also because His Honour the Judge aforesaid could not have imposed such fine unless appellant had been complained against and been given an opportunity to defend himself against said charges. The sum being three hundred and fifty dollars (\$350.00), this was not a petty offence and he was entitled to a trial by due process of law, by the judgment of his peers or the law of the land.
- "3. And also because said Judge could not, under the Stamp Act, inflict any penalty until forty-eight (48) hours from the time the said documents were offered in evidence; but His Honour the Judge aforesaid, immediately upon their being offered, dismissed said receipts and imposed a fine of three hundred and fifty dollars (\$350.00) on appellant; which was contrary to the spirit and letter controlling such cases."

We will now proceed to consider the questions raised in the bill of exceptions and the laws relating thereto.

Stamp duties were first imposed in England in the reign of William and Mary, and included a variety of duties levied on grants from governments, diplomas, contracts, probates of wills and letters of administration, and upon all writs, proceedings and records in courts of equity. Subsequently conveyances, deeds and licenses were subjected to stamp duty; and by a series of acts in the succeeding reigns every document recording a transaction between two individuals had to be stamped.

In order to protect the revenue, stamp acts usually imposed a penalty upon any fraudulent evasion of their provision, and formerly an instrument unstamped or improperly stamped could not be given in evidence; but provision has been made in many cases for the admission in evidence of such documents, on payment of the stamp duty and penalty to the proper officer of the court.

In the year of our Lord 1906, the Liberian National Legislature passed an Act entitled "An Act providing for a Stamp Duty on Deeds, Agreements, Receipts, and certain other documents." (Acts 1905-06, 41 (2nd).)

This act provided *inter alia*, that no document of the kind enumerated in the act issued after the 30th day of June, 1906, should be deemed valid or be received as evidence in courts of justice unless it was properly stamped in accordance with the schedule embodied in said Act. The duty prescribed for all receipts was two cents.

In the year of our Lord 1915 the National Legislature passed a supplementary act imposing a stamp duty of ten cents on all licenses to be paid by the holder of such documents. This act did not, however, modify the duty on receipts. (Acts 1915 (E. S.), 7 (2nd).)

In 1923, an act was passed entitled "An Act supplementing and enlarging the stamp act approved March 12, 1915." This act provided for the payment of a stamp duty on receipts graded as follows:

Receipts for payments of £1:0:0 or \$4.80	\$.02
Receipts for payments of £20:0:0 or \$96.00	\$.05
Receipts for payments of money above \$96.00	\$.10

It was further provided that the penalty for neglect to affix the required stamp should in each case be fifty dollars provided the omission was not rectified within forty-eight hours; that "no document upon which these duties are required shall be considered of legal validity, unless a revenue stamp of required value shall be thereto af-

fixed," and that postage stamps should not be interchangeable with revenue stamps.

The judge of the court below, in dealing with the case, acted in an arbitrary and oppressive manner. Although the appellant was on trial for the grave charge of forgery, the receipts which he offered in evidence to prove his innocence were not only rejected because they were not stamped but he was not allowed the time prescribed by the statute to correct the omission; and although no information was filed by the County Attorney against him, he was forthwith fined by the said judge in the sum of three hundred fifty dollars without being given an opportunity to defend himself.

The tenth section of the first article of the Constitution provides that "excessive fines [shall not be] imposed, nor excessive punishment inflicted."

The Stamp Act with respect to receipts, is in our opinion contrary to this provision. For an amount of \$.70 which might have accrued to the government had stamps been affixed to the receipts, the fine of three hundred fifty dollars which was imposed on appellant must be regarded as excessive.

To enforce such a law, would lend to plunging the people of this country into abject poverty and misery, and to deprive them of all those comforts which alone ensure that happiness guaranteed by the Constitution.

It is said that the judges should see that justice is impartially administered, and that litigants have a fair and impartial trial. But if on the other hand, they were to regard themselves as tax collectors whose duty it is to see that the revenues of the government are increased at any hazard, then indeed would the lot of any citizen of this country become a sad and unenviable one. Poverty which already stalks through the land would claim as its victims, the few men and women who now enjoy a limited amount of the comforts of life, and men would be driven to destitution and despair.

Our courts of justice would be regarded as instruments of tyranny and oppression, and the judges would be brought into disrepute and contempt.

Viewing the case from this standpoint, we are of the opinion that the judgment of the court below should be reversed and the appellant discharged and it is so ordered.

Reversed.