

THE LIBERIAN BANK FOR DEVELOPMENT
AND INVESTMENT (LBDI), represented by and
thru its authorized officers, Informant/Defendant-In-
Error/Relator, v. LANCELOT HOLDER,
Respondent/Plaintiff-In-Error.

INFORMATION PROCEEDINGS

Heard: May 11, 1981. Decided: July 30, 1981.

1. The view that the court will not pass upon a constitutional question although properly presented by the records, if there is also present some other ground upon which the case may be disposed of, is not strictly adhered to in our jurisdiction. It is of supreme necessity that recourse be had to constitutional provisions without which the controversy may not be finally determined.
2. In any case in which a court has jurisdiction its judgment, from which no appeal is announced, is final. This includes a ruling and a mandate of a Chambers Justice.
3. The finality of judgment rests upon two chief media of judicial consideration.
4. To constitute final judgment of the Supreme Court, it must be based on the rights and powers conferred on the Bench by the Constitution and all statutes legislated in conformity therewith. There must be an actual controversy or dispute before the judiciary, according to the prescribed procedural methods, without which there can be no judicial jurisdiction.
5. Only a majority of the four Justices and the Chief Justice are competent to transact the business of the Supreme Court, and from their judgment, there can be no appeal; neither the Chief Justice nor any Justice alone has the right to transact the business of the Supreme Court, and therefore he is unauthorized to either hear or render judgment for or in the name of the Full Bench.
6. The Chief Justice's office does not confer upon the incumbent any judicial authority superior to that given by the Constitution and by statute to his colleagues. As they, he hold only one vote in all judicial matters, and that one vote is equal in every respect to that held by any one of them. Therefore, he cannot constitutionally or statutorily review, reverse, or in any manner interfere with judicial decisions made by one of them.
7. Neither the Chief Justice nor any single Justice can therefore legally review or reverse a mandate of any Chambers Justice or of the Supreme Court.
8. A letter, whether from the President, the Speaker of the House, the Chief Justice or any officer of government cannot and does not constitute pleadings for judicial consideration.

Informants, the Liberian Bank for Development and Investment (LBDI), instituted an action of debt against respondent, Lancelot Holder. When the trial court overruled respondent's contentions that the trial was contrary to law because the action

had been withdrawn more than once, respondent applied to the Justice in Chambers for a writ of certiorari. The application was heard on the merits, denied and an appeal announced therefrom to the Full Bench. The Full Bench affirmed the ruling of the Chambers Justice and remanded the case to the debt court for trial.

After trial was conducted and judgment rendered in favor of informant, respondent applied for a writ of error, which was heard and denied, and since no appeal was announced from the ruling, the trial court was mandated to enforce its judgement. In enforcing its judgment, respondent was committed to jail. Meanwhile, while the judgment was being executed, the President of Liberia asked the Chief Justice to re-investigate the matter and submit a report to the former. The Chief Justice investigated the matter, reversed the previous opinion of the Full Bench on the question of the withdrawal in the certiorari proceedings and the ruling of the Chambers Justice in the error proceedings. The Chief Justice concluded that the previous opinion of the Full Bench "was a fiasco" and ordered the release of the respondent from further custody. It is from these rulings and orders of the Chief Justice that LBDI, then the defendant-in-error, filed a bill of information to the Full Bench.

The Supreme Court held that the Chief Justice did not act in conformity with law, in that he cannot constitutionally or statutorily review, reverse, or in any manner interfere with judicial decisions made by any one of the Justices. Accordingly, the Supreme Court held that those acts of the Chief Justice complained of were without binding force and effect. The Court accordingly granted the information and mandated the trial court to resume jurisdiction and proceed with the case.

Joseph Williamson appeared for informant/defendant-in-error/relator. *Stephen Dunbar, Sr.* appeared for respondent/plaintiff-in-error.

MR. JUSTICE MABANDE delivered the opinion of the Court.

Informant, who was plaintiff the debt court, sued respondent

for a debt in the amount of \$51,095.08 (fifty-one thousand, ninety-five dollars and eight cents). At the trial, respondent raised objections that the suit was contrary to law in that it had been withdrawn more than once. The trial judge overruled the objections and respondent petitioned for a writ of certiorari which was heard on the merits, denied and followed by an appeal to the full bench. The Court affirmed the ruling of the Chambers Justice, thus terminating the issue of the several withdrawals.

After the case was remanded to the court below for trial, trial was had and judgment was rendered in favour of informant. Respondent applied for a writ of error, which was also heard and denied without appeal to the Full Bench. Thereafter, a mandate was sent to the trial court to enforce its judgment. Mr. Lancelot Holder, respondent, was committed to jail by the trial court. According to the records, the late Chief Justice James A. A. Pierre was accused of having reviewed and reversed the previous opinion of the full bench and the ruling of the Chambers Justice by way of a letter dated December 5, A. D. 1974, addressed to the President of Liberia, who had requested for a re-investigation and a report on the matter. In his report to the Head of the Executive Branch, the Chief Justice reversed the opinion of the Full Bench in the certiorari proceedings, as well as the ruling and mandate of the Chambers Justice in the error cases. In his lone opinion to the Chief Executive, the Chief Justice concluded that the said opinion of the Supreme Court "was a fiasco." He therefore ordered the release the respondent, Lancelot Holder, from further custody thereby countermanding the judgment and mandate of the Supreme Court and a Chambers Justice.

Since the People's Redemption Council assumed powers on April 12, A. D. 1980, people at home and abroad have placed heavier blame for all past governmental mismanagement on the Supreme Court. They contend that its failure to uphold, protect and secure the rights and confidence of the people necessitated the event. They claim that their faith in the judiciary as guarantor of their liberties from all oppressive forces was completely lost. Naturally, in any society where the people cease to have hope in their leaders and government, all of the powers must collapse, but the judiciary is not established to police the other branches and agencies of government.

Neither the Supreme Court nor any court, could ever be stronger than the collective wisdom of the lawyers, the courage of the aggrieved parties to take full advantage of the law, and the civilized behavior of the people and their political institutions.

As these controversies commenced in the judiciary when our suspended Constitution was in force, we conclude that it still applies to them until finality of the cases. Our jurisdiction and power to determine cases and enforce judgments as was done by the Supreme Court under the suspended Constitution are identical. We have inherited by law and the People's Redemption Council decrees, all of the rights and powers both inherited and granted to the Supreme Court of this land. The Supreme Court is a creature of the Constitution; the People's Supreme Tribunal is established by the People's Redemption Council Decree to carry on the same and similar functions as was done by the Supreme Court.

On April 12, A. D. 1980, PRC Decree No. 2 was issued, which suspended this country's Constitution and the three (3) branches of Government. It also provided that the People's Redemption Council shall set up and establish special tribunals to handle judicial matters which were previously handled by the judicial Branch of this country.

Thereafter, on April 24, A. D. 1980, the PRC Decree No. 3 was issued. It established the People's Supreme Tribunal with all powers and rights heretofore legally exercised, or that could have been exercised, by the Supreme Court of the land.

"A majority of the members of the People's Supreme Tribunal shall be deemed competent to transact the business of the People's Supreme Tribunal and there shall be no appeal from the decision of the People's Supreme Tribunal." PRC Decree, No. 3, §1.3.

The material issues before us for consideration are:

- (1) Whether the Chief Justice or a single Justice can legally reverse a judgment of the Full Bench or a ruling and mandate of another Justice;
- (2) What constitutes final judgment; and
- (3) Whether the Chief Justice or the Supreme Court can legally advise any other branch of government?

Since the constitutionality of an act has not been complained

of, or ever raised or conserved by any party, we may refrain from comparing the legality of these grievances with pertinent constitutional provisions as it was held in *Ashwander v. Tennessee Valley Authority*, 297 U.S. 288, 346, 347; 56 S.C.T. 466, 482.

“The court developed, for its own governance in the cases confessedly within its jurisdiction, a series of rules under which it has avoided passing upon large part of all the constitutional questions pressed upon it for decisions.

It is not the habit of the Court to decide questions of a constitutional nature unless absolutely necessary to a decision of the case.

The court will not pass upon a constitutional question although properly presented by the records, if there is also present some other ground upon which the case may be disposed of. This rule has found most varied applications. Thus, if a case can be decided on either of two grounds, one involving a constitutional question, the other a question of statutory construction or general rule, the Court will decide on the latter.”

This view is not strictly adhered to in our jurisdiction. The laws of our country have their genesis from the United States of America, which carried into that country the laws of Great Britain. After they attained independence, the cultural values and legal system of Great Britain with some modifications remained as the chief foundation of their governmental machinery. Here, the advent of the American immigrants into this country, and the cultural and educational ties between us and the United States of America, have made Anglo American laws and culture, the basis of our governmental functions. Notwithstanding, that relationship has never deterred us from developing our own culture both in law and otherwise.

The Supreme Court being a creature of the Constitution, when issues raised directly relate to its powers and operation, they cannot be decided without reference to the source of the Court's powers and rights. The case cannot be decided merely on the basis of statutes or rules of decisions; the grievances complained of cannot not fairly and finally be settled without touching on the organic law. The opinions we may rely upon are themselves based solely on the very organic law that was extensively quoted

which we now wish to avoid by adhering to the policy of avoidance of constitutional issues. It is of supreme necessity, therefore, that we must refer to those constitutional provisions without which this controversy may not be finally determined. Justiciability is a legal idea resulting from con-ceptions in the determination of the ripeness and appropriateness of issues for judicial relief.

The case presented for our consideration is a controversy that was finally determined, a mandate sent, and the judgment enforced. However, the judgment was later rendered ineffectual by the Chief Justice upon a request of the Executive Branch of Government for his review of a final judgment of the Supreme Court that should be accorded due respect by each and every branch and agency of Government and the country.

A country and people who have little or no respect for their judicial pronouncements have yet to strive for civilized standard. The degree of respect for, and compliance with, decided cases de-termines the standard of civilization of a society and its people.

The original plaintiff, informant, for whom judgment was rendered, now petitions this Court to adjudicate all of the acts that subverted the finality of the judgment.

The finality of judgment rests upon two chief media of judicial consideration. In any case in which the court has jurisdiction its judgment, from which no appeal is announced, is final. This includes a ruling and a mandate of a Chambers Justice. *Cole-Larston et al. v. Thompson*, 20 LLR 339 (1971).

The finality of a judgment of the Supreme Court is a constitutional power bestowed upon it; however, if its judgment is clearly unconstitutional, or it becomes ineffective by change of law or legal process, it may be so declared or reversed only by a subsequent Supreme Court judgment after hearing an actual controversy.

To constitute final judgment of the Supreme Court, it must be based on the rights and powers conferred on this Bench by the Constitution and all statutes legislated in conformity therewith. There must be an actual controversy or dispute before the judiciary according to the prescribed procedural methods without which there can be no judicial jurisdiction. Civil Procedure Law,

Rev. Code 1: 51.2.

Under the Constitution of Liberia (1847), Art. IV, Sec. 3rd, only a majority of the four Justices and the Chief Justice are competent to transact the business of the Supreme Court, and from their judgment, there can be no appeal. Neither the Chief Justice nor any single Justice alone has the right to transact the business of the Supreme Court, and therefore he is unauthorized to either hear or render judgment for or in the name of the Full Bench.

In the case *Ashumana et. al. v. Lewis and Gardiner*, 21 LLR 104, 109 (1972), this Court held that "the Chief Justice's office does not confer upon the incumbent any judicial authority superior to that given by the Constitution and by statute to his colleagues. As they, he holds only one vote in all judicial matters, and that one vote is equal in every respect to that held by any one of them. Therefore, he cannot constitutionally or statutorily review, reverse, or in any manner interfere with judicial decisions made by one of them." Neither the Chief Justice nor any single Justice can therefore legally review or reverse a mandate of any Chambers Justice or of the Supreme Court. LIB. CONST. (1847), Art. IV, Sec. 3rd.

There are basic and unerring procedural guidelines set in our Constitution and statutes which pave the paths of judicial procedures without which there can be no controversy for the judiciary to consider. A letter, whether from the President, the Speaker of the House, the Chief Justice or any officer of government cannot and does not constitute pleadings for judicial consideration.

The initiating of any controversy in the judiciary by letter, is highly irregular and an insult to the judiciary, as it bears no foundation in our law. Such endeavour is not only an attempt to undermine the dignity of the judiciary, but also a design to deprive the parties of their right to due process of law. This, no judicial officer should ever tolerate or submit the judiciary to. For, a betrayal of judicial independence is an invitation for an enslavement of the people; it is an elimination of all democratic and legal concepts upon which the foundation of the independence and guaranty of the liberties of the people firmly rest. *Witherspoon v. Republic*, 6 LLR 211, 218 (1938).

If there were no limitations on the powers of government, ours would be a land of grief and pandemonium. The acts of the Chief Justice clearly contradicted the principles of judicial neutrality and impartiality. The judiciary should not be and is no agency for any branch of government. The doctrine of "coordinate powers" of the branches of government does not intend imposition on the exclusive rights of the judiciary by other agencies nor does it require the judiciary to surrender its powers. We hold that the late Chief Justice did not act in conformity with the law. We are therefore of the opinion that those acts of his complained of, are without any binding force and effect. The information is hereby granted. The Clerk of this Court is hereby ordered to send a mandate to the trial court to resume jurisdiction over this case and proceed with the case accordingly. And it is hereby so ordered.

Information granted.