

**IN RE: NEW PATRIOT JOURNAL, by and thru its Managing Editor, LENN  
EUGENE NAGBE, CONTEMPT OF THE HONOURABLE SUPREME  
COURT, REPUBLIC OF LIBERIA.**

CONTEMPT PROCEEDINGS.

Heard January 19, 1995 Decided February 17, 1995.

1. Freedom of the press is not absolute. Individual rights guaranteed by the Constitution begins at the end of the right of the publisher.
2. Liberty of the press is indeed essential to the nature of a free state and consists in laying no previous restraints upon publication, and not freedom from censure from criminal matter when published.
3. Every freeman has an undoubted right to lay what sentiments he places before the public; to forbid this is to destroy the freedom of the press. But if one publishes what is improper, mischievous, or illegal, he must take the consequence of his own temerity. Thus, the will of individuals is still left free, the abuse only of that will is the object of legal punishment.
4. Legal punishment for abuse of freedom of speech or press is necessary for the preservation of peace and good order of government and religion, the only foundation of civil liberty.
5. The Supreme Court is an institution which every citizen and resident is bound to respect and honour because it is the custodian of our liberty; it is the last place of hope on earth for every resident of this country and any act done by any individual or a group of individuals tending to degrade and ridicule the court or any of the Justices thereof affects the dignity and integrity of the Liberian Judiciary both nationally and internationally.
6. The judiciary is the anchor which holds stabilized government in balance; without it, vested interest might suffer, sacred rights might be violated, constituted authority might be challenged, and in fine, administrative chaos could result.
7. Freedom of speech and of the press as guaranteed by the Constitution, should not be interpreted as a license for any one to exceed the constitutional liberty a citizen should enjoy.

8. The liberty of the press is the right to publish truth with good motive, for justifiable ends, though reflecting on the government, magistracy or individuals; and the Supreme Court will punish for contempt any destructive practice which reflects discreditability upon the Judicial branch of the government, or which belittles and embarrasses it in the performance of its duties, or which defies its authority.

The New Patriot Journal was charged with contempt of the Supreme Court for publishing a commentary in its paper which the Court considered disgraceful, disrespectful, derogatory and libelous against the Chief Justice of the Supreme Court of the Republic of Liberia. The first publication entitled "the case of a Grateful Chief Justice", was followed by a sequel entitled a "Point of Order", a sequel to "The Grateful Chief Justice", which referred to the Chief Justice as a "sycophant". When the contempt proceeding was called for argument, the Managing Editor of the New Patriot Journal, defendant in this proceeding, Lenn Eugene Nagbe, expressed his regret for such publication and begged the court to have mercy on him and purge him of the contempt. Previous to the assignment of this case, the court appointed Counsellors Frederick D. Cherue and Marcus R. Jones as friends of the court in the contempt proceeding. They noted in their argument the serious reflection such publications have on the Supreme Court of Liberia and the disgrace it has brought on the personal integrity of the Chief Justice of the Republic of Liberia and his associates and the judiciary as a whole. In their argument, the Counsels pointed out that although the publication of the defendant paper is highly contemptuous and should not go with impunity as a deterrent, they, however, appealed to the court to temper justice with mercy.

The Supreme Court in its ruling opined that freedom of speech and of the press as guaranteed by the Constitution should not be interpreted as license for any one to exceed the constitutional liberty a citizen should enjoy. The liberty of the press is the right to publish truth with good motive, for justifiable ends, though reflecting on the government, magistracy or individuals, and the Supreme Court will punish for contempt any destructive practice which reflects discreditably upon the Judicial branch of the government, or which belittles and embarrasses it in the performance of its duties, or which defies its authority. In this regard, the Supreme Court, held that the article of the New Patriot Journal was a constructive contempt of the Supreme Court which embarrassed the court in the highest degree, and that it defied the authority of the court and brought it into a public disrepute, a conduct which cannot be compromised with impunity. Accordingly, the Court adjudged the New Patriot Journal, by and thru its Managing Editor, Lenn Eugene Nagbe, guilty of contempt of the Supreme Court of Liberia. A fine of ten thousand (\$10,000.00) Liberian dollars

was imposed on the paper, and the management ordered to write a retraxit within a period of 24 hours to be published in two (2) renowned news organs in the City of Monrovia.

The Managing Editor appeared *pro se*; *Frederick D. Cherue* and *Marcus R. Jones*, appeared as *amicus Curiae*.

MR. JUSTICE SMITH delivered the opinion of the court.

This contempt proceeding is a result of a commentary published in the New Patriot Journal; Vol. 2, No. 5 of the Wednesday to Friday, January 18-20, 1995, entitled: "Point of Order, a sequel to "The Grateful Chief Justice" in which this paper published to the world and we quote a relevant portion of this Point of Order; it reads as follows:

". . . Our friends must realize this and concentrate instead of listening to sycophants like Chief Justice Bull who will make promises that they know fully well they can't keep. So let's concentrate on ending this war. . . ."

For the benefit of this opinion, we quote the full text of the commentary; it reads as follows:

Point of Order A Sequel To " The Grateful Chief Justice" "Sometimes, it is better to say the wrong thing and be understood than to say the right thing and be misunderstood. The misunderstanding of human actions and intentions can lead to consequences that leave regrettable imprints on the minds of those that may be involved in a given situation. Such was the phenomenon which grew out of a commentary published in the Wednesday, December 11,1994 edition of the New Patriot Journal under the caption, "The Case of a Grateful Chief Justice". The offices of the New Patriot has been flooding with complaints from both our foreign guests and Liberians alike.

The bone of contention raised by our many visitors was centered around misconception that from the inclination of the commentary, the New Patriot is opposed to the granting of Liberian citizenship to persons of non-negro descent.

To our many readers and the public-at-large, we hope to make it clear here that the New Patriot Journal did not select to disparage the character of the Chief Justice neither was it our intention to register any disagreement with the granting of a

Liberian citizenship. What we mean to point out is the shameless manner in which many of our countrymen tend to exhibit false generosity and gratitude.

In traditional Liberian societies men of substance are thought to be discrete on how to express gratitude; whether in words or indeed. Rich pauper who saved his daughter from drowning. Poor town folks like to make a big to-do about why they give their daughters to the wealthy traders who paid their taxes. Generosity and gratitude are sacred gestures. They deserve to be kept from a lashing tongue. Nonetheless, that has never been the case in our civilized commune, that is Monrovia. Politicians and other public figures have formed the lousy habit of enticing generous gifts and other favors from foreigners. After that, they would proceed to make pronouncements on national radio promising some immunities or reward to the exotic donor. The irony of the situation is, that in many cases, these rewards are never materialized. Not too long ago, Dr. Amos Sawyer, while at the zenith of his political trapeze, once decided to show his gratitude to General Olurin. Dr. Sawyer was smarter. He did not promise to make Olurin a Liberian. Surely, that was something the rich General would have waved off with a chuckle. What Dr. Sawyer did was to promise Olurin a piece of Sinoe County. That was clearly a promise which the IGNU President could not deliver.

Let it be clear that we do not abhor the act of persons doing favors or others giving favors in return.

As the good book says, it is much better to give than to receive. But even at that there can be a sin in giving. As Fred Nietsche once remarked, " if I must give, I prefer to do it from a distance". The one who gives or promises to give and shout about it for the whole world to hear is doing himself a favor. For the magnanimity of the act then reverts to the loud-mouth giver. Acts of kindness must be done in silence. That is the point the New Patriot Journal yearned to have driven home.

On the issue of granting of citizenship to non-Negroes, it is wise to say that it is not the issue at stake. For many years, the people of this country have been racking their brains over this matter. As much as we know, the matter has not been laid to rest. It shall some day come up for discussion again. Most Liberians will agree that this is not the time for that. We are caught in a bloody war that seems to know no end. The best thing that our non Negroid friends can do is to unite in striving to bring this nasty nightmare to an end. For who knows, Liberians might at time decide to show appreciation to our friends like the Lebanese and Indians who have made significant contributions to our national economy. Our friends must realize this and concentrate

instead of listen to sycophants like Chief Justice Bull who will make promises that they know fully well they can't keep. So lets concentrate on ending the war. After this is done, we can concentrate on civil issues. There and then, we would be standing before the bridge. After all, one can only cross a bridge after he has reached it". As the commentary itself points out, this is not the only disgraceful, disrespectful, derogatory and libelous publication the New Patriot Journal has made about the Chief Justice of the Supreme Court of the Republic of Liberia in which the paper styled him: "The Grateful Chief Justice" and a sycophant. The first commentary entitled : "The Case of a Grateful Chief Justice", was published by this paper in its December 11,1994 edition, and according to the publisher, because the offices of the New Patriot was being flooded with complaints from both foreign guests and Liberians alike, which complaints centered around misconception from the December 11 commentary to the effect that the paper was opposed to granting citizenship to foreigners. This January 18-20 edition was therefore published, instead, in the words of the publisher " to point out the shameless manner in which many of our countrymen tend to exhibit false generosity and gratitude". With this kind of examination of the paper in which the Chief Justice has been vilified, we cannot accept the excuse that the publication was not intended to ridicule and bring the Chief Justice and the Supreme Court into disrepute.

When the contempt proceeding was called for argument, the Managing Editor of the New Patriot Journal, defendant in this proceeding, Lenn Eugene Nagbe, expressed his regret for such publication and begged the court to have mercy on him and purge him of the contempt.

It should be noted that since the incursion of the National Patriotic Front of Liberia, (NPFL) on December 24, 1989, resulting into the break down of law and order in the country up to the formation of the Interim Government of National Unity (IGNU) and now the Liberian National Transitional Government(LNTG), there has been a proliferation of news media operating in the capital City of Monrovia as never before in the history of this country, indicating the desire for freedom of speech and of the press in our country. But there has been and still is, such reporting by some newspapers in the country that are so dangerous and their effect even powerful than the missiles and rockets still flying over the country from all directions and destroying lives and properties. Some of these news organs, one or two of them, have engaged in mischievous propaganda, inflammatory reporting and character assassination, a situation which may be correctly described as a war of the pen which is even dangerous than that which is being fought with guns. They have now embarked upon destructive criticism and abusing government officials in their newspapers, a political

war in which they have engaged to foster the success of their principles. The New Patriot Journal has come up too against the Honorable Supreme Court of the Republic of Liberia by calling the Chief Justice a "sycophant" out of a blue sky. As much as this court must uphold press freedom in the country, it would seem necessary and proper at this point in time to seriously warn journalists that freedom of the press is not absolute. The Constitution also guarantees to every individual his right which begins at the end of the right of the publisher; he must be responsible for the abuse of these constitutional rights of free speech and of the press.

Liberty of the press, says Mr. Blackstone, is indeed essential to the nature of a free state and consists in laying no previous restraints upon publication, and not freedom from censure from criminal matter when published. Every freeman has an undoubted right to lay what sentiments he places before the public, to forbid this, is to destroy the freedom of the Press; but if one publishes what is improper, mischievous, or illegal, he must take the consequence of his own temerity. Thus, the will of individuals is still left free, the abuse only of that will is the object of legal punishment, and this is necessary for the preservation of peace and good order of government and religion, the only foundation of civil liberty. Liberty of private sentiment is still left, but the dissemination, or making public of bad sentiments, destructive to the ends of Society, is the crime which society corrects.

By this publication of the New Patriot Journal to the world, the Supreme Court of the Republic of Liberia and the entire Judiciary has been brought into public ridicule, disrepute and embarrassment. The New Patriot Journal, one of the leading news organs of the country, in direct defiance of constituted authority and open disrespect to the Chief Justice, publishes to the world that the Chief Justice of the Supreme Court of Liberia is a "sycophant", meaning a parasite, a crook, a deceiver and a flatterer. By this libelous publication, what recognition and respect, then, can be accorded to any member of the Supreme Court where a print media of this country classifies the Chief Justice who presides over the court and the official head of the third branch of the government of Liberia as a "sycophant" not to be trusted? How will judicial utterance, opinions and judgments of the Supreme Court be respected, honoured and obeyed when the presiding office of the court is classified by news organ of the country to be a parasite and a self-seeking flatterer? To whom does the New Patriot Journal refer when it states among other insulting things that 'politicians and other public figures have formed the lousy habit of enticing generous gifts and other favors from foreigners?

Previous to the assignment of this case, the court appointed Counsellors Frederick D.

Cherue and Marcus R. Jones as friends of the Court in the contempt proceeding each of whom has submitted briefs. They noted in their argument the serious reflection such publications have on the Supreme Court of Liberia and the disgrace it has brought on the personal integrity of the Chief Justice of the Republic of Liberia and his associates and the judiciary as a whole. The court hereby registers its gratitude and appreciation to the two (2) Counsellors for their performance in a very able manner. In their argument, the Counsels pointed out that although the publication of the defendant paper is highly contemptuous and should not go with impunity as a deterrent, they, however, appealed to the court to temper justice with mercy.

Let it go forth to all to whom it may concern especially to the print and broadcasting journalists, who may rely on the constitutional provision of freedom of speech and of the press, to be careful not to look at the personalities of the individuals who compose the Supreme Court, but to realize that the Supreme Court is an institution which every citizen and resident is bound to respect and honour because it is the custodian of our liberty; it is the last place of hope on earth for every resident of this country and any act done by any individual or a group of individuals tending to degrade and ridicule the court or any of the Justices thereof, affects the dignity and integrity of the Liberian Judiciary, both nationally and internationally.

This article of the New Patriot Journal is a constructive contempt of the Supreme Court which embarrasses the court in the highest degree. It does defy the authority of the court and has brought it into a public disrepute; it reflects discreditably upon the Supreme Court of Liberia which cannot be compromised with impunity.

The Government of Liberia is divided into three (3) separate and distinct branches and none is more important than the others; none can function without the others and still maintain the objectives of the Constitution; and none, in this sense, is either weaker or stronger than the others to give rise and encourage any member of the other two (2) branches of the government, or any individual, or Journalist for that matter, in promoting his paper or any political interest of others, to vilify and ridicule the head of the Judicial branch of the government and the Supreme Court over which he presides. It should be kept in mind that the judiciary is the anchor which holds stabilized government in balance; without it, vested interest might suffer, sacred rights might be violated, constituted authority might be challenged, and in fine, administrative chaos could result. Freedom of speech and of the press as guaranteed by the Constitution should not be interpreted as license for any one to exceed the constitutional liberty a citizen should enjoy. The liberty of the press is the right to publish truth with good motive, for justifiable ends, though reflecting on the

government, magistracy or individuals, and the Supreme Court will punish for contempt any destructive practice which reflects discredibly upon the Judicial branch of the government, or which belittles and embarrasses it in the performance of its duties, or which defies its authority. *In re: C. Abayomi Cassell, Counselor At Law Respondent*, 14 LLR 391 (1961).

In view of the foregoing, we are of the considered opinion, that the New Patriot Journal, by and thru its Managing Editor, Lenn Eugene Nagbe, is adjudged guilty of contempt of the Supreme Court of Liberia, and because of the gravity which we attach to this contemptuous and libelous publication, and considering the plea of the Managing Editor and that of the *amici curiae* to tamper justice with mercy, the said New Patriot Journal is seriously warned with a fine of ten thousand (\$10,000.00) Liberian dollars to be paid into the Bureau of Internal Revenue and a Revenue Flag Receipt exhibited to the Marshal of this Court within twenty-four (24) hours. The said Managing Editor must write a retraxit within the same period of 24 hours to be published in two (2) renowned news organs in the City of Monrovia, Republic of Liberia within the same period effective as of the date of this Opinion. Failure to so comply shall result in the imprisonment of the managing editor until the fine is paid. And it is hereby so ordered.

*Respondent adjudged guilty of contempt.*