

CHARGE DELIVERED ON MONDAY AUGUST 14, 2017 AT 10:00 A.M.
BY CLLR GEORGE W. SMITH, RESIDENT AND ASSIGNED CIRCUIT
JUDGE, 15TH JUDICIAL CIRCUIT, RIVER GEE COUNTY, R.L.,
DURING THE FORMAL OPENING OF THE AUGUST A.D. 2017 TERM
OF COURT.

Mr. Superintendent and County Officials;

Mr. County Attorney and Dean of the River Gee Bar, and his Deputy;

Specialized Courts Judges, and Magistrates;

The Lord City Mayor and his dedicated City Council;

The Clerk of Court, Clerical and Ministerial Staff;

Prospective Grand and Petit Jurors;

The superintendent and respective Law Enforcement Officers;

Members of the Fourth Estate, the Press;

The Rev. and Members of the Clergy;

Civil Society Organizations, and NGO's;

Traditional Leaders, Eminent Citizens;

I first of all give thanks and praise to the Almighty for allowing us to gather here in this sacred temple of justice for the formal opening of the August A.D. 2017 Term of the 15th Judicial Circuit Court, River Gee County.

In the midst of this political campaigning time and the forthcoming October 10, 2017 presidential and legislative elections, I welcome you ,Mr. Superintendent and County Officials ,the Lord City Mayor and his hardworking Council and crew, civil society organizations, NGO's , traditional leaders, and all stakeholders in the administration of justice ,to the formal opening of this Honorable Court, pursuant to a mandate of the Chief Justice of the Supreme Court of Liberia and in keeping

with Law, commanding me to hold and preside over the August A.D. 2017 Term of the 15th Judicial Circuit , River Gee County ,Republic of Liberia.

The judge's charge is an instruction to jurors and actors in the administration of justice as regards their respective assigned duties, tasks and responsibilities. The judge in his /her charge uses the occasion to comment, among others, on those challenges that confront the administration of justice.

In the United State of America, during the infancy of that great country from whence Liberia inherited the Anglo-American common law tradition, the US Federal Chief and Associate Justices who were originally the ones riding the various United States Judicial Circuits, included in their charges civil lessons-lessons making appeals to the American people regarding the virtues of patriotism, honor and duty to their country, and explaining to the people the role of the government and the concept of government.

Because of this critical political campaigning season and the ensuing October 10, 2017 presidential and legislative elections, I have chosen to deliver a little civil lesson and comment on the concept of government.

“Government”, as defined by black's Law dictionary, 7th ed., is: “An organization through which a body of people exercised political authority ...” And that organization, in a democracy, called government in the words of president Abraham Lincoln: “ Is government of the people, by the people and for the people”. I shall later explain Lincoln's concept of government, after explaining the origin of government from the perspective of the social contract theory.

Prior to what we now know as an organized society and institution of government, people lived a nomadic life –people roamed from place to place and they did not have permanent and fixed abodes. During this period of man's existence, people

could do anything freely to the extent that individuals had the freedoms to engage in dangerous conduct. For instance, one could freely harm his fellow human beings –kill and rape other human beings, inflict bodily injury on others, destroy the properties of others; and individuals could, with impunity, harm the environment by rendering same unsafe and unhealthy-dropping dirt on the streets in the gutters and drains (drainages), and building structures on the alleys. People freely engaged in these dangerous conducts without them being visited by any sanctions and punishments.

This chaotic state of affairs, referred to by Thomas Hobbes as a state of nature, life was, according to Hobbes, “solitary, poor, nasty, brutish, and short”. This chaotic state of affairs or state of nature caused people to establish an organized society and institution of government. Organized society and the institution of

Government evolved as the result of a social contract whereby individuals agreed to give up their dangerous freedoms for the sake of safety of the very collective individuals themselves. A social contract was an agreement between the government and the governed (the people) whereby individuals undertook to be loyal to their country, and gave up their dangerous freedoms to harm fellow human beings; that is, individual undertook not to take away other human beings’ lives, not to inflict bodily injuries on the person of fellow human beings, and not to destroy the properties of others-just to name but a few.

In consideration or exchange of the people’s loyalty to their country and the giving up of their dangerous freedoms the government undertook to protect the people, the governed. Hence, the birth of organized societies and the institution of governments.

Now, Abraham Lincoln's concept of government – "government of the people, for the people, and by the people", in a democracy. This means that the people directly elect their agents or officials – the legislators and the president and the vice president to serve respectively in the Legislature, the first branch of government, and the Executive, the second branch of government. Additionally, the people indirectly select other officials, cabinet ministers among others, through appointments by their elected president with the advice and consent of their elected senators, to serve in the Executive. Further, the people indirectly select their judges to serve in the Judiciary, the third branch of government, whereby the people's elected president appoints justices of the Supreme Court and judges of the courts of record and not record, with the advice and consent of their elected senators.

So, truly, the concept of government as defined by black's law dictionary implies that the people are the ones indirectly exercising political authority in the Legislative, Executive and the Judiciary branches of government, and this is why, for example, the sovereign people of Liberia are going to the polls on October 10, 2017, to choose their agents – their president and vice president and members of the House of Representatives – to govern their country. This is what is known as representative democracy as opposed to direct participatory democracy.

It must be noted that in ancient days people directly participated in their government because societies were very minute. But on the contrary, in modern, developing and growing societies, it is not possible for all individuals to directly participate in the running of their government. For example, in Liberia, all the citizens cannot possibly leave their respective vocation to directly serve in the government – the executive mansion, ministries and agencies of government, the capitol building, and the courts. This is why, the sovereign people of Liberia, through the constitution and statutory laws have dedicated to particular individuals

to exercise political authority on their behalf in the Legislative, Executive and Judiciary branches of government.

The sovereign people of Liberia authorize the Legislators to make law consistent with the constitution, the Executive to enforce the laws and prosecute individuals who violate the laws, and the Judiciary branch, the judges, to interpret the laws and decide cases relating to the breach of the law, render judgment and impose sentence where an individual's is found guilty of violating the law.

There are several laws the people authorize the Legislators to make, which laws the Executive branch is authorized to enforce and prosecute violators who violate same; and the people authorize the Judiciary branch, the judges, to interpret, render final judgments and imposed sentence on individuals who are in violation of the law.

Indeed, the sovereign people of Liberia have command those of us in the Legislative, Executive and Judiciary branches of government to take an oath to protect and defend the Constitution and Laws of Liberia.

For the purpose of the October 10, 2017 general elections let me enumerate but a few of the laws you, the sovereign people of Liberia, have mandated us judges to uphold to protect. Firstly, sections 14.1 to 14.3 of the penal law of Liberia, prohibiting individuals from killing their fellow human beings; secondly, sections 14.20 to 14.28 of the penal law, forbidding individuals from inflicting bodily injury on the persons of other people, endangering the lives of others terrorizing others, menacing others, threatening the president and his successors to the presidency, and harassing other people; and thirdly, sections 15.1 to 15.5 of our penal law, inhibiting individuals from destroying properties belonging to others.

Prior to taking my office as judge on Wednesday, July 17, 2013, the sovereign people of Liberia commanded me to take an oath to uphold and defend the Constitution and laws of Liberia, respectively passed by them through a referendum and enacted by them through their elected representatives, members of the House of Representatives and Senate. And the laws that I have been mandated by the people of Liberia to uphold and defend include those provisions of our penal code I have just enumerated.

Liberians are generally good and law –abiding people. However, like in any other countries, there are some individuals who will make a bad choice by engaging in dangerous, criminal and unlawful conducts.

During this election campaigning time and the coming October 10, 2017 elections, individuals who will choose to take away the live or lives of their fellow human beings, inflict bodily injury on others, or destroy the properties belonging to others shall be visited by maximum punishments if found guilty; for taking away human lives, inflict bodily injury on others and destroying the properties of others under the guise of exercising the individuals’ political rights, do not fall within the realm of political questions. Rather, they are criminal questions for which criminal prosecution can be evoked.

I now therefore charge the people of River Gee County; yes, the Liberian people, that anybody that will choose to engage in criminal conducts endangering lives and destroying properties of others during this political campaigning time and the forthcoming October 10, 2017 general elections will be doing so at their peril.

Just in passing, may I herein state that our country Liberia is Africa’s oldest Independent Republic, and the world’s second black Independent Republic, after Haiti-something in which we Liberians must take pride. Liberia, therefore, must be

a model of a strong independent Judiciary. To ensure an independent judiciary, for example, judges must not be subjected to threat and intimidation on account of their judicial decisions, opinions and judgments rendered or expressed. This is consistent with Article 73 of our constitution.

I call on the Liberia National Bar Association (LNBA) and the National Association of Trial Judges of Liberia (NATJL) to stand firm in defense and support of a strong independent Liberian judiciary, a desideratum of a democracy. Not only do international laws, codes of judicial conduct of other democratic countries, and international codes of judicial conduct provide for an independent judiciary, in this jurisdiction, in order to ensure an independent Liberian judiciary, Article 73 of our Constitution provides that **“No judicial official shall be summoned... prosecuted or tried civilly or criminally by... any authority on account of judicial opinions rendered or expressed...”** internationally, for example, the very first principle of the Bangalore principle of judicial conduct regarding an independent judiciary, section 1, paragraph 1 thereof, states:” **A judge shall exercise the judicial function independently on the basis of the judge’s assessment of the facts and in accordance with a conscientious understanding of the law, free of any extraneous influence, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason”**. See also The New Delhi Code of Minimum Standards of Judicial Independence (1982); Basic Principle on the independence of the judicial (1985); and Mount Scopus Approved Revised international standards of judicial independence (2008).

Judges, under our constitution and similarly under the United States constitution, can only be removed by the Legislature for misbehavior and inability to perform the functions of their office. See Article 71 of the Liberian Constitution and Article

3 of the United States Constitution. Accordingly, under Article 71 of our Constitution, there are four grounds under which a judge may be removed; they are: 1. proved misconduct, 2. Gross breach of duty, 3. inability to perform the functions of their (judges') office, and 4. Conviction in a court of law for treason, bribery or other infamous crimes. Judges' judicial decisions, opinions and judgments rendered or expressed pursuant to Article 73 of our Constitution are excluded from these four grounds.

Finally, by the power in me vested by the mandate of the Chief Justice of the Supreme Court of Liberia commanding me to hold and preside over the 15th Judicial Circuit, River Gee County, Republic of Liberia, during this August 2017 Term of Court, Pursuant to law, I hereby declare the formal opening of this Honorable Court for the transaction of judicial business. The Clerk of this Court is hereby ordered to inform the Legislative Caucus and the Superintendent of River Gee County regarding the formal opening of the Honorable Court for August 2017 Term. God bless this Honorable court and save the State.

And it is hereby so ordered.