

**CHARGE OF HER HONOR CLLR. NANCY FINDA SAMMY,**  
**RESIDENT CIRCUIT JUDGE, THE TENTH JUDICIAL CIRCUIT**  
**OF LOFA COUNTY FOR THE OPENING OF THE AUGUST**  
**A.D.2017 TERM OF COURT, VOINJAMA CITY, LOFA**  
**COUNTY**  
**MONDAY, AUGUST 14, 2017**

Atty. George S. Dunor, Superintendent of Lofa County,  
Atty. Stephen H. Zargo, Senator, Lofa County  
His Honor Steven B. Kortu, Revenue Judge;  
Stipendiary and Associate Magistrates;  
Madam City Mayoress and Officials of the City Council of Vionjama,  
And other County Officials;  
Mr. Vice President, Officials and Distinguished Colleagues of the Lofa County  
Bar Association present;  
Col. Tito Lolin, Chief Superintendent of Police, Lofa County;  
Representatives of the United Nation Mission and Other International Partners  
present;  
Members of the Security Sector;  
Prelates and Members of the Religious Community;  
Mr. Clerk and Staff of the 10<sup>th</sup> Judicial Circuit;  
Traditional Leaders;  
Our Elders;  
Prospective Jurors;  
Members of the Fourth Estate;  
Invited Guests;  
Distinguished Ladies and gentlemen;  
One and all.

Today, I am happy that we are back here again to witness the opening of another term of Court. I have observed over the period of time that most of you have shown key interest in the working of the courts. This has been manifested by your regular attendance at the various opening of past Terms of Court. Therefore, let me use this time to say thank you, and I humbly welcome you all in response to our invitation to you to grace this occasion.

Further, we like to thank all Stipendiary and Associate Magistrates, the County Attorney, the Public Defenders, clerical staff, ministerial officers, and the jury, for the level of cooperation we received from you during the May Term of Court. I know that for us to effectively serve people, we have to work together. So I say thanks and may God richly bless you all.

We also like to congratulate His Henry F. Nyumah, Stipendiary Magistrate of the Foya Magisterial Court for completing the course of study at the James A. A. Pierre Judicial Institute, which led to his graduation from said institute sometime in June 2017. Kindly remember that we are very proud of you for your achievement, and it is our anticipation that since you have acquired further qualification, you will endeavor to deliver nothing less but quality and transparent justice to the people of foya Statutory District, or any other court you might be assigned to. Because by doing that, our people will have confidence in the courts, and will seek re-dress thereto, whenever they are offended or injured by acts of others. Once again, we say, please accept our congratulations.

Mr. Superintendent, distinguished ladies and gentlemen, let me quickly speak to you today on the topic: **WHY IS IT IMPORTANT FOR JUDICIARY TO BE INDEPENDENT IN A DEMOCRATIC SYSTEM?**

Ladies and Gentlemen, Article 3 of the 1986 Liberian constitution spells out that Liberia is a unitary state divided into countries for administrative purposes. The form of government is Republican with three separate coordinate branches: the legislative, the executive and the Judiciary. consistent with the principle of separation of powers and checks and balances, no person holding office in one of these branches shall hold office in or **“exercise any of the powers assigned to either of the other two branches except as provided in this constitution “**

Therefore the Judiciary, being the third branch of the government, has the responsibility to interpret and apply the laws to specific cases and settle all disputes. The real meaning of law is what the judges decide during the course of giving their judgments in various cases.

Viewed from another perspective, the Judiciary is also seen as the most important organ of the government because of its roles as guardian protector of the

constitution and the fundamental rights of the people against the possible excesses of the legislative and executive organs.

**The Judiciary must therefore be kept independent so that may function effectively as desired (or intended to) without any undue influence. We call this a Rule of Law system because the degree of this independent determines the quality of a democracy.**

However, why it is true that I am happy to be here today, nevertheless, I am also saddened by the current trend of events that have been unfolding in our country in recent weeks in that, some of our political are tinkering with our constitution which is the organic law of this nation just to appease their political interests.

As some of us are aware, five members of the National Legislature have submitted a petition for impeachment to the speaker and members of the House of Representatives against three Associate Justices of the Honourable Supreme Court's in order to have those Justices impeached because they signed the Supreme Court's opinion and judgment of July 20, 2017 in the Harrison Karnwea's case.

The five members of the House of Representatives asserted in Count eleven of their petition which is stated here verbatim, that since His Honor Kabineh m. Jan'eh, Her Honor Jamesetta Wolokollie and His Honor Philip A Z Banks, III, signed the said Supreme Court's Opinion, they have caused the Supreme Court to usurp the powers and functions of the legislature to make laws. That is by ignoring the two (2) or three (3) years period for a person holding a public office to resign his office before the date of the election for which he or she intends to canvass and by reducing such period to a mere resignation before filing an application for certification with the National Election Commission, the Supreme Court has made a new law and undermined the effectiveness of the Code of Conduct. Simply stated, the Supreme Court has usurped the functions and powers of the legislature to make laws. According to them, this conduct of the three Justices of the Supreme Court constitutes misconduct, gross breach of duty and inability to perform the functions of the office of Associates Justices of the Supreme Court, for which the Liberian constitution provides that impeachment, will lie.

Distinguished Ladies and Gentlemen, having just quoted a key provision contained in the petition for impeachment, the question that comes to my mind is, does any member of the House of Representatives, or any other person for that matter, have a legal right to question decision made by the Honorable Supreme Court of Liberia in keeping with our constitution which is the organic Law of Liberia?

To answer this question , let us take a keen look of some provisions of the 1986 constitution of Liberia to determine whether decision made by the Supreme Court are reviewable , or whether or not judges or Supreme Court can be impeached for decisions they render in cases brought forth before them.

In Article 2 of the 1986 constitution of Liberia, it is stated that the constitution is the supreme and fundamental law of Liberia and its provisions shall have binding force and effect on all authorities and persons throughout the Republic.

Therefore, having just quoted Article 2 of the constitution which spells out that the constitution is the supreme and fundamental law of Liberia and its provisions shall have binding force and effect on all authorities and persons throughout the Republic, we will now look at Article 65, 66, 71 and 73, respectively, to determine what they contain.

Article 65 of the 1986 constitution of Liberia states that the Judicial Power of the Republic shall be vested in a Supreme Court and such subordinate courts as the legislature may from time to time establish. The courts shall apply both statutory and customary laws in accordance with the standards enacted by the legislature. **“Judgments of the Supreme Court shall be final and binding and shall not be subject to appeal , or review by any other branch of Government”.....**

Article 66of the Constitution also states that the Supreme Court shall be the **“final arbiter of constitutional issues and shall exercise final appellate jurisdiction** in all cases whether emanating from courts of record, courts not of record, administrative agencies, autonomous agencies or any other authority, both as to law and fact except cases involving ambassadors, ministers, or cases in which a country is a party. In all such cases, the Supreme Court shall exercise original jurisdiction. **The Legislature shall make no law nor create any exceptions as would deprive the Supreme Court of any of the power granted herein”.**

Article 71 of the constitution provides that the Chief Justice and the Associate Justices of the Supreme Court and the judges of subordinate court of record shall hold office during good behavior. They may be removed upon impeachment and conviction by the legislature based on proved misconduct, gross breach of duty, inability to perform the function of their office, or convictions in a court of law for treason, bribery, or other infamous crimes.

Finally, Article 73 of our constitution clearly provides that **“No Judicial official shall be summoned, arrested, detained, prosecuted or tried civilly or criminally by, or at the instance of any person or authority on account of judicial opinions rendered or expressed, judicial statements made and judicial acts done in the course of a trial in open court or chambers, except for treason or felonies, misdemeanor, or breach of the peace. Statements made and acts done by such officials in the court of judicial proceeding shall be privileged, and, subject to the above qualification, no such statements made or acts done shall be admissible into evidence against them at any trial or proceeding”**.

Honorable ladies and gentlemen, having just listened to the various provisions of the constitution just quoted above, especially Article 65, which specially states that **“Judgments of the Supreme Court shall be final and binding and shall not be subject to appeal, or review by any other branch of Government”**, it can clearly be seen that the on-going attempt by some members of the legislature to have Associate Justices Jan’eh, Wolokollie and Banks impeached, is a gross violation of the Constitution of the Republic of Liberia, which members of the very legislature took oath to uphold, defend and protect, before they assumed their respective offices.

Further, their action is an affront to the judiciary, and it has a chilling effect on our democracy because if the action of the legislature is allowed, it will undermine the independence of the judicial Branch of Government in that, we will not be able to carry out our constitutional duties and responsibilities effectively if we are muscled or constantly under threats of impeachment for judicial decisions that we make.

In my view, some members of the legislature are subverting national interest to satisfy their own political and personal interests.

As we are aware, the independence of the judiciary can only be maintained if the justices and we judges are able to perform and discharge our judicial duties, functions and responsibilities free of interference and intimidation from the other two branches of Government.

Under Article 65 of the Liberian constitution as quoted above, it is provided that the Supreme Court's decisions are final and cannot be appealed. While it is also true that the legislature can pass laws, the Supreme Court can strike them down under its constitutional power of judicial Review. The Supreme Court also has the ability to create legal precedents through its decisions it makes which are considered as laws. These laws are contained in the various law Reports which are most often relied on and cited by lawyers and judges in arguing cases before the courts and in rendering rulings and judgments, respectively.

Let us look at two United States 'cases as example of the Court's ability to create "law" outside of the legislative or executive pro