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THE BAR ASSOCIATION	:	BEFORE THE
OF BALTIMORE CITY	:	SUPREME BENCH
	:	
vs.	:	OF
	:	
H. WALTER GANSTER, JR.	:	BALTIMORE CITY.
	:	

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The petition of the Bar Association of Baltimore City against H. Walter Ganster, Jr. by W. Calvin Chesnut and Frederick W. Brune, its attorneys, respectfully represents as follows:

1. That H. Walter Ganster, Jr. was admitted to the bar of this Court on the 4th day of October, 1912, and has continued since said time to be and now still is a member of the bar of this Honorable Court.

2. That the Grievance Committee of the Bar Association of Baltimore City, the petitioner herein, conducted an investigation into certain dealings between H. Walter Ganster, Jr. and one Harry C. Grove, hereinafter more particularly described, and upon which the charges hereinafter set forth are based, that during said investigation H. Walter Ganster, Jr. was given an opportunity to appear and give his explanation of said dealings, that he availed himself of this opportunity and that subsequently argument in his behalf was presented by his counsel.

3. That following this investigation and after due consideration of the statement of H. Walter Ganster, Jr. and of the arguments of his counsel, the said Grievance Committee recommended to the Executive Committee of the Bar Association of Baltimore City, the petitioner, that action be taken against the said H. Walter Ganster, Jr. before the Supreme Bench of Baltimore City, praying that disciplinary measures be taken against him for conduct unbecoming a member of the bar of this Court.

4. That the Executive Committee of said Association, the petitioner, unanimously approved the recommendation of the Grievance Committee and directed its attorneys herein to present to the Supreme Bench of Baltimore City a petition against the said H. Walter Ganster, Jr. setting forth the charges against him and praying that the Supreme Bench would take such disciplinary action against him as said Court might deem proper.

5. The petitioner avers that H. Walter Ganster, Jr. has been guilty of highly improper conduct, unbecoming and unworthy of a member of the bar of this Honorable Court, while acting in a representative capacity as counsel and attorney for the Outerbridge-Horsey Company, in certain transactions between himself and one Harry C. Grove, otherwise known as "Hoppy" Grove, during the Fall of 1923. A more particular account of the said conduct and of the conditions out of which the same grew is as follows.

(a) In the Fall of 1923 the Outerbridge-Horsey

Company was a corporation under the laws of the State of Maryland owning a distillery at or near Burkittsville, Frederick County, Maryland. A considerable quantity of whiskey was stored in the warehouse of said distillery at said place. One Louis Mann of Baltimore City was largely interested either directly or indirectly in the ownership of the stock of said corporation but his nominal relation thereto was that of sales agent of said company; and the said H. Walter Ganster, Jr. was acting in the transactions hereinafter mentioned, ostensibly at least, as the attorney and counsel for said company. A part of the whiskey held on storage by said distilling company and represented by outstanding warehouse receipts therefor consisted of cases of bottled whiskey to the amount of more than one thousand (1,000) cases thereof. It was well known to the said Ganster and Mann that the commercial value of said 1,000 cases of whiskey, if the same were to be disposed of in accordance with the statutes and laws of the United States, including particularly the Act of Congress known as the Volstead Act, was probably less than twenty-five dollars (\$25.00) per case, while, if the said whiskey could be removed from the distillery and vended freely and without restrictions of the Federal statute, the value thereof was equal to or in excess of fifty dollars (\$50.00) per case. The whiskey contents of said distillery had, at said time, been reduced to such a comparatively small quantity that it was reasonably anticipated very shortly that, by orders of authorized Federal officials, the whole of said whiskey contents of said distillery would have to be transferred to

the Baltimore Concentration Warehouse, after which there would be little or no possible opportunity for disposing of said whiskey except in strict accordance with Federal statutes. The said Louis Mann and H. Walter Ganster, Jr. were the owners of or had the control over certificates for 1,000 cases of said whiskey and desired to make sale of said 1,000 cases of whiskey or the certificates representing the same under circumstances whereby they would obtain therefor a sum greater than could possibly be legally realized from the disposition of said whiskey after it had been transported to the said Concentration Warehouse. Thereupon, and in order to accomplish said purpose, the said H. Walter Ganster, Jr. and Louis Mann conspired and agreed together to trick and defraud the said Harry C. Grove (well known to them at that time to be, by repute, engaged in the occupation called "bootlegging"), whereby they would pretend to the said Harry C. Grove that they would sell and deliver to him 1,000 cases of said whiskey, or the certificates representing the same, at and for the sum of fifty thousand dollars (\$50,000) in cash, under circumstances and conditions whereby the whiskey itself would be delivered to him or to his agents in such a way that he could obtain possession of it at said distillery and would be able to dispose of it free from the restrictions of the Federal statutes. And the said Harry C. Grove then and there, to wit, the latter part of the month of October, 1923, agreed with the said Ganster and Mann that, under the said circumstances and conditions, relating to the delivery of said whiskey, he would pay to them the sum of \$50,000 cash

for said 1,000 cases of whiskey; and the said Ganster and Mann agreed with said Grove to make said delivery as specified; but said Ganster and Mann never intended to carry out said agreement as to making the delivery but in fact intended at said time to get and obtain from the said Grove payment for said whiskey in advance, and in the meantime to inform the United States Prohibition Director for Maryland in substance and effect that said Grove was intending to commit a violation against the Federal statutes with regard to said whiskey, and thereby secure the seizure by the Federal authorities of the whiskey instead of delivering it to the said Grove, after obtaining the \$50,000 from Grove in accordance with the purported agreement with him.

(b) And in pursuance of said conspiracy to trick and defraud, said Ganster and Mann first obtained from said Grove a sum of about sixty-six hundred dollars (\$6600) to be used and applied in payment of a Federal tax upon said whiskey, the pretended agreement between them being that the whiskey should be delivered to Grove tax free; and immediately after obtaining said amount from the said Grove the said Ganster informed the said Prohibition Director of the receipt of said sum and of the pretended intended delivery of the whiskey to Grove and the time and place thereof; and in further pursuance of the agreement made by Ganster and Mann with the said Grove, they met him in Frederick County, some distance from said distillery, on the 9th day of November, 1923, and received from him, first, at or near the town of Frederick the sum of approximately eighteen thousand four hundred dollars (\$18,400) in cash, and when the

said Grove obtained further cash shortly later on the said day, they met him again at a schoolhouse near said distillery and received from him the sum of approximately twenty-one thousand dollars (\$21,000), making total payments by Grove to them of approximately forty-six thousand dollars (\$46,000), and the said Grove, not having the balance of the \$50,000 in cash ready to pay, thereupon gave to them to hold as security for the payment of the balance of approximately four thousand dollars (\$4,000) the next day, two valuable diamond rings; and thereafter they caused to be delivered to the said Grove or his agents the certificate representing 1,000 cases of whiskey still on deposit in said distillery warehouse under the further understanding and agreement that the agents of the said Grove should call at said distillery and present said certificate and demand the 1,000 cases of whiskey under the oral representation to the custodian in charge of said warehouse that they, the said agents, were calling for said whiskey to transport the same to the Baltimore Concentration Warehouse; and thereafter, when, in pursuance to said agreement and understanding, the said Grove's agents did call on the same day at said warehouse and presented said whiskey certificate and asked for the 1,000 cases of whiskey, one or more Federal Agents in company with the said United States Prohibition Director, and also in the presence of Ganster and Mann, (the said United States officials having appeared at said time and place by prearrangement with the said Ganster) arrested said agents of the said Grove and seized the said whiskey which was then and there in process of delivery, and also seized the whiskey certificate.

(c) And thereafter the said Harry C. Grove was arrested and charged with violation of the laws of the United States with respect to illegal transportation of said whiskey and was thereafter criminally prosecuted in the United States District Court for the District of Maryland in the case of United States of America vs. Harry C. Grove and others, being case No.5431 on the criminal docket of said Court, and said H. Walter Ganster, Jr. appeared on behalf of the United States and testified to facts and circumstances relating to said transaction, in which, among other things, he misrepresented the nature of the agreement made by him with Grove in at least two important respects, to wit, that the purchase price agreed upon for said whiskey and the amount received therefor was only twenty-five thousand dollars (\$25,000) and not fifty thousand dollars (\$50,000) in cash, and also that the inducing cause to him to make the said pretended sale to the said Grove was his fear that if the whiskey was not sold to Grove the latter would rob the distillery. The said Grove was convicted in said criminal prosecution for conspiracy to transport and possess intoxicating liquor illegally and sentenced to confinement in prison. The said Grove never in fact received any of said whiskey in accordance with the understanding and agreement made by him with the said Ganster and Mann, but after the conclusion of the trial in said Court, the certificate representing said whiskey (the whiskey itself having in the meantime been transferred to the Baltimore Concentration Warehouse) was delivered to the said Grove and, in order to recoup as much of his loss as

possible, finally sold by him for a sum of about eleven thousand dollars(\$11,000). Upon the demand of the said Grove the said Ganster returned to him the diamond rings above mentioned.

(d) Wherefore your petitioner shows that the said H. Walter Ganster obtained from the said Grove a very large sum of money by fraud and deceit, and has not made restitution thereof, although the same has been demanded, and that his conduct in said transaction was unprofessional and dishonorable and unworthy a member of the bar of this Honorable Court.

6. And your petitioner further shows that the matters hereinbefore brought to the attention of this Honorable Court, while occurring in the latter part of the year 1923, were not presented to the Grievance Committee of the Bar Association of Baltimore City until after the conclusion of Grove's trial in the United States District Court and in the Circuit Court of Appeals, and after said matters had been referred to your petitioner some time was necessarily consumed in the proceedings hereinbefore mentioned relating to the investigation thereof.

WHEREFORE your petitioner prays that this Honorable Court will pass an order for the appropriate disciplining of the said H. Walter Ganster, Jr. by disbarring him or otherwise subjecting him to such discipline as to this Honorable Court may seem right and proper.

THE BAR ASSOCIATION OF BALTIMORE CITY

By *James S. Bowen*
President.

W. Cabin Chesnut

Frederick W. Arune
Attorneys for Petitioner.

STATE OF MARYLAND,
BALTIMORE CITY,

SS:

I HEREBY CERTIFY that on this 16th day of
October, 1926, before me, the subscriber, a notary public
of the State of Maryland, in and for Baltimore City
aforesaid, personally appeared Enos S. Stockbridge,
Secretary of the Grievance Committee of The Bar Association
of Baltimore City, and made oath in due form of law that
the matters and facts set forth in the foregoing petition
are true as therein stated, to the best of his knowledge,
information and belief.

AS WITNESS my hand and notarial seal.

Julia A. Kuoerr
Notary Public.

Upon the foregoing petition and affidavit it is this 13th day of October, 1926, by the Supreme Bench of Baltimore City, ORDERED that H. Walter Ganster, Jr., the defendant herein, show cause, if any he have, on or before the 13th day of *November*, 1926, why he should not be disbarred from practicing law within the jurisdiction of this Court, or why such other disciplinary order shall not be passed affecting him as to this Honorable Court may seem proper, because of his alleged misconduct, provided a copy of this order and of said petition be served upon him on or before the 29th day of *October*, 1926.

James P. Gorter

Chief Judge.

BEFORE THE SUPREME BENCH
OF BALTIMORE CITY.

THE BAR ASSOCIATION OF
BALTIMORE CITY

vs.

H. WALTER GANSTER, JR.

10/13/26 at 1:30 PM

P E T I T I O N

Mr. Clerk:

Please file.

*Walter Chesnut
Frederick W. Greene
Attys for the Bar
Association of
Baltimore City
Filed Oct. 13, 1926*

Haman, Cook, Chesnut & Markell

1137-1161 CALVERT BUILDING
BALTIMORE, MD.

Copy of the within Petition and Order
of Court, served on J. H. Walter Ganster, Jr,
Attorney, on the 13th day of October,
1926, at 1:30 o'clock P.M. in presence
of Adam S. Busck.

John C. Lotze,
Sheriff.

THE BAR ASSOCIATION :
 OF BALTIMORE CITY :
 :
 VS :
 :
 H. WALTER GANSTER, JR. :
 :

BEFORE THE SUPREME BENCH

OF

BALTIMORE CITY

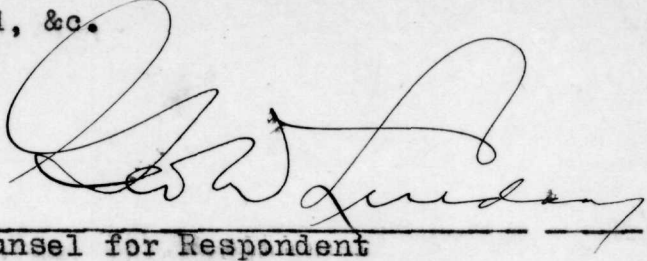
TO THE HONORABLE, THE JUDGES OF THE SUPREME BENCH
 OF BALTIMORE CITY:-

The petition of H. Walter Ganster, Jr., Respondent in
 this cause, respectfully shows:-

That time within which to file an answer expires on
 November 13 and your Petitioner and his counsel have worked dili-
 gently to prepare your Petitioner's answer by that time. The
 answer is rather lengthy and your Petitioner's counsel has been
 too occupied with the trial of cases to complete the answer in
 time to file within the time allowed. Your Petitioner's counsel
 has conferred with counsel for the Bar Association and they have no
 objection to the time for filing the answer being extended.

WHEREFORE your Petitioner prays that an order be passed
 extending the time for the filing of answer until fifteen days
 from November 13.

AND, as in duty bound, &c.



 Counsel for Respondent

Upon the foregoing petition, it is, this ^{12th}
day of November 1926, by the Supreme Bench of Baltimore City,
ORDERED that the time for filing answer in the above entitled cause
be and the same is hereby extended for fifteen days from November 13.

Joseph Newman

BEFORE THE SUPREME BENCH
OF
BALTIMORE CITY

THE BAR ASSOCIATION OF
BALTIMORE CITY

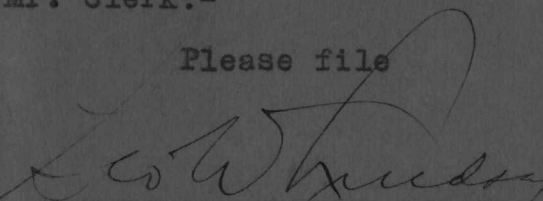
VS

H. WALTER GANSTER, JR.

PETITION AND ORDER

Mr. Clerk:-

Please file


Counsel for Respondent.

Filed

Nov. 12th 1926

SAUERWEIN, LINDSAY & DONOHO
COUNSELORS AT LAW
1303-1305 LEXINGTON BUILDING
BALTIMORE

2.30 p.m.

THE BAR ASSOCIATION :
OF BALTIMORE CITY :
: BEFORE THE SUPREME BENCH.
: OF
vs :
: BALTIMORE CITY
H. WALTER GANSTER, JR. :
:

TO THE HONORABLE, THE JUDGES OF THE SUPREME BENCH
OF BALTIMORE CITY:

The answer of H. Walter Ganster, Jr., to the petition of the Bar Association of Baltimore City heretofore filed, respectfully shows:-

1. Your Respondent admits the allegations of Paragraph 1 of said petition.

2. Your Respondent admits the allegations of Paragraph 2 of said petition.

3. Your Respondent never received any official notice of the action of the Grievance Committee but presumes that the facts set forth in Paragraph 3 of said petition are correct.

4. In answer to Paragraph 4 of said petition your Respondent says that he has no information as to the matters therein set forth but presumes that said Paragraph correctly sets forth the perfunctory action of the Executive Committee of the Bar Association.

5. Your Respondent denies that he "has been guilty of highly improper conduct, unbecoming and unworthy of a member of the bar of this Honorable Court" as set forth in said petition,

or otherwise, but on the contrary avers that in the alleged transaction set forth in the said petition, your Respondent's conduct was in all respects entirely professional and beyond reproach. Your Respondent shows that sub-paragraphs a, b, c, and d of Paragraph 5 are so lengthy and are so worded as to render it impossible to answer the same categorically and your Respondent therefore denies all the allegations of said sub-paragraphs except insofar as such allegations are specifically or qualifiedly admitted hereinafter in this answer wherein the facts and details of said transaction are set forth chronologically.

6. Your Respondent shows that in the Fall of 1923 the Outerbridge-Horsey Company was a corporation under the laws of the State of Maryland owning a distillery at or near Burkittsville, Frederick County, Maryland and a considerable quantity of whiskey was stored in the warehouse of said distillery at said place. Louis Mann was Sales Manager for said corporation but your Respondent has no knowledge as to what stockholding in said corporation the said Louis Mann had at that time. Your Respondent had no interest whatever in said corporation or its business or assets and had no connection with the said company except that in numerous transactions, including the one hereinafter set forth, your Respondent acted as counsel for the said company. Prior to the dealings between one Harry C. Grove, otherwise known as Hoppy Grove, and the Outerbridge-Horsey Company, hereinafter set forth in detail, the said company had received from the Federal authorities, orders to concentrate by transporting its stock of whiskey then located in its warehouse in Burkittsville to the Government Concentration Warehouse located in Baltimore, Maryland. Such orders to concentrate had been sought by the said company because its warehouse at Burkittsville had been robbed on several occasions

and the maintenance of a sufficient guard was difficult and expensive and the Company felt that it was advisable to place its stock of whiskey in the Concentration Warehouse at Baltimore and thereby afford such stock of whiskey adequate protection. In order to avoid excessive bottling charges, however, it was highly desirable that the barrelled goods should be bottled at Burkittsville plant before being sent to the Concentration Warehouse in Baltimore. At the time of the transaction with the said Grove a great deal of the bottled goods had been concentrated and the Company was bottling the balance of its goods and sending them to the Concentration Warehouse as fast as possible. In all the negotiations with the Federal authorities relative to the concentration of the said whiskey, your Respondent acted as counsel for the Outerbridge-Horsey Company.

7. Your Respondent first met Harry C. Grove in February, 1923, at an auction sale of whiskey ^{Redeposited} conducted by the Outerbridge-Horsey Company under the laws of the State of Maryland, relative to the warehouseman's lien for storage. The said Grove became the purchaser of certain whiskey certificates at such sale. Your Respondent next saw the said Harry C. Grove in the middle of October, 1923, when the said Grove came to see your Respondent relative to an error in one of the warehouse receipts which he had purchased at said auction sale. In order to correct the error in the certificate it was necessary to go to the Baltimore office of the Outerbridge-Horsey Company which was located in an office in the same building in which your Respondent has his office, and Grove and your Respondent went to such office and there met with and talked to the said Louis Mann. During the course of this conversation Grove mentioned that he would like to purchase all of the whiskey in the warehouse at Burkittsville. At first your

Respondent and the said Louis Mann declined to do any business with the said Grove and Grove thereupon stated that he preferred to buy the whiskey but if they would not sell it to him he would rob the distillery to get it. Grove then stated that if he bought the certificates for the whiskey he would be able to get permits through his various friends in the New Jersey and New York Prohibition Offices and that the Distillery would be amply protected because the permits would be apparently regular and would be verified by the local Prohibition authorities. The said Mann then told Grove that he would look into it and let him know what could be done and Grove said he would investigate to find out whether the cost of getting the permits would be prohibitive. At this meeting it was agreed that if any certificates were sold, the price would be Twenty-five (\$25.00) Dollars per case which, at that time, was the fair market value of whiskey certificates.

8. Immediately after the conversation above set forth your Respondent went to the office of Mr. Edmund Budnitz, the Federal Prohibition Director for the State of Maryland, and related to him the conversation as above set forth. Mr. Budnitz told your Respondent that he knew Hoppy Grove was a bootlegger and a robber of distilleries and that he had been anxious to catch him for a long time and asked your Respondent to have the Outerbridge-Horsey Company continue its negotiations with the said Grove to the end that a case might develop in which the Federal Government could successfully prosecute the said Hoppy Grove.

9. Several days later the said Grove came to the office of your Respondent and told your Respondent that he was dickering to get the necessary permits but that he had nothing definite as yet. Grove also stated that he would have some information within the next several days. Your Respondent told the said

Grove that he and Mr. Mann were going to the distillery a few days hence and an engagement to meet on the road near Frederick was accordingly made.

10. Immediately after the conversation set forth in Paragraph 9 your Respondent reported such conversation to the said Edmund Budnitz.

11. The engagement referred to in Paragraph 9 was kept by your Respondent and Mr. Mann and Grove. Nothing of any importance transpired at the meeting and Grove merely repeated his previous statements that he had not yet been able to get his permits but that he hoped to have the matter straightened out in a few days and would come to the Company's office very soon.

12. About the first of November Grove again came to the office of the Outerbridge-Horsey Company and then and there told your Respondent and the said Louis Mann that he (Grove) had been unable to secure the necessary permits and suggested that he would nevertheless like to buy the whiskey certificates and that he would take his chances of getting the whiskey out of the warehouse by representing to the Government ~~band~~^{man} in charge thereof that he (Grove) was from the Baltimore Concentration Warehouse with orders to transport the whiskey mentioned in his certificates to the said Warehouse for the purpose of concentration. No definite agreement was reached at this meeting.

13. Your Respondent immediately reported to the said Edmund Budnitz the conversation related in Paragraph 12 and the said Budnitz then and there urged your Respondent to advise the said Louis Mann, as manager of the Outerbridge-Horsey Company, to go ahead with the deal with Grove to the end that the said Grove might be indicted and convicted.

14. Your Respondent then discussed the situation with the said Louis Mann and he (Mann) decided to comply with the request of the said Prohibition Director. Your Respondent, as well as Louis Mann, knew that Grove was a bootlegger and had good reason to believe that he had been the prime mover on several occasions when the distillery at Burkittsville was robbed and they had good reason to believe that said Grove would attempt other robberies if they broke off negotiations with him.

15. Thereafter, to wit, on the seventh day of November, 1923, the said Grove came to your Respondent's office and paid said Louis Mann, as agent for the Outerbridge-Horsey Company, the sum of Five Thousand (\$5,000.00) Dollars on account of the purchase price of warehouse receipts (whiskey certificates) covering one thousand (1000) cases of whiskey. At this meeting the said Grove stated that he would meet your Respondent and the said Mann at the Jug Bridge on the Frederick Road at ten o'clock on the morning of Friday, November 9, and there pay to the said Mann the balance of Twenty Thousand (\$20,000.00) Dollars at which time Grove was to receive the aforesaid warehouse receipts. This was agreed to by your Respondent and Louis Mann. Grove further stated at this meeting that he would send his trucks to the distillery to get the whiskey, ostensibly for concentration, at one o'clock on the said ninth day of November.

16. Your Respondent, immediately after the above related meeting, went to see the said Federal Prohibition Director, told him of the said conversation and showed him the Five Thousand (\$5,000.00) Dollars which had been paid. During this conversation Mr. Budnitz called in Galen L. Tait, the Collector of Internal

Revenue and the matter was discussed with him; and the said Budnitz and Tait requested that your Respondent and Mr. Mann go to Washington on November 8 to take the matter up with the Special Intelligence Unit of the Bureau of Internal Revenue.

17. On Thursday, the eighth day of November, your Respondent and the said Louis Mann drove to Washington and there conferred with Mr. Elmer Irey, Chief of the Special Intelligence Division. *Louis Mann*

18. Upon returning to Baltimore, your Respondent immediately notified Mr. Budnitz that he had interviewed Mr. Irey and arrangements were made to meet in the office of Mr. Budnitz in the Custom House at eight o'clock on the evening of November 8.

19. At eight o'clock the meeting was held in the office of Mr. Budnitz, and Mr. Budnitz and Mr. Albritten, head of the local Prohibition Field Forces, Mr. Palmer and Mr. Anderson who worked under Mr. Irey of the Special Intelligence Bureau, and your Respondent were all present at the meeting. At this meeting the whiskey certificate to be delivered to Grove was marked for identification purposes and plans made to apprehend him or his agents if, as and when they appeared at the distillery to take possession of the whiskey without having proper permits therefor.

20. On the morning of Friday, November 9, your Respondent together with Louis Mann, drove to the Jug Bridge on the Frederick Road and shortly thereafter, about ten o'clock, the said Grove drove up in his automobile. Grove parked his automobile and walked over to the automobile in which your Respondent and Louis Mann were sitting. Grove stated that he had been unable to get the balance of Twenty Thousand (\$20,000.00) Dollars, but that he did have Ten Thousand (\$10,000.00) Dollars with him in a paper wrapped

package which he delivered to Louis Mann and told your Respondent and Louis Mann that, if they would meet him at the abandoned school house on Jefferson Pike at twelve o'clock, he would have the remaining Ten Thousand (\$10,000.00) Dollars. Grove stated to your Respondent and to Louis Mann that he had not been able to get the other Ten Thousand (\$10,000.00) Dollars because his bank account had been attached by the Government and that he hoped to have the attachment lifted by eleven.

21. After this meeting on the Jug Bridge, your Respondent and the said Louis Mann drove to the distillery at Burkittsville. At the time when your Respondent arrived at the distillery no one was there except Mr. Becker who managed the distillery plant and was Secretary-Treasurer of the corporation, and Mr. Stackhouse, the Government agent in charge of the warehouse. Shortly after the arrival of your Respondent and Mr. Mann, however, Mr. Budnitz and Mr. Ford arrived at the distillery. Your Respondent remained at the distillery until twelve o'clock at which time he and the said Louis Mann left to keep their appointment with Grove.

22. Your Respondent and the said Louis Mann drove to the appointed place and in a few minutes Grove drove up in his automobile and parked his car. He walked over to the car in which your Respondent and the said Louis Mann were sitting and handed to the said Louis Mann a package which he (Grove) said contained Ten Thousand (\$10,000.00) Dollars. Louis Mann then delivered to Grove the warehouse receipt covering one thousand (1000) cases of whiskey. Grove then said that he wanted to buy some more whiskey and delivered to the said Louis Mann two diamond rings which he said were worth Five Thousand (\$5,000.00) Dollars, as a deposit on a whiskey certificate which he intended to purchase the following week.

23. After the above related meeting with Grove, your Respondent and Louis Mann returned to the distillery and had lunch with Mr. Budnitz and the other Federal agents who were there.

24. At about half past one several automobile trucks appeared at the distillery and the driver of one of the trucks presented the whiskey certificate which had been delivered to Grove a short time before to the man in charge of the warehouse and proceeded to load cases of whiskey upon the trucks, and after the trucks had been loaded in whole or in part, the Federal Prohibition agents arrested the truck drivers and seized the whiskey and the trucks.

25. On the morning of Saturday, November 10, Grove with his counsel, Mr. Harp, came to the office of your Respondent and asked to get his money back. Your Respondent informed Grove that he had bought a certificate for one thousand (1000) cases of whiskey and that the certificate had been delivered to him and that he could not get his money back. Grove did not offer to return the whiskey certificate which he had received and he has never, up to and including the present time, made an offer to return the whiskey certificate to your Respondent or to the Outerbridge-Horsey Company. Grove asked that the rings which he had given as a deposit on the future purchase be returned to him and these rings were then and there returned.

26. Sometime thereafter Hoppy Grove was arrested by the Federal authorities, was indicted by the Grand Jury, was convicted of conspiracy to violate the provisions of the Volstead Act and was convicted and sentenced, all of which will more fully appear by reference to the proceedings in the case of United States vs Grove, et al, in the United States District Court for the District of Maryland.

27. Your Respondent shows that Grove reported to the States Attorney for Frederick County that your Respondent had cheated and defrauded him and this matter was thereupon brought before the Frederick County Grand Jury in March, 1924, and again in September, 1924, and on each occasion the matter was dismissed by the Grand Jury.

28. Your Respondent avers that he had no interest whatever in the Outerbridge-Horsey Company or in the transaction between the Outerbridge-Horsey Company and Hoppy Groves and that he received no benefit whatever from such transaction but merely acted as attorney for the Outerbridge-Horsey Company. Your Respondent advised Louis Mann and the Outerbridge-Horsey Company not to deliver any whiskey certificates to the said Grove unless and until he had paid the purchase price therefor and your Respondent still believes that this was sound advice because otherwise Grove could have accepted the whiskey certificate, abandoned his conspiracy and, since the whiskey certificates are negotiable warehouse receipts, could have resold the same in a legitimate manner to a bona fide holder for value and the Outerbridge-Horsey Company would thereby have sustained a loss of Twenty-five Thousand (\$25,000.00) Dollars. Your Respondent believes that these facts are sufficient to show this Honorable Court that it was absolutely necessary to require Grove to pay the purchase price before delivering the whiskey certificates to him.

29. Your Respondent shows that said Hoppy Grove, through his attorneys, Messrs. Curran and Leach, instituted proceedings in the Superior Court of Baltimore City to recover from the Outerbridge-Horsey Company, Louis Mann and your Respondent, the sums paid by him as the purchase price of said whiskey certificates and your Respondent shows that a demurrer to the declaration was sustained and that de-

murrers to several amended declarations have been sustained.

30. That said Hoppy Grove has at no time tendered the return of the whiskey certificates delivered to him but, on the contrary, has retained the same for a long period of time and finally sold the whiskey certificates and received the purchase price therefor.

31. Your Respondent avers that throughout this entire transaction he acted as attorney for the Outerbridge-Horseley Company and that he gave them the benefit of the best advice of which he was capable and in so doing did nothing whatsoever that was dishonest or unprofessional. The said Hoppy Grove was in no way cheated or defrauded by your Respondent or the Outerbridge-Horseley Company and if the said Grove did sustain any loss whatsoever on the transaction it was because of his own scheme to violate the provisions of the Federal Statute.

32. Your Respondent denies that he ever told the said Hoppy Grove that he would assist him in his criminal scheme, although your Respondent is free to admit that he did co-operate with the Federal authorities in their effort to secure the apprehension and conviction of the said Grove and your Respondent is free to admit that he concealed from the said Grove the fact that he was so co-operating with the Federal authorities. The purpose of your Respondent in helping the Federal authorities was not to secure any financial advantage for himself or his client but solely to assist in the conviction of a dangerous criminal. There is a vast difference of opinion in this community as to whether or not it is commendable to help the Federal Prohibition authorities but it can not be seriously contended that helping the Prohibition authorities constitutes a ground for disbarment. The entire dealings between Grove and the Outerbridge-Horseley distillery were made known by your

Respondent to the Federal authorities and, knowing the full details of the transaction, they urged your Respondent to advise his client to proceed therewith. The distillery at Burkittsville had been robbed on several occasions and the said Grove had admitted to your Respondent and to the said Louis Mann that he had been connected with these robberies and your Respondent and the said Louis Mann, aside from the admissions of Grove, had information from sources which they believed reliable to the effect that the said Grove had been connected with said robberies and for this reason and in order to prevent further robberies by the said Grove, your Respondent and the said Louis Mann were particularly anxious that he be apprehended and convicted. In conclusion your Respondent avers that his conduct in this transaction was not dishonest and unprofessional as alleged in the petition of the Bar Association but on the contrary was in all respects perfectly honest, straightforward and above reproach and that there is nothing whatsoever in the entire transaction to justify the Bar Association of Baltimore City in filing its petition to disbar or otherwise discipline your Respondent.

AND, as in duty bound, etc.

H. Walter Ganster, Jr.

Geo. W. Lumsden
Solicitor for Respondent.

STATE OF MARYLAND:

TO WIT:

CITY OF BALTIMORE:

I HEREBY CERTIFY that on this 24th day of November 1926, before me, the subscriber, a Notary Public of the State of Maryland in and for the ~~City of Baltimore~~ *Anne Arundel County* aforesaid, personally appeared H. Walter Ganster, Jr., and made oath in due form of law that the matters and facts set forth in the foregoing answer are true.

AS WITNESS my hand and Notarial Seal.

Charles W. Sullivan
Notary Public

BEFORE THE SUPREME BENCH OF
BALTIMORE CITY

THE BAR ASSOCIATION
OF BALTIMORE CITY

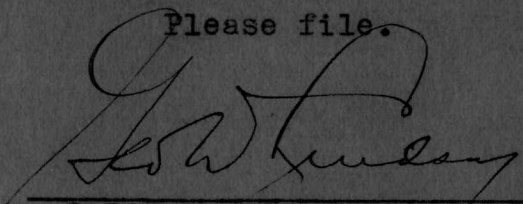
VS

H. WALTER GANSTER, JR.

ANSWER

Mr. Clerk:-

Please file.


Solicitor for Respondent

Filed

Nov. 26th 1926.

SAUERWEIN, LINDSAY & DONOHO
COUNSELORS AT LAW
1303-1305 LEXINGTON BUILDING
BALTIMORE

1.15 P.M.

BAR ASSOCIATION :
OF : BEFORE THE
BALTIMORE CITY : SUPREME BENCH
VS. : OF
H. WALTER GANSTER, JR. : BALTIMORE CITY.

STIPULATION OF COUNSEL
AS TO AGREED FACTS.

It is hereby agreed between counsel for the respective parties that the following facts are correctly stated below and further proof thereof is waived:

1. That the Outerbridge-Horsey Company was first ordered in March, 1923, to move the whiskey still at its distillery to the Baltimore Concentration Warehouse. That a number of extensions of the time for concentration were granted at the request of the Outerbridge-Horsey Company and that on October 27, 1923, peremptory orders were issued by the Collector of Internal Revenue to the Outerbridge-Horsey Company to concentrate its whiskey by November 15th, 1923.

2. That at the end of October, 1923, the quantity of whiskey remaining in the Outerbridge-Horsey Distillery was 2507 cases, or the equivalent of this quantity in barreled goods.

3. That whiskey was being bottled during the latter part of October and the first part of November.

4. That the 2507 cases contained in the distillery and the distillery bonded warehouse were removed to Baltimore as follows:

1273 cases were removed to the Baltimore Concentration Warehouse on November 10th, 1923;

234 cases were removed to the Baltimore Concentration Warehouse on November 12th, 1923;

1000 cases, being those covered by Grove's certificate were moved to the Government warehouse for seized liquors on November 10th, 1923.

All of these movements were made under a guard of prohibition agents.

5. The whiskey covered by the Grove certificate was not taxpaid. The tax is at the rate of \$2.20 per gallon or \$6.60 per case.

W. C. Chen

Fredrick W. Stone
Attorneys for Bar Association
of Baltimore City.

Leo W. Ganster, Jr.
Attorney for H. Walter Ganster, Jr.

BEFORE THE SUPREME BENCH OF
BALTIMORE CITY.

BAR ASSOCIATION

OF

BALTIMORE CITY

VS.

H. WALTER GANSTER, JR.

STIPULATION OF COUNSEL

AS TO AGREED FACTS.

COLEMAN, FELL, MORGAN & BRUNE

ATTORNEYS AT LAW

1405 CITIZENS NATIONAL BANK BUILDING
BALTIMORE

original

The Bar Association	:	
	:	BEFORE THE SUPREME BENCH
of Baltimore City	:	
	:	
	:	OF
vs.	:	
	:	BALTIMORE CITY
	:	
H. Walter Ganster, Jr.	:	

OPINION

The case ^{was} tried before Gorber, C. J., Stump, Dawkins, Stanton, Bond, Solter, Ulman, O'Dunne, and Owens, J.JJ.

Ulman, J., delivered the opinion of the Court.

This is a disciplinary proceeding initiated by the Bar Association of Baltimore City. The facts are succinctly stated in the 5th paragraph of the Petition of the Bar Association which is as follows;

"The petitioner avers that H. Walter Ganster, Jr. has been guilty of highly improper conduct, unbecoming and unworthy of a member of the bar of this Honorable Court, while acting in a representative capacity as counsel and attorney for the Outerbridge-Horsey Company, in certain transactions between himself and one Harry C. Grove, otherwise known as "Hoppy" Grove, during the Fall of 1923. A more particular account of the said conduct and of the conditions out of which the same grew is as follows;

(a) In the Fall of 1923 the Outerbridge-Horsey Company was a corporation under the laws of the State of Maryland owning a distillery at or near Burkittsville, Frederick County, Maryland. A considerable quantity of whiskey was stored in the warehouse of said distillery at said place. One Louis Mann of Baltimore City was largely interested either directly or indirectly in the ownership of the stock of said corporation but his nominal relation thereto was that of sales agent of said company; and the said H. Walter Ganster, Jr. was acting in the transactions hereinafter mentioned, ostensibly at least, as the attorney and counsel for said company. A part of the whiskey held on storage by said distilling company and represented by outstanding warehouse receipts therefor consisted of cases of bottled whiskey to the amount of more than one thousand (1,000) cases thereof. It was well known to the said Ganster and Mann that the commercial value of said 1,000 cases of whiskey, if the same were to be disposed of in accordance with the statutes and laws of the United States, including particularly the Act of Congress known as the Volstead Act, was probably less than twenty-five dollars (\$25.00) per case, while, if the said whiskey could be removed from the distillery and vended freely and without restrictions of the Federal statute, the value thereof was equal to or in excess of fifty dollars (\$50.00) per case. The whiskey contents of said distillery had, at said time, been reduced to such a comparatively small quantity that it was reasonably anticipated very shortly that, by orders of authorized Federal officials, the whole of said whiskey contents of said distillery would have to be transferred to the Baltimore Concentration Warehouse, after which there would be little or no possible opportunity for disposing of said whiskey except in strict accordance with Federal statutes. The said Louis Mann and H. Walter Ganster, Jr. were the owners of or had the control over certificates for 1,000 cases of said whiskey and desired to make sale of said 1,000 cases of whiskey or the certificates representing the

same under circumstances whereby they would obtain therefor a sum greater than could possibly be legally realized from the disposition of said whiskey after it had been transported to the said Concentration Warehouse. Thereupon, and in order to accomplish said purpose, the said H. Walter Ganster, Jr. and Louis Mann conspired and agreed together to trick and defraud the said Harry C. Grove (well known to them at that time to be, by repute, engaged in the occupation called "bootlegging"), whereby they would pretend to the said Harry C. Grove that they would sell and deliver to him 1,000 cases of said whiskey, or the certificates representing the same, at and for the sum of fifty thousand dollars (\$50,000) in cash, under circumstances and conditions whereby the whiskey itself would be delivered to him or to his agents in such a way that he could obtain possession of it at said distillery and would be able to dispose of it free from the restrictions of the Federal statutes. And the said Harry C. Grove then and there, to wit, the latter part of the month of October, 1923, agreed with the said Ganster and Mann that, under the said circumstances and conditions, relating to the delivery of said whiskey, he would pay to them the sum of \$50,000 cash for said 1,000 cases of whiskey; and the said Ganster and Mann agreed with said Grove to make said delivery as specified; but said Ganster and Mann never intended to carry out said agreement as to making the delivery but in fact intended at said time to get and obtain from the said Grove payment for said whiskey in advance, and in the meantime to inform the United States Prohibition Director for Maryland in substance and effect that said Grove was intending to commit a violation against the Federal statutes with regard to said whiskey, and thereby secure the seizure by the Federal authorities of the whiskey instead of delivering it to the said Grove, after obtaining the \$50,000 from Grove in accordance with the purported agreement with him.

(b) "And in pursuance of said conspiracy to trick and defraud, said Ganster and Mann first obtained from said Grove a sum of about sixty-six hundred dollars (\$6600) to be used and applied in payment of a Federal Tax upon said whiskey, the pretended agreement between them being that the whiskey should be delivered to Grove tax free; and immediately after obtaining said amount from the said Grove the said Ganster informed the said Prohibition Director of the receipt of said sum and of the pretended intended delivery of the whiskey to Grove and the time and place thereof; and in further pursuance of the agreement made by Ganster and Mann with the said Grove, they met him in Frederick County, some distance from said distillery, on the 9th day of November, 1923, and received from him, first, at or near the town of Frederick the sum of approximately eighteen thousand four hundred dollars (\$18,400) in cash, and when the said Grove obtained further cash shortly later on the said day, they met him again at a schoolhouse near said distillery and received from him the sum of approximately twenty-one thousand dollars (\$21,000), making total payments by Grove to them of approximately forty-six thousand dollars (\$46,000), and the said Grove, not having the balance of the \$50,000 in cash ready to pay, thereupon gave to them to hold as security for the payment of the balance of approximately four thousand dollars (\$4,000) the next day, two valuable diamond rings; and thereafter they caused to be delivered to the said Grove or his agents the certificate representing 1,000 cases of whiskey still on deposit in said distillery warehouse under the further understanding and agreement that the agents of the said Grove should call at said distillery and present said certificate and demand the 1,000 cases of whiskey under the oral representation to the custodian in charge of said warehouse that they, the said agents, were calling for said whiskey to transport the same to the Baltimore Concentration Warehouse; and thereafter, when, in pursuance to said agreement and understanding, the said Grove's agents did call on the same day at said warehouse and presented said whiskey certificate and asked for the 1,000 cases of whiskey, one or more Federal

Agents in company with the said United States Prohibition Director, and also in the presence of Ganster and Mann, (the said United States officials having appeared at said time and place by prearrangement with the said Ganster) arrested said agents of the said Grove and seized the said whiskey which was then and there in process of delivery, and also seized the whiskey certificate.

(c) "And thereafter the said Harry C. Grove was arrested and charged with violation of the laws of the United States with respect to illegal transportation of said whiskey and was thereafter criminally prosecuted in the United States District Court for the District of Maryland in the case of United States of America vs. Harry C. Grove and others, being case No. 5431 on the criminal docket of said Court, and said H. Walter Ganster, Jr. appeared on behalf of the United States and testified to facts and circumstances relating to said transaction, in which, among other things, he misrepresented the nature of the agreement made by him with Grove in at least two important respects, to wit, that the purchase price agreed upon for said whiskey and the amount received therefor was only twenty-five thousand dollars (\$25,000) and not fifty thousand dollars (\$50,000) in cash, and also that the inducing cause to him to make the said pretended sale to the said Grove was his fear that if the whiskey was not sold to Grove the latter would rob the distillery. The said Grove was convicted in said criminal prosecution for conspiracy to transport and possess intoxicating liquor illegally and sentenced to confinement in prison. The said Grove never in fact received any of said whiskey in accordance with the understanding and agreement made by him with the said Ganster and Mann, but after the conclusion of the trial in said Court, the certificate representing said whiskey (the whiskey itself having in the meantime been transferred to the Baltimore Concentration Warehouse) was delivered to the said Grove and, in order to recoup as much of his loss as possible, finally sold by him for a sum of about eleven thousand dollars (\$11,000). Upon the demand of the said Grove the said Ganster returned to him the diamond rings above mentioned.

(d) "Wherefore your petitioner shows that the said H. Walter Ganster obtained from the said Grove a very large sum of money by fraud and deceit, and has not made restitution thereof, although the same has been demanded, and that his conduct in said transaction was unprofessional and dishonorable and unworthy a member of the bar of this Honorable Court"

The taking of testimony before this Bench occupied three full days. It is not necessary, for the purposes of this opinion, to discuss the testimony at any length. The allegations of the Petition were fully substantiated; and the only material conflict of testimony was upon the question whether the actual amount paid by Grove was \$46,000 or \$25,000. The Court is of the opinion that the preponderance of the testimony tends strongly to establish the allegation that the actual amount so paid was \$46,000. This conclusion is reached in spite of the fact that Grove is a discredited witness with a probably revengeful motive for misstatement. He is contradicted in this respect by both the respondent and Louis Mann. Throughout the transaction, and in their testimony, both of them have insisted that the true amount was \$25,000. The witness Mann, however, proved so thoroughly unreliable that his

corroborated of the respondent may be disregarded. The outstanding piece of evidence which convinces the Court that the true amount paid was \$46,000 is the uncontradicted fact of the delivery by Grove to Mann of the two diamond rings. Mann and the respondent sought to explain this delivery as a pledge on account of a possible future transaction. This attempted explanation is hardly credible; the far more likely reason for the delivery of the rings is that Grove was short \$4,000 in his promised payment of \$50,000, and therefore gave the rings as security for the balance of \$4,000 still due.

If, however, the true amount paid was only \$25,000, the transaction is none the less indefensible. Stating it in the terms most favorable to the respondent, it is that the respondent and Mann secured \$25,000 from Grove in payment for a certificate representing 1,000 cases of whiskey knowing that Grove was going to try illegally to take the whiskey from the distillery and leading Grove to suppose that they would cooperate with him in so doing, - or, at the very least, that they would place no obstacles in his way. At the same time that they were making this bargain with Grove, they were planning with the prohibition authorities to secure Grove's arrest, ~~_____~~ of the whiskey ~~_____~~ at the moment of the removal from the distillery. This plan was carried out; and the money secured from Grove was retained by Mann with the approval of respondent.

Mann and the respondent seek to excuse their conduct upon two grounds. First, they claim that everything they did was done with the approval and participation of the Federal Prohibition authorities. Even if this were wholly true, it would not necessarily justify the respondent. It is conceivable that the Federal Prohibition authorities may have a standard of conduct lower than that which should be maintained by members of the legal profession. But the contention is not shown to be wholly true. The Federal Prohibition authorities certainly did not participate in the profits of the deal; nor does the evidence show affirmatively that they advised or even knew about the really astounding conclusion of the scheme, - viz., ^{not only} that Grove should be prevented from getting the whiskey and apprehended as a criminal but that Mann should keep his money. From the point of view of the Federal Prohibition authorities, a trap was being laid for Grove. The spring of this trap was a pretended sale to Grove. Certainly, common

decency would prescribe that after the trap was sprung, the parties to the pretended sale should be put in statu quo. In the absence of proof to the contrary, it must be assumed that this is what the Federal Prohibition authorities expected to be done; and their approval of the laying of the trap, would have meant nothing more than this to Mann and the respondent, had their object been the public welfare instead of their own private gain.

The second excuse which respondent makes for his conduct was fully developed in the course of his cross-examination. When he was asked whether he thought, as a lawyer, that he had acted properly, he said, in effect, that he could see nothing wrong in what he had done. He explained that Grove had bought a certificate representing whiskey, and that it had been delivered to him; that, while Grove expected to be enabled to obtain illegally the whiskey represented by the certificate, it would be his, Grove's, ill fortune if he were unable to do so. Upon being questioned further he admitted that he and Mann led Grove to believe when they sold him the certificate, that they would do nothing to prevent him from getting actual possession of the whiskey, and that Grove would not have bought the certificate had he believed otherwise. But he admitted further, that at the very time when they were giving Grove grounds for this belief they were actively arranging with the Federal authorities to keep Grove from getting the whiskey and to trick him into prison in the bargain. Upon this basis, respondent declared under oath, he thought it was right and proper for his client to accept and to keep Grove's money, because Grove got the certificate which he bought.

This excuse for his conduct offered by respondent on the witness stand, is worse than no excuse at all. To the practicing lawyer are committed, in a peculiar sense and in a high degree, the rights and the property of his clients. It is his duty to assist those clients by advice and by negotiations in the establishment of contractual or other business relations with third persons. To the performance of that duty the lawyer brings such capacities and such industry as he may possess. His capacity may be great or it may be small. He may be bright or he may be stupid, industrious or lazy. But he must be honest - he must see things straight. Anything short of that cannot be tolerated if the profession of the law is to be maintained in the

respect of the community, and the lawyer is to be a **useful** member of society.

There is no proof that the respondent shared directly in the proceeds of the fraud practiced upon Grove. There are suspicious circumstances from which such participation in the profits of the deal might be inferred. It is not, however, essential to the Court's conclusions in this case that such direct participation be established. It is conceded that respondent took an active part in the transaction from its very inception and that he was paid a substantial fee for services, but vaguely specified, and covering the period of this transaction. This conceded payment to respondent, taken in connection with his activities throughout the transaction, is a sufficient link to bind him to the fraudulent scheme as a principal in it, for the purposes of this proceeding.

In conclusion, respondent's inability, on the witness stand, to appreciate his own wrong-doing is his strongest condemnation. A man who can quibble about the sale and delivery of a certificate as justifying the retention of the proceeds of that sale when he knows, and knew at the time, that the transaction was not a real transaction but ^{was} a mere ruse to entrap the other party in a criminal violation of law, has an obliquity of moral vision which unfits him for the practice of law.

The judgment of Court is, therefore, that the respondent shall be disbarred as a member of the bar of this Court; and an order will be signed accordingly.

O'Dunne, J. dissented, ~~and filed the following dissenting opinion.~~

original

EUGENE O'DUNNE

3 E. BALTIMORE ST. ROOM 504
BALTIMORE, MARYLAND

PHONE

CABLE ADDRESS

"EUGANE"

Supreme Bench of Baltimore City.

In the matter of H. Walter Ganster, Jr.

Dissenting opinion by Eugene O'DUNNE, J.

Before briefly outlining the reasons for my dissent from the majority opinion, may I be pardoned in saying how much I was impressed, not merely by the thoroughness of the preparation of this case by the counsel for the Bar Association, both as to the law and as to the rather complicated facts, but particularly in the presentation of the argument by Mr Chesnut, in which, while detracting nothing from the force of his ^{statement} presentation, he evidenced toward the Respondent, as a brother lawyer, not merely evident and eminent fairness, but even professional generosity, still further exhibited, as I noticed, at the close of his argument, on the final submission of the case.

With some reluctance, I nevertheless feel constrained to dissent from some of the conclusions of my brothers of the Bench. In particular, from the severity of the judgment of disbarment. I am in accord with them in the unethical conduct of the respondent. Under all the circumstances of the case, I feel the judgment should not be greater than suspension for a reasonable and definite time - as condemnation for an unethical association leading to activities the form of which is to be condemned.

If I could satisfy my mind that the purchase price, or consideration involved, was \$50,000 (evidenced by ~~\$~~6000. in money and diamond rings considered as \$4,000.), instead of \$25,000 as contended for by respondent, then I think he should not only be disbarred, but further prosecuted for perjury, both here and in the United States Court.

In reaching the conclusion that only \$25,000 was involved, I utterly disregard the testimony of Louis Mann, and consider his testimony unworthy of belief, nor do I discredit the testimony of Grove merely because he has been convicted of conspiracy and sentenced to Atlanta Federal Prison. I discredit Grove because he

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"IREGAN"

testified before this Court, under oath, differently from what he testified to in the Federal Court. There he testified that the agreement was to deliver the whiskey at the Concentration warehouse. Here he testified the agreement was to deliver it at his house. It shows a perfect willingness on his part to testify either way that is helpful to his object at a given time. I do not view the giving of the rings with the same significance that was attached to that incident in the very able but eminently fair presentation of the evidence by Mr. Chesnut on behalf of the Bar Association. Grove had been "dickering" to buy all the whiskey in the distillery; thought he was making one purchase to-day of 1000 cases, and would make a second and subsequent deals tomorrow and the next day - and offered the rings as deposit or "binder" on a "second deal."

I am further persuaded to accept the \$25,000. version rather than the \$50,000 contention of Grove, for this additional reason: Respondent claims the agreement was for sale to Grove of a Warehouse certificate for 1000 cases of bottled whiskey for \$25,000, Grove believing that he could get the whiskey out on irregular permits for removal, or by other illegal schemes, and that neither Ganster nor the distillery would throw any obstacles in his way. He was after whiskey as such, and not "certificates" as such - he viewed the certificate only as a necessary incident to applying for and getting "permits" for transportation with the various possibilities for fraud in the transportation, which would put him in possession ultimately of the whiskey (illegally). Ganster reported this both to Prohibition Commissioner Budnitz, and to U. S. Collector Galen Tait, having supervision of bonded warehouses. This is established by testimony of Budnitz, Tait and Ganster. He told them then and there the consideration for the sale of the certificate

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was \$25,000; later that a deposit on account of \$5,000 had been made and produced the money; and advised them that Grove believed he could move the whiskey in such manner as to get the whiskey in his possession (illegally.) They were given full details. They advised him to go through with the transaction! They even made appointment for Ganster to go to Washington and meet the head of the "intelligence unit." He did so. They sent a man here to take charge. Ganster worked with them and under their direction. Ganster advised them of the payment to be made at the Jug bridge at Frederick. Acting under their direction, he kept the appointment. There collected the package of money, brought in by him and put in the safe of the distillery the same day Budnitz and the agents from intelligence unit were to be at the distillery; advised them ^{that} second instalment of the money was to be paid at the School House above Frederick and near the distillery; Ganster and Mann keep the appointment at the school house with Grove and there get ^a second package of money - wrapped in newspaper, tied and not counted; they come fresh from the school house appointment to the distillery, bringing the package of money to the distillery, and produce it in the presence of Budnitz and the Washington Agents. It ^{was} put in the distillery safe while they are there. No one inspects the money, no one counts it. It is claimed by Ganster that when later counted by Mann, each package had ten thousand in it. It is reasonable to suppose that after outlining to the Washington agents, and to Commissioner Budnitz, that the price was \$25,000, that these unopened packages of money, if they contained twice the amounts ~~these unopened~~ alleged, would be brought right into the presence of Budnitz and the Intelligence Unit, either of whom might have asked that the packages be opened and counted and held temporarily as evidence. The marvel of the case is that the so called "Intelligence" Unit did not do so. Are we to assume they got

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\$40,000, opened it, counted it, abstracted half of it, tied it up again and brought in apparently unopened packages containing only \$10,000 each? If we are to indulge in ~~the~~ such vast possibilities of conjecture, instead of being governed by evidence, the field is fertile for even more conjectures than these ^{as to what became of the money.} If the packages were not opened, as the evidence says they were not, and if they afterwards aggregated \$40,000 instead of \$20,000, these people Ganster and Mann put themselves right in the way of being trapped in their own fraud, and being ^{shown to be the} head and front a conspiracy to defraud the Prohibition Commissioner, Internal Revenue Collector and Intelligence Unit. Such consummate stupidity is hardly compatible with the knavery they are accredited with, by my interpretation of the majority opinion of this Court. X' - *Inlet slip X' here. (copy p 42)*

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(5)

XI. (insert on page 4)

For this additional reason, I think the logic^{of the case} is persuasive of the conclusion, from this record, that \$25,000 was the real consideration and not \$50,000. : The whole plan had been outlined by Ganster to Collector Tait and ^{To} Commissioner Budnitz and ^{To} the Washington Intelligence Unit. Ganster did not know, and could not have known, what plan of detection they were going to devise in the further supervision of these contemplated operations. Ganster could not have foreseen that they were not going to have a spy accessible along the road, at the Jug bridge near Frederick, to immediately afterwards ~~approach and seize the package of money~~ to seize as evidence the first package of money paid. If the first payment ~~was~~ was to approximate \$20,000, on its seizure, it would indicate ^{that #} the full ~~alleged~~ payment of \$25,000 had been completed. They would have thus frustrated their scheme to get the additional money. ^{if a additional one only was contemplated.} If the additional payment made thereafter, pursuant to the admitted facts at the School house above Frederick, were thereafter carried out, and the second package delivered, as was done, they would have at once laid themselves open to immediate arrest and have given the most convincing proof of their gigantic cons^{piracy} to defraud the Collector, Prohibition Commissioner, and Intelligence Unite, ~~and~~ ^{they} it seems to me would have been in such case powerless to have made any defense, or satisfactory explanation. I can not credit them with so much stupidity; therefore I do not credit them with that degree of criminality. For this additional reason, I am persuaded to the belief that only \$25,000 was involved as the consideration

(5)

Somewhat in extenuation - but not in entire mitigation of the unethical conduct of respondent, is the fact that Ganster may not be of the type who has had the broadest moral background for his professional activities - and his associations with Louis Mann have certainly not been elevating in shapening his sense of professional rectitude. In measuring the quantum of Ganster's ethical deficiency, I can not be entirely unmindful of the fact that Budnitz, though Prohibition Commissioner, is also known to Ganster as a lawyer in good standing in the Baltimore Bar - and that if Budnitz, lawyer as he is, though Prohibition Commissioner as he was, approved of the deal, and told him to carry it through, that it may well have had some material effect on whatever doubts might have arisen in his mind, at that time, as to the ethical propriety of the transaction. I fully agree with Mr. Chesnut, that we can not allow the standards of the Prohibition enforcement to mould the standards for professional conduct - but in this I see an additional reason why to my mind at least, the judgment of permanent disbarment is too drastic a penalty

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under all the circumstances of this case when the action of Ganster previously outlined to the Collector of Internal Revenue and the Prohibition Commissioner known to be a lawyer of our Bar in good standing.

I further dissent from what I think is undue weight given in the majority opinion to the answer of respondent to the very artful question put him by Mr. Chesnut, ^{big} "whether now, as a lawyer, he saw anything wrong in what he had done?" This was like the famous question asked the man in some case - "have you topped beating your wife?" He was ~~doomed~~ to be damned either way he answered it. If Ganster said yes, he was to be disbarred for his admission of guilt. If he said no, he was to be disbarred for his moral obtuseness. His real answer was that he did not feel that what he had done was wrong, but he thought he had been an "awful fool for getting mixed up in the transaction to the extent he was."

I further interpret the evidence differently from the majority. I do not see evidence to justify the assumption that it was any part of the plan governing this transaction that the warehouse certificate was to be seized. The certificate was in fact seized by the prohibition agents when Grove presented it, pretending to be from concentration warehouse, for removal of goods there (after order to concentrate ^{had been issued}). Ganster contended that as the whiskey was not to be removed from the distillery premises, it would not be liable to confiscation. This was the attitude the Government afterwards took, and the whiskey was put back in the warehouse, subject to the ownership of the certificate covering it. This certificate was what was sold to Grove (coupled with the delusion that he would not be molested in his fraudulent withdrawal or removal). Ganster's contention on the stand was that as Grove would have this certificate, and thereby be the owner of the 1000 cases (subject to Government

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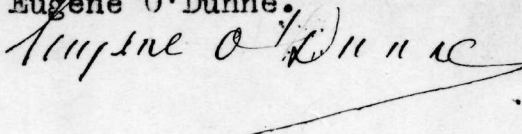
CABLE ADDRESS
"IREGAN"

regulation as to legal use), he would at least have all he paid for; and that although he knew Grove would not want to buy certificates as such, except under his belief they would tacitly allow him to fraudulentl withdraw the liquor, nevertheless he would have the ownership of the 1000 cases, and they would have the money as its purchase price; and that Grove would be gotten rid of in the neighborhood as a robber of distilleries, and sent to Atlanta because of his fraudulent attempt to withdraw under pretense of concentration. The seizure of the certificate by the Government agents, and the holding of it until ^{after the} trial of Grove in U. S. Court, and there giving it to him as owner at the conclusion of the trial, are not matters that there is any evidence in the case warranting the assumption that such was ever within the contemplation of any of the parties to the transaction. ^{For these reasons,} ~~From the beginning~~ Ganster's answer to that question should be interpreted in the light of his contention, as to his view of the case.

Still, for all of which reasons, while I condemn his conduct as unethical, in the light of Galen Tait's letter of Dec. 22, 1923, to Washington as to Ganster advising the Government of all the details of the case and acting under their direction, I think the judgment of DISBARMENT too harsh a judgment for me to subscribe to in toto, and I therefore dissent from its undue severity, particularly in the light of other precedents of this Court, which it would perhaps be indelicate now to name.

Jan. 6, 1927.

Eugene O'Dunne.



THE BAR ASSOCIATION
OF BALTIMORE CITY
vs.
H. WALTER GANSTER, JR.

IN THE
SUPREME BENCH
of
BALTIMORE CITY

The petition of the Bar Association of Baltimore City and the answer of H. Walter Ganster, Jr. thereto coming on for hearing, testimony was taken in open Court, and argument of counsel was had and the proceedings were read and considered.

It is thereupon this ^{10th} ~~7th~~ day of January, 1927, adjudged and ORDERED by the Supreme Bench of Baltimore City, that H. Walter Ganster, Jr. heretofore admitted to practice as an attorney or solicitor before the Courts of Baltimore City, is guilty of the charges preferred as more particularly set forth in the opinion ^{heretofore} filed ~~this day~~ in said cause, and that therefore he be and he is hereby disbarred from further practice before said Courts, and the Clerk is hereby directed to strike the name of the said H. Walter Ganster, Jr. from the roll of members of the Bar of the Supreme Bench of Baltimore City.

James P. Gorter
H. Arthur P. Trump.
Walter J. Dawkins.
Robert J. Gault
George A. Salt
John N. W. W. W.
Albert S. S. S.

Order of Disbarment

H. Walter Ganster, Jr.

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...and the answer of H. Walter Ganster, Jr. thereto coming on for
...The petition of the Bar Association of Baltimore City

Filed
January 10th 1927

THE BAR ASSOCIATION OF
BALTIMORE CITY

vs.

H. WALTER GANSTER, Jr.

BEFORE THE SUPREME BENCH

of
BALTIMORE CITY

Re-argument :
: : : : :
: : : : :

The Respondent, by George W. Lindsay, his attorney,
respectfully moves for a re-argument in the above entitled
case.

George W. Lindsay
Attorney for Respondent.

Handwritten notes:
Lindsay
Ganster
Bar Association
of Baltimore City
Supreme Bench

Handwritten notes:
1897/10/1

BEFORE THE SUPREME BENCH OF
BALTIMORE CITY

THE BAR ASSOCIATION OF
BALTIMORE CITY

vs.

H. WALTER GANSTER, Jr.

Motion for Re-argument

Mr. Clerk:-

Please file.

H. W. Gandy

Attorney for Respondent.

*Refused and
overruled this
10th day of January*

1927

*James P. Gorter
Chief Justice*

*Filed
January 10, 1927*

Prescope

The Bar Association
of Baltimore City

vs.

H. Walter Ganster, Jr.

BEFORE THE SUPREME COURT

OF

BALTIMORE CITY

OPINION

The case was tried before Gorter, C.J., Stump, Dawkins, Stanton, Bond, Solter, Ulman, O'Dunne, and Owens J.J.

Ulman, J., delivered the opinion of the Court.

This is a disciplinary proceeding initiated by the Bar Association of Baltimore City. The facts are succinctly stated in the 5th paragraph of the Petition of the Bar Association which is as follows:

"The petitioner avers that H. Walter Ganster, Jr. has been guilty of highly improper conduct, unbecoming and unworthy of a member of the bar of this Honorable Court, while acting in a representative capacity as counsel and attorney for the Outerbridge-Horsey Company, in certain transactions between himself and one Harry C. Grove, otherwise known as "Poppy" Grove, during the Fall of 1923. A more particular account of the said conduct and of the conditions out of which the same grew is as follows:

(a) In the Fall of 1923 the Outerbridge-Horsey Company was a corporation under the laws of the State of Maryland owning a distillery at or near Burkittsville, Frederick County, Maryland. A considerable quantity of whiskey was stored in the warehouse of said distillery at said place. One Louis Mann of Baltimore City was largely interested either directly or indirectly in the ownership of the stock of said corporation but his nominal relation thereto was that of sales agent of said company; and the said H. Walter Ganster, Jr. was acting in the transactions hereinafter mentioned, ostensibly at least, as the attorney and counsel for said company. A part of the whiskey held on storage by said distilling company and represented by outstanding warehouse receipts therefor consisted of cases of bottled whiskey to the amount of more than one thousand (1,000) cases thereof. It was well known to the said Ganster and Mann that the commercial value of said 1,000 cases of whiskey, if the same were to be disposed of in accordance with the statutes and laws of the United States, including particularly the Act of Congress known as the Volstead Act, was probably less than twenty-five dollars (\$25.00) per case, while, if the said whiskey could be removed from the distillery and vendied freely and without restrictions of the Federal statute, the value thereof was equal to or in excess of fifty dollars (\$50.00) per case. The whiskey contents of said distillery had, at said time, been reduced to such a comparatively small quantity that it was reasonably anticipated very shortly that, by orders of authorized Federal officials, the whole of said whiskey contents of said distillery would have to be transferred to the Baltimore Concentration Warehouse, after which there would be little or no possible opportunity for disposing of said whiskey except in strict accordance with Federal statutes. The said Louis Mann and H. Walter Ganster, Jr. were the owners of or had the control over certificates for 1,000 cases of said whiskey and desired to make sale of said 1,000 cases of whiskey or the certificates representing the

some under circumstances whereby they would obtain therefor a sum greater than could possibly be legally realized from the disposition of said whiskey after it had been transported to the said Concentration Warehouse. Thereupon, and in order to accomplish said purpose, the said H. Walter Ganster, Jr. and Louis Mann conspired and agreed together to trick and defraud the said Harry C. Grove (well known to them at that time to be, by repute, engaged in the occupation called "bootlegging"), whereby they would pretend to the said Harry C. Grove that they would sell and deliver to him 1,000 cases of said whiskey, or the certificates representing the same, at and for the sum of fifty thousand dollars (\$50,000) in cash, under circumstances and conditions whereby the whiskey itself would be delivered to him or to his agents in such a way that he could obtain possession of it at said distillery and would be able to dispose of it free from the restrictions of the Federal statutes. And the said Harry C. Grove then and there, to wit, the latter part of the month of October, 1923, agreed with the said Ganster and Mann that, under the said circumstances and conditions, relating to the delivery of said whiskey, he would pay to them the sum of \$50,000 cash for said 1,000 cases of whiskey; and the said Ganster and Mann agreed with said Grove to make said delivery as specified; but said Ganster and Mann never intended to carry out said agreement as to making the delivery but in fact intended at said time to get and obtain from the said Grove payment for said whiskey in advance, and in the meantime to inform the United States Prohibition Director for Maryland in substance and effect that said Grove was intending to commit a violation against the Federal statutes with regard to said whiskey, and thereby secure the seizure by the Federal authorities of the whiskey instead of delivering it to the said Grove, after obtaining the \$50,000 from Grove in accordance with the purported agreement with him.

(b) "And in pursuance of said conspiracy to trick and defraud, said Ganster and Mann first obtained from said Grove a sum of about sixty-six hundred dollars (\$6600) to be used and applied in payment of a Federal Tax upon said whiskey, the pretended agreement between them being that the whiskey should be delivered to Grove tax free; and immediately after obtaining said amount from the said Grove the said Ganster informed the said Prohibition Director of the receipt of said sum and of the pretended intended delivery of the whiskey to Grove and the time and place thereof; and in further pursuance of the agreement made by Ganster and Mann with the said Grove, they met him in Frederick County, some distance from said distillery, on the 9th day of November, 1923, and received from him, first, at or near the town of Frederick the sum of approximately eighteen thousand four hundred dollars (\$18,400) in cash, and when the said Grove obtained further cash shortly later on the said day, they met him again at a schoolhouse near said distillery and received from him the sum of approximately twenty-one thousand dollars (\$21,000), making total payments by Grove to them of approximately forty-six thousand dollars (\$46,000), and the said Grove, not having the balance of the \$50,000 in cash ready to pay, thereupon gave to them to hold as security for the payment of the balance of approximately four thousand dollars (\$4,000) the next day, two valuable diamond rings; and thereafter they caused to be delivered to the said Grove or his agents the certificate representing 1,000 cases of whiskey still on deposit in said distillery warehouse under the further understanding and agreement that the agents of the said Grove should call at said distillery and present said certificate and demand the 1,000 cases of whiskey under the oral representation to the custodian in charge of said warehouse that they, the said agents, were calling for said whiskey to transport the same to the Baltimore Concentration Warehouse; and thereafter, when, in pursuance to said agreement and understanding, the said Grove's agents did call on the same day at said warehouse and presented said whiskey certificate and asked for the 1,000 cases of whiskey, one or more Federal

Agents in company with the said United States Prohibition Director, and also in the presence of Ganster and Mann, (the said United States officials having appeared at said time and place by prearrangement with the said Ganster) arrested said agents of the said Grove and seized the said whiskey which was then and there in process of delivery, and also seized the whiskey certificate.

(c) "And thereafter the said Harry C. Grove was arrested and charged with violation of the laws of the United States with respect to illegal transportation of said whiskey and was thereafter criminally prosecuted in the United States District Court for the District of Maryland in the case of United States of America vs. Harry C. Grove and others, being case No. 5431 on the criminal docket of said Court, and said H. Walter Ganster, Jr. appeared on behalf of the United States and testified to facts and circumstances relating to said transaction, in which, among other things, he misrepresented the nature of the agreement made by him with Grove in at least two important respects, to wit, that the purchase price agreed upon for said whiskey and the amount received therefor was only twenty-five thousand dollars (\$25,000) and not fifty thousand dollars (\$50,000) in cash, and also that the inducing cause to him to make the said pretended sale to the said Grove was his fear that if the whiskey was not sold to Grove the latter would rob the distillery. The said Grove was convicted in said criminal prosecution for conspiracy to transport and possess intoxicating liquor illegally and sentenced to confinement in prison. The said Grove never in fact received any of said whiskey in accordance with the understanding and agreement made by him with the said Ganster and Mann, but after the conclusion of the trial in said Court, the certificate representing said whiskey (the whiskey itself having in the meantime been transferred to the Baltimore Concentration Warehouse) was delivered to the said Grove and, in order to recoup as much of his loss as possible, finally sold by him for a sum of about eleven thousand dollars (\$11,000). Upon the demand of the said Grove the said Ganster returned to him the diamond rings above mentioned.

(d) "Wherefore your petitioner shows that the said H. Walter Ganster obtained from the said Grove a very large sum of money by fraud and deceit, and has not made restitution thereof, although the same has been demanded, and that his conduct in said transaction was unprofessional and dishonorable and unworthy a member of the bar of this Honorable Court?"

The taking of testimony before this Bench occupied three full days. It is not necessary, for the purposes of this opinion, to discuss the testimony at any length. The allegations of the Petition were fully substantiated; and the only material conflict of testimony was upon the question whether the actual amount paid by Grove was \$46,000 or \$25,000. The Court is of the opinion that the preponderance of the testimony ~~shows~~ tends strongly to establish the allegation that the actual amount so paid was \$46,000. This conclusion is reached in spite of the fact that Grove is a discredited witness with a probably revengeful motive for misstatement. He is contradicted in this respect by both the respondent and Louis Mann. Throughout the transaction, and in their testimony, both of them have insisted that the true amount was \$25,000. The witness Mann, however, proved so thoroughly unreliable that his

corroboration of the respondent may be disregarded. The outstanding piece of evidence which convinces the Court that the true amount paid was \$48,000 is the uncontradicted fact of the delivery by Grove to Mann of the two diamond rings. Mann and the respondent sought to explain this delivery as a pledge on account of a possible future transaction. This attempted explanation is hardly credible; the far more likely reason for the delivery of the rings is that Grove was short \$4,000 in his promised payment of \$50,000, and therefore gave the rings as security for the balance of \$4,000 still due.

If, however, the true amount paid was only \$25,000, the transaction is none the less indefensible. Stating it in the terms most favorable to the respondent, it is that the respondent and Mann secured \$25,000 from Grove in payment for a certificate representing 1,000 cases of whiskey knowing that Grove was going to try illegally to take the whiskey from the distillery and leading Grove to suppose that they would cooperate with him in so doing, - or, at the very least, that they would place no obstacles in his way. At the same time that they were making this bargain with Grove, they were planning with the prohibition authorities to secure Grove's arrest, ~~XXXXXXXXXXXXXXXXXXXX~~ ^{of the whiskey} at the moment of the removal from the distillery. This plan was carried out; and the money secured from Grove was retained by Mann with the approval of respondent.

Mann and the respondent seek to excuse their conduct upon two grounds. First, they claim that everything they did was done with the approval and participation of the Federal Prohibition authorities. Even if this were wholly true, it would not necessarily justify the respondent. It is conceivable that the Federal Prohibition authorities may have a standard of conduct lower than that which should be maintained by members of the legal profession. But the contention is not shown to be wholly true. The Federal Prohibition authorities certainly did not participate in the profits of the deal; nor does the evidence show affirmatively that they advised or even knew about the really astounding conclusion of the scheme, - viz., ^{not only} that Grove should be prevented from getting the whiskey and apprehended as a criminal ^{but} but that Mann should keep his money. From the point of view of the Federal Prohibition authorities, a trap was being laid for Grove. The spring of this trap was a pretended sale to Grove. Certainly, common

decency would prescribe that after the trap was sprung, the parties to the pretended sale should be put in statu quo. In the absence of proof to the contrary, it must be assumed that this is what the Federal Prohibition authorities expected to be done; and their approval of the laying of the trap, would have meant nothing more than this to Mann and the respondent, had their object been the public welfare instead of their own private gain.

The second excuse which respondent makes for his conduct was fully developed in the course of his cross-examination. When he was asked whether he thought, as a lawyer, that he had acted properly, he said, in effect, that he could see nothing wrong in what he had done. He explained that Grove had bought a certificate representing whiskey, and that it had been delivered to him; that, while Grove expected to be enabled to obtain illegally the whiskey represented by the certificate, it would be his, Grove's, ill fortune if he were unable to do so. Upon being questioned further he admitted that he and Mann led Grove to believe when they sold him the certificate, that they would do nothing to prevent him from getting actual possession of the whiskey, and that Grove would not have bought the certificate had he believed otherwise. But he admitted further, that at the very time when they were giving Grove grounds for this belief they were actively arranging with the Federal authorities to keep Grove from getting the whiskey and to trick him into prison in the bargain. Upon this basis, respondent declared under oath, he thought it was right and proper for his client to accept and to keep Grove's money, because Grove got the certificate which he bought.

This excuse for his conduct offered by respondent on the witness stand, is worse than no excuse at all. To the practicing lawyer are committed, in a peculiar sense and in a high degree, the rights and the property of his clients. It is his duty to assist those clients by advice and by negotiations in the establishment of contractual or other business relations with third persons. To the performance of that duty the lawyer brings such capacities and such industry as he may possess. His capacity may be great or it may be small. He may be bright or he may be stupid, industrious or lazy. But he must be honest - he must see things straight. Anything short of that cannot be tolerated if the profession of the law is to be maintained in the

respect of the community, and the lawyer is to be a useful member of society.

There is no proof that the respondent shared directly in the proceeds of the fraud practiced upon Grove. There are suspicious circumstances from which such participation in the profits of the deal might be inferred. It is not, however, essential to the Court's conclusions in this case that such direct participation be established. It is conceded that respondent took an active part in the transaction from its very inception and that he was paid a substantial fee for services, but vaguely specified, and covering the period of this transaction. This conceded payment to respondent, taken in connection with his activities throughout the transaction, is a sufficient link to bind him to the fraudulent scheme as a principal in it, for the purposes of this proceeding.

In conclusion, respondent's inability, on the witness stand, to appreciate his own wrong-doing is his strongest condemnation. A man who can quibble about the sale and delivery of a certificate as justifying the retention of the proceeds of that sale when he knows, and knew at the time, that the transaction was not a real transaction but ^{was} a mere ruse to entrap the other party is a criminal violation of law, has an obliquity of moral vision which unfits him for the practice of law.

The judgment of Court is, therefore, that the respondent shall be disbarred as a member of the bar of this Court; and an order will be signed accordingly.

O'Dunne, J., dissented. ~~and filed the following dissenting opinion.~~