IN RE: THE GRAND COALITION OF POLITICAL PARTIES, represented by WILLIAM GABRIEL KPOLLEH of the Liberia Unification Party, Chairman; JACKSON F. DOE of the Liberia Action Party, First Vice Chairman; EDWARD B. KESSELLY of the Liberia Unity Party, Second Vice Chairman, and WESLEY M. JOHNSON, Third Vice Chairman, Respondents.

CONTEMPT PROCEEDINGS.

Heard: July 7 & 8, 1986. Decided: August 1, 1986.

1. The right to act as a corporation does not belong to citizens by common right, but is a special privilege conferred by the sovereign power of the state or nation. Until there is a grant of such right, therefore, whether by special charter or under general law, there can be no corporation. The specific time at which corporate existence commences is determined by the provisions of the law under which incorporation takes place. Frequently the filing of the articles of incorporation is specified as the act in the process of incorporation from and after which the corporation exists as a separate legal entity.

2. It has also been held that it is a matter of no importance who institutes the proceedings for contempt, since the alleged contemnor is not prejudiced in his defense by the particular mode in which the facts are brought to the attention of the court . The Court, without complaint, may of its own motion institute proceedings to punish for offenses against its dignity and authority, although the contempt was not strictly speaking committed in the court's presence. Nor should the Court wait to be told what acts it should consider contemptuous.

3. The Supreme Court has the inherent power not only to punish for contempt of court but to determine what constitutes contempt. Any act which tends to belittle, degrade, obstruct, interrupt, or prevent the Court's administration of justice is contemptuous.

4. Contempt of court is a disregard of, or disobedience to a court by conduct or language, in or out of the presence of the court, which tends to disturb the administration of justice, or tends to impair the respect due the court.

5. The power to punish for contempt is as old as the law itself, and has been exercised from the earliest times. The power which the courts have of vindicating their own authority is a

the Elections Law on the formation of a political party and the Constitution. The said opinion of the Supreme Court notwithstanding, the respondents continued to make public statements and issue proclamations as though they were a legal entity.

As a result of their action, the Supreme Court cited the respondents to show cause why they should not be held in contempt of court. At the conclusion of the contempt proceedings, the respondents and their legal counsels were held in contempt of the Court.

M Fahnbulleh Jones, Julius Adighibe and *Joseph Andrews* appeared as *amici curiae*. *Francis Y. Garlawolu, Edward Koenig* and *J Laveli Supuwood* appeared for the respondents

MR. CHIEF JUSTICE NAGBE delivered the opinion of the Court.

A petition for a writ of prohibition filed by the Republic of Liberia through the Ministry of Justice against the Grand Coalition of Political Parties, represented by William Kpolleh of the Liberia Unification Party (LUP), Chairman, Jackson F. Doe of the Liberia Action Party (LAP), First Vice Chairman, Dr. Edward Beyan Kesselly of the Unity Party (UP), Second Vice Chairman, Peter Jallah, General Secretary, and others, was granted on May 30, 1986, by this Court sitting *en banc*. The petition was filed before His Honour Elwood L. Jangaba, Justice presiding in Chambers who, because of constitutional issues therein raised, ordered the same brought before the full bench for determination. The petition averred, among other things, that the Grand Coalition of Political Parties not having conformed with the Elections Law and the Constitution, did not have legal existence as would allow it to engage in such activities permitted by law and open to only legal and corporate entities. Part of count 3 of said petition read as follows:

"3. Petitioner further submits that she knows of a coalition government and not a coalition party.

a legal entity until it conforms to and complies with the Elections Law on the formation of a political party and the Constitution. Unless these two requirements are met, this Court looks upon the Grand Coalition as a non-legal entity, not having legal existence". See the last paragraph of page 7 of the Opinion delivered on May 30, 1986.

To the utter astonishment and dismay of this Honourable Court, despite the rendition of opinion on the subject on the day and date aforesaid, the Grand Coalition of Political Parties continued to proclaim itself publicly as though it were a legal entity, in total disregard of the opinion handed down by this Court on May 30. Matters were brought to a head when leaders of said association in continued defiance of the Court's Opinion, met on June 23, 1986, and issued a press statement captioned:

"GRAND COALITION OF POLITICAL PARTIES LIBERIA ACTION PARTY, LIBERIA UNIFICATION
PARTY, UNITY PARTY AND UNITED PEOPLE'S PARTY, MONROVIA, LIBERIA." which was signed by William Gabriel Kpolleh, Jackson F. Doe, Edward B. Kesselly and Wesley M. Johnson as officials of said Grand Coalition of Political Parties as though the said association were a legal entity possessed with such rights enabling it in keeping with law to engage in such activities.

The Court considering the behavior of the respondents as disrespectful and intended to challenge, disregard and belittle its authority and dignity, cited said respondents to appear before it and show cause why they should not be held in contempt of this Honourable Court for the manner in which they have behaved. They appeared and filed their returns.

In counts 7 and 8 of said returns and during arguments before this Court, counsel for respondents strenuously contended that the petition for a writ of prohibition prayed for by the Ministry of Justice and upheld by the Supreme Court was meant to enjoin and prohibit the staging of a mass political rally only and that the part of the opinion which dealt with the fact of the Grand Coalition not having legal existence and therefore incapacitated to engage in such other activities was a mere obiter dictum. This argument is patently illogical because if that portion of the Court's opinion is taken to be only a dictum, then where was the rationale of the decision? Was it not due to the Grand Coalition's lack of

meeting and issuance of press statement by and under the name of the "Grand Coalition of Political Parties" was a separate activity, another writ of prohibition would have been proper just as was in the first instance, in the case of the mass political rally. But then the question which presents itself is, why not cure the problem directly so that you cannot be repeatedly bothered by conforming with the rules prescribed by the laws of the land with respect to attainment of legal status to qualify for engagement in these activities. It is a mockery to argue that a similar activity could be undertaken so that further petition for the writ of prohibition could be filed. It is elementary to understand that the Grand Coalition of Political Parties having elected or appointed officials and other officers for management of the affairs of said association and carrying on activities which only bodies having legal existence can engage in, cannot do so without compliance with the relevant laws made and provided for such matters.

In 13 AM JUR, *Corporations,* § 70, we find the following: "The right to act as a corporation does not belong to citizens by common right, but is a special privilege conferred by the sovereign power of the state or nation. Until there is a grant of such right, therefore, whether by special charter or under general law, there can be no corporation. The specific time at which corporate existence commences is determined by the provisions of the law under which incorporation takes place. Frequently the filing of the articles of incorporation is specified as the act in the process of incorporation from and after which the corporation exists as a separate legal entity."

Statutory laws are in vogue to accommodate the respondents in this regard and make them qualify to pursue their aspirations. To ignore these laws and the Constitution and carry on activities despite the Supreme Court's opinion handed down in open Court on the subject where respondents' counsel were present is indeed contemptuous. The sarcastic manner and arrogant behavior displayed by respondents' counsel during arguments before the Bench certainly showed a disregard for the Court's opinion, and such behavior by the respondents was wanton and deliberate. It was argued that since no mandate was sent down to the court below and read in open court, respondents cannot be held in contempt although their counsel were present in Court when the opinion was handed down and the judgment was read. This contention confirms the Court's assumption that respondents' counsel must have encouraged the respondents in their disregard for the Court's opinion and judgment.

While it is true that information may be filed by someone else informing the Court of contemptuous acts of which the Court did not know so as to do something about them, yet this does not mean that the Court itself should do nothing when its dignity is publicly challenged. In fact it makes no difference as to how the matter is brought to the attention of the Court. In 13 Corpus Juris, *Contempt,* § 82, it is stated among other things that:

"It has also been held that it is a matter of no importance who institutes the proceedings for contempt since the alleged contemnor is not prejudiced in his defense by the particular mode in which the facts are brought to the attention of the court . The Court, without complaint, may of its own motion institute proceedings to punish for offenses against its dignity and authority, although the contempt was not strictly speaking committed in the court's presence."

Nor should the Court wait to be told what acts it should consider contemptuous, In *re Francis G. Doe, Sr.,* contempt proceedings, reported in 23 LLR, it is laid down at page 38, Syl. 1 & 2 that:

"1. The Supreme Court has the inherent power not only to punish for contempt of court but to determine what constitutes contempt."

2. Any act which tends to belittle, degrade, obstruct, interrupt or prevent the Court's administration ofjustice is contemptuous,"

And in *Johnson v. Richards,* [1954] LRSC 13; 12 LLR 8, at Syl. 2, this Court defined contempt in the following manner:

"2. Contempt of court is a disregard of, or disobedience to a court by conduct or language, in or out of the presence of the court, which tends to disturb the administration of justice, or tends to impair the respect due the court."

a legal entity, and holding itself out as such, issued on the 23rd day of June, A. D. 1986, a press statement in direct defiance of the Court's opinion and judgment delivered earlier.

Indeed, this flagrant disregard for the Court's opinion was clearly demonstrated by the effrontery and scorn exhibited by Counsellors Supuwood and Garlawolu, two of the counsel for the respondents.

The entire returns of respondents filed by their counsel contained but sarcastic and disdainful averments instead of legally addressing the issues raised in the citation. At one point during the arguments Counsellor Garlawolu insisted that such defiance by respondents was necessary in order to avoid tension and that if the Coalition was not allowed to do what it wanted to do, it would bring about tension. In other words, this Court should accept whatever indignities and disrespect that may be shown it so that tension will not arise. The Court should now surrender its honor and respect because if it did not do so, tension might come. There we are. The rule of law must now give way to intentionally provoked tensions. We refuse to accept this. But tension is a two-edged sword or the like which does not know its instigator because it affects all sides not excluding the one who sets in motion. Therefore, this Court will not abdicate its responsibility of preserving its dignity and honor in the face of boisterousness and intimidation directly challenging its authority.

Law and order are the alternatives to anarchy. The rule of law is the only hope we have in this world. Our Father is in Heaven and here on earth we have the law. That is how He intended it when He told Moses to gather the Israelites in front of Mount Sinai. There He met the people and amidst thunder and lightning called Moses up on the Mountain where He delivered the Ten Commandments to him which he brought down to the people to be observed and obeyed and that disobedience of the Commandments was repugnant and offensive. See the Holy Bible, Exodus Chapters 19 and 20. All the Constitutions and laws in the world are the outgrowth of these Commandments. Submission to the commands of the law is therefore not a new phenomenon.

We find in *In re A. B. Ricks et. al,* 4 LLR 63 (1934), involving contempt proceedings, decided January 26, 1934, the following passage:

their own authority is a necessary incident to every court of justice. whether of record or not; and the authority for issuing attachments in a proper case for contempts out of court, it has been declared, stands upon the same immemorial usage as supports the whole fabric of the common law."

The whole concept is that there must be obedience and respect for law because if this were not so the world would be uncomfortable to live in, thus making it a place of anarchy and survival of the fittest. That is why obedience and respect for law and constituted authority is necessary whether one likes it or not for the sake of society,

Another glaringly unconscionable and blatantly contemptuous act by Counsellor J. Edward Koenig, one of counsel for respondents came to light and was reported to us in count 14 of the respondents' returns. In this, under oath taken by said Counsellor Koenig before a justice of the peace who happens to be the Clerk of this Honourable Court, Veronica Corvah, the Counsellor without any respect for this Court alleged in said count 14 that the judgment in the prohibition case was not signed by majority of the Justices as required by law, when the said Counsellor knew in his heart that this statement to which he swore in the affidavit he attached to the returns was deceitful and untrue. Not only did Counsellor Koenig know that the judgment was signed by all the four presiding Justices who heard the case - Justice Biddle being ill at the time - because he Koenig was in Court when the judgment was read together with the names of the four signatories thereto, but the said Counsellor was coincidentally in our office when the Clerk who gave him the carbon copy with only two signatures proferted with the returns was sent for to bring the original copy of the judgment. This she did. She brought the original copy bearing the signatures of the four Justices as read in open Court. When confronted with the original copy bearing the signatures the Counsellor had nothing to say. This behavior is not only unethical but grossly contemptuous.

It is quite unbelievable that a Clerk of this Honourable Court who had in her possession the signed original copy of the judgment would after giving a partially signed copy to a lawyer, affix her signature to an affidavit presented her by the self-same lawyer falsely attesting that a judgment copy of which he was proferting with the returns was signed by only two Justices. In the first place, why was a carbon copy not yet signed by all the concurring Justices given to Counsellor Koenig to use clandestinely? This is very disturbing.

Upon their failure to pay, the Clerk of this Court is hereby ordered to issue commitments directed to the acting marshal for said respondents to be kept in custody at the Monrovia Central Prison until said fines are paid.

J. Edward Koenig, having acted unethically and unprofessionally in his zeal and anxiety to dishonor this Court, is hereby held in contempt and is hereby suspended from the practice of law directly or indirectly anywhere within this Republic for a period of two calendar years.

Because of the arrogant and scornful attitude of the other two lawyers, Counsellors J. Laveli Supuwood and Francis Y. S. Garlawolu, which clearly indicated their connivance with the respondents in their contempt of this Court, and their participation with Counsellor Koenig in his unethical act regarding the judgment, by their signatures on the returns containing such falsehood when they themselves were in Court when the Supreme Court's judgment with the signatures of the Justices was read, they are also hereby suspended from the practice of law directly or indirectly anywhere within this Republic for a period of one calendar year each, effective as of the date of this judgment.

Mrs. Veronica Corvah, acting Clerk of this Honourable Court who aided and abetted Counsellor Koenig in his unprofessional act is hereby suspended for three months effective August 1, 1986. And it is hereby so ordered.

Contempt granted.