

Counselor Pearl Brown-Bull, Commissioner, Truth and Reconciliation Commission (TRC), of the city of Monrovia, Liberia Petitioner versus The **Truth and Reconciliation Commission (TRC)**, represented by its Chairman, Counselor Jerome Verdier, Sr., also of the city of Monrovia, Liberia Respondent

PETITION FOR THE WRIT OF PROHIBITION. PROHIBITION GRANTED.

Argued: June 2 and October 20, 2008. Decided: January 30, 2009.

MR. CHIEF JUSTICE LEWIS DELIVERED THE OPINION OF THE COURT.

This case was argued twice before this Court. At its first argument on June 2, 2008, Counselor Jerome J. Verdier, Sr., and Counselor A. Kanie Wesso of Kanie, Koivue Legal Redress, Inc., announced representation for the respondent, the Truth and Reconciliation Commission. Counselor Jerome J. Verdier, Sr. argued on behalf of the Truth and Reconciliation Commission. A decision was not taken at the March Term, 2008 of this Court. When the case was argued during the present term of Court, Counselor A. Kanie Wesso appeared for the respondent.

On June 10, 2005, the Chairman of the National Transitional Government of Liberia approved an Act of the National Transitional Legislative Assembly establishing the Truth and Reconciliation Commission (TRC) of Liberia. The Act was published by authority of the Ministry of Foreign Affairs on June 22, 2005.

Article V, §7 of the Act, on Composition, provides:

"The TRC shall comprise nine Commissioners, with not less than four women making up its entire composition. The Head of State, subject to §§8 and 9 hereof shall appoint members of the TRC."

Sections 8 and 9 of the Act provide:

"Section 8. A Selection Panel shall be comprised of seven individuals of integrity, repute and good standing in public life, and constituted as stipulated:

"a. "b. "c. "d. Three representatives from civil society organizations; Two representatives from political parties; One representative from the United Nations Organization (UN); One representative from the Economic Community of West African States (ECOWAS).

"Section 9.

"a. The Selection Panel shall be coordinated by the ECOWAS representative, who shall preside over the Selection Panel as head, and coordinate the process of selecting representatives as stipulated in §8. The Selection Panel shall vet nominees pursuant to the criteria set forth in §11 of this Act and shall conduct a process of public scrutiny based on individual nominations and other petitions from the general public, institutions, and organizations.

"b. Recognizing that the Chairman of the NTGL appointed Commissioners before the enactment of legislation establishing the Commission and acknowledging the role they have played in the TRC consultative process, affirming the need for the TRC process to be credible and legitimate and accepted by the nation, the Commissioners appointed by the Chairman of the NTGL before the enactment of the TRC Act will be vetted pursuant to the criteria set forth in §11 of this Act.

"Where any one of the current Commissioners is found to have met the character criteria in §11 of this Act, he/she will be automatically considered a confirmed member of the Commission. In the event that any one of the current Commissioners does not meet the character criteria set forth in this Act, leaving vacancies on the Commission, the Selection Panel shall solicit nominations for Commission members, review, vet and select from those nominations to produce a short-list of fifteen (15) vetted candidates to be presented to the Head of State for his selection and appointments to the Commission.

"Once the vetted Commissioners are selected and appointed by the Head of State, they shall not be subject to confirmation hearings before the National Legislature."

Pearl Brown-Bull, the petitioner, based upon the recommendation of the Selection Panel, was appointed a Commissioner of the TRC by Charles Gyude Bryant, Chairman of the National Transitional Government of Liberia, on October 27, 2005. She was commissioned by President Ellen Johnson-Sirleaf on February 16, 2006.

James J. Verdier, Sr., based upon the recommendation of the Selection Panel, was also appointed a Commissioner of the TRC by Chairman Bryant, and subsequently selected its Chairman.

On February 5, 2008, Chairman Verdier addressed the following letter to the

petitioner, with copies to the Commissioners of the TRC.

"This comes in the wake of your duty and obligation of full disclosure to the Commission arising out of your recent appointment as Commissioner of the Public Procurement and Concession Commission [PPCC].

"As you are quite aware, the TRC Act exacts from all Commissioners full independence and employment on a 'full time' basis to guarantee their independence, commitment and the avoidance of situations that may be construed as conflict of interest under §39 of the TRC Act.

"On January 30, 2008 when at the Centennial Pavilion for hearings, I acquainted you with information I heard on public radio about your appointment to the PPCC, and solicited your confirmation. You did confirm but added that it was a part-time job. I impressed upon you that it was your duty to inform the Commission officially and thought it be done soonest.

"Howbeit, you did not do so until I informed Commissioners at the end of our meeting yesterday, February 4, 2008, of what was obtaining but that I was leaving the honor of full disclosure to you. A discussion ensued when you returned to the room and confirmed the aforesaid appointment, maintaining also that it was a 'part-time' engagement in an appellate capacity, having been appointed by Her Excellency Ellen Johnson-Sirleaf, President of the Republic of Liberia.

"I hereby indulge the liberty of quoting verbatim below §§12 and 39 of the TRC Act, as a point of reference:

"Section 12. Members of the TRC shall be employed by the Government of Liberia and shall render services on a full time basis and receive remuneration in an amount determined not to be less than that received by Justices of the Supreme Court of Liberia. Members of the International Technical Advisory Committee shall receive remuneration pursuant to international standards for persons carrying out similar mandates.

"Section 39. Independence of the Commission.

"a. The Commission, its Commissioners and every member of staff shall function without political or other bias or interference and shall, unless this Act expressly otherwise provides, be independent and separate from any party, government

administration or any other functionary or body by directly or indirectly representing the interests of such entity.

"b. If at any stage during the course of the proceedings or any meeting of the Commission it appears that a Commissioner has or may have a financial or personal interest which may cause a conflict of interest in the performance of his or her functions, such Commissioner shall forthwith disclose the nature of his or her interest and absent himself or herself from that meeting so as to enable the remaining Commissioners to decide whether such Commissioner should be precluded from participating in the meeting by reason of that interest.

"c. If a Commissioner fails to disclose any conflict of interest as contemplated by this section, then as soon as such non-disclosure is discovered, it should be reviewed and where decisions have been taken which are affected or tainted by such non-disclosure, the decisions should be [vacated] or set aside without the participation of the Commissioner concerned.

Every Commission member shall:

"i. Notwithstanding any personal opinion, preference or former party affiliation, serve impartially and independently and perform his or her duties in good faith and without fear, favor, bias or prejudice.

"ii. Serve in a full time capacity to the exclusion of any other duty or obligation arising out of any other employment or occupation or the holding of any other office, provided that the Commission may exempt a Commissioner from the provisions of this paragraph.

"iii. No Commissioner shall:

"a. By his or her membership of the Commission, association, statement, conduct or in any other manner or way jeopardize his or her independence or in any other manner harm the credibility, impartiality or integrity of the Commission;

"b. Make private use of or profit from any confidential information gained as a result of his or her membership of the Commission;

"c. Divulge any such information to any other person except in the course of the performance of his or her functions as such a Commissioner.'

"I therefore request that you formally inform the Commission in writing of your preferment, making a full disclosure of the nature of the employment and all other matters or information appertaining thereto, and request an exemption from §39 if you so desire.

"Until that is done, Honorable Commissioner, you are in clear violation of the Act, its intent, letter and spirit which only an exemption or resignation may remedy."

On February 8, 2008, the petitioner addressed to following memorandum to Chairman Verdier.

"I received a letter from Mr. Keith K. Jubah, Chairman of the Public Procurement and Concessions Commission of Liberia [PPCC], informing me that I have been selected to serve as a member of the Complaints, Appeals and Review Panel (CARP) of the PPCC. This panel consists of seven persons.

"This position does not debar me from serving full time as a member of the TRC. It does not create a conflict of interest as contemplated by the TRC Act. In case such a conflict arises, I shall inform the Commission immediately. Except for Mrs. Esther W. Paegar who is a Commissioner of the PPCC and must, according to the Act serve on the Panel, the six panel members are serving part-time. They have full-time jobs with other entities.

"I request an exemption from the TRC to serve on this Panel. I can assure the Commission that my engagement on this Panel shall in no manner interfere with my full-time commitment and duty to the TRC."

On March 14, 2008, Chairman Verdier addressed a second letter to the petitioner, with copies to the Commissioners of the TRC.

"On the very eve of our departure to Maryland County for the continuation of public hearings, more specifically on Saturday, February 9, 2008, we received your memorandum of February 8, 2008, your second response to ours of February 5, 2008, on the floor of the Chairman's office.

"Our communication of February 5, 2008 to you basically pointed out that you have confirmed accepting a second engagement, employment or appointment with the Public Procurement and Concession Commission (PPCC) of Liberia and was

therefore in explicit violation of §§12 and 39 of the TRC Act. We quoted verbatim the relevant sections of the aforesaid Act for your ease of reference, and further demanded that you either resign or make a full disclosure to the Commission, and request an exemption in compliance with the TRC Act.

"Your first response of February 6, 2008 was to correct us and accuse us of libel and falsehood surrounding the facts of your second employment. What we stated in the said communication was based upon what we heard and any 'libelous or false' allegations referred to by you would have been avoided or corrected had you made the full disclosure required prior to your acceptance of the new job.

"Your attempts at correcting us have not amounted to 'full disclosure' as contemplated by both the TRC Act and its Rules and Procedures. Your simple admission in your February 8, 2008 memorandum '[on] Subject: Information of Appointment and Request for Exemption' in which you stated 'I received a letter from Mr. Keith K. Jubah, Chairman of the Public Procurement and Concession Commission of Liberia, informing me that I have been selected to serve as a member of the Complaints, Appeals and Review Panel (CARP) of the PPCC [and that the] panel consists of (7) persons' does not amount to full disclosure.

"In the face of recent media reports in one of our local dailies, the *New Democrat*, to the effect that you applied for the job, was vetted, selected and subsequently inducted into office, you are obligated in the spirit of full disclosure to state and provide evidence of the following:

"1. When did you apply for the job, along with copy of letter of application?

"2. When and by whom were you vetted or interviewed?

"3. When and where were you inducted into office?

"Commissioner Bull, we have since entreated you to do the honorable thing: make full disclosure of your new appointment, request an exemption from the Commission, or resign. Your second response referred to in the first paragraph above, was captioned and intended to be a full disclosure as demanded, but fell short of anything near full disclosure as appropriate under the circumstances.

"In your response, as partially quoted above, which did not bear any attachment, and addressed to all Commissioners, you simply confirmed your appointment by Keith Jubah, Executive Secretary of the PPCC, requested an exemption and assured the Commission that your new appointment will not interfere or hinder your performance at the TRC. In any respect, even in the perspective of a lawyer as you

are, the scanty information given does not amount in any way to full disclosure in the particular circumstances for which the Commission should consider exemption. In making full disclosure, if you do not mind, Honorable Commissioner, you will do the following:

"1. Attach copy of the appointment letter and all other relevant documentation;

"2. Attach or indicate the terms of reference of your new appointment;

"3. Indicate or disclose the date of your induction into office, and by whom;

"4. Indicate benefits, fringe benefits, salaries or any emoluments and entitlements due you by virtue of your new appointment;

"5. Indicate or disclose the nature of the appointment, tenure, (I hear it is three (3) years), obligations, responsibilities, etc;

"6. Indicate with very strong conviction that your new appointment is not likely to create a situation of conflict of interest;

"7. That your new position will not undermine your independence or that of the Commission, directly or indirectly, or by public perception; and

"8. That your actions to accept the aforesaid appointment and get inducted into office prior to full disclosure and exemption by the Commission is not in violation of the TRC Act and the Rules and Procedures of the Commission, and that said appointment does not in any way infringe upon the independence, integrity and functioning of the TRC.

"While you ponder this point, we wish to quote verbatim the relevant portions of the TRC Rules and Procedures, and remind you of the sacredness of the TRC trust, our obligation to uphold the high standards of neutrality and independence of the TRC, and at the same time imperatively maintaining a high level of integrity at all times. The relevant sections of the TRC Rules and Procedures read as follows, with italics supplied:

"13.2. It shall be the duty of every Commissioner to be punctual, tidy, dutiful and diligent in the performance of all tasks and responsibilities, maintaining the highest standards of decency and public morality to evince the individual and collective

credibility and integrity of the Commission, thereby eschewing all misconduct. Such eschewed conduct shall include but not be limited to walking out of meetings, using profane and abusive language, raising one's voice unruly and other attitudes, dispositions and actions bearing tendency to bring the Commission into disrepute and expose it to public ridicule.

"13.3 The Commission as a public institution of the highest standing has no room for negative conduct, such as malfeasance, misfeasance and dereliction of duty or rashness. To this end, each Commissioner is expected to contribute to, and participate fully in the work of the Commission, prepare weekly activity log and devote full time to the work of the Commission as a full time employee, except otherwise provided by law, or a decision of the Commission. Any Commissioner committing less than full time to the work of the Commission violates Article V, §12 of the TRC Act.

"13.4 For the avoidance of doubt, any Commissioner committing less than full time to the work of the Commission or performing other functions outside the work of the Commission, shall disclose the nature of the commitment in writing, and request exemption from the Commission to continue. Any Commissioner found to be in transgression of this or any other rule shall be subject to any range of sanctions and disciplinary actions, including but not limited to, withholding or abatement of remunerations and removal from office for repeated transgression.

"13.5 Pursuant to the independence of the Commission, its members shall hold superior the interest of the Commission, thereby subordinating and eschewing all other interests which may hinder the independence of the Commission and make it susceptible to bias, partisanship, partiality or be perceived as non-independent in the exercise of its functions, duties and mandates.

"13.6 Each Commissioner is expected to act in good faith at all times and in all matters relating to the Commission and its work. It shall be deemed to be a gross dereliction of duty and obligation to the TRC for any member to exhibit bad faith and disloyalty to the Commission by flagrant disregard for these rules and the obligation deriving therefrom, and exhibiting conduct or inclinations which tend to put into question the independence and impartiality of the Commission or any of its members.

"May we hastily recall, Madam Commissioner, that since your appointment to the TRC, you have consistently engaged yourself with several other functions, assignments, and appointments squarely outside the work of the Commission and

against the advice of your colleagues and the Chairman of the Commission. A few notable ones are indicated below:

"1. You accepted to serve on a Special Presidential Reconciliation Committee on the crisis in Nimba County;

"2. You elected to serve as a member of the "Wise Men Committee" to vet members of the Independent Human Rights Commission;

"3. During hearings, (the most important public engagement of the Commission), in Monrovia you absented yourself to participate in a program organized by the Ministry of Foreign Affairs and UNDP. You even withdrew staff actively working with the Hearings Committee to join you at the program;

"4. You also cut short your attendance at hearings in Monrovia to attend a ceremony, probably your induction ceremony for your appointment with the PPCC.

"We elected to acquaint you with all of this in good faith to show how you have consistently given all of us on the Commission the impression that the TRC is your secondary priority, and other engagements matter more. This is hurting yourself, your colleagues, the Commission and the people of Liberia who pay us to commit all our time and expertise to doing a decent job in record time.

"Your memorandum of February 8, 2008 intentionally failed to make the needed disclosure, notwithstanding that we discussed it prior to your writing. In view of that, the issue of your exemption does not arise at this point when full disclosure is wanting. You are given yet another one more week as of Friday, February 14, 2008, the date of this communication, to make the needed disclosure or resign.

"Given the gravity of this matter, Her Excellency Ellen Johnson-Sirleaf, President of the Republic of Liberia, will be informed by copy of this letter."

On April 10, 2008, Chairman Verdier addressed a third letter to the petitioner, with copies to the TRC Commissioners, Secretariat and file.

"We write to inform you that despite the Commission's overindulgence of your breach of mandatory provisions of the TRC Act, requiring full time commitment of Commissioners, to date you have neglected and failed to comply with disclosure requirements which would have positioned the Commission to deny or accept your

request for exemption to continue in your second employment. As it is, you are holder of two appointments in government without exemption, in clear violations of the TRC Act and the TRC Rules and Procedures. In the face of this, you have opted not to remedy the situation by either resigning or making the necessary disclosures required of you.

"We recall that since February 5, 2008 when you were first notified and reminded of the provisions of the TRC Act and your obligations thereof, you did very little to comply and be in good standing with the Commission. Subsequently, on March 14, 2008 you were again reminded and given a final one week to comply, i.e. resign or make full disclosure, in order to be in good standing with the Commission. You again failed to do so and the deadline of March 21, 2008 came and passed without any action taken by you, or excuse given for your noncompliance.

"Notwithstanding at its March 26, 2008 meeting, the Commission was unanimous and unequivocal that you make the needed disclosure as soon as possible. When asked what date was most convenient for you, you stated March 29, 2008. To date, it is two weeks thereafter and you have neither complied with the dictates of the Commission, the requirements of the TRC Act and TRC Rules and Procedures, nor proffered any excuse whatsoever to explain or justify your non-action and failure to comply. Even my reminder to you, by a handwritten note viewed also by the Vice Chair during April 3, 2008 public hearing in Cestos City, River Cess County, did not make any difference.

"It is not pleasing at all to note such conduct is unacceptable to the Commission. It puts you in an unfavorable standing with the Commission, and exposes it to public ridicule and disrepute. As of tomorrow, April 11, 2008, you will disengage absolutely from all work, activities, representations and functions of the TRC in consequence thereof, until the situation is remedied or until a subsequent decision is taken by the Commission. You will turn over TRC properties in your possession to the Executive Secretary.

"Her Excellency Ellen Johnson-Sirleaf, President of the Republic of Liberia, is notified by copy of this communication."

On April 18, 2008, TRC Commissioner Dede Dolopei addressed the following memorandum to the TRC Commissioners and the TRC Executive Secretary on the Indefinite Suspension of Commissioner Bull.

"I write to express my reservation about the decision taken by the TRC Commission to indefinitely suspend Commissioner Bull for an alleged breach of the TRC Act when she applied for an appointment at the Public Procurement and Concession Commission (PPCC).

"It can be recalled that Commissioner Bull [wrote] the TRC Commission asking for an exemption, as is required in such a situation. The TRC Commission wrote Commissioner Bull to make a full disclosure as is required in the above situation, detailing the counts under which she should make the said disclosure to enable the Commission consider her request for exemption. Commissioner Bull later wrote the TRC Commission forwarding a copy of her rejection letter to the PPCC of her appointment.

"In a meeting with the TRC Commissioners, she was asked why she did not make a full disclosure, as was detailed in the communication to her. She informed the TRC Commission that she did not see the need to make a full disclosure as there was no longer a need for exemption as she had already rejected the appointment and had communicated this to the TRC Commission.

"I therefore do not see how her actions breached the TRC Act.

"I also write to inform the Commission that in the event of a breach, the Commission does not have the authority to indefinitely suspend any Commissioner. It is only the Legislature that has the authority to carry out impeachment proceedings against a Commissioner based on the recommendation of the Commission.

"In conclusion, the Commission should rescind this decision and follow the proper procedure if there is proof of a breach."

On April 19, 2008, Chairman Verdier, without responding to the memorandum of Commissioner Dolopei, addressed a fourth letter to the petitioner, with copies to the TRC Commissioners, Secretariat and file.

"This is to have you formally informed that the Commission has determined that your employment with the Public Procurement and Concessions Commission since July 2007, whilst maintaining your employment with the TRC, is in clear violation of §§12 and 39 of the TRC Act, and §13 of the TRC Rules and Procedures, and is unacceptable.

"Further, since January 2008, when your double employment became public knowledge, you were prevailed upon to do the honorable thing: request exemption, make full disclosure or resign. On February 8, 2008, you requested the exemption but failed or neglected to make the full disclosure as required by the TRC Act and the TRC Rules and Procedures.

"Despite our over indulgence and the expiry of three separate deadlines given you to comply with the TRC Act and TRC Rules and Procedures, to date you continue to be in violation against the expressed directives of the Commission.

"In consequence and by a decision of the Commission reached on April 17, 2008, you are hereby suspended indefinitely from the TRC, effective Friday, April 18, 2008. By this action, your rights, functions, privileges, activities, representations, etc. are all indefinitely suspended."

On April 22, 2008, Pearl Brown-Bull, the petitioner, filed a twenty-four count petition for the writ of prohibition before Her Honor Jamesetta Howard-Wolokolie, Justice presiding in Chambers. The petition named the TRC, represented by its Chairman, Counselor Jerome Verdier, Sr., as respondent.

"Petitioner in the above entitled cause of action most respectfully prays Your Honor for the issuance of the writ of prohibition against the respondent, and for legal and factual reasons, shows the following:

"1. That in a long line of cases, our Supreme Court has held that prohibition is the proper remedial process to restrain an inferior court or administrative tribunal from taking action in a case without jurisdiction, or having jurisdiction, proceeds beyond its jurisdiction, or attempts to proceed by rules different from those which ought to be observed at all times. *Parker v. Worrel*, 2 LLR 525, 526 (1925); *Fazzah v. National Economy Committee*, 8 LLR 85, 89-91 (1943); *Thomas v. Ministry of Justice*, 26 LLR 129, 134 (1977); *Nelson v. Boye*, 27 LLR 174, 179 (1978).

"2. Further to count one herein above, petitioner says that the Supreme Court has held also that the 'writ of prohibition will be directed to an agency that is usurping jurisdiction only if the agency or official is attempting to exercise a power or function that is not vested by law.' *Kaba & McCromsy v. Township of Gardnersville*, 39 LLR 549, 557-558 (1999).

"3. Petitioner says that she was duly appointed to the Truth and Reconciliation

Commission (TRC) by Charles Gyude Bryant, Chairman of the National Transitional Government of Liberia, on October 27, 2005, and later duly commissioned by President Ellen Johnson-Sirleaf. . . .

"4. Article V, §7 of the Act to Establish the TRC clearly stipulates that 'the TRC shall comprise nine commissioners, with not less than four women making up its entire composition. The Head of State, subject to §§ 8 and 9 hereof shall appoint members of the TRC.'

"5. Further to count four herein above, petitioner says Article V, §14 of the TRC Act clearly states that 'members of the TRC shall be removed for cause, such as misbehavior, incapacity and incompetence, only by impeachment in the same manner provided for removal in the Constitution of Liberia of Justices of the Supreme Court of Liberia' (emphasis supplied by the petitioner).

"6. Petitioner says that despite the clear provision of the Act regarding by whom and how a Commissioner may be removed, on April 20, 2008, she received a letter over the signature of Counselor Jerome J. Verdier, Sr., Chairman of the TRC, dated April 19, 2008, informing her that '. . . by a decision of the Commission reached on April 17, 2008, you are hereby suspended indefinitely from the TRC, effective Friday, April 18, 2008. By this action, your rights, functions, privileges, activities, representations, etc., are all indefinitely suspended.' Copy of the said letter informing petitioner of her indefinite suspension is hereto attached. . . .

"7. Further to count six herein above, petitioner says that in *Tarn v. Mathies*, 40 LLR 352, 357 (2001), the Supreme Court held that 'a letter of indefinite suspension which places impossible conditions for lifting of the suspension is a constructive letter of dismissal and not a letter of suspension.'

"8. Petitioner says that an indefinite suspension is constructive dismissal, therefore respondent's letter of indefinite suspension to petitioner was and is intended to remove petitioner as a member of the Truth and Reconciliation Commission of Liberia, a power and function reserved, delegated and assigned by the TRC Act exclusively to the Legislature.

"9. Petitioner says that as a pretext for its action in exceeding its jurisdiction and usurping the power and function assigned, delegated and reserved exclusively to the Legislature to remove, by impeachment, members of the TRC found guilty of misbehavior, respondent has resorted to an unsubstantiated allegation that petitioner

accepted a second job, while still in the employ of the TRC; an allegation vehemently denied by petitioner, and which respondent has failed and refused to prove.

"10. Further to count nine herein above, petitioner says that under our law and practice, 'the burden of proof rests on the party who alleges a fact . . .' and respondent, having alleged that petitioner had accepted a second employment while in the employ of the TRC, incurred the obligation to provide evidence in substantiation of the allegation, prior to taking any action. Civil Procedure Law, 1 L.C.L.Rev., tit.1, §25.5 (1) (1973).

"11. Petitioner says the fact of the matter is that on July 5, 2007, she received a letter from the Public Procurement and Concessions Commission (PPCC) informing petitioner of her 'selection to serve as a member of the Complaints, Appeals and Review Panel (CARP) of the PPCC.' Copy of the said letter, informing petitioner of her selection, is attached. . . .

"12. Petitioner says as the letter of selection indicated that 'your contract and other conditions including oath of secrecy will be forwarded to you soon,' and as said contract and other conditions were never forwarded to petitioner, petitioner did not see the need to inform the Commission and/or to request the required exemption spelled out in the TRC Act until at such time when the entire set of documentation would have been received, and petitioner required to make a decision whether to accept or refuse her selection.

"13. Petitioner says that on February 5, 2008, she received a communication from the Chairman of the TRC accusing her of accepting a second employment. Petitioner responded to the said accusation and sought to set the record straight, clarifying that she had not accepted another employment other than her employment at the TRC, and that in the event where she decided to do so, she would seek the necessary exemption prior to accepting the second employment.

"14. On February 8, 2008, petitioner decided to inform the TRC and seek the needed exemption. Copy of petitioner's memorandum is attached. . . .

"15. That on March 14, 2008, Counselor Jerome J. Verdier, Sr., Chairman of the TRC, sent petitioner a letter, informing petitioner that the TRC could not grant the required exemption because, in its judgment, petitioner had not made a full disclosure of the facts and circumstances about her selection, which by now, the Chairman of the TRC had regarded as a second employment. Copy of Chairman Verdier's letter is

hereto attached. . . .

"16. That given the TRC's refusal to grant the necessary exemption, on April 7, 2008, petitioner addressed and delivered a letter to Honorable Keith K. Jubah, Chairman of the PPCC, declining her selection to serve on the PPCC. Copy of petitioner's letter is attached. . . .

"17. That despite the fact that Chairman Verdier received a copy of petitioner's letter, dated April 7, 2008, which was addressed to the PPCC, declining her selection and clearly expressing her intention not to serve on the said PPCC, Chairman Verdier elected to write petitioner a letter, dated April 10, 2008, directing petitioner to disengage from all activities of the TRC. Copy of Chairman Verdier's letter is attached. . . .

"18. That in petitioner's bid to divest the respondent of any further continued impression that she had decided to accept her selection to serve on the PPCC, petitioner delivered to the respondent Honorable Keith K. Jubah's response to petitioner's letter of April 7, 2008, accepting her refusal and decline to serve on the PPCC. The response, dated April 18, 2008, is attached. . . .

"19. Further to count [eighteen] herein above, petitioner says that the Chairman and members of the TRC decided to act *ultra vires* and beyond the scope of their authority when they wrote petitioner a letter of indefinite suspension on April 19, 2008, despite the fact that they had in their possession petitioner's letter declining her selection to serve on the PPCC, and the subsequent acceptance of her decline by the PPCC.

"20. Further to count [nineteen] herein above, the Vice Chairman of the Commission, Dede Dolopei, clearly and correctly detailed the events which led to petitioner's illegal indefinite suspension in her memorandum of dissent, and despite her stance and admonition to the TRC to the effect that the Chairman and members are without authority to indefinitely suspend petitioner, the respondent has failed and refused to retract its letter of suspension and has, instead, seized petitioner's vehicle and barred her from attending upon the business and hearings of the Commission. Copy of Vice Chairman Dolopei's memorandum is hereto attached. . . .

"21. Petitioner says that in *Parker v. Worrell*, 2 LLR 525, 526 (1925) and *Nelson v. Boye*, 27 LLR 174, 179 (1978), the Supreme Court held that 'a writ of prohibition not only halts whatever remains to be done by the court against which it is issued, but also

gives further relief by undoing what has been done.'

"22. Further to count [twenty-one] herein above, petitioner says that in *Yonkon v. Tuley*, 33 LLR 227, 233 (1985), the Supreme Court, speaking of prohibition, held that 'while acts already completed cannot be restrained, this does not apply to acts illegally and blatantly done.'

"23. Petitioner says that the act of her indefinite suspension by the respondent is illegal, and prohibition will lie to not only halt the suspension, but undo same, and allow her to resume her functions at the Truth and Reconciliation Commission.

"24. Petitioner says that this petition has not been filed for the mere purpose of delay, but instead to ensure that the laws and rules extant in our jurisdiction and hoary with age are adhered to.

Wherefore, and in view of the foregoing, petitioner prays for the issuance of the alternative writ of prohibition against the respondent, restraining and prohibiting it from illegally suspending and ousting petitioner from her office at the TRC; that the said writ should contain a stay order and an order for petitioner to resume her duties at the TRC, pending a hearing by Your Honor on the issue(s) involved, on a date and time to Your Honor's convenience; and after a hearing, petitioner prays for the issuance of the peremptory writ, prohibiting and restraining the respondent from ever illegally suspending the petitioner and/or removing her from office. Petitioner also prays Your Honor to grant unto petitioner any other and further relief as in such cases is made and provided by law, with costs of these proceedings ruled against the respondent."

On the same day, the Chief Clerk of the Supreme Court, upon orders of Her Honor Justice Wolokolie, issued the following orders directed to Brig. General Amos B. Kesseh Dickson, Sr., Marshal of the Supreme Court of Liberia.

"You are hereby commanded to notify the Truth and Reconciliation Commission (TRC), represented by its Chairman, Counselor Jerome J. Verdier, Sr., of Monrovia, Liberia, respondent in the above entitled cause of action, to appear before Her Honor Jamesetta Howard-Wolokolie, Associate Justice of the Supreme Court of Liberia presiding in Chambers at the Supreme Court room, Temple of Justice, on May 2, 2008, at the hour of 9:00 a.m. to show cause why petitioner's petition as prayed for should be granted.

"You are further commanded to instruct the respondent herein to file his returns to this writ in the Office of the Clerk of this Honorable Court on or before May 2, 2008. You *are further ordered to instruct the parties to return to status quo ante and stay all further proceedings until otherwise ordered.*

"You are further commanded to read to the respondent the original, and to leave a copy of the writ, together with a copy of the petition, with the respondent.

"As to when and how you shall have served this writ, you will make known by filing your returns officially thereto on the back of the original writ in the Office of the Clerk of this Honorable Court on or before the said May 2, 2008.

For so doing this shall constitute your legal and sufficient authority" (emphasis supplied).

The Marshal in his returns to the writ, dated April 22, 2008, indicate that "the writ of prohibition, together with petitioner's petition, [was served] on Counselor Jerome J. Verdier, Sr., Chairman of the Truth and Reconciliation Commission, who signed and received a copy of the writ of prohibition together with petitioner's petition. . . ."

On May 2, 2008, the petitioner, as informant, filed the following bill of information before Her Honor Justice Jamesetta Howard-Wolokolie:

"Petitioner/Informant in the above-entitled proceeding, most respectfully informs Your Honor, as follows:

"1. Informant says that in *In re C. Abayomi Cassell*, 14 LLR 391, 404 (1961), the Supreme Court held 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.'

"2. Further to count one herein above, informant says that Rule IV of the Revised Rules of the Supreme Court, on bill of information, states that 'a bill of information will also lie to prevent anyone whomsoever from interfering with the judgment and/or mandate of the Supreme Court.'

"3. Informant respectfully requests Court to take judicial notice of the records in the above entitled case, out of which this bill of information grows, and the records will

confirm that on April 22, 2008, she filed a petition before Your Honor praying for the issuance of the alternative writ of prohibition against the respondent, the Truth and Reconciliation Commission, represented by its Chairman, Counselor Jerome J. Verdier, Sr., in the matter of her illegal indefinite suspension by the Chairman and members of the Truth and Reconciliation Commission.

"4. That the writ was issued, instructing the 'parties to return to status quo ante and stay all further proceedings until otherwise ordered.'

"5. That the writ was served on Counselor Jerome J. Verdier, Sr., Chairman of the Truth and Reconciliation Commission, also a member of the Supreme Court Bar, and returned served. Copy of the alternative writ, with the Marshal's returns at the back of same, indicating the manner of its service, is attached. . . .

"6. That despite the fact that the writ was served on Counselor Jerome J. Verdier, Sr., as evident by his signature which appears on the face of the writ, he elected to deliberately ignore and disobey the orders and instructions of this Court directing the 'parties to return to status quo ante and stay all further proceedings until otherwise ordered,' conceived the temerity, audacity and effrontery to inform reporters that Commissioner Bull remains suspended, as reported in the vol. 20, no. 6 edition of The News newspaper for Thursday, May 1, 2008. Copy of the said newspaper article is attached. . . ."

"7. Informant says that the act of the respondent in publicly disobeying the orders of this Court is clearly intended to, and has brought the Court into disrepute, impugned its dignity, rendered the writ in the instant case ineffectual and deprived this Court of its enforcement powers.

"8. Informant says that the Supreme Court has held that government officials who disobey court orders are subject to punishment for contempt to no less degree than are other citizens. *Dhaliwal International Trading Company (DITCO) v. King*, 26 LLR 195, 206-208 (1975).

"9. Further to count eight herein above, informant says that as a counselor of the Supreme Court bar, Counselor Jerome J. Verdier, Sr. has behaved contemptuously and deserves to be punished for contempt, as this Court has held that 'it is peculiarly the duty of a counselor at law to maintain the respect due the courts and judicial officers, and any breach of this duty constitutes contempt.' Moreover, the Court has held that 'the Supreme Court will punish for contempt any deceptive practice which

might have the tendency to reflect discredibly upon the judicial branch of the Government, or which might tend to belittle it for its decisions, or which might embarrass it in the performance of its duties, or which might show disrespect to it or its justices, or which might defy its authority." In re C. Abayomi Cassell, 14 LLR 391, 428 (1961).

"10. That the act of the respondent, Counselor Jerome J. Verdier, Sr., is most illegal, and the Supreme Court has held that 'the Supreme Court shall enforce obedience to orders of all the courts, and most especially its own orders, without regard to whether the enforcement is against parties, lawyers, or judges.' Nyepon v. Doe, 21 LLR 406, 413-4 (1973).

"11. Further to count ten herein above, informant says that rules 1 and 2 of the Code of Moral and Professional Ethics (1999) stipulate that 'it shall be unprofessional for any lawyer to advise, initiate or otherwise participate, directly or indirectly, in any act that tends to undermine or impugn the authority, dignity, integrity of the court or judges thereby hindering the effective administration or justice' and 'it is the duty of every lawyer to maintain towards the courts a respectful attitude, not only towards the judge temporarily presiding, but for the purpose of maintaining the supreme importance of the judicial office. Whenever there is proper ground for complaint against a judicial officer, it is the right and duty of the lawyer to submit his grievance promptly and fairly.'

"Wherefore and in view of the foregoing, petitioner/informant prays Your Honor to order as follows:

"i. That Counselor Jerome J. Verdier, Sr. appear before Your Honor to show cause why he should not be held in contempt for deliberately disobeying the orders of this Honorable Court.

"ii. After the hearing, adjudge and hold him in contempt of Court and admeasure unto him the appropriate punishment comparable with the contempt committed and the disrepute brought upon the Court; and

"iii. To grant unto petitioner/informant any other and further relief as in such matters is made and provided by law."

Attached to the petitioner/informant's bill of information was the following story carried as the lead story in the vol. 20, no. 6 edition of *The News* newspaper for

Thursday, May 1, 2008:

"COMMISSIONER BULL REMAINS SUSPENDED, Counselor Verdier Insists.

"The Chairman of the Truth and Reconciliation Commission (TRC), Counselor Jerome Verdier, has stressed that Commissioner Pearl Brown-Bull will remain suspended for time indefinite despite the Supreme Court's stay order.

"He told reporters recently following the issuance of a writ of prohibition that Commissioner Bull will not be part of the TRC.

"Regarding the Supreme Court's stay order, Chairman Verdier wonders, 'can the Court undo Bull's suspension? This is where the independence of the Commission comes in.'

"Like the Supreme Court, he said, the TRC has its own rules and [procedures] governing it, and will not allow any institution or individual to undermine its functions.

"He further noted that Commissioner Bull was one of those who set up the TRC's Rules and [Procedures] and that she will not seek redress through the Supreme Court.

"Institutions in Liberia should learn to respect the integrity of independent Commissioners. The TRC is an independent Commission that is governed by its own rules,' Counselor Verdier added.

"He noted that it was essential for Liberians to leave the TRC alone to implement its mandate which seeks to reconcile the entire country. . . ."

On [May] 2, 2008, the respondent, represented by its Chairman, Counselor Jerome J. Verdier, Sr., filed returns containing forty-four counts. Because of the decision we have taken in this case, we shall quote the returns of the respondent.

"Respondent in the above entitled cause of action respectfully denies the legal, factual and equitable basis of the petition for prohibition, and respectfully prays Your Honor to deny the petition, dismiss the peremptory writ, for the following reasons.

"1. That prohibition is an extraordinary writ which is enjoyed only when there is no other legal or equitable remedy available to the petitioner, or that the respondent, by

the enjoined action, acted without or in excess of jurisdiction or by wrong rule.

"2. Respondent says prohibition, in the instant cause of action, will not lie because the petitioner had not exhausted the internal administrative procedures or remedies available to her at the TRC. The remedy of judicial review of the TRC's decision, as a non-judicial body, was and still is available if judicial intervention is warranted at all, and because the TRC acted within the scope and authority of its jurisdiction granted by the TRC Act of June 2006, its Rules of Procedures of 2007 and in furtherance of its obligations to uphold the integrity of the institution and public policy. Your Honor is kindly requested to take note of petitioner's exhibit 'P/2' which is the TRC Act, and respondent's exhibit 'R/1' which is the TRC Rules and Procedures which was never mentioned throughout the petition by petitioner, and is hereto attached as respondent's exhibit.

"3. Respondent says that there is no basis in law or equity to sustain the petition and same must be denied and dismissed. There is no action of the respondent pending or to be done by which prohibition will lie to prevent or restrain. Respondent submits that it acted in accord with its Rules and Procedures and within the scope of its authority, power and jurisdiction. Denial respondent so prays.

"4. Further to the foregoing and the petition for prohibition itself, respondent says it is an independent inquiry Commission, established under the Comprehensive Accra Peace Agreement (CPA), pursuant to the peace process in Liberia with a specific mandate to investigate and document past human rights violations, explore emerging post conflict issues and make recommendations to prevent the outbreak of violent conflicts in future Liberia. It has a limited time frame facilitated by other latitudes, independence, power and authority like none other Commission ever in the history of Liberia. Respondent respectfully requests Your Honor to take notice of Article XIII of the CPA as an historical fact.

"5. Respondent says that the people of Liberia, represented by the Legislature, enacted the TRC Act in 2005 with certain basic features to preserve its independence and facilitate the expeditious execution of its mandate. Some basic features are cited below:

"a. Section 2. There is hereby established a body corporate to be known as the Truth and Reconciliation Commission (TRC) of Liberia.

"b. Section 9 provided for public vetting of Commissioners by a by-partisan Selection

Panel with proviso [o]nce the vetted Commissioners are selected and appointed by the Head of State, they shall not be subject to confirmation hearings before the National Legislature.'

"c. Section 11. Members of the TRC shall be persons in good health, of credibility, high integrity and honor; not known or perceived as human rights violators or members of groups involved in human right violations, and without prior conviction for a crime. As a whole, the Commission shall be balanced, representative of Liberian society, perceived as impartial in its collectivity, and of diverse professional and regional backgrounds. Upon appointments Commissioners shall renounce their membership of political parties.

"d. Section 12. Members of the TRC shall be employed by the Government of Liberia and shall render services on a full time basis and receive remuneration in an amount determined not to be less than that received by Justices of the Supreme Court of Liberia.

"e. Section 13. Commissioners shall meet and shall designate from amongst themselves one of the Commissioners as the Chairperson, and another as the Vice-Chairperson of the Commission.

"f. Section 14. Members of the TRC shall be removed for cause, such as misbehavior, incapacity and incompetence, only by impeachment in the same manner provided for removal in the Constitution of Liberia of Justices of the Supreme Court of Liberia.

"g. Section 16. Vacancies on the TRC for any reason whatsoever shall be filled from the original pool of (15) fifteen short-listed candidates until the list is exhausted.

"h. Section 19. Meetings and quorum of meetings.

"a. A meeting of the Commission shall be held at a time and place determined by the Chairperson of the Commission, or in the absence or inability of such Chairperson, by the Vice-Chairperson of the Commission, or in the absence or inability of both, the Acting Chairperson of the Commission. The Commission shall have the power to determine the procedures for its meetings, including the manner in which decisions shall be taken.

"i. Section 20. The TRC shall enjoy full independence in pursuit of the scope of its mandate and in the exercise of its duties, functions and power, granted by this Act,

free of undue influence and political manipulation from any source, governmental or otherwise. Its work and functions shall be regarded as a matter of national priority. All matters of the TRC appearing before the Supreme Court of Liberia shall be advanced for hearing and determination to the top of the Supreme Court's docket at all times without the slightest delay as a matter of first priority.

"j. Section 21. The full authority and capacity, and the resources of the Government of Liberia, shall and is hereby placed at the disposal of the TRC in furtherance of its independence and to fulfill its mandate expeditiously and free of constraint.

"k. Section 22. Members of the TRC, its agents, employees and staff shall be independent and function without political or other biases, prejudice or other motives, free from any party, factional, governmental or other interests, directly or indirectly, and shall be immune from civil or criminal sanctions by virtue of statements made, actions taken in rightful pursuit of their work for or with the TRC.

"l. Section 25. Owing to their fiduciary relationship and duty to the TRC, no member of the TRC or its employees or agents shall divulge confidential or other information obtained by virtue of their affiliation or work with the TRC, or use said information for profits or gains other than for reasons related to the duty and functions of the TRC. The TRC, all its employees, or agents shall be sworn to or execute sworn statements to hold all matters relating to the work of the TRC coming to their knowledge 'confidential,' the breach of which shall constitute a second degree felony, punishable under Liberian laws.

"m. Section 26 (I). Subject to other provisions of this Act, the TRC shall adopt its own rules, code of conduct and operating guidelines and procedures, schedules, work plans and policies necessary of the accomplishment of its mandate. . . .

"n. Section 26 (m). At the discretion of the TRC, any person, group of persons or organizations or institutions shall be permitted to provide information as informants, witnesses, perpetrators or victims to the TRC on a confidential or nonconfidential basis, and the TRC shall not be compelled by any authority to disclose such information given to it in confidence.

"o. Section 26 (p) (iii). Where the Commission, under this subsection, on any grounds referred to in that sub-section, directs that the public or any part thereof shall not be present at any proceedings or part thereof, the Commission may direct that:

"a. No information relating to the proceedings or any part thereof held in camera shall be made public in any manner;

"b. No person may in any manner make public any information, which may reveal the identity of any witnesses in the proceedings;

"c. Give such directions in respect of the record of proceedings as may be necessary to protect the identity of any witness; "Provided that the Commission may authorize the publication of such information as it considers would be just and equitable.

"P. Section 27. The TRC shall exercise powers generally in any matter, manner and form and for any purpose related to the fulfillment of the objects expressed in this Act, and without limiting the generality thereof, it shall have powers to. . . .

"q. Section 32. The TRC shall exercise executive authority and be responsible for the overall supervision and implementation of the TRC's mandate and execution of its functions.

"r. Section 39. Independence of the Commission

"a. The Commission, its Commissioners and every member or staff shall function without political or other bias or interferences and shall, unless this Act expressly otherwise provides, be independent and separate from any party, government, administration or any other functionary or body directly or indirectly representing the interests of such entity.

"d. Every Commission member shall:

"i. Notwithstanding any personal opinion, preference or former party affiliation, serve impartially and independently and perform his or her duties in good faith and without fear, favor, bias or prejudice.

"ii. Serve in a full time capacity to the exclusion of any other duty or obligation arising out of any other employment or occupation or the holding of any other office; provided that the Commission may exempt a Commissioner from the provisions of this paragraph.

"iii. No Commissioner shall:

"a. By his or her membership of the Commission, association, statement, conduct or in any other manner or way jeopardize his or her independence or in any other manner harm the credibility, impartiality or integrity of the Commission.

"s. Section 42. The Commission may, in order to carry out the objectives of its mandate, frame necessary rules and procedures consistent with this Act. While doing so, the Commission may consult other entities of the State.

"6. Further to the expressed provisions of the TRC Act, and following extensive discussions involving inputs and consultation with partners and the International Contact Group on Liberia (ICGL) leading to the discussion of several drafts, the TRC Rules and Procedures (respondent's exhibit 'P/1 1) was adopted by the Commission on September 2006, subsequently revised on April 23, 2007, and signed by all Commissioners, including the petitioner, Pearl Brown Bull, on May 8, 2007. A copy of the signature page of the TRC Rules and Procedures is hereto attached and marked respondent's exhibit 'R/2', as further evidence of petitioner's assent to these rules as a member of the Commission, which act she is estopped from repudiating or disavowing.

"7. Sections of the TRC Rules and Procedures relevant to the determination of this petition are quoted below:

"1.1. The Rules and Procedures herein provided now or which shall subsequently be promulgated in the future, shall have general application and be binding on the TRC, its employees, agents, consultants, partners, witnesses and all who shall come in contact with the TRC, its operations and processes, including investigations, research, hearings, statement takings, administration, finance, etc.

"4.1 Meetings for all intents and purposes of the TRC are mandatory and shall refer to any forum, be it regular, emergency, called, extraordinary or specially convened by the Chairperson, or at the instance of the Chairperson, or requested by any Commissioner or ITAC member, for the purpose of deliberations, reporting or decision-making on any matter claiming the attention and interest of the TRC.

"4.4 Decisions of the Commission shall be made by consensus. Every conscious effort shall be made to arrive at a consensus, if not, by vote. When such effort to establish consensus on any contested issue yields no success, a vote may be taken.

"4.5 Whenever a vote is called, members of ITAC shall not participate therein and

the vote of two-thirds of the entire membership of the Commission shall constitute the decision of the Commission. If a two-thirds majority vote is not obtained on the second ballot, the Chairperson shall have the deciding vote. Any member who is not present at the meeting called for that purpose may vote in absentia.

"13.1 This Code shall apply to all Commissioners, (including members of ITAC), officials and all categories of staff of the TRC, whether volunteer for profit or gratuitous volunteer, whether part time or full time, in or out of Liberia.

"13.3 The Commission as a public institution of the highest standing has no room for negative conduct such as malfeasance, misfeasance and dereliction of duty or rashness. To this end, each Commissioner is expected to contribute to, and participate fully in the work of the Commission, prepare weekly activity log and devote full time to the work of the Commission as a full time employee except otherwise provided by law, or a decision of the Commission.

Any Commissioner committing less than full time of the work of the Commission violates Article V, §12 of the TRC Act.

"13.4 For the avoidance of doubt, any Commissioner committing less than full time to the work of the Commission, or performing other functions outside the work of the Commission, shall disclose the nature of the commitment in writing, and request exemption from the Commission to continue. Any Commissioner found to be in transgression of this or any other rule shall be subject to any range of sanctions and disciplinary actions including, but not limited to, withholding or abatement of remunerations and removal from office for repeated transgressions.

"13.5 Pursuant to the independence of the Commission, its members shall hold superior the interest of the Commission, thereby subordinating and eschewing all other interests which may hinder the independence of the Commission and make it susceptible to bias, partisanship, partiality or be perceived as non-independent in the exercise of its functions, duties and mandates.

"13.6 Each Commissioner is expected to act in good faith at all times and in all matters relating to the Commission and its work. It shall be deemed to be a gross dereliction of duty and obligation to the TRC for any member to exhibit bad faith and disloyalty to the Commission by flagrant disregard for these rules and the obligation deriving therefrom, and exhibiting conduct or inclinations which tend to put into questioning the independence and impartiality of the Commission or any of its

members.

"14.3 The following shall constitute penalties that the Commission may impose upon persons against whom a charge of misconduct is established:

"i. For serious misconduct:

(a) Dismissal

(b) Indefinite suspension

(c) Suspension without pay for a specified period of not less than three months

(d) Prosecution

"ii. For other misconduct

(a) Suspension without pay for one (1) month

(b) Official Reprimand

(c) Warning

"8. Further to the petition itself, respondent says it is an independent public institution constituted to enhance, promote and protect the public good. The relationship between its members is fiduciary, founded on mutual trust and confidence (TRC Act, §25 (2005)), governed by its own Rules and Procedures over which this Court must be reluctant to exercise jurisdiction over the application of respondent's own rules as a discretionarily function ascribed by the TRC Act, and the relationship of one member to the other or one member against the whole in respect to a decision taken by the whole. (See petitioner's exhibit 'P/2,' TRC Act, §§26(1), 27, 32, 39). In 63a Am Jur 2d, *Public Officers and Employees*, §309, there is sufficient authority declaring that 'where a statute gives discretionary power to an officer to be exercised by him upon his own opinion of certain facts, he is the sole and exclusive judge of the existence of those facts. The courts will not attempt to interfere with or control the exercise of his discretionary powers in the absence of any controlling provisions of the law conferring the power. The fact that the exercise of a power may be abused is not a sufficient reason for denying its existence. Thus, it is firmly established rule . . . that the judiciary will not interfere with executive officers in the

performance of duties which are discretionary in their nature or involve the exercise of judgment.'

"9. Respondent says that when there is a general disagreement of the respondent Commission, over the meaning, interpretation or application of its rules, contracts or agreements, the respondent Commission may seek judicial interpretation by declaratory judgement or any other action before this Honorable Court to declare the rights of all, and interpret the law or rule in relation to the subject matter of the controversy. This cause of action not being the case and the law, TRC Act of 2005, and the Rules and Procedures being clear and unambiguous, this Honorable Court must refuse to exercise jurisdiction over the subject matter and the person of the respondent, especially so when the action of petitioner is an independent action against the decision of the respondent Commission, and we so pray for dismissal.

"10. Further to count 9, fiduciary relationship is thus defined: '. . . an expression including both technical and fiduciary relations and those informal relations which exist whenever one man trusts and relies upon another. . . . It exists where there is special confidence reposed in one who in equity and good conscience is bound to act in good faith and with due regards to the interest of one reposing the confidence [the people of Liberia]. . . . A relationship subsisting between two persons in regard to a business [national peace and reconciliation] . . . of such a character that each must repose trust and confidence in the other and exercise a corresponding degree of fairness and good faith. . . . Out of such a relationship, the law raises the rule that neither party may exert influence or pressure upon the other, take selfish advantage of his trust or deal with the subject matter of the trust in such a way as to benefit singly or prejudice the other except in the exercise of the utmost good faith and with the full knowledge and consent of that other.' *Black's Law Dictionary revised*, 4th ed., page 754.

"11. Respondent says the jurisdiction of this Honorable Court may be exercised and properly invoked by a third party in all matters relating to the application of the law, the TRC Act of 2005, respondent's Rules and Procedures in respect to a third party who is not a member of the nine-man respondent Commission, but whose rights are impacted or in conflict with the programs, processes, actions, use, application and decisions of the respondent nine-man Commission as supreme guardian of the right of the people *and final arbiter of justice in this land*. Third party petitioners are neither drafters nor signatories, parties nor enforcers of the TRC Act or its Rules and Procedures. The petitioner, Counselor Pearl Brown-Bull, having drafted, signed, enforced and benefitted from the Rules and Procedures of the TRC, cannot now

come and challenge its applicability and repudiate its validity just because it is applied against her interest as a member of the Commission.

"12. The petitioner is therefore estopped from questioning the jurisdiction of the respondent to suspend her indefinitely or denying the existence or validity of the TRC Rules and Procedures signed by petitioner herself for more than a year ago. In *Doe v. Ash-Thompson*, 33 LLR 251, (1985), this Court held: '. . . When you admit by some act condition to the jurisdiction of court [or body] he may not thereafter, simply because his interest has changed, deny jurisdiction of court.' In *METCO v. Chase Manhattan Bank*, 34 LLR 419, 431 (1987), this Court held also: 'The doctrine of estoppel is based upon and grounded on public policy, fair dealing, good faith and justice, and its purpose is to forbid one to speak against his own act, representations or commitments to the injury of one to whom they were directed and who reasonably rely thereon.' Also, personnel of the same agency are estopped from attacking the authority of their colleagues of similar rank. *Clarke v. Minister of Finance*, 22 LLR 464, 469.

"13. As to counts 1, 2, 4, 5, and 6 of the petition, same amounts to a redundant restatement of a well established principle of law governing prohibition, but which is inappropriate and inexpedient. How has the TRC, respondent Commission, exceeded its jurisdiction when it exercises executive authority under TRC Act, §32, and acted well within its own rules governing the TRC process and the conduct of its Commissioners, including petitioner Pearl Brown-Bull, who is bound by it. TRC Rules and Procedures, §§1.1 and 13.1. Which rule has respondent proceeded wrongly with? Petitioner has failed to so state, and this count, and the entire petition, is a fit subject for dismissal.

"14. Further to count 13 of the respondent's returns, respondent Commission says prohibition will not and cannot lie because its actions to suspend indefinitely petitioner Pearl Brown-Bull, a member of the respondent Commission, is well within its jurisdiction, powers and functions to do so. (TRC Act, §§20, 22, 26(1), 27, 32, 39, 42). The said count having no relation to the subject matter is inapplicable and must therefore be dismissed with the entire petition.

"15. Further to counts 13 and 14 of respondent's returns, respondent submits that counts 1, 2, 3, 4, 5, and 6 of the petition present no issues warranting respondent's response as petitioner's source of appointment was never and is not in doubt and its action against petitioner was indefinite suspension as provided for under §14.3 of its Rules and Procedures. Never was an action of removal or impeachment taken or

contemplated. Said count is also a fit subject for dismissal, along with the petition itself. Your Honor is respectfully requested to also take note of petitioner's exhibit 'M.'

"16. Respondent also submits that under our laws and practice 'the best evidence which the case admits of must always be produced.' Civil Procedure Law, 1 L.C.L.Rev., tit. 1, §25.6 (1973). In addition, petitioner admitted being employed by the PPCC, and the law provides that 'all admissions made by a party himself or by his agent acting within the scope of his authority are admissible.' Civil Procedure Law, 1 L.C.L.Rev., tit. 1, §25.8 (1973). In the instant case, the best evidence is Commissioner Bull, the TRC Rules and Procedures, adopted September 26, 2006 and revised April 2007, of which petitioner is a signatory. Further, the Supreme Court in *Bryant v. Government of Liberia*, heard during the March Term, 2007, held that 'by its passage of the binding resolution mentioned herein, the NTLA, in the exercise of its extra-constitutional authority clearly intended to deprive the petitioner of any legal standing to lay a proper legal claim to any form of immunity granted under Article 61 of the Liberian Constitution (1986).' Hence, the authors of the TRC Rules and Procedures, adopted September 2006 and revised April 2007, of which petitioner is a signatory, each and every Commissioner of the TRC is under a legal duty to commit full time to the TRC, and is expected to act in good faith at all times and in all matters relating to the Commission and its works. TRC Rules and Procedures, §§13.3, 13.4, 13.6 and 13.8. Thus, respondent submits that once petitioner subjected herself to the TRC Rules and Procedures, as one of its authors, she cannot depend on Article V, §14 of the Act that established the TRC, approved June 10, 2005, because petitioner violated Article VI, §23 of the very TRC Act, which states 'if at any time during the course of the work of the TRC, it appears that a Commissioner has or may have financial or other interests which may cause or give rise to conflict of interest in the performance of his or her function of the TRC, a full disclosure of said interest shall be made by such Commissioner, on the record, and he/she shall recuse himself/herself from further participation in that particular matter. Failure to disclose shall be ground for dismissal.' Thus, respondent requests most respectfully that Your Honor take judicial notice of TRC Act, Article VI, §23, and TRC Act, Article V, §§12, 14, and 18. In addition, respondent says the petitioner herein also violated Chapter 13, §13.6 (a) and (b) of the TRC Rules and Procedures which states that 'where a potential conflict situation thus arise, such person shall

"a. promptly and fully inform the Chairman and other members of the Commission in writing of the nature and extent of the conflict;

"b. Take immediate steps to abate the conflict, provided always that the interest of the Commission shall be prominent in whatever measures are adopted to resolve or abate.'

"In the instant case, a potential conflict arose when petitioner was appointed by the Chairman of PPCC to serve as a member of the Complaints, Appeals and Review Panel (CARP) of the PPCC on July 5 2007. The petitioner subsequently informed the Chairman of the TRC, on February 8, 2008, which was seven (7) months later, when the issue of petitioner's employment arose with the PPCC. This implies that petitioner was in the employ of the PPCC, in gross disregard for the Rules and Procedures of the TRC adopted September 2006 and revised April 2007, of which petitioner is a signatory. Hence, petitioner cannot and should not be permitted to benefit for her own wrong as a signatory to the Rules and Procedures of the TRC. Respondent therefore submits that the petition be denied as if same was never filed before Your Honor and this Honorable Court. Respondent requests Your Honor and this Honorable

Court to take judicial notice of petitioner's exhibit 'P/4' for a careful determination of this matter.

"17. As to court 7 of the petition, respondent says it is yet another fit subject of dismissal, along with the entire petition for the following reasons:

"a. The ruling of this Honorable Court in *Suomie v. Marthies*, 40 LLR 352, 357 (2001) is inapplicable and does not pertain to the subject matter of the petition, nor to the respondent.

"b. The aforesaid [principle] in that case related to and governs an employer/employee relationship which does not obtain in the instant case of public officials or the relationship of petitioner to the respondent Commission of which she is a member.

"c. Members of the TRC, respondent Commission, including petitioner Pearl Brown-Bull, are all employees of the Government of Liberia, rendering full time service. TRC Act of 2005, §12.

"d. The relationship between members of the TRC and the respondent Commission is fiduciary. The relationship between Commissioner Pearl Brown-Bull, petitioner, and the respondent Commission is rather fiduciary and not one of

employee/employer. TRC Act of 2005.

"e. Count 7 of the petition avers that 'a letter of indefinite suspension which places impossible conditions for lifting of the suspension is a constructive letter of dismissal and not a letter of suspension.' While this may be true, the respondent Commission's notice of indefinite suspension to the petitioner, which is petitioner's exhibit 'P/3,' imposes no such 'impossible conditions for lifting' under any circumstances, form or manner or parity of reasoning.

"f. Indefinite suspension and dismissal are two separate and distinct alternative sanctions under TRC Rules and Procedures, §14.3.

"g. 63a Am Jur 2d, Public Officers and Employees, §289 provides that the 'suspension of public officers is a matter separate and apart from their removal. In case of a suspension, the officer is not removed, but is merely prevented for the time being from performing the functions of his office. Although the same offence may be a proper ground for either a suspension or dismissal of a [public official], a statute and the administrative rules may contemplate that these are mutually exclusive disciplinary alternatives. Suspension does not create a vacancy which may be filled by appointment. . . .' Also in §290, it is said: 'Moreover, the indefinite suspension of a public officer without pay is not considered as within the general power of removal.'

"18. Further to count 17(e), respondent reiterates that no impossible conditions were ever imposed on petitioner Pearl Brown-Bull for the lifting of her indefinite suspension. The terms of the TRC Act and the TRC Rules and Procedures are mandatory and not impossible. Petitioner was requested to fulfil her obligations and duties simply to make a full disclosure and request exemption from respondent. Only an exemption would have cured the forbidden duality. (See TRC Act, §39(d)(ii) and TRC Rules and Procedures, §§13.3 and 13.4). Petitioner requested exemption, but failed and neglected to make the needed disclosure which would have placed the respondent Commission in an informed position to grant or deny the requested exemption. Your Honor is requested to take judicial notice of petitioner's exhibit 'P/5,' which is her request for exemption. Exhibit 'P/5' is clear evidence, which amounts to admission. See *Knowlden v. Johnson*, 39 LLR 345, 358 (1999): 'An admission, whether of law or fact, which has been acted upon by another is conclusive against the party making it in all cases between him and the person whose conduct had been influenced.'

"19. Further to count 18, respondent Commission, the TRC, says that demanding

petitioner Bull to make full disclosure and request exemption is a mandatory obligation which is invoked by her second employment and not an 'impossible condition.' Hence your Honor is requested to dismiss count 7 of the petition and the entire petition, and take note of petitioner's exhibit 'P/6' which is respondent's letter responding to petitioner Bull's request for exemption and demanding full disclosure under the Rules and Procedures of the TRC.

"20. Further to counts 18 and 19, Commissioner Bull sought and obtained employment with another Commission, the Public Procurement and Concessions Commission (PPCC) for nearly 10 months, while still maintaining her employment and membership with the TRC, respondent Commission. See petitioner's exhibit 'PM,' and Your Honor is requested to take note that it is self admission against one's interest which needs no further proof of her employment with the PPCC. *Knowlden v. Johnson*, 39 LLR 345, 358 (1999).

"21. Further to counts 17, 18, 19 and 20, respondent Commission says that petitioner Pearl Brown-Bull continued in her new employment in violation of the TRC Act, §39(d)(ii), until it became public notice when respondent wrote her on February 5, 2008 reminding her of the law and her obligation to seek exemption and make full disclosure under TRC Act, §39 TRC Rules and Procedures §§13.3 and 13.4 [which] are mandatory. Full disclosure leads to exemption. The two are inextricably linked, full disclosure being primary. One cannot request exemption and then fail or neglect to make the disclosures. See respondent's exhibit 'R/3'.

"22. Further to counts 17, 18, 19 and 20 and 21, respondent Commission says that notwithstanding the simplicity and clarity of its February 5, 2008 letter to petitioner, respondent's exhibit 'R/3', petitioner Bull neglected to do the honorable thing that is requested of one occupying such high office which warranted respondent's second letter of March 14, 2008, which is also petitioner's exhibit 'M.' Your Honor is respectfully requested to take judicial notice thereof.

"23. That as to counts 8, 9, and 10 of the petition, respondent says that the TRC Act and its Rules and Procedures are clear and no attempt was ever made to remove petitioner from office, and now denies the legal and factual veracity of the averment contained therein which must be dismissed with the entire petition. Respondent submits also that prior to instituting the suspension of petitioner, respondent gave prior notice to petitioner of her continued violation of the TRC Act and its Rules and Procedures. These notices were dated as far back as February 5, 2008, March 14, 2008 and April 10, 2008.

"24. Further to count 23 [of these returns], respondent recounts and reaffirms counts 13 to 22 herein and says that the respondent has made no such 'unsubstantiated allegation' against petitioner Bull. Petitioner Bull was inducted into office at a public ceremony in Monrovia, following which she was requested to do the honorable thing of making full disclosure and requesting an exemption. See respondent's exhibit 'R/3'. Petitioner Bull has since responded and requested an exemption. See petitioner's exhibit 'P/5.' See petitioner's exhibit 'P/4,' which is her letter of appointment from the Chairman of the PPCC, dated July 5, 2007. The appointment, coupled with petitioner's appointment to the TRC, petitioner's exhibit 'P/1,' under signature of Chairman Gyude Bryant which reads, *inter alia*: '. . . I am pleased to appoint you as a member of the Truth and Reconciliation Commission with immediate effect. . . .' amounts to double appointment which is self-evident admission by the petitioner herself and needs no further substantiation by the respondent and is in clear violation of TRC Act, §39(d)(ii) and TRC Rules and Procedures, §§13.3 and 13.4.

"25. Further to count 24, and as to counts 9 and 10 of the petition, petitioner Bull's self-evident admission is sufficient evidence of her second employment, and the respondent Commission has no burden of proof. The only burden here is for petitioner Bull to make a full disclosure of her appointment. If there was no appointment, she would not have received an appointment letter dated July 2007, and requested an exemption nearly a year later on February 8, 2008. Respondent Bull has no knowledge of the internal workings of the PPCC and how petitioner Bull came to be involved with the PPCC. All of that is within the peculiar knowledge of petitioner Bull, and that is the very reason why the burden of full disclosure remains, and it is her duty. It is provided in *Doe v. Mitchell*, 34 LLR 210, 213 (1986) that 'the burden of proof is on the party who complains or alleges a fact, except that when the subject matter of a negative averment lies peculiarly within the knowledge of the other party, the averment is taken as true unless disproved by that party. . . .' See *Flomo v. Republic*, 29 LLR 3, 13-4 (1981); *FDA v. Walters*, 34 LLR 777, 783-4 (1988).

"26. Further to counts 24 and 25, respondent respectfully requests Your Honor to take special note of petitioner's exhibits 'P/7' and 'P/9,' purportedly meant to be letters of resignation and acceptance, all which are materially after the fact averments of no patent value to the subject of petitioner's suspension. The purported exhibit 'P/7' is dated April 7, 2008 to predate respondent's disengagement letter of April 10, 2008 which is petitioner's exhibit 'P/8.' Had exhibit 'P17' existed on April 7, 2008, it would have been the subject of disclosure and served on the respondent Commission

long before April 17, 2008 at 8:30 p.m., when it was actually hand-delivered by petitioner Bull and mentioned for the very first time during the respondent Commission's call meeting to decide the matter. See respondent's exhibit `R/4,' which is evidence of receipt of petitioner's exhibit `P/7.'

"27. Further to count 26, respondent requests Your Honor to kindly take judicial notice of the first sentence of paragraph one of petitioner's exhibit `PR,' which reads: 'Kindly convey to the Honorable Commissioners my sincere appreciation for their confidence in *my performance* on the CARP. . . . (emphasis supplied by the author). Your Honor is respectfully requested, also, to take judicial notice of petitioner's exhibit `P/9,' which is dated April 18, 2008, to also predate respondent's indefinite suspension letter dated April 19, 2008, which is petitioner's exhibit `P/3.' Notice of exhibit '1319' was only received when service of petitioner's petition was executed.

"28. Further as to counts 11, 12, 13, 14, 15, 16, 18, and 19 of petitioner's petition, respondent says it is a redundant narration of events already addressed herein above but packaged with lies, deceit, trickery, misinformation and manifest contradictions containing admissions and denials which present the said counts fit subjects for dismissal for wanting in legal substance, and respondent so prays that Your Honor, without hesitation, will dismiss the said counts and the petition in its entirety. More besides, respondent submits that whether the contract of employment and secrecy were later to be sent to petitioner by the Chairman of the PPCC, the TRC Act and the TRC Rules and Procedures clearly spell out that should any of the TRC Commissioners desire the need for another employment or engagement, and those requirements can be found in TRC Rules and Procedures, §§13.2, 13.4, 13.5, and 13.6, adopted September 2006 and revised April 2007, as well as the violation of Article V, §§12, 14, 18 and 23 of the TRC Act, up to and including Article IX, §39 (d) (ii) (iii), respectively. Further, petitioner should not have received an 'entire set of documentation' before making a full disclosure. The fact that petitioner was silent regarding her employment with the PPCC, and her refusal to disclose same, as provided for by the TRC Rules and Procedures, is considered a violation of the TRC Act and its Rules and Procedures.

"29. Further to count 28, and more specifically to counts 13 and 14 of the petition, petitioner Bull admits accepting her appointment which she prefers to reference 'selection,' notwithstanding petitioner avers that she had said she will request exemption when she makes up her mind to accept her new appointment. Hence, even without the contract, as she claims, petitioner Bull accepted the employment and was already employed since July 2007 (see petitioner's exhibit 'PA') when she

requested exemption (see petitioner's exhibit 'P/5') on February 8, 2008 having being inducted into office and taken the oath of office on January 30, 2008 at a public ceremony in Monrovia which was reported in the February 12, 2008 online edition of the *Daily Observer* newspaper. Respondent maintains previous averments herein and respectfully requests Your Honor to take due notice of this historical fact.

"30. Further to count 29, respondent says that had the petitioner had any good faith intention to inform the respondent Commission of her new appointment, she would have done so long before her induction on January 30, 2008 and before February 5, 2008 (respondent's exhibit 'R/3') when respondent's first communication on the subject was written to petitioner Bull. Good faith is required of all public officials, especially acting in fiduciary relationship with others. The absence thereof breaches confidence and trust and the duty of that public official, petitioner Bull, to the TRC, her sacred undertaking. TRC Act, §25; TRC Rules and Procedures, §13.6.

"31. Further to the foregoing, and specifically to count 15 of the petition, respondent declares as misrepresentations the averments, and says that at no time was petitioner's request for exemption denied. A recourse to the aforesaid letter, and the concluding lines in the second to the last paragraph of petitioner's exhibit 'P/6,' reads: '. . . In view of that, the issue of your exemption does not arise at this point when full disclosure is wanting. You are given yet another week, as of Friday, February 14, 2008, the date of this communication, to make the needed disclosure or resign.'

"32. Further to the foregoing, and specifically to count 18 of the petition, respondent refers Your Honor to respondent's exhibit 'R/4' and says that the aforesaid letter was only received by hand delivery from petitioner on April 17, 2008, seven days after the respondent's letter of April 10, 2008 was written. See petitioner's exhibit 'P/8.'

"33. Further to the foregoing, and specifically to counts 19 and 20 of the petition, respondent denies categorically the averments therein, confirms its averments in count 26 above and says that same is a subterfuge which has no basis in law and equity and can never serve to divest respondent of its jurisdiction over the subject matter and the corresponding authority of the Commission to suspend one its members under the TRC Act and its Rules and Procedures.

"34. Further to count 32 above, respondent says that the violation of TRC Act, §39(d)(ii), and Rules and Procedures, §13.3 and 13.4 remain an active and continuing violation not cured by petitioner's pretense of not signing a contract, or having purportedly resigned. Respondent says both appointments of the petitioner to CARP

of the PPCC and the TRC are appointments to a public office which is not dependent on any contract, as petition is inclined to make Your Honor believe.

"35. Further to the foregoing, and count 12 of the petition, respondent says '... A public office is a public agency or trust created in the interest and for the benefit of the people, and since the incumbent of a public office is invested with certain powers and charged with certain duties pertinent to sovereignty, the powers so delegated to the officer are held in trust for the people and are to be exercised in behalf of the government or of all citizens who may need the intervention of the officer. . . . The right of an incumbent to an office does not depend on any contract in the sense of any agreement or bargain between him and the public. A public office is not a contract, nor the same thing as a contract, and an appointment or election to a public office does not establish a contractual relationship between the person appointed or elected and the public. The incumbent is not under contract so as to withdraw his tenure, salary, and the like from the control of the state or to preclude the state from abolishing the office. Generally speaking, the nature of the relation of a public officer to the public is inconsistent either with a property or contract right.' 63a Am Jur 2d, *Public Officers and Employees*, §§7 & 10.

"36. Further to count 20 of the petition, respondent says that the purported 'rejection,' along with its purported subsequent 'acceptance' does not in any way serve to cure the violation, which precludes a Commissioner of the TRC from simultaneously holding another office, without exemption, from the TRC. Under the TRC Act and Rules and Procedures previously quoted, only an exemption will cure said violation. The petitioner is in no position to deny the authority and jurisdiction of the respondent Commission, or to disavow the existence of the TRC Act, its Rules and Procedures, and the relevant provisions controlling. Personnel of the same agency are estopped from attacking the authority of their colleagues of similar rank. *Clark v. Minister of Finance*, 22 LLR 464, 469 (??????).

"37. Further to counts 11 to 20 of the petition, respondent submits and begs Your Honor to take recourse to the following authorities controlling the subject matter: 63a Am Jur 2d *Public Officers and Employees*:

"Section 64. Since a public office is a public agency or trust created for the benefit and in the interest of the people, the holder of such office is subject to such regulations and conditions as the law may impose. He cannot, therefore, complain of any restrictions as the law may impose. . . . The manifest purpose of a restriction on multiple office holding are to prevent offices and places of trust from accumulating

in a single person.

"Section 66. The policy of the law with respect to holding a multiplicity of offices is expressed in various constitutional and statutory provisions, which when clear and unambiguous, must be enforced notwithstanding the character and relative importance of the two offices. . . . The statute prohibiting dual office holding is an expression of public policy to prevent public officials from acting in circumstances in which their personal interest conflicts with the public whose interest they represent.

"Section 68. An emolument is not an indispensable element of an office, and the fact that a public officer serving the public in another capacity does so without compensation does not take such service out of an expressed prohibition against holding another office or employment.

"Section 69. Constitutional and statutory provisions frequently prohibit not only the holding of incompatible offices, but the holding of more than one office or employment, whether or not the position held would be incompatible under the common law rule.

"Section 82. A person who accepts and qualifies for a second office is generally held to vacate or by implication resign the first office, so that no judicial proceedings are necessary. . . . The rule that acceptance of a second office operates to vacate one already held when not declared by positive provision of law, seems to be based on a presumption of choice between the two offices as evidenced by the acceptance of the second. . . . In view of the policy under consideration, it would appear that when a person holding one office is appointed to and qualifies for another office, he should thereon resign the former.

"Section 86. Under the law, the acceptance of a second office which the law regard as incompatible with one already held effects a surrender of the first office. And so when the officer has been once inducted into the second office, his subsequent resignation of that office does not ordinarily restore his rights or title to the first.

"38. Count 21 of the petition is inconsequential. *The TRC is not the Supreme Court, notwithstanding it enjoys certain status as that of the Supreme Court which permits dissenting opinions.* The TRC makes decisions by consensus and when not obtainable, by vote. The decision of indefinite suspension was reached by the respondent Commission by unanimous vote with no contrary vote cast by the Vice Chair, Madam Dede Dolopei. The so-called dissent does not change the decision under the TRC Act, nor the TRC

Rules and Procedures. Commissioner Sheik Kafumba Konneh who at the time of decision-making said he was sick and refused to vote, wrote a 'dissenting opinion.' All commissioners participated in the process leading to the indefinite suspension letter, including the petitioner. Another Commissioner, John Stewart, also wrote a post-decision memorandum, which along with Commissioner Konneh's memorandum, is attached as respondent's exhibit 'R/5.'

"39. As to counts 17, 22, 23, 24 and 25 of the petition, respondent says that prohibition will not lie under the circumstances and facts obtaining, and that the averments therein have no factual or legal basis associated with the indefinite suspension of the petitioner and must be dismissed along with the entire petition.

"40. Further to count 39, respondent says that prohibition will not lie and its issuance is unwarranted, and not supported by the facts and the legal standing of the respondent to suspend one of its own members indefinitely, pursuant to its own rules authorized by the National Legislature, as evidenced by the TRC Act of 2005. The following sources are authoritative and controlling on the subject and are decisions previously made by your Honor and your colleagues:

"1. *Black's Law Dictionary revised*, 4th ed., page 1377 provides that 'prohibition is an extraordinary writ issued by a superior court to an inferior court to prevent the latter from exceeding its jurisdiction, or from assuming jurisdiction in a matter it has no control or from going beyond legitimate powers in a matter of which it has jurisdiction. . . . It is only used in cases of extreme necessity where the grievance cannot be redressed by ordinary proceedings at law, or in equity or by appeal.'

"2. Prohibition will not lie where the trial court neither exceeded its jurisdiction nor proceeded by wrong rule. *Commercial Bank of Liberia v. Stewart*, 30 LLR 364, 367-8 (1982).

"3. Prohibition will not lie therefore to undo an act already completed, for the remedy of prohibition is preventative in nature. *Dolo v. Koroma*, [Opinion of Justice in Chambers Smith], 30 LLR 816, 820 (1982). *Sodatou v. Bank of Liberia*, 20 LLR 512, 517 (1971). Prohibition extends only to restraining a trial tribunal from usurpation, and cannot be used to substitute for an appeal.

"4. Prohibition will not be granted where the act complained of has already been done, completed or performed. *Doe v. Ash-Thompson*, 33 LLR 251,N, Syl 24 (1985). Prohibition is preventative rather than a corrective remedy and it issues only to

prevent the threatened commission of a future act, and not to review, nullify or undo an act or correct judicial proceedings which have been performed or completed. Accordingly, it will not be granted when the act or proceedings sought to be prevented or prohibited has already been done or completed and no further judicial acts are contemplated or to be performed.

"5. Prohibition will not be granted where there is no showing that the trial court exceeded its jurisdiction, or that it proceeded contrary to known rules which ought to be observed at all times. *Atha v. Pupo*, 33 LLR 344N(1985); *Liberia Fisheries Inc. v. Badio*, 36 LLR 277, 305-7 (1989). Prohibition will not lie where jurisdiction is not exceeded, nor attempt made to proceed by wrong rule. *Jarkonnie v. Akoi and Porpeayea*, 36 LLR 384, 390 (1898).

"6. Prohibition will not lie where the act complained of is not wrong or illegal, and is within the scope of authority of the person or office complained against. *Komai v. The Ministers of Justice and Public Works*, 36 LLR 518, 522 (1989).

"7. Prohibition will not lie or will be disallowed where it is shown that it is intended to prevent, prohibit or obstruct an administrative agency of government from exercising its lawful and administrative duties and responsibilities. *Wesseh v. Tubman*, 28 LLR 3, 12 (1979). Prohibition will not lie to correct a party's neglect to act in its own interest. *Wilson v. Wardsworth*, 28 LLR 248, 251(1979).

"8. Prohibition cannot be used to review discretion. *Liberia Trading and Development Bank v. Brasillia*, 39 LLR 272, 285 (1998).

"39. Respondent says as to the entire petition that it is filed in bad faith, unsustainable in law and equity and patently intended to undermine the independence and integrity of the TRC and mislead this Honorable Court into interfering into the work of an independent Commission of Inquiry as respondent is.

"40. The Respondent says that the petitioner haven failed to do what she ought to have done for herself, by making full disclosure as she was obligated to do, especially after requesting an exemption, her flight to Your Honor is to abuse our judicial process for her selfish gain, thereby putting at risk the credibility of a sacred institution on which the hope and aspirations of Liberia hinges for sustainable peace and reconciliation.

"41. As part of petitioner's subterfuge and ill-intent to misled this Honorable Court,

petitioner did not mention in the slightest reference that the TRC has since adopted its Rules and Procedures, a process she was an integral part of and which was determinative of her violations. Secondly, petitioner in her averments intentionally did not mention that she was inducted into office as an official of the PPCC.

"42. Respondent now says, Your Honor, that this Honorable Court made a determination on the important place of by-laws and rules and regulations of independent organizations. In *Bassa Brotherhood v. Horton*, 29 LLR 554, 557 (1982), this Court held:

"1. By-laws are created for the governance of a corporation or organization. They may be created and made binding on the members by customs, and where not in violation of the Constitution and laws of the state, by-laws shall be enforced for the governance of the members.

"2. A by-law which has been acquiesced in for a long period of time is presumed to have been regularly adopted and is therefore enforceable by its terms.

"3. By-law are rules and ordinances made by a corporation for its governance. The office of a by-law is to regulate the conduct and define the duties of the members towards the corporation and among themselves. The power to make by-laws is usually conferred by expressed terms of the charter creating. When not expressly granted, it is given by implication and it is incident to the very existence of the corporation. The power of making by-laws, if the charter is silent, resides in the members of the corporation.

4. All by-laws bind all members who are presumed to have notice of them.

"43. Respondent says further, and in summation, that prohibition will not lie because:

"1. Respondent, under the TRC ACT and the TRC Rules and Procedures, has the authority and jurisdiction to suspend any of its members for any reasons stated in the aforesaid instruments.

"2. By so doing, respondent has neither exceeded its jurisdiction nor proceeded by any wrong rule.

"3. Petitioner Bull is an equal member of the respondent Commission and not an employee of the respondent Commission, and that indefinite suspension is separate and distinct from dismissal or removal under the TRC Act and the TRC Rules and

Procedures.

"4. The TRC Rules and Procedures does not violate the Constitution of Liberia, or any law subsisting in our country for which prohibition will lie restraining enforcement.

"5. There are several other remedies available to the petitioner, in both law and equity, which petitioner has not taken advantage of, and which the petitioner should take advantage of, since the opportunity is not yet lost.

"6. This Honorable Court must be reluctant to use this extremely extraordinary writ except in extreme cases where no other remedy is possible, otherwise, Your Honor, this Court will be regulating the relationship between the Commissioners and their conduct from a remote distance which the laws and statute never intended.

"Wherefore, and in view of the foregoing, it is the prayer of the respondent Commission that Your Honor will not intervene, and deny the petition for the writ prohibition and lift the stay order issued prior to the hearing and seating of this conference."

The respondent did not file returns to the bill of Information.

There are in the record certified to this Court a second story carried as the lead story in the vol. 20, no. 14 edition of *The News* newspaper for Tuesday, May 13, 2008.

"Normal Judicial Process will not Trouble me" "... Says TRC Boss. *The News* stands by Story

"In the wake of denials from the Truth and Reconciliation Commission (TRC) that its Chairman, Counselor Jerome J. Verdier, did not grant an interview to reporters indicating that Commissioner Pearl Brown-Bull remained suspended, the Management of *The News* says it stands by its story.

"In the Thursday, May 1, edition of this paper, Counselor Verdier insisted that Commissioner Bull will remain suspended indefinitely. His comments came minutes after the Supreme Court issued a writ of prohibition [against] him in Gbarpolu Country where the TRC hearing was taking place.

"Regarding the stay order, Chairman Verdier wondered whether the Supreme Court

can undo what the TRC has done. Additionally, Counselor Verdier indicated 'a normal judicial process in Liberia will not trouble me. I will be troubled if there are attempts to interfere with the TRC process.'

"He stressed that the TRC is an independent commission that governs its own process, adding 'it is guided by its own rules and regulations; we believe that it is essential for all of us to leave the Commission alone to do its work for the future of this country.'

"Counselor Verdier emphasized that the TRC is a national institution with a different task from other institutions in the Republic of Liberia.

"Responding to questions as to the contents of the writ of prohibition, Counselor Verdier said 'while it is true that I have not read it, I do not know what the contents are; but what is essential is that whether political, financial, military, judicial and legislative interferences [they] should not be encouraged into the work of the TRC.'

"He questioned the role of the Supreme Court in a matter that has to do with the TRC and its Commissioners, emphasizing that the constitutional court only intervenes when an individual citizen comes in conflict with the rules of the TRC.

"Maintaining his grounds for suspending Counselor Bull, the TRC boss pointed out that the Commission has its rules and regulations, just as the Supreme Court is guided by its rules and any other independent body.

"All our respect goes to the witnesses and the people of Liberia. They have the greater day. I will do all to ensure that the rights of witnesses are respected. As it is, Commissioner Bull is suspended indefinitely," Counselor Verdier insisted at a news conference in Gbarpolu County upon receiving the Supreme Court's stay order.

"He further said Commissioner Bull is a member of the TRC who signed and helped draft their rules and cannot seek redress at the Supreme Court, stressing that she is different from ordinary citizens who are not part of their rules.

"The publication of the statement made by Counselor Verdier seemed not to have gone down well with the TRC.

"In a release issued last Friday, the Truth and Reconciliation Commission denied that Counselor Verdier recently spoke to the press in defiance of the writ of prohibition

of the Supreme Court of Liberia.

"The release claimed 'the TRC refutes this report in the strongest term as it bears no iota of truth. The report is only intended to undermine the integrity of the Commission and to create a false impression that has the potential to engender friction between the Supreme Court and the TRC.'

"The TRC said its Chairman had at no time made any public statement regarding the indefinite suspension of Commissioner Pearl Brown-Bull after receiving the writ of prohibition from the Supreme Court of Liberia on April 22, 2008.

"However, the management of *The News* says recordings from Counselor Verdier's press interview in which he stated that Commissioner Bull remains suspended indefinitely are available" (emphasis supplied).

There are in the record certified to this Court, also, three letters between Mr. Keith K. Jubah, Chairman of the PPCC, and petitioner Bull.

The first letter, dated July 5, 2007, is from Mr. Jubah to petitioner Bull.

"We present our compliments, and wish to inform you of your selection to serve as a member of the Complaints, Appeals and Review Panel (CARP) of the PPCC. Your contract and other conditions, including oath of secrecy, will be forwarded to you.

"Congratulations for your preferment to this very honorable position. We are convinced that your performance will add dignity and integrity to the performance of this Commission.

"Attached hereto are copies each of the following:

"1. The Term of Reference of the CARP members;

"2. The Ground Rules or Procedures for the operation of the CARP; and

"3. The Public Procurement and Concessions Act.

"Meanwhile, you are invited to the Commission for discussion with the commissioners at 1400hrs. on Tuesday, July 10, 2007."

The second letter, dated April 7, 2008, is from petitioner Bull addressed to Mr. Jubah.

"Kindly convey to the Honorable Commissioners, my sincere appreciation for their confidence in my performance on the CARP of the Public Procurement and Concession Commission of Liberia. I am also grateful for the sentiments expressed in your letter informing me of my selection to serve as a Member of the Complaints, Appeals and Review Panel of the PPCC of Liberia when you stated that I 'will add dignity and integrity to the performance of this Commission.'

"Your letter, referred to above, informed me further that 'your contract and other conditions, including the oath of secretary, will be forwarded to you soon.'

"Due to certain reasons I had contemplated resigning from the TRC. However, I reconsidered my decision based on encouragements and persuasions from significant friends, stakeholders in the Liberian peace process, and some TRC Commissioners.

"I will not accept to serve on this Honorable Panel at this time, and will not sign 'the contract of employment and take the oath of secrecy' as required to serve as a member of the panel of CARP. I request the Commission to appoint another qualified person to serve in my stead.

"I am fully participating in the TRC process, presently traveling to the 15 counties for hearings. My engagements on the Truth and Reconciliation Commission of Liberia, and my desire to cope with the challenges I am confronted with in fulfilling its mandate to achieve healing, lasting peace and reconciliation of the Nation and its people, compel me to make this decision.

"I shall continue to serve the public and private sector of Liberia with total commitment, utilizing my education, professional skills, experience and attitude acquired over 39 years."

By letter dated April 18, 2008, Mr. Jubah acknowledged receipt of petitioner Bull's letter dated April 7, 2008.

"We present our compliments and wish to acknowledge receipt of your dated April 7, 2008 by which you informed the Commission of your inability to serve on the Independent Complaints, Appeals and Review Panel of the PPCC. The Commission regrets your inability to accept the offer due to your present heavy schedule at the Truth and Reconciliation Commission (TRC).

"The Commission appreciates the timely notice and wishes you well in your endeavors."

We have decided that the following issues are determinative of this petition.

1. Whether acts of the Truth and Reconciliation Commission are subject to judicial review?
2. Whether petitioner Bull's constitutional right to due process was violated when she was suspended indefinitely as a Commissioner of the TRC.
3. Whether prohibition will lie?
4. Whether Counselor Jerome J. Verdier, Sr., Chairman of the TRC, disobeyed the orders of the Justice presiding in Chambers when, in the alternative writ, she ordered "the parties to return to status *quo ante* and stay all further proceedings until otherwise ordered?"

The first issue is whether acts of the Truth and Reconciliation Commission are subject to judicial review? We hold that any, and all acts of the Truth and Reconciliation Commission, are subject to judicial review.

Article 66 of the Liberian Constitution (1986) provides:

"The Supreme Court shall be the final arbiter of constitutional issues and shall exercise final appellate jurisdiction in all cases whether emanating from courts of record, courts not of record, administrative agencies, autonomous agencies *or any other authority*, both as to law and fact except cases involving ambassadors, ministers, or cases in which a county is a party. In all such cases, the Supreme Court shall exercise original jurisdiction. The Legislature shall make no law nor create any exceptions as would deprive the Supreme Court of any of the powers granted herein" (emphasis supplied).

The issue of the authority of the Supreme Court under the Lewis Bench to declare unconstitutional acts by the Executive Branch or the Legislative Branch was firstly raised in *Catholic Justice and Peace Commission v. Republic*, a case decided by this Court during the March Term, 2006. In that case, the respondent had argued that the Supreme Court did not have authority to declare unconstitutional the act of the

President in nominating, and the act of the Senate in confirming Associate Justice Kabinneh M. Ja'Neh to this Bench. This Court held that "*any other authority*," as stated in Art. 66 of the Constitution, includes, within limitations, acts by both the executive and the legislative branches of the Government; for, "it is emphatically the province and duty of the judicial department to say what the law is." *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 2 L.Ed. 60 (1803).

The authority of the Supreme Court under this Bench was next challenged in *Snowe v. Some Members of the House of Representatives*, a case involving the removal of Edwin M. Snowe, Jr. as Speaker of the House of Representatives, decided during its October Term, 2006. The respondent, in its returns, maintained that "the subject matter of the removal by Resolution of the former Speaker presents a political question which is textually committed to the Legislative Branch of Government and is therefore not a subject of judicial determination, as provided for under the doctrine of political question."

This Bench held that the Supreme Court had the authority to determine whether the removal of Speaker Snowe was unconstitutional. We determined that the removal was unconstitutional, for it was in violation of Article 20(a) of the Liberian Constitution (1986), in violation of Article 49 of the Liberian Constitution (1986), and in violation of Rule 42 of the Standing Rules of the House of Representatives of the 52nd Legislature on Removal/Expulsion of Members of the House.

The respondent in this case, in several counts in its returns and in its brief before this Court, has maintained that the Truth and Reconciliation Commission is an independent Commission, and as an independent Commission has authority under Article VII, §26(1) of the TRC Act "to adopt its own rules, code of conduct and operating guidelines and procedures, schedules, work plans and other policies necessary for the accomplishment of its mandate, including the conduct of research and investigations, holding of public and confidential hearings, making final determination of matters before it, recommending amnesty, making recommendation, and publishing its report."

We take judicial notice of Article VII, §26(1) of the TRC Act; however, whatever "rules, code of conduct and operating guidelines and procedures, schedules, work plans and other policies necessary for the accomplishment of its mandate, including the conduct of research and investigations, holding of public and confidential hearings, making final determination of matters before it, recommending amnesty, making recommendation, and publishing its report" of the TRC must be in

conformity with Article 20(a) of the Liberian Constitution (1986). Any such "rules, code of conduct and operating guidelines and procedures, schedules, work plans and other policies necessary for the accomplishment of its mandate, including the conduct of research and investigations, holding of public and confidential hearings, making final determination of matters before it, recommending amnesty, making recommendation, and publishing its report" not consistent with Article 20(a) of the Liberian Constitution (1986), shall be declared unconstitutional when properly raised before this Court.

"This Court accepts . . . that the nature of the power of the Supreme Court to declare acts unconstitutional is one of an obligatory duty and that "the rule is fixed that the duty in a proper case to declare a law unconstitutional cannot be declined and must be performed in accordance with the deliberate judgment of the tribunal before which the validity of the enactment is *directly* drawn into question" (emphasis supplied). 16 Am Jur 2d *Constitutional Law*, § 155. *Re Notice from the President of the Removal of Associate Justice McCants-Stewart*, 2 LLR 175, 181-2 (1915); *Snowe v. Some Members of the House of Representatives*, decided by this Court during its October Term, 2006. .

We determine, as we did in *Snowe v. Some Members of the House of Representatives*, that the petitioner has drawn into question the violation of her constitutional right, guaranteed under Article 20(a) of the Liberian Constitution (1986), when the respondent, thru its Chairman, by letter dated April 19, 2008, suspended the petitioner indefinitely from the TRC, effective Friday, April 18, 2008.

Chairman Verdier has maintained in his returns that the power of the Commission to suspend the petitioner was discretionary, and not subject to judicial review.

We disagree.

The power of the Commission to discipline is not discretionary, and when exercised is subject to due process of law, consistent with Article 20(a) of the Liberian Constitution (1986), and consistent with the TRC's Rules and Procedures.

In *Snowe v. Some Members of the House of Representatives* we expounded on due process of law. The respondent, seemingly, is not *au courant* with this principle of law. We shall restate the principle.

"The landmark case in this jurisdiction defining "due process of law" is *Wolo v. Wolo*,

5 LLR 423, 427-429 (1937), in which Mr. Chief Justice Grimes, speaking for the Court, held, *inter alia*:

"American law writers commenting on the constitutional provision, which, in ours, would seem to be stronger because, as aforesaid, of the inclusion of the word "privilege," have agreed on the following as far as our examination of sundry authors goes:

"The term 'due process of law' is synonymous with 'law of the land.' The constitution contains no description of those processes which it was intended to allow or forbid, and it does not even declare what principles are to be applied to ascertain whether it be due process. But clearly it is not left to the legislative power to enact any process which might be devised. Due process of law' does not mean the general body of the law, common and statute, as it was at the time the constitution took effect. It means certain fundamental rights, which our system of jurisprudence has always recognized. *The constitutional provisions that no person shall be deprived of life, liberty, or property without due process of law extend to every governmental proceeding which may interfere with personal or property rights, whether the proceeding be legislative, judicial, administrative, or executive, and relate to that class of rights the protection of which is peculiarly within the province of the judicial branch of the government. . . .* (emphasis supplied).

"The essential elements of due process of law are notice, and an opportunity to be heard and to defend in an orderly proceeding adapted to the nature of the case. In fact one of the most famous and perhaps the most often quoted definition of due process of law is that of Daniel Webster in his argument in the Dartmouth College case, in which he declared that by due process of law was meant 'a law which hears before it condemns; which proceeds upon inquiry, and renders judgment only after trial.' Somewhat similar is the statement that it is a rule as old as the law that no one shall be personally bound until he has had his day in court, by which it means, until he has been duly cited to appear, and has been afforded an opportunity to be heard. Judgment without such citation and opportunity wants all the attributes of a judicial determination; it is judicial usurpation and oppression and can never be upheld where justice is fairly administered."

"In accord: *Howard v. Republic*, 8 LLR 135, 138 (1943); *Mulba v. Dennis*, 22 LLR 46, 49-50; *IBM v. Tulay*, 33 LLR 105, 112 (1985); *Wilson v. Firestone*, 34 LLR 134, 143-4 (1986); *The Middle East Trading Company v. Chase Manhattan Bank*, 34 LLR 419, 429-430 (1986); *Express Printing House, Inc. v. Reeves*, 35 LLR 455, 464 (1988); *Heirs of the Intestate Estate of S. B. Nagbe, Jr. v. The Intestate Estate of S. B. Nagbe, Sr.*, Opinion of the

Supreme Court, March Term, 2001; *Dweh v. The National Transitional Legislative Assembly*, Opinion of the Supreme Court, decided 2 August 2005."

We decide, next, whether petitioner Bull's constitutional right to due process was violated when she was suspended indefinitely as a Commissioner of the TRC.

We do not pass on the issue, raised by the respondent, that the TRC Act of suspending indefinitely petitioner Bull was not tantamount to dismissal, under *Tarn v. Mathies*, 40 LLR 352, 357 (2001). We do not decide, also, how penalties under the TRC Rules and Procedures, ch. 14, §14.3, are enforced by the Commission. What we decide, however, is whether the decision of the respondent to suspend indefinitely petitioner Bull was consistent with Article 20(a) of the Liberian Constitution (1986), and §§14.1 and 14.2 of the Rules and Procedures of the TRC.

We hold that the decision of the respondent to suspend indefinitely petitioner Bull as a Commissioner of the TRC was in violation of Article 20(a) of the Liberian Constitution (1986), and in violation of chapter 14, §§14.1 and 14.2 of the TRC Rules and Procedures.

Chapter 14 of the Rules and Procedures of the TRC, under Discipline, contains three sections. We shall refer to two sections: §§14.1 and 14.2.

"14.1. There shall be a Disciplinary Committee set up from time to time to deal with matters pertaining to discipline referred to it by the Commission. The Committee shall be constituted as follows: for Commissioners, (including ITAC members), the Committee shall be made up of three Commissioners; for other categories of staff, the Committee shall have a membership of five persons made up as follows: for senior staff, the Committee shall be made up of two commissioners, one Technical Advisor and two senior staff, and for junior categories of staff, the Committee shall be made up of one Commissioner or Technical Advisor, two senior staff and two junior staff. One ITAC member shall serve as advisor to these committees.

"14.2. The Committee shall hear all cases of misconduct involving breaches of mandatory provisions of the TRC Act (2005) and these Rules and Procedures. The Committee shall submit its findings, including recommendations as deemed appropriate to the Commission for final actions."

The respondent has not submitted to this Court that a Committee of three Commissioners was appointed "to deal" with the matter involving the petitioner. The

respondent has not submitted to this Court that there was a "hearing," consistent with §14.2 of the TRC's Rules and Procedures. The respondent has not submitted to this Court that a Committee of three Commissioners appointed "to deal" with the matter involving the petitioner submitted "findings, including recommendations as deemed appropriate to the Commission for final actions."

We address next the issue whether prohibition will lie. We hold that prohibition will lie.

Civil Procedure Law, 1 L.C.L.Rev., tit. 1, §16.21(3) (1973), under purpose of writs, provides, *inter alia*:

"Prohibition is a special; proceeding to obtain a writ ordering the respondent to refrain from further pursuing a judicial action or proceeding specified therein."

The respondent in count 40, paragraph three of its returns, relying on *Dolo v. Koroma*, [Opinion of Justice in Chambers Smith], 30 LLR 816, 820 (1982), maintains that "prohibition will not lie to undo an act already completed, for the remedy of prohibition is preventive in nature." In count 40, paragraph four of its returns, relying on *Doe v. Ash-Thompson*, 30 LLR 251N, maintains that "prohibition will not be granted where the act complained of has already been done, completed or performed."

While this Court held in *Sodatonou v. Bank of Liberia, Inc.* 20 LLR 512, 517 (1971) that "acts already completed cannot be restrained by prohibition," this Court has held also that "a writ of prohibition not only halts whatever remains to be done by the court against which it is issued, but also gives further relief by undoing what has already been done." *Parker v. Worrel*, 2 LLR 525, 526 (1925); *Nelson v. Boye*, 27 LLR 174, 179 (1978).

This Court, in *Yonkon v. Tulay*, 33 LLR 227, 233 (1985), held also "while acts already completed cannot be restrained, this does not apply to acts illegally and blatantly done."

We hold that the act of the respondent was "illegally and blatantly done," and prohibition will lie.

We address, lastly, the issue whether Jerome J. Verdier, Sr., a counselor of Supreme Court Bar, disobeyed the orders of the Justice presiding in Chambers when, in the alternative writ, Madam Justice Howard-Wolokolie ordered "the parties to return to

status quo ante and stay all further proceedings until otherwise ordered?"

We hold that counselor Verdier disobeyed the orders contained in the alternative writ which had been ordered by Justice Howard-Wolokolie. Notwithstanding the denial of the TRC that counselor Verdier had not spoken to the press following the service of the writ of prohibition upon him, one has only to compare the story carried in the vol. 20, no.14 edition of *The News* newspaper for Tuesday, May 13, 2008, with the returns filed by the respondent, and determine whether counselor Verdier had not spoken to the press or complied with the orders of Associate Justice Howard-Wolokolie.

Petitioner Bull had informed the Court, during argument, that notwithstanding the orders of Associate Justice Howard-Wolokolie, her rights as a member of the TRC had not been restored.

When, on June 2, 2008, counselor Verdier appeared personally and argued the returns of the respondent, the Court inquired of him whether he had complied with the orders of Associate Justice Howard-Wolokolie, and put the following questions to him. We quote the questions and answers of counselor Verdier.

"QUESTION. What about the issue of [Commissioner Bull's] security?"

"ANSWER. The security is here with her. Prior to the issuance of the prohibition, she had the security.

"QUESTION. Were all her rights restored?"

"ANSWER. Her rights were restored. She has her office, and she has participated in all of the Commission's hearings.

"QUESTION. You had withdrawn all her privileges. What did you do to restore her rights?"

ANSWER. All her rights are restored.

QUESTION. When you suspended [Commissioner Bull], you wrote her formally. Did you write her formally restoring her rights?"

ANSWER. Yours Honors, the court orders supercedes all other orders.

These answers confirm our earlier holding that counselor Verdier had not obeyed the orders of Associate Justice Howard-Wolokolie.

This Court has held that it is contemptuous for any party to disobey an order of court.

"Contempt of court is a disregard of, or disobedience to, a court by conduct or language, in or out of the court which tends to disturb the administration of justice, or tends to impair the respect due the court. *Watts-Johnson v. Richards*, 12 LLR 8, 12-3 (1954)." *Raymond International (Liberia), Ltd. v. Dennis*, 25 LLR 131, 139 (1976).

This Court has held, also, that it shall enforce obedience to orders of all the courts, and most especially its own orders, without regard to whether the enforcement is against parties, lawyers, or judges.

Mr. Chief Justice Pierre, speaking for the Court in *Nyepon v. Reeves*, 21 LLR 406, 412 (1973), held:

"Perhaps it might be necessary that we here again emphasize the importance of obeying a court order. Any court acting within proper jurisdiction and within the limits of its authority, must be obeyed not only by the parties concerned in litigation, but by all who come in contact with the particular court. But over and above what the parties and/or the public may do, lawyers should never allow themselves to be accused or refusing, disobeying, or disregarding a court order of summons, because of special relationship to the courts. In *In Re Simpson*, 14 LLR 429 (1961), this Court laid down this rule in the most definite terms. A lawyer who defies or disobeys a court order not only displays contempt for the court issuing the order, but shows contempt for the judicial system of which the particular court is a part. In the circumstances, the Supreme Court cannot ignore the affront, and in order to preserve the dignity and authority of the courts of the country must punish for contempt in every such case."

This Court has held, also, that it is contemptuous for a counselor of this Bar, who happens to be an official of Government, to disobey an order of this Court.

In *Dhalimal International Trading Company (DITCO) v. King*, 26 LLR 195, 206-8 (1977), Mr. Justice Henries, speaking for this Court, held:

"Any and every disobedience of an order of a court of competent jurisdiction or any act which in any manner disregards and thereby belittles the authority of a court is contemptuous. There is support for this view in many cases already decided by this Court. *In re Morgan*, 22 LLR 378 (1974); *International Trust Company v. Weah*, 15 LLR 568 (1964); and many others decided before and since these cases.

"The Commissioner of Immigration is an official who holds office in the executive branch of the government. He is nevertheless subject to the laws of the country and the orders of the courts to no less degree than are the other citizens of the country. In the case *In re Cassell, Attorney General of Liberia*, 10 LLR 17 (1948), in which case the Attorney General had professionally and officially advised the Secretary of State to issue a passport, the issuance of which had been restrained by injunctive orders of the [Supreme Court] the Attorney General was punished in contempt for his disregard of the court's orders.. His membership in the President's cabinet did not insulate him against punishment by the courts when it was shown that he had disobeyed its orders.

"In a more recent case, *Thomas v. Morgan*, 25 LLR 37, (1976_ when Minister of Justice Lawrence A. Morgan and two other officials of his Ministry disobeyed orders given by this Court, the matter was heard on information filed here, and he was punished in contempt proceedings for disobeying the Court's orders. His being head of the Justice Ministry, of which the Immigration Bureau is a part, did not absolve him from punishment where it had been shown that he had deliberately, and with intent to humiliate this Court, disregarded its orders. If the head of the Justice Ministry is not absolved from punishment in contempt for disobedience of a court's orders, how much more would the head of a bureau in the Ministry be required to answer to his disobedience of a court's order?

"In another case of contempt against a lawyer who was also a legislator, this Court, speaking through Mr. Justice Henries, held that of the two branches of government, the Legislative and the Judicial, the Legislature is only *primus inter pares* with the other two; none can function without the other. Nor, in this respect, is any weaker or stronger than the others. Each branch has its own functions but all three branches, in the performance of their respective functions, work together in the best interests of orderly government in a democratic Republic.' *In re Morgan*, 22 LLR 378, 384 (1974).

"Upon receipt of the alternative writ commanding that all action in the matter relating to the petitioners in mandamus be stayed until further notice from the Justice in chambers, the respondent Commissioner of Immigration should have obeyed the

order literally and taken no further step except to file a return as had also been commanded. In this regard the Commissioner's act was contemptuous, when instead of obeying the order he proceeded to arrest and detain one of the petitioners who had demanded adjustment of alien status. Whether that demand was meritorious or not was not within the discretion of the Commissioner to say, in face of a command of the Justice in chambers. To the same extent that the Commissioner expected the alien to abide by the immigration laws respecting his entry, to that same extent that the laws of the country which gave him the right to apply for adjustment of status, should be respected and obeyed until the Supreme Court should render its decision."

Upon receipt of the alternative writ commanding that the parties "return to *status quo ante* and stay all further proceedings until otherwise ordered," counselor Jerome J. Verdier, Sr. should have obeyed the order of this Court. He did not.

We refer to the following from the Code for Moral and Ethical Conduct of Lawyers (1999).

"Rule 1.

"It shall be unprofessional for any lawyer to advise, initiate or otherwise participate directly or indirectly in any act that tends to undermine or impugn the authority, dignity, integrity of the courts of judges thereby hindering the effective administration of justice."

"Rule 2. "It is the duty of every lawyer to maintain towards the court a respectful attitude, not only towards the judge temporarily presiding, but for the purpose of maintaining the supreme importance of his judicial office. . . ."

We find counselor Jerome J. Verdier, Sr. guilty of contempt of the Supreme Court, and in violation of rules 1 and 2 of the Code for Moral and Ethical Conduct of Lawyers (1999). He is suspended from the practice of law, directly or indirectly in any of the courts of this Republic, for the period of six months, as of the date of this ruling.

The petition for the writ of prohibition is hereby granted, and the peremptory writ issued.

The Clerk of this Court is ordered to transmit a copy of this opinion to the respondent, the Truth and Reconciliation Commission. It is so ordered.

Prohibition granted. Counselor Jerome Verdier, Sr., suspended from the practice of law for six

months.

Pearl Brown-Bull of the Bull Law Firm in association with *Necular Y. Edwards* of *Dean and Associates, Inc.*, appeared for the appellant. *Jerome J. Verdier, Sr., and A. Kanie Wesso* of *Kanie, Koivue Legal Redress, Inc.*, appeared for the respondent.