THE GOVERNMENT OF THE REPUBLIC OF LIBERIA, by and thru the Acting Minister of Justice, Republic of Liberia or his Deputy or Assistant, or the County Attorney for Montserrado County, Movant, v. **HIS HONOUR M. FULTON W. YANCY, JR.,** Resident Circuit Judge, People's Fourth Judicial Circuit Court, Maryland County, Republic of Liberia, August Term, A. D. 1981, **RICHARD HILL**, and the Sheriff for Montserrado County, Respondents.

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

Heard: April 27, 1983. Decided: July 7, 1983.

1.The statutory laws of this country provide specifically that there shall always be a Justice presiding in the Chambers of the Supreme Court, in whom is vested the powers to issue all remedial or extraordinary writs and to hear and dispose of all such petitions.

2. The Supreme Court of Liberia is the court of last review and under our statutory laws, the filing of briefs in all cases pending before it is a mandatory requirement.

3. Trial de novo as provided by the statute is not applicable to the Supreme Court in its appellate review of matters before it.

4. A writ of error will lie where a court proceeds to hear and determine a case without issuing a notice of assignment.

5. Every counsel appearing before the Supreme Court on appeal whether from the Justice in Chambers or from the trial court must file a brief.

6. A denial of a day in court cannot be claimed as grounds for issuance of a writ of error when counsel fails to appear after service of notice of assignment or the day the case is to be heard, and after they have noted therein, especially when the case is actually heard more than an hour after such service.

7. A writ of error will not issued to benefit a party who has neglected to act in his own interest.

8. In the absence of good cause shown, no matter how meritorious the case may seem, an application for a writ of error made more than six months after rendition of a judgment in the lower court will be denied.

9. A lawyer who consents to take the judgment for an absent counsel, but fails and neglects to timely deliver the judgment to the said counsel, may be personally held for damages for such neglect.

10 A motion to intervene by a pleading must set forth the claim or defense for which intervention is sought.

11. Unreasonable delay or laches defeats the right to intervene.

12. An application for intervention is too late when made after commencement of the trial, after entry of final judgment or decree, after a settlement between the original parties, or after the plaintiff has voluntarily dismissed his action.

13. The State cannot intervene in a civil action of damages between an individual and a corporation.

Co-defendant-in-error/co-respondent was accused of theft by movant, the Republic of Liberia, but was acquitted upon a regular trial. Thereafter, he instituted an action of damages against plaintiff-in-error, Liberia Electricity Corporation.

Following a trial held in the absence of the co-defendant-in error, Liberia Electricity Corporation, a verdict was returned in favor of the Co-respondent Richard Hill. Because counsel for plaintiff-in-error was absent at the time of the rendition of final judgment, Counsellor John Dennis was designated by the court to take the judgment. The designated counsel noted exceptions to the judgment and announced an appeal to the Supreme Court on behalf of the plaintiff-in-error. No further steps were taken by plaintiff-in-error, Liberia Electricity Corporation, to perfect the appeal. Instead, the plaintiff-in-error filed a petition for a writ of error alleging that Counsellor John Dennis who had taken the judgment on behalf of plaintiff-in-error had not transmitted the same to plaintiff-in-error to enable it to perfect its appeal, and that therefore it had been denied the opportunity of having its appeal heard by the Supreme Court. The alternative writ was granted and resistance thereto filed; and, after argument pro et con, the Chambers Justice reserved ruling on the petition.

During the pendency of the ruling, the Republic of Liberia filed a motion to intervene in the case. The Chambers Justice granted the motion to intervene and the petition for a writ of error, from which defendant-in-error appealed to the Full Bench.

The Supreme Court held that a writ of error could not lie in that the petition was filed without the six month statutory period, and that plaintiff-in-error had failed to show good cause as to why it could not have complied with the statute.

With respect to the motion to intervene, the Court held that the Republic could not intervene in a civil suit of damages between an individual and a public corporation, especially where property rights were not in issue. The Court also held that the motion to intervene, filed after trial and a final judgment, was not timely filed within the contemplation of the statute. Accordingly, the Supreme Court reversed the ruling of the Chambers Justice and denied the motion to intervene and the petition for a writ of error.

A. W. Octavius Obey, Acting Solicitor General, in association with James D. Gordon and Paul S. Berry, appeared for intervenor and appellee/plaintiff-in-error. Roger C. H Steele appeared for defendants-in-error/respondents.

MR. JUSTICE SMITH delivered the opinion of the Court.

These proceedings grew out of an action of damages for libel instituted by co-defendant-in-error, Richard Hill, co-respondent herein, in the Fourth Judicial Circuit Court, Maryland County, against the Liberia Electricity Corporation (LEC), by and thru its Harper station managers, Dennis Ford and Jerry Hargans, of Harper City, Maryland County, plaintiff-in-error herein.

The trial records certified to us revealed that pleadings were exchanged by the parties, and that the trial court, after hearing argument on the issues of law raised therein, ruled dismissing both the defendant's answer and the plaintiffs reply for late filing Consequently, the defendant was ruled to a bare denial of the complaint. A notice of assignment was thereafter issued, served and returned served on the parties for hearing of the case on the 24th day of September, 1981, at the hour of ten o'clock in the morning.

On the day the case was assigned for hearing, the lower court received a radiogram from Counsellor Paul S. Berry, of Monrovia, Liberia, counsel for defendant corporation. It read as follows:

"His Honor M. Fulton W. Yancy Resident Circuit Judge Fourth Judicial Circuit Maryland County

Notice of assignment in the case Richard Hill versus LEC, Damages for Libel dated September 24 1981 and assigned for jury trial on the same September 24, 1981, just reached me at 5:00 p.m. Exceedingly regret my inability to come to Harper for the case on September 24, 1981, due to, among other things, the death of my wife's mother which occurred just this afternoon at Cooper's Clinic at 3:00 p.m. Barring any unforeseen circumstances, I will definitely be in Harper any time during the week of September 27, 1981. Please therefore reassign the case finally for any time next week stop. Thanks immensely and kind regards.

Counsellor Paul S. Berry COUNSEL FOR LEC-DEFENDANT".

Because of the request for postponement of the case for hearing as contained in the radiogram of LEC's counsel quoted supra, the trial was postponed until September 28, 1981, at the hour of ten o'clock in the morning. A notice of assignment was accordingly issued, served and returned served on the parties. The court also sent a telegram to Counsellor Berry which read, as follows:

"Counsellor Paul S. Berry Liberia Electricity Corporation P. 0. Box 165, Monrovia Pleased to notify you that Richard Hill versus LEC case reassigned by court in session for jury trial Monday 28th September 1981 at 10:00 a.m. Parties should be represented stop Regards Peter Nagbe Clerk of Court, Harper".

When the case was again called for trial on September 28, 1981, in keeping with the assignment, plaintiff Richard Hill and his counsel were present in court but neither defendant LEC, by and thru its Harper Station Managers aforesaid, nor its counsel was present; consequently, the defendant was called three times at the door of the courtroom and there being no answer, the court entered a plea of not liable in favour of the defendant corporation and the plaintiff, by permission of court, produced evidence and rested. The court then charged the jury who after deliberation returned a verdict in favour of the plaintiff, awarding him general damages in the sum of $25,000.00 and special damages in the sum of $500.00. The trial court after expiration of the statutory time for rendition of judgment proceeded to render final judgment confirming the verdict of the trial jury. Since the defendant corporation's Harper Station. Managers were notified of the time for the rendition of Final Judgment and they failed to appear, Counsellor John A. Dennis was appointed by court to take the judgment for the defendant; he excepted to the said judgment and announced an appeal to the Honourable the Supreme Court of Liberia on behalf of the defendant corporation. The court, however, held that since the defendant corporation did not except to the verdict nor move the court for a new trial, as prerequisite to the taking of appeal to the Supreme Court in civil cases, the appeal was granted but the judgment ordered enforced a bill of costs was thereupon ordered issued for service.

We found in the records the bill of costs in the total amount of $27,163.00 which had been taxed by the parties and approved by the trial judge. The said bill of costs is dated 14 th day of October, 1981, that is to say, seven days after rendition of final judgment on the 7th day of October, 1981. There is no explanation as to why the bill of costs was not satisfied; however, according to the sheriffs returns, one of the defendant corporation's station managers, Jerry Hargans, refused to satisfy the bill of costs.

The records show further that in April 1982, that is to say, about seven months after final judgment, the defendant corporation sought the Chambers of this Court for a writ of error, substantially alleging in its petition that co-defendant-in-error Richard Hill was involved in a theft of property case, and that based upon an investigation conducted by plaintiff-in-error into the case, magnitude was found and the matter reported to the police; and that the case was taken to court and co-defendant-inerror Hill was acquitted. Consequently, he commenced the action of damages for libel against the plaintiff-in-error; that pleadings were exchanged and rested. That the case was assigned for jury trial on the 24th day of September, 1981, and counsel for plaintiff-in-error, because of the death of his mother-in-law, sent a radiogram to the court requesting for re-assignment of the case (see the radiogram herein

above quoted), Plaintiff-in-error further alleged in its petition that on the 9 th of March, 1982, its counsel arrived in Harper City for another case of damages for injury to personal property against LEC, that is to say, five months and two days after judgment in the case out of which these proceedings grow, and it was when the clerk of court informed him, for the first time, that the libel case instituted by co-defendant-in-error Richard Hill against LEC had been heard and determined and showed him the records and the bill of had costs. Plaintiff-in-error therefore claimed not to have had its day in court.

That sometime during the month of April 1982, to plaintiff -in-error's surprise, a writ of execution was sought to be served on it at its Monrovia office by the Deputy Sheriff for Montserrado County, who was accompanied by co-defendant-in-error Richard Hill.

Plaintiff-in-error also averred in its petition that the court's appointed counsel, Counsellor John A. Dennis, who took the judgment for and on behalf of the plaintiff-in-error and announced an appeal therefrom, did not send the judgment or notify the plaintiff-in-error to that effect in order for it to have taken the necessary steps to complete the appeal as announced, thereby error would lie for the Supreme Court to review the irregularities and correct the errors committed by the trial court. Plaintiff-inerror annexed to its petition an affidavit sworn to by Counsellor John A. Dennis to the effect that he did not transmit and/or deliver to plaintiff-in-error the final judgment and records in the case up to and including the 18th day of April, 1982.

After the petition for a writ of error was argued pro et con before the Justice in Chambers, ruling thereon was reserved and matter suspended.

While the ruling was pending, the Minister of Justice of the Republic of Liberia filed a motion in the Chambers of this Court to intervene, contending in substance that the Republic of Liberia is the sole shareholder of the Liberia Electricity Corporation by virtue of An Act of the Legislature, copy of which was proferted with the motion; that the rights and interest of the Republic of Liberia would be affected by any judgment against the plaintiff-in-error were she not allowed to intervene.

The defendants-in-error filed returns to the State's motion to intervene, contending therein that: (1) The motion should be dismissed because of the improper designation of the Republic of Liberia as movant instead of intervenor; (2) that the motion to intervene should have been filed in the trial court before the damages case was determined; (3) that the right to intervene in the case was no longer available to the Republic of Liberia, the error proceeding having already been argued and ruling thereon reserved; and (4) that LEC is a corporation which under the law can sue and be sued in any court of this Republic having competent jurisdiction.

Our distinguished colleague, then presiding in Chambers, heard these proceedings and entered ruling granting the petition for a writ of error and ordered the issuance of a peremptory writ of error commanding the court below to resume jurisdiction over the action of damages for libel and retry the same. The learned Justice also granted the motion of the State to intervene. Defendants-in-error thereupon appealed to the Full Bench for a review of the Justice's ruling. This is the case.

When the case was called for argument before us, counsel for respondents/defendants-in-error read the brief filed by him while counsel for movant and plaintiff-in-error contended that he did not file a brief because there was no law requiring the parties appearing before the Supreme Court en bane on appeal from ruling of a Chamber Justice to file briefs, especially where a bill of exceptions, upon which briefs are predicated, is not required to be filed in the Chambers of the Supreme Court. That the filing of briefs before the Supreme Court in Chamber cases has not been the practice in this jurisdiction. That it was Mr. Justice Smith who, while presiding in Chambers, required the filing of briefs by the parties in remedial proceedings appealed to the Full Bench, which demand appellee contended is not backed by any statute or precedence; that the practice heretofore was for the Court to hear the proceedings de novo.

The only tenable argument of counsel for movant and plaintiff-in-error is that lawyers who appeared before this Court in the past to argue remedial proceedings were not required to file briefs, which practice we hold is contrary to and in violation of the statute requiring the filing of briefs in cases appealed to and pending before the Supreme Court for argument and final determination. There is, in fact, no law in this jurisdiction requiring the Supreme Court, in the exercise of it appellate jurisdiction, to hear a remedial proceeding on appeal de novo, and that there is no law which authorizes the Supreme Court of Liberia, sitting en banc, to exercise original jurisdiction over remedial proceedings. Conversely, the statute laws of this country provide, specifically, that there shall always be a Justice presiding in the Chambers of the Supreme Court in whom the power to issue all remedial or extraordinary writs and to hear and dispose of all such petitions therefor exclusively resides. His ruling in any such matter may be appealed to the full bench as of right. Judiciary Law, Rev. Code 17: 2.9(1); Civil Procedure Law,

Rev. Code 1: 16.26.

A petition for any remedial or extraordinary writ made to the Supreme Court is based on question of law only, and the Justice of the Supreme Court presiding in Chambers may issue an alternative writ in exercise or aid of the appellate jurisdiction of the Supreme Court. The petition or application for the remedial writ in that case, therefore, serves and is in the nature of a bill of exception to the alleged illegal acts of the lower court, as is a bill of exceptions in a regular appeal. The argument of movant and plaintiff-in-error's counsel that no bill of

exceptions is required to be filed before a Chambers Justice on which the briefs may be predicated is therefore considered unmeritorious.

The Supreme Court of Liberia is the court of last review and under our statute laws, the filing of briefs in all cases pending before it is a mandatory requirement. Here is the statutory provision on the point:

"Immediately upon the assignment of a case for argument, six copies of briefs on both sides shall be filed in the office of the Clerk of the Supreme Court. One copy shall be kept there with the records of the case and the others shall be distributed among the Justices. Counsel for each party shall serve a copy of his brief on counsel for opposing parties at the call of the case or before. The briefs shall contain a statement of the issue and points to be argued with supporting legal authorities sufficient quotations from the latter shall be included to give the Court a clear understanding of the purport of the authority cited. Reference to evidence shall include a statement of the folio or page where it appears in the records." (emphasis ours)./bid., 1:51.14.

The appellate court shall not consider any point of law not raised in the trial court and argued in the briefs. Ibid., 1:51.15. Any reasonable mind would therefore conclude that the points of law raised in the petition and the resistance thereto, and argued before the Justice in Chambers, which points the parties held the Justice in Chambers correctly ruled upon and/or failed to rule upon, or on which he erroneously ruled, must be argued in the briefs and such briefs must contain statements of the said issues and the points to be argued with supporting legal authorities, sufficient quotations in order to give the Full Bench a clear understanding of the argument in the case pending before the Court on appeal, be it from the trial court or from the Chambers Justice.

Trial de novo as provided by the statute is not applicable to the Supreme Court in its appellate review of matters before it. Appeals from court not of record are reviewed de novo in the circuit courts or any other appellate court of record, because those courts of first instance are not courts of record where review would be done based upon the certified records. However, the Supreme Court, being the court of last review, the Justice presiding in Chambers reviews remedial proceedings upon the certified records of the inferior courts. Therefore, any appeal before the Supreme Court is subject to review upon the self-same legal procedure, whether it is from Chambers or directly from the trial court. If the Supreme Court was to hear arguments in remedial proceedings de novo, then, of course, there would have been no need to designate a Justice to preside in Chambers for the purpose of hearing remedial proceedings.

With reference to counsel for movant and plaintiff-in-error's contention that he did not file any brief because the demand of Mr. Justice Smith for counsel to file briefs in appeal cases from the Chambers of the Supreme Court to the Full Bench is without legal support, we

cannot bring ourselves to agree with said argument in the face of Rule 7, Part 1, of the Rules of the Supreme Court and the Civil Procedure Law, Rev. Code 1: 51.14, already quoted supra. Moreover, an appeal from the ruling of a Justice in Chambers may be granted as of right upon terms and conditions as the Justice may prescribe. Here is our Rule of Court on the point:

"Upon the application of a party by petition, duly verified according to law and the rules of this Court, for a remedial or common law writ, the Justice in Chambers shall issue an alternative writ, and if temporary relief shall be deemed necessary, it shall be provided for in such writs. If the matter should involve in any way the rights of the public, the Attorney General (now Minister of Justice), or other prosecuting officer of State shall have notice of the application, if the Court or Justice shall deem it necessary. "Upon a hearing had under such alternative writ, an absolute writ may be issued directing the performance,. or non-performance, or cessation of any act, which to the Court or Justice thereof may seem just, legal or equitable, subject to appeal to the Supreme Court upon such conditions as the Justice may prescribe" (emphasis ours). Revised Rules of the Supreme Court, Rule 13, Parts 2 and 3, pp. 45-46.

In view of what we have narrated hereinabove, and the legal citations relied upon, it is our holding that every counsel appearing before this Court on appeal, whether from the Justice in Chambers or from the trial court, must file brief containing: (1) statement of the issues which, in his opinion, the Chamber Justice erroneously or correctly decided; (2) the points to be argued with legal authorities supporting the same. Those authorities shall be quoted to the extent necessary to give the Court a clear understanding of what is held by the authorities cited.

Reverting to the petition for a writ of error, it is our considered opinion that there are two questions upon which hangs the fair and impartial determination of the case; they are: (1) whether or not the plaintiff-in-error corporation was deprived of its day in court for which a writ of error would lie? (2) whether or not the plaintiff-in-error could come to this Court by error after expiration of the statutory period of six months within which such proceeding may be instituted, simply because the counsel appointed by court to take the final judgment for the plaintiff-in-error, and who announced an appeal from said judgment, failed to inform counsel for the plaintiff-in-error to that effect?

The means by which party litigants or their counsel are notified by court of the time and place of the hearing of a case is by service of a notice of assignment on counsel for both parties or on the parties themselves. If a court proceeds to hear and determine a case without the service of a notice of assignment, the party upon whom such assignment was not served is said to have been deprived of his day in court, and a writ of error would lie under the circumstances. Gbae v Geeby, 14 LLR 147 (1960). But on the other hand, denial

of a day in court cannot be claimed as grounds for issuance of a writ of error when counsel failed to appear after the service of a notice of assignment on the day the case is to be heard, and after the hour noted therein, especially when the case is actually heard more than an hour after such service. Mulba v. Dennis, et. al, 22 LLR 46 (1973).

In the instant case, the plaintiff-in-error corporation was duly served with assignment, by and thru its resident agent in Harper, Maryland County, and in addition a telegram was sent to its counsel in Monrovia, informing him of the assignment of the case for the 24 th of September, 1981, at the hour of ten o'clock in the morning. The said counsel acknowledged the receipt of said telegram and in turn sent a telegram to the court requesting for postponement until the 27th day of September, 1981, at which time he promised he would definitely be in Harper for hearing of the case. The court granted the request of counsel for plaintiff-in-error and reassigned the case for September 28, 1981, at the hour of ten o'clock in the morning. Another assignment was thereupon issued and served on the agent of the plaintiff-in-error corporation in Harper and a telegram was again sent to its counsel in Monrovia. Therefore, the failure or neglect of counsel for plaintiff-in-error to have proceeded to Harper, on the 27t h of September for the trial of the case on the 28 th of September, 1981, according to his own request as contained in his radiogram quoted supra, or for the agents of plaintiff-in-error corporation in Harper to appear for the trial can be considered nothing less than fatal neglect and abandonment of plaintiff-in-error's defense; therefore, plaintiff-in-error cannot claim not to have had its day in court. A writ of error will not be issued to benefit a party who has neglected to act in his own interest.

A writ of error is a remedial process to which a party, who has for good reason failed to make a timely announcement of the taking of appeal, may result within six months after rendition of final judgment. Civil Procedure Law, Rev. Code, 1:16.24 . It would be justifiable to grant a petition for a writ of error if a party failed to make timely announcement of the taking of an appeal because such party was not notified of the hearing of the case and the time of rendition of judgment, and not otherwise as in the instant case. In Brazie v. Gynneh, 20 LLR 343 (1971), this Court held that an application for a writ of error made more than six months after rendition of the judgment from which relief is sought, cannot be entertained. In the absence of good cause shown no matter how meritorious the case may seem, an application for a writ of error initiated more than six months after rendition of a judgment in the lower court will be denied. Lynch v. Azango, 18 LLR 256 (1968).

In the instant case, the trial was deferred to the 28 th day of September, 1981, at the instance of counsel for plaintiff-in error, yet he failed and neglected to appear and defend. On the 7 th of October, 1981, upon another notice of assignment, final judgment was rendered and plaintiff-in-error was not deprived from appealing therefrom, because Counsellor John A. Dennis was deputized to take the judgment on its behalf in accordance with the normal practice and procedure hoary with age in our jurisdiction in cases where any of the parties

failed to appear at the rendition of judgment. The court's appointed counsel accordingly noted exceptions and announced an appeal, which was granted. If the appealing party neglected to take advantage of his right to appeal, he cannot benefit from his own negligence.

It is the duty of a lawyer to be punctual in his attendance at court, and to be prompt and faithful in answering assignments received by him, notifying him of the time for hearing of his client's case. It is also his duty to the public and to his profession to avoid tardiness in the performance of his professional duty. Rule 17 of the Rules Covering and Regulating the Moral and Ethical Conduct of Lawyers.

Plaintiff-in-error contended that the appeal as announced by Counsellor John A. Dennis could not be perfected because he (Counsellor Dennis) did not deliver and/or transmit the record and judgment in the case to counsel for plaintiff-in-error in Monrovia until the statutory time to take the necessary steps had expired, and annexed to the petition an affidavit sworn to by the said Counsellor Dennis to the effect that he was unable to make contact with the counsel for LEC and deliver to him a copy of the court's final judgment up to and including April 18, 1982, that is to say, six months and eleven days after judgment .

If Counsellor Dennis, as a brother lawyer, consented to and in fact took the judgment for the plaintiff-in-error but failed and neglected to timely deliver the judgment to counsel for plaintiff-in-error, or to any of its resident agents in Harper, Maryland County, and has confirmed his said neglect by a sworn affidavit, he may be personally held for damages to plaintiff-in-error for such neglect. But the plaintiff-in-error cannot be excused because of the neglect of Counsellor Dennis; for, the legal profession is a fraternity to which all lawyers are members and, therefore, a spirit of brotherhood should at all times characterize their treatment to and consideration of each other. (See Code of Moral and Professional Ethics, Rule 32, p. 9).

But granting that Counsellor Dennis announced appeal but failed to timely transmit the final judgment to plaintiff-in-error's counsel, why is it that when the said counsel for plaintiff-in-error arrived in Harper on the 9 th day of March, 1982, that is to say, five months and two days after judgment, and was shown the said judgment and the bill of costs, he neglected to file the application for a writ of error until April 22, 1982, that is to say, six months and fifteen days after judgment?

In our opinion, counsel for plaintiff-in-error was in knowledge of the court's judgment prior to the expiration of the six months period within which he should have applied to this Court for a writ of error, because he was informed by the clerk of the trial court on March 9, 1982, that judgment in the case was rendered on October 7, 1981, and was even shown the bill of costs. Under the circumstances, plaintiff-in-error cannot benefit under the pretext that Counsellor Dennis did not timely deliver to its counsel the judgment in the case in order to

have taken advantage of its right at the proper time. Furthermore, the bill of costs, as presented to the resident agent of the plaintiff-in-error corporation, Jerry Hargans, was taxed by the said agent; that alone was sufficient notice to enable the plaintiff-in-error to take advantage of its right at the proper time, the petition for a writ of error filed out of statutory time cannot be granted.

Reverting to the State's motion to intervene, we understand the State to say that by virtue of an act to amend the Public Authorities Law creating the Liberia Electricity Corporation (LEC), approved July 12, 1973, she is the sole shareholder of the said corporation and therefore has a legal interest in the action of damages for libel as instituted against LEC in the trial court. As aforesaid, the motion to intervene was filed in the Chambers of this Court after the petition for a writ of error filed by LEC, growing out of the libel suit, had been argued before the Chamber Justice and ruling thereon reserved.

The motion to intervene was not accompanied by any pleading setting forth the claim or defense for which intervention was being sought, as provided in Civil Procedure Law, Rev. Code 1:5.36. There was also no averment in the motion of inadequate representation in the trial court.

The questions which this motion to intervene has occasioned, and which we think are essential to the fair and impartial determination of the issue, are:

1. Whether or not the State should intervene and be made a party in interest to the libel suit instituted against the Liberia Electricity Corporation (LEC), a public corporation, which is an artificial person having the capacity to sue and be sued; and what effect the judgment will have on the Republic of Liberia?

2. Whether or not there is any statute extant which allows the State to intervene in civil action of damages brought against a State enterprise (corporation), or any person for that matter, not involving property rights?

3. Whether or not after trial and final judgment by the lower court in the original suit, the Supreme Court can, at that stage, entertain a motion to intervene in the original suit during the progress of a remedial process filed especially without statutory time?

4. Whether or not a motion to intervene, which is not ac-companied by any pleading setting forth the claim or defense for which intervention is sought, may be entertained?

We shall discuss these questions in the reverse order, and so we ask whether the motion to intervene in the original suit can legally be entertained when the motion is not being accompanied by a pleading setting forth the claim or defense for which the intervention is sought?

In the Civil Procedure Law, Rev. Code 1:5.63, we find the following provision:

"A person desiring to intervene shall serve a motion to intervene upon all parties affected thereby. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought" (emphasis ours) .

In the instant case, only the motion to intervene was filed by the State, alleging that she is the sole shareholder of the plaintiff-in-error corporation, and would therefore like to protect her corporate rights. There is no other pleading setting forth the claim or defense for which the State is seeking intervention, as is mandatorily required by our statute quoted supra. It is our holding that the laws of this country should and must be strictly adhered to in all legal proceedings, and where the statute is brushed aside, this Court will not lend aid to a negligent party. Therefore, the motion to intervene not being complete, the same should not have, in the first place, warranted any consideration by the Chamber Justice.

The next question in the reverse order is, can a motion to intervene be filed before the Supreme Court in a suit which had already been heard in the lower court and final judgment rendered without perfection of the appeal?

As earlier stated, the damages suit for libel was regularly heard and determined in the trial court. An appeal was announced from the judgment but was not perfected. And after six months and fifteen days had elapsed, the plaintiff-in-error Corporation filed a petition for a writ of error, which petition was resisted, heard and ruling thereon reserved. It was during the pendency of the ruling on the petition for a writ of error that the Republic of Liberia filed a motion to intervene.

Under the relevant statute, any person shall be allowed to intervene in an action upon timely application, especially when the representation of his interest by existing parties is or may be inadequate, and he is or may be bound by a judgment in the action. Civil Procedure Law, Rev. Code 1:5.61.

Will the Republic of Liberia be bound by a judgment of court in the civil action of damages for libel against the plaintiff-in-error, LEC, a public corporation (State enterprise) having a juridical personality under the Associations Law of Liberia? Our answer is in the negative; for, in no way will the Republic of Liberia be bound by a judgment finding the plaintiff-in-error corporation liable in damages for defaming the character of an individual or its employee for that matter.

Although the controlling statute does not set any time limit within which to intervene, but it does provide that the application to intervene must be timely made. We therefore interpret this statute to mean that the application shall be made before trial or before a judgment and/or decree is entered in the suit. Some statutes, just like ours, make no provision governing the time for intervention; but as a general proposition, unreasonable delay or laches defeats the right to intervene. In particular, an attempt to intervene is ordinarily too

late when made after commencement of the trial, after entry of final a judgment or decree, after a settlement between the original parties, or after the plaintiff had voluntarily dismissed his action. 59 AM. JUR. 2d, Intervention, § 161. Hence, the answer to the third question above.

Taking the second question listed supra, that is, whether the State is allowed to intervene in a civil suit of damages between an individual and a corporation, our answer is also in the negative. We have not been fortunate in our research to find any statute which provides for the Republic of Liberia to intervene in a civil action of damages between an individual and a corporation, especially where property rights are not in issue. We have, however, found legal support that any corporation, domestic or foreign, has the capacity to sue and be sued in Liberian courts of competent jurisdiction, subject, however, to the provisions of the Associations Law; and any registered cooperative society has the capacity to sue and be sued in Liberian courts, subject, however, to the provisions of the Associations Law. Civil Procedure Law, Rev. Code 1: 5.17. The Associations Law, Rev. Code 5: 2.5, provides also that "a corporation is a legal entity, considered in law as a fictional person, distinct from its shareholders or members, and with separate rights and liabilities." A corporation, such as the plaintiff-in-error, is a proper plaintiff in a suit to assert a legal right or claim of the corporation and a proper defendant to defend the legal rights of the corporation; therefore, the naming of a shareholder, member, director, officer or employee thereof as a party to a suit in Liberia to represent the corporation, is subject to a motion to dismiss.

We have not found in the act creating the Liberia Electricity Corporation, proferted with the motion to intervene, any provision which stipulates that the Republic of Liberia shall intervene in any civil suit against said Corporation. But section 85.8 of said act unequivocally provides the following:

"Existence: Rights to sue and be sued The corporation shall have perpetual existence and shall have authority to contract, sue and be sued, plead and be impleaded in any court of this Republic having competent jurisdiction." An officer of government or any agency thereof, may upon timely application exercise the right to intervene when a party to an action relies for ground of claim or defense upon any statute or executive order administered by a Liberian Government officer or agency or upon any regulation, order, requirement or agreement issued or made pursuant to the statute or executive order. Civil Procedure Law, Rev. Code 1: 5.61(2).

In the instant case, however, it is the Republic of Liberia herself that is seeking intervention in a civil suit involving Codefendant-in-error Hill's claim of damages for libel in which no property right is in issue. Perhaps, in a civil action in which a constitutional issue is raised, the court may exercise its duty under the statute by notifying the Republic of Liberia or an officer, agency, or political subdivision thereof to intervene in support of the

constitutionality of the statute only. Civil Procedure Law, Rev. Code 1: 5.64. But there exists no statute allowing the State to intervene in a civil action between individual and corporation. Hence, the answer to the second question.

Now, we shall traverse the last question, that is, whether or not the State should be allowed to intervene and be made a party in interest to the libel suit.

A line needs to be drawn here to show the interest which one may have in an organization or, to be exact, the interest of the Republic of Liberia has in the Liberia electricity Corporation, especially in the instant case. It is our opinion that the interest the State is attempting to exercise is not that which is contemplated by law. We are of the view that the damages claimed for libel is the subject matter of the instant action, and the Republic of Liberia is in no way connected with the said suit. The interest of the State in the Liberia Electricity Corporation may rightly be referred to as the public goods and the financial benefit it may receive therefrom even though the act creating the corporation, made profert of by the intervenor, does not so state. But such legal interest is not the subject matter of the action of damages for libel.

Courts have repeatedly held that the interest asserted to support intervention must be of such character to support a separate and independent action by the intervenor, and that intervention is permitted only if the intervenor would have been a necessary or proper party in the first instance to the original lawsuit. 59 AM. JUR. 2d., Intervention, § 140.

The interest which entitles a person to intervene in a suit between other parties must be in the matter in litigation and of such direct and immediate character that the intervenor will either gain or lose by the direct operation and effect of the judgment to be rendered between the original parties. Furthermore, the interest must be arising from a claim to the subject matter of the action or some part thereof or a lien upon the property or some part thereof. A person whose interest in the matter in litigation is not a direct or substantial interest, but is an indirect, inconsequential, remote conjectural, or contingent one, cannot intervene. 59 AM. JUR. 2d., Intervention, § 139.

In the case at bar, the legal interest which the State is claiming to have is not the subject matter of the action, but rather it is derived from ownership of the shares of the plaintiff-in-error corporation by virtue of the Act of the Legislature creating the said corporation. The said interest is therefore an indirect, inconsequential, remote, conjectural, or contingent one, and intervention in such a case will be denied.

Having reviewed the trial records as well as the judgment of the trial court, and considering the petition for a writ of error and the resistance, together with the motion to intervene and the resistance thereto, and relying on the legal citations supra, it is our considered opinion and holding that the ruling in Chambers be, and the same is hereby reversed. The judgment

of the trial court is hereby confirmed and affirmed, with costs against the plaintiff-in-error. And it is hereby so ordered.

Petition denied; ruling reversed.