

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA  
SITTING IN ITS OCTOBER TERM, A. D. 2017

BEFORE HIS HONOR: FRANCIS S. KORKPOR, SR. ....CHIEF JUSTICE  
BEFORE HIS HONOR: KABINEH M. JA'NEH .....ASSOCIATE JUSTICE  
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE .....ASSOCIATE JUSTICE  
BEFORE HIS HONOR: PHILIP A. Z. BANKS, III.....ASSOCIATE JUSTICE  
BEFORE HER HONOR: SIE-A-NYENE G. YUOH .....ASSOCIATE JUSTICE

Joseph Nyumah Boakai and James Emmanuel Nuquay, )  
Presidential and Vice Presidential Candidates at the )  
October 10, 2017 Elections and the Unity Party, all of )  
Liberia.....INFORMANTS )

Versus ) BILL OF INFORMATION

The National Elections Commission, represented by )  
Hon. Jerome Korkoya, Chairman, of Monrovia, )  
Liberia.....1<sup>st</sup> RESPONDENT )

AND )

Charles Walker Brumskine and Harrison S. Karnwea, )  
Presidential and Vice Presidential Candidates at the )  
October 10, 2017 Elections, All Representative )  
Candidates of Liberty and the Liberty Party, all of )  
Liberia.....2<sup>nd</sup> RESPONDENTS )

GROWING OUT OF THE CASE:

Joseph Nyumah Boakai and James Emmanuel Nuquay, )  
Presidential and Vice Presidential Candidates at the )  
October 10, 2017 Elections and the Unity Party, all of )  
Liberia.....INTERVENORS )

Versus ) INTERVENORS'  
COMPLAINT

The National Elections Commission, represented by )  
Hon. Jerome Korkoya, Chairman, of Monrovia, )  
Liberia.....1<sup>st</sup> DEFENDANT )

AND )

Charles Walker Brumskine and Harrison S. Karnwea, )  
Presidential and Vice Presidential Candidates at the )  
October 10, 2017 Elections, All Representative )  
Candidates of Liberty and the Liberty Party, all of )  
Liberia.....2<sup>nd</sup> DEFENDANTS )

HEARD: November 16, 2017

DECIDED: November 17, 2016

MADAM JUSTICE WOLOKOLIE delivered the Opinion of the Court

On November 3, 2017, the Supreme Court *en banc* heard a petition for a writ of prohibition filed by Charles Walker Brumskine, Harrison S. Karnwea, Presidential & Vice Presidential Candidates, all Representative Candidates of Liberty Party, and the Liberty Party. The petition had been filed before the

Justice in Chambers, but because the Justice considered that constitutional issues were raised and that the petition grew out of elections matter which the Supreme Court had emphasized should be heard and determined expeditiously, he had forwarded the petition to the full bench of the Court for its determination. In the petition, the petitioners, Charles Brumskine et al., averred that they had filed a complaint with the National Elections Commission (NEC) contesting the results of the elections announced by the NEC on October 20, 2017. More specifically, the petitioners alleged not only that during the conduct of the elections, the Liberian Constitution and the New Elections Law were violated but also that fraudulent acts and gross irregularities were perpetrated by and/or with the acquiescence of the NEC; that the petitioners had subsequently written the NEC requesting that the run-off election announced by the NEC to be held on November 7, 2017 be postponed until the petitioners' complaint, filed with the NEC on October 23, 2017, was heard and decided, but that the NEC had ignored the petitioners' request and was proceeding with the run-off election as announced. The petitioners therefore prayed this Court to issue the writ of prohibition to prohibit the NEC from proceeding with the run-off election pending the final determination of the complaint by the NEC, and if an appeal is taken therefrom, by the Supreme Court.

The Supreme Court, after a hearing into the petition and the returns filed thereto, rendered an Opinion on November 6, 2017, wherein it granted the peremptory writ of prohibition prayed for and prohibited the NEC from proceeding to conduct the run-off election, scheduled for November 7, 2017, until the complaint filed by the petitioners was investigated by the NEC, and, if need be, the appropriate appeal process to the Supreme Court of Liberia was availed of and the matter decided by the Supreme Court. In this regard, a mandate was sent to the NEC.

In the meantime, whilst the complaint of Charles Walker Brumskine et al. was being investigated by the Hearing Officer of the NEC, Joseph Nyumah Boakai, James Emmanuel Nuquay, Presidential and Vice Presidential Candidates of the Unity Party and the Unity Party, believing that they had an interest in the complaint filed by Charles Walker Brumskine et al. and the on-going investigation into the said complaint, proceeded to file on October 28, 2017, eight days following the announcement of the final results of the October 10, 2017 elections, a motion to intervene before the Hearing Officer. The motion was duly heard and denied by the Chief Dispute Hearing Officer. Whereupon, the movants, Joseph Nyumah Boakai et al., noted

exceptions and appealed the matter to the Board of Commissioners of the NEC for a review and reversal of the Hearing Officer's ruling.

Predicated upon the above Joseph Nyumah Boikai, Emmanuel Nuquay, Presidential and Vice Presidential Candidates of the Unity Party and the Unity Party on November 15, 2017 filed before this Court a Bill of Information, wherein they alleged that believing they had an interest in the complaint of *Charles Walker Brumskine, et al.*, filed before the Chief Dispute Hearing Officer of the NEC, a motion to intervene on October 28, 2017; ect.

The movants, informants herein, alleged in the bill of information filed before the Justice in Chambers, which was forwarded to the full bench of this Court for disposition, that although they had filed all of their appeal instruments with the Board of Commissioners of the NEC and the appeal had been heard by the Board on November 10, 2017, the Board had deliberately failed and refused to rule expeditiously on the matter, in violation of the mandate of this Court sent down to the NEC in the Brumskine et al. case to expeditiously handle the case.

We take specific note that the bill of information, filed with the Clerk of the Supreme Court on November 15, 2017, five (5) days following the hearing of the appeal by the Board of Commissioners and seven (7) days after the information had submitted all of the required documents to the Board, names the NEC as 1st respondent and Charles Walker Brumskine et al. as 2nd respondents. To fully appreciate and dissect the contentions of the informant, we quote herewith the full text of the said bill of information as follows, wo wit:

#### INFORMATION

Informants, who are intervenors/co-complainants in the above-entitled complaint before the National Elections Commission, 1st Respondent, inform Your Honours as follows, to wit:

1. That growing *out* of the original complaint filed by 2<sup>nd</sup> Respondent, a Petition for the Writ of Prohibition was prayed for by 2<sup>nd</sup> Respondents herein, as Petitioners therein, and 1<sup>st</sup> Respondent herein, as Respondent therein. Informants pray Your Honours to take judicial notice of the records of the Honorable Supreme Court for substantiation of this fact.
2. That on November 6, 2017, the Honorable Supreme Court ruled, among other things, that 1st Respondent herein should resume jurisdiction over the original matter and expeditiously dispose of that original matter and all other election matters pending before 1<sup>st</sup> Respondent herein since elections matters are time-sensitive.

Informants pray Your Honours to take judicial notice of the records of the Honorable Supreme Court for substantiation of this fact.

3. That informants, as intervenors/co-complainants in the original case, filed a Motion for *Subpoenas Duces Tecum and Subpoenas Ad Testificandum*; seven (7) of such applications were made in the Motion filed by intervenors/complainants. The intention of these applications is that the evidence would be used in substantiation of the complaint filed by informants herein, as intervenors/co-complainants therein.

4. That informants say that the applications for subpoenas *duces tecum* and subpoenas *ad testificandum* are substantially, as follows:

1. *Request for copy of the Final Registration Roll for the October 10, 2017 elections;*

2. *Request for copies of the addenda to the voter's rolls made at the polling centers nationwide in violation of the Elections Law;*

3. *Request for copies of the worksheets of the Presiding Officers nationwide;*

4. *Request for the records of the investigation of the NEC Presiding Officer who was arrested in Electoral District No. 3, Nimba County with pre-marked ballots;*

5. *Request for records of the investigation conducted by the NEC of the staff of the Office of President Sirleaf who was arrested with machines for the printing of Voters Registration Cards and other election materials at his New Georgia Home;*

6. *Request to subpoena the Inspector General of Police regarding the matter of the arrest of the staff of the office of President Sirleaf; and*

7. *Request to subpoena the NEC Chairman to testify.*

5. That informants say that the Chief Dispute Hearing Officer at the National Elections Commission (NEC) denied all but two (2) of the seven (7) applications; he granted only the application for subpoena *duces tecum* for the Final Registration Roll (FRR) for the October 10, 2017 elections and the request for the records of the investigation of the NEC Presiding Officer who was arrested in Electoral District No. 3, Nimba County with pre-marked ballots.

6. To which ruling, informants excepted and appealed to the NEC Board of Commissioners to review the ruling of the Chief Dispute Hearing Officer. The appeal papers were filed with the NEC Board of Commissioners (1<sup>st</sup> Respondent herein) on November 7, 2017.

7. Informants say that it is only today that the NEC Executive Director responded to the subpoena to produce the Final Registration Roll; but as to the application for subpoena for the records of the investigation of the Presiding Officer at Electoral District No. 3, Nimba

County, the 1st Respondent (NEC Board of Commissioners) has not yet responded to it.

8. On November 10, 2017, the NEC Board of Commissioners (1<sup>st</sup> Respondent herein) entertained arguments on the appeal and reserved ruling. Today is November 14, 2017 (a full week since ruling was reserved), and 1<sup>st</sup> Respondent NEC Board of Commissioners still has not given assignment for its ruling on informants' applications for the subpoenas *duces tecum* and subpoenas *ad testificandum*.

9. Informants say that they need these species of evidence sought by the subpoenas *duces tecum* and subpoenas *ad testificandum* to substantiate and prove the allegations of their Complaint; and informants cannot continue the trial before the Chief Dispute Hearing Officer without these species of evidence.

10. Informants submit that the delay of the 1<sup>st</sup> Respondent (NEC Board of Commissioners) to give its ruling on informant's appeal to it is unduly delaying the hearing of the case before the Chief Dispute Hearing Officer; which is contrary to and against the orders of the Honorable Supreme Court that all election disputes pending before 1<sup>st</sup> Respondent should be expeditiously disposed of.

11. Informants say that 1<sup>st</sup> Respondent's delay in rendering a ruling on its appeal and in responding to the subpoena for the records of the investigation of the Presiding Officer of Electoral District No. 3, Nimba County, is also intended to coerce informants to rest their side of the case in the hearing before the Chief Dispute Hearing Officer without the benefit of these species of evidence sought by the subpoenas *duces tecum* and subpoenas *ad testificandum*.

12. That Informants say that the conduct of 1<sup>st</sup> Respondent (NEC Board of Commissioners) in delaying disposition of the appeal pending before it, being in violation of the orders of the Honorable Supreme Court in the Prohibition proceeding, is contemptuous of the Honorable Supreme Court; and accordingly, informants pray Your Honor to hold 1<sup>st</sup> Respondent (NEC Board of Commissioners) in contempt of the Honorable Supreme Court.

WHEREFORE AND IN VIEW OF THE FOREGOING, informants pray Your Honours for the following reliefs:

1. Give 1<sup>st</sup> Respondent a reasonable and specific time-period within which to render a ruling on informants' appeal pending before 1<sup>st</sup> Respondent;
2. Hold 1<sup>st</sup> Respondent in contempt of the Honorable Supreme Court and punish 1<sup>st</sup> Respondent for its contemptuous conduct; and
3. Grant unto informants any other relief as in such matters is made and provided by law."

Essentially, the informants are complaining that the Board of Commissioners of the NEC is delaying handing down its ruling on informants' appeal taken to the board; that said delay is prejudicial to the informants continuing with presentation of their evidence and is impeding the expeditious handling of the investigation being conducted by the Chief Hearing Officer of the NEC. The informants also assert that the act of the Board is contemptuous, in that the NEC is acting in violation of the directive of the Supreme Court given in the prohibition proceedings of November 6, 2017, which directed the NEC to expeditiously dispose of all elections disputes coming before the NEC. The informants therefore pray the Supreme Court to set a specific time period within which the NEC would render a ruling on informants appeal, and to hold the NEC in contempt of the Court.

Upon the filing of this bill of information on November 15, 2017, the Supreme Court ordered the issuance of the writ directing the respondents to file returns thereto and legal briefs in support of their contentions on or before 10:00 a.m. the following day, same being Thursday, November 16, 2017. At the same time, the Court ordered the assignment of the case for hearing on the same day, November 16, 2017, at 3:00 p. m.

The 1<sup>st</sup> respondents NEC, in compliance with the order contained in the writ, filed their returns wherein they averred that while the informants had filed a motion to intervene in the complaint filed by Charles Walker Brumskine *et al.* before the NEC, and the motion granted by the Board of Commissioners of the NEC allowing the intervention in the investigation of the said complaint, being conducted by the Hearing Officer of the NEC, the informants, contrary to the Supreme Court's directive to the parties in the Brumskine *et al.* case to expeditiously dispose of the complaint, had embarked on the filing of a series of unmeritorious motions designed or intended to delay the disposition of the case. Because we believe that the returns of the 1<sup>st</sup> respondent NEC go to the core of the contention against the bill of information, we have determined to quote verbatim the said returns as follows, to wit.

#### 1<sup>st</sup> Respondents' Returns

1<sup>st</sup> Respondent, National Elections Commission ("NEC"), in the above-entitled proceedings, denies the legal and factual sufficiency of informant's bill of information and requests Court to deny and dismiss the said bill of information [and] for legal and factual reasons, showeth the following, to wit:

1. That as to the entire bill of information, 1<sup>st</sup> respondent says same is a fit and proper subject for dismissal because bill of information "will lie to prevent a judge or any judicial officer who attempts to execute the mandate of the Supreme Court in an improper manner" and "to

prevent any one whomsoever from interfering with the Judgment and/or Mandate of the Supreme Court". Revised Rules of the Supreme Court, V, part 8, page 71; *Seke et al. v. Yancy et al.*, 30 LLR 403 (1982), syl. 3.

2. That counts one (1), two (2) and three (3) of the bill of information raised not traversable issue.
3. That as to count four (4) of the bill of information, 1st respondent says on October 23, 2017, Petitioners Charles Walker Brumskine, Harrison S. Karnwea, Presidential & Vice Presidential Candidates, and all Representative Candidates of Liberty Party filed a complaint with the respondent, alleging violation of the Constitution and Elections Law, fraudulent acts and gross irregularities during the October 10, 2017 elections.
4. Further to count three (3) herein above, 1st respondent says consistent with the New Elections Law, the complaint was forwarded to the Hearing Officer at the NEC. Hearing into the complaint commenced on October 27, 2017, with the Liberty Party taking the stand; that the complainants (Liberty Party et al.) rested evidence on October 28, 2017; and that on the selfsame October 28, 2017, informants filed a motion to intervene.
5. Further to count four (4) herein above, 1st respondent says the Hearing Officer denied the motion to intervene; that informants appealed to the Board of Commissioners and the Board of Commissioners reversed the Ruling of the Hearing Officer on November 6, 2017.
6. Further to count five (5) herein above, 1st respondent says immediately after informants were permitted to intervene and, despite the Supreme Court's Mandate to the parties to expeditiously dispose of the complaint, informants embarked on the filing of several un-meritorious motions.
7. Further to count six (6) herein above, 1st respondent says that on the 7<sup>th</sup> day of November, A. D. 2017, informants filed a motion for the issuance of subpoenas, praying for "(1) copy of the Final Voter Registration Roll: (2) addendum to voters roll made at all the polling centers nationwide which recorded the names of voters who appeared with voters registration cards and their names were not at all on the Voter Registration Roll, but allowed to vote; (3) copies of presiding officers worksheets generated at each polling station nationwide; (4) report of the investigation conducted of the NEC presiding officer arrested in Electoral District #3, Nimba County, who was arrested with pre-marked ballots; and (5) report of the investigation conducted by NEC at the staff of the Office the President with voters registration cards printing machine and other electoral materials at his new Georgia Home". Copy of the motion is hereto attached and marked 1st respondent's Exhibit "R/1".
8. Further to count seven (7) herein above, 1st respondent says on the next day, November 8, 2017, informants have filed a motion for compulsory joinder requesting the Investigation to compulsorily join all the other eighteen (18) parties that participated in the elections. Copy of the motion is hereto attached and marked 1st respondent's Exhibit "R/2".

9. Further to count eight (8) herein above, 1st respondent says informants have informed the Investigation that they have twenty-five (25) witnesses. Copy of the information to the Investigation is hereto attached and marked 1st respondent's Exhibit "R/3".
10. Respondent says informants have engaged in acts which clearly suggest an intent not to proceed with the investigation, and despite the fact that the Hearing Officer has repeatedly reminded informants that the Investigation is fact finding and will not allow technicalities employed in a court of law, informants continue to engage in tactics intended to baffle and delay the expeditious disposition of the matter.
11. 1st respondent says it resisted informants' motion for subpoenas on the ground that the motion was not specific; that the motion requested every document from NEC nationwide subpoenaed; and that under our law hoary with age, the subpoenas prayed for should not be unreasonable or oppressive. Civil Procedure Law, I L. C. L. Rev., tit. 1, section 14.4 (1973).
12. That as to count five (5) of the bill of information, 1st respondent says the Chief Hearing Officer, Counsellor Muana S. Ville, ruled on the motion for subpoena, granting it in part and denying it in part. In essence, the Hearing Officer granted those requests for specific subpoenas, but denied those that were not specific, indicating "where the movant makes a specific allegation at any polling place, the National Elections Commission is required and mandated to produce documents relating to the polling place or precinct as alleged". Copy of the Hearing Officer's Ruling is hereto attached and marked 1st respondent's Exhibit "R/4".
13. That as to counts six (6) and seven (7) of the bill of information, 1st respondent denies the averments therein contained and says that though informants appealed from the decision of the Hearing Officer on the documents subpoenaed, the informants have since modified several requests for subpoena and have received the documents specifically requested.
14. Further to count thirteen (13) herein above, 1st respondent says information requested and were granted subpoena duces tecum for the following documents: (1) Know Your Candidate Poster; (2) Used Presidential Ballot and (3) Used Representative Candidate Ballot. The informants have also had the Executive Director of NEC testified, pursuant to a request for the writ of *subpoena duces tecum* and *subpoenas ad testificandum*.
15. Further to count fourteen (14) herein above, 1st respondent says informants bill of information is filed in bad faith because, despite their appeal which has been heard by the Board of Commissioners and awaiting ruling, informants have moved for subpoenas for specific documents and individuals, including employees of NEC, and they have received the documents and the testimonies of the individuals.
16. That as to counts eight (8), nine (9), ten (10), eleven (11), twelve (12) and the prayer of the bill of information, 1st respondent denies the averments therein contained and says there is no delay in deciding Informants' appeal by the Board of Commissioners. The appeal has been heard and ruling will be delivered the soonest.



17. 1st respondent denies all and singular the averments of facts and law contained in Informants Bill of information and which may not have been specifically traversed in these returns.

WHEREFORE, and in view of the foregoing laws, facts and circumstances, 1st respondent prays Your Honours and this Honorable Supreme Court to overrule, set aside, quash, deny and dismiss informants' information; and grant unto 1st respondent such other and further relief as Your Honors may deem just and equitable."

As to the 2nd respondents, Charles Walker Brumskine, et al., they confirmed and affirmed the totality of the averments contained in the bill of information and prayed the Supreme Court to grant same.

Having perused the bill of information and the returns of the 1st and 2nd respondents, and listened to the arguments of the parties, we have determined that the single issue dispositive of this bill of information is whether or not under the facts and circumstances of this case, a bill of information will lie.

The source which vests the right to seek a bill of information and which lay the criteria and condition for granting of the bill of information can be found in the Revised Rules of the Supreme Court, which at Part 12, reads:

#### "BILL OF INFORMATION

- a) A bill of information will lie to prevent a judge or any judicial officer who attempts to execute the mandate of the Supreme Court in an improper manner from doing so.
- b) A bill of information will also lie to prevent any one whomsoever from interfering with the Judgment and/or Mandate of the Supreme Court.
- c) The bill of information shall be venued before the Court *en banc* and shall be filed with the Clerk of Court. The approval of the Chief Justice or an Associate Justice shall not be required prior to the filing thereof.
- d) Once a bill of information shall have been filed, it shall be governed by the procedures outlined in these rules and the Civil Procedure Law for handling of Petitions.
- e) Any Counsellor who files a bill of information before this Court assigning reasons therefor other than the reasons expressly prescribed by these Rules shall be penalized by the imposition of a fine, suspension or disbarment."

From the foregoing it is clear that in order for this Court to entertain or grant a bill of information, the facts must clearly reveal that the lower court or tribunal is either improperly executing the Mandate of this Court, that the

lower court is failing or refusing to carry out the Mandate of this Court; that the lower court is defiant in its action in respect of the Mandate of this Court, or that the respondents, in some manner is engaging in conduct that renders the Mandate of this Court ineffective or otherwise unenforceable. *Liberia Aggregate Corporation v. Taylor et al.*, 35 LLR 3, 8 (1988); *Intestate Estate of the late Sarah Sirleaf v. El-Bim et al*, Supreme Court Opinion, March Term, A.D. 2013; *NEC et al v. NPP*, Supreme Court Opinion, March Term, A.D. 2015; *The National Port Authority v. The Executive Committee and Working Committee of the Six Consolidated Groups of Retirees and Compulsory Leave Employees of the National Port Authority et al.*, 39 LLR 618 (1999); *Nimely et al., v. Yancy et al.*, 30 LLR 403 (1982); *Samuels et al., v. Logan et al.*, 32 LLR 433 (1984); *Harris et al., v. Layweah et al.*, 39 LLR 571 (1999); *Kaba et al., v. Messrs Import-Export Company*, 41 LLR 249 (2002); *Bassam H. Jawhary v. His Honor Kabineh Ja'neh & Oumou Sirleaf Hage et al.*, Supreme Court Opinion October Term A.D. 2012

Having thus outlined the premise upon which this Court has entertained or granted the bill of information, we now take recourse to the instant bill of information to ascertain whether it fulfils the requirements or the conditions stated.

In that connection, we take due note that the thrust of the informants' bill of information is contingent on two premises: a) that the Board of Commissioners of the NEC has acted in violation of the Mandate of this Court in that it has failed to rule expeditiously on the appeal taken by the informants from the ruling of the Hearing Officer, and hence, that this Court should set a specific time within which the NEC would make a determination of the informants' appeal made to the board, *and* b) that this Court should, predicated upon the violation of its Mandate by the NEC, hold the NEC in contempt of the Court. This Court says that in both regard it is unable to grant the informants' requests.

Firstly, this Court does not believe, from the facts revealed in the case and the Opinion in the *Charles Walker Brumskine et al. v. The National Elections Commission* case, relied on by the informants, that the NEC has acted in violation of any Mandate of this Court. The Court notes that whilst in the case *Charles Walker Brumskine et al. v. The National Elections Commission*, it directed that the NEC should expeditiously hear and determine the matter before it, given that elections matters are of a critical nature and of the utmost national concern and that delay in disposing of them could create election problems and have serious implications for the governance of the

nation, it did so within the context of the time period imposed on the NEC for the disposition of an election matter placed before the NEC. The Court was fully aware and took cognizance of Article 83(c) of the Constitution of Liberia which sets the time period for the NEC to hear and determine an election matter. This provision of the Constitution gives the NEC thirty (30) days to hear and determine an election matter filed with the NEC. We quote verbatim the second paragraph of Article 83(c), as follows:

“The Elections Commission shall, within thirty days of receipt of the complaint, conduct an impartial investigation and render a decision which may involve a dismissal of the complaint or a nullification of the election of a candidate. Any political party or independent candidate affected by such decision shall not later than seven days appeal against it to the Supreme Court.”

Thus, from the foregoing, it is clear that the intent of the Supreme Court’s directive in the *Charles Walker Brumskine et al. v. The National Elections Commission* case was that the NEC ensured that it acted within the time stated by the Constitution. The provision cannot therefore be interpreted as vesting in the Supreme Court the power or the authority to set a time period, other than that set in that provision, for the NEC to conduct and determine a complaint filed with it under the circumstances laid in the quoted provision. Thus, when this Court directed that the NEC expeditiously dispose of election cases pending before that Body, the directive was more a caution to the Commission that it could not exceed the constitutional time limitation placed on it to dispose of those cases within thirty days and that any delays in acting expeditiously in disposing of those cases created the risk of the NEC transgressing the constitutional time limitation. This did not mean that this Court could set a time period or date for the NEC to dispose of any case pending before it, absent its transgression of the imposition of the Constitution. Indeed, were this Court to set a specific date contrary to the time period set in Article 83(c) of the Constitution, as requested by the informants, we would be in contravention of the Constitution and attempting to use power not conferred upon this Court by that sacred document. Such action, this Court has consistently held, would be tantamount to making law or extrapolating the intent of the framers of the Constitution or adding to the expressed provision of the Constitution, all of which this Court has said it is without the authority to indulge in and would be *ultra vires*. *Firestone Plantations Company v. Pay and Barbar & Sons*, 41 LLR 12 (2003); *Kasakro Corporation v. Stewart and Winter Reisner and Company*, 30 LLR 164 (1982); *Ganta Sawmill v. Tulay and Housing Builders Company*, 31 LLR 358 (1983); *The Original African Hebrew Israelite v. Lewis and Lewis*, 32 LLR 3 (1984); *Kennedy and Johnson-Whisnant v. Goodridge and Hilton*, 33 LLR 398 (1985); *Firestone Plantations Company v. The Board of General Appeals and Wilson*, 34 LLR 385 (1987); *Kortoe and Williams v. Inter-Con Security Systems, Inc.*, 38 LLR 414 (1997); *The International Trust Company of Liberia v. Doumouyah et al.*, 36 LLR 358 (1898).

It would be a completely different situation if the NEC, having been accorded only thirty days within which to hear and determine a complaint

brought before it exceeded the constitutional time period. In such a situation, this Court would be fully justified in not only declaring the act of the NEC in contravention of the Constitution but also compelling immediate or expeditious disposition of the matter by the NEC. That situation has not yet matured in the instant information proceedings. Accordingly, this Court cannot at this point set or force upon the NEC a time period within which the NEC must determine the appeal taken by the informants to the Board of Commissioners.

This then brings us to the second request made by the informants, which is that this Court should hold the NEC in contempt of Court because of the failure of the Board of Commissioners to expeditiously rule on the appeal taken to the Board by the informants from the ruling of the Hearing Officer. For the reasons already stated above, this Court does not believe that any basis exist for holding the NEC in contempt since the NEC has not exceeded the time given under the Constitution and the fact that this Court has not and could not have prescribed any time period for the disposition of the appeal by the NEC since the constitutional period granted that Body has not yet expired. We note specifically that the complaint in the case *Charles Walker Brumskine et al. v. The National Elections Commission* case was filed on October 23, 2017, and the thirty-day constitutional time period granted to the NEC to determine the case does not expire until November 22, 2017. And whilst this Court has always held the view and continues to hold the view that because the Constitution grants the NEC thirty days within which to hear and determine a complaint filed with that body, this does not mean that the NEC should consume the entire days given it under the Constitution before concluding a given election matter; and that the failure of the NEC to dispose of a case in a shorter period, or in the words of the informants "expeditiously", does not thereby renders the NEC in contempt of this Court because of the interpretation given by the informants to what this Court said in the *Charles Walker Brumskine et al. v. The National Elections Commission* case.

We take further note that during the hearing of this bill of information, one of counsels representing 1st respondent NEC informed the Court that the Board of Commissioners of the NEC had earlier, on the same date of the hearing of the bill of information by this Court, that is, on November 16, 2017, entered ruling on the informants' appeal to the Board of Commissioners, subject of the bill of information. The Minutes of Court show that not only did counsels for informants not deny this information, but that

additionally, one of counsels for the 2<sup>nd</sup> respondents, relying upon the information of counsel for the 1<sup>st</sup> Respondent NEC, argued that the case had thereby become moot. This Court takes judicial notice, as by law it is bound to do, that indeed, as a matter of the public record, a ruling was made on November 16, 2017, by the Board of Commissioners of the NEC on the appeal taken to that Body by the informants is subject of these proceedings and which makes the matter moot. We do not delve into the reasons for the delay by the NEC in expeditiously disposing of the appeal taken to the Board of Commissioners of the NEC by the informants, but emphasize, the same as we did in the *Charles Walker Brumskine et al.* case, that the NEC must exert all efforts to ensure that election cases brought before that Body are disposed of in a most expeditious time frame. In any event, because the matter of which the informants complained in the bill of information has been taken care of by the NEC, the information before this Court has thereby been rendered moot; and therefore a further basis for denial of the bill of information. *National Chronicles Newspaper and Philipbert Browne v. Government of Liberia*, Supreme Court Opinion, March Term, A. D. 2015.

WHEREFORE and in view of the foregoing, the bill of information is denied. The Clerk is ordered to send a mandate to the NEC to resume jurisdiction and proceed with the matter. AND IT IS HEREBY SO ORDERED.

When this case was called for hearing, Counsellors F. Benedict Sannoh and J. Laveli Supuwood appeared for the informants. Counsellors Frank Musah Dean, Jr., and Alexander B. Zoe appeared for the 1<sup>st</sup> respondent, National Elections Commission. Counsellors N. Oswald Tweh and Powo C. Hilton appeared for the 2<sup>nd</sup> Respondents.