

**OPENING ADDRESS OF HIS HONOR FRANCIS S. KORKPOR, SR. CHIEF  
JUSTICE SUPREME COURT OF LIBERIA  
MARCH 13, 2017**

Madam President;

Mr. President Pro Tempore & Members of the House of Senate;

My Colleagues of the Supreme Court Bench;

Former Chief Justices & Associate Justices of the Supreme Court;

Mr. Minister of Justice/Attorney General & Dean of the Supreme Court Bar;

Mr. Deputy SRSG & Members of United Nation Mission in Liberia;

The Doyen & Members of the Diplomatic Corps;

Circuit & Specialized Court Judges;

The President & Members of the Liberian National Bar Association;

The President & Members of the Association of Female Lawyers;

The President & Members of the Association of Public Defenders;

Staff of the Judiciary;

Members of the Press;

Distinguished Ladies & Gentlemen:

As always, it is my pleasing duty, on behalf of my Colleagues of the Supreme Court Bench and the entire Judiciary, to welcome you to our opening programs. We thank God Almighty for the successful completion of the October, 2016 Term of this Court and beseege Him for His continuous blessings and guidance as we begin this March Term.

Exactly ten days ago today, we adjourned *sine dine* the October, 2016 Term. The law does set not any specific date when this Court should adjourn. On our own determination, whenever it is practical, considering the workload, we set the time to close. However, the law makes it mandatory that we open on the second Mondays in March and October each year to commence proceedings for the conduct of such business as may lawfully come before the Court. So, it is upon the dictates of the law that we convene here today. We open today with four members of the Court present. Mr. Justice Kabineh M. Ja'neh travelled on urgent personal matters. He will join us next week.

During the October Term, we heard the petitions of seventy-seven (77) attorneys who applied to be admitted as Counsellors of the Supreme Court Bar. After listening to the various petitions in open court and screening them with the participation of the Members of the Supreme Court Bar, as in keeping with the practice, the petitions of five (5) petitioners were denied; the names of seventy-two (72) attorneys were passed upon and submitted to two standing committees – the Bar Examination Committee and the Moral and Ethics Committee to be examined. Of this number seven (7) attorneys were granted dispensation from

sitting the examinations. However, one of those granted dispensation travelled out of the country.

The report from the Examination Committee revealed that fifty-six (56) attorneys sat the examinations and thirty-seven (37) passed. This Court ordered that the name of Attorney Earnest F. B. Bana, who sat and passed the exams in 2016, but whose admission was withheld because he was under suspension, be included for admission at this time, he having served his suspension. Therefore, the total of forty-four (44) candidates was indorsed and duly admitted to practice before the Supreme Court Bar as Counsellors-at-Law with all rights and privileges appertaining thereto. We see that all of the newly admitted Counsellors are in Court today. We welcome them into the ranks of the Supreme Court Bar. As you embark on the practice of law before this Court, we admonish you to always remember the oath you took, to demean yourselves as respectable and honorable citizens, support and uphold the Constitution and statutory laws of Liberia and rules of all courts, do nothing to undermine the dignity, authority and integrity of the courts, preserve inviolate the secrets of your clients, abstain from offensive personalities and avoid connection or association with shady, dishonest or dishonorable transactions, amongst others. I entreat you to be true partners with us in the fair administration and dispensation of justice.

The Supreme Court, as head of the Judiciary, is clothed with the power to regulate the practice of law in our country. Article 75 of the Constitution (1986)

vests in the Supreme Court the power to make rules of court to regulate the practice of law and prescribe a code of conduct for lawyers and all subordinate courts to facilitate the proper discharge of courts' functions. In these respects, the *Code for Moral and Ethical Conduct of Lawyers and Judicial Cannons for the Moral and Ethical Conduct of Judges*, promulgated by this Court, provides penalties for the violation of the Code or Cannons which include fine, suspension, impeachment and/or prosecution in a court of law depending upon the gravity of the violation.

During the October, 2016 Term, we were constrained to take decisions suspending three judges and one lawyer after gross acts of ethical and professional misconducts attributed to them were established. In the case: *Liberian Mining Corporation v. FIDC, Inc.*, the conducts of two judges and a lawyer therein unearthed were so outrageous that the court felt the compelling need and obligation to take disciplinary action, both to address the action and preserve the dignity of the Judiciary and the legal profession. In such cases of serious ethical transgressions, this Court cannot and will not remain quiet and ignore or sweep under the carpet, glaring reprehensible acts that assail the image of the Judiciary and the law; additionally, we are under a duty to take decisive actions in such cases to curtail proven unwholesome practices to deter other legal practitioners. We implore judges and lawyers, especially those who are new in the practice of law to scrupulously adhere to the tenets and ethics of the legal profession.

Members of the Bar, distinguished ladies and gentlemen, in my last Opening Address, I declared that the members of this Court had resolved and committed not to take vacation at the end of the March and October Terms this year in order to devote full attention to hearing and deciding election cases. We reaffirm that commitment today as we begin this March Term. As you are aware, Presidential and General Elections are due this year. The ensuing elections are very crucial to the maintenance of peace and security and survival of democracy in our country. It is therefore incumbent upon us Liberians, those in Government, the public and private sectors, and those in other works of life to do what we can to contribute to the smooth and transparent conduct of the elections. As we see it, the best way we in the Judiciary we can contribute to the smooth conduct of the ensuing elections is through the fair and timely application of the rule of law to all in cases involving electoral disputes, whether in regard to the conduct of candidates or political parties or conduct by the Elections Commission.

Election cases are direct and time bound. Under Article 83 (c) of the Constitution, any party or candidate who complains about how the elections were conducted or who challenges the results thereof shall have the right to file a complaint with the Elections Commission. Such complaint must be filed not later than seven (7) days after the announcement of the result of the election. Any party or candidate affected by a decision from the Elections Commission shall not later than seven (7) days appeal against it to the Full Bench of the Supreme Court. And after receiving all records pertaining to the case, the Supreme Court shall hear and decide the case in seven (7) days. This means

that in order to be accorded the requirement of expeditious hearing and determination by this Court in seven (7) days, as mandated by the Constitution, election matters must come from the Elections Commission directly to the full Bench of the Supreme Court.

In accordance with the Constitution, we heard and decided all electoral matters growing out of the Special Senatorial Elections of 2014, appealed to us directly from the Elections Commission, except one which lingered due to the failure of the appealing party, through his counsel, to pursue the right path and the appropriate course of action. The law requires all litigants, for their own interest, to so surround their causes with the necessary safeguards of the law as to secure them against any miscarriage of justice. The court will not do for the party what that party fails to do for himself or herself. Therefore, where a party in an electoral dispute, instead of pursuing a complaint with the Elections Commission and appealing a decision therefrom directly to the Supreme Court, elects to embark on means not within the contemplation of Article 83 (c), that party cannot cry foul and expect a listening ear from the Supreme Court as the Court will not condone any slothful indifference to one's own interest or to the law.

Members of the Bar, ladies and gentlemen, I assure that even amidst many daunting challenges the Judiciary is fully functioning. Courts throughout the country continue to carry out their primary duties of hearing and deciding cases

and a number of reform projects and programs we are undertaking within the Judiciary are well on course.

1. Construction works on three judicial complexes to house the 7<sup>th</sup> Judicial Circuit, Grand Gedeh County, the 8<sup>th</sup> Judiciary Circuit, Nimba County and the 11<sup>th</sup> Judicial Circuit, Bomi County are progressing very well. We hope to dedicate two of the complexes, the complex in Nimba County and the complex in Bomi County in July this year.

2. On February 27, 2017, we dedicated a new magistrate court in Kahnplay City, Nimba County. This is one of the four magistrate courts constructed with funds provided by the Swedish Government through the Justice and Security Trust Fund (JSTF). The other three (3) magistrate courts are nearing completion in Botota, Bong County, Vahun, Lofa County and the OMEGA Tower area, Paynesville City. We hope to dedicate them during this Term of Court.

3. The Professional Magistrates Training Program (PMTP) Cycle II at the James A.A. Pierre Judicial Institute is now in its final stage and is expected to end in April, 2017. The objective of the program is to train and deploy the total of three hundred (300) college graduate as associate magistrates throughout the country. The program has proved to be very successful in enhancing the knowledge of the law and performance of associate magistrates who man our courts of first instance. This program is also being funded by the Swedish Government. We express sincere

appreciation to the government and people of Sweden for their continuous support to the Judiciary.

4. Meanwhile, we have concluded discussions with the United States Agency for International Development (USAID) and the Legal Professional Development and Anti- Corruption Project (LPAC) for the funding of Cycle III of the Professional Magistrates Training Program which is expected to commence sometime this year. But the PMTP is not the only program in which the Judiciary has interest in seeking to enhance the performance of our judges and uphold the public expectation of the Judiciary. The Supreme Court is currently reviewing proposals to expose our higher level Judges in circuit, specialize, provisional monthly and probate, etc. to a continuing education process that would upgrade their knowledge and understanding of the law.

5. In order to enhance human resource development and capacity building, we established in 2015, the Judiciary Committee for the Advancement of Court Management. The committee is tasked to improve and standardize court management practices, policies and procedures, organize court management trainings for judicial personnel and promote progressive changes aimed at improving the operation of every court in Liberia by enhancing transparency as a means of raising the level of public trust and confidence in our courts. In this connection, the James A.A. Pierre Judicial Institute, in collaboration with USAID/LPAC, has completed initial training needs assessment of bailiffs within selected



counties (Montserrado, Bong and Nimba). The assessment is intended to support the development of a training package for bailiffs nationwide. The project is expected to be funded by USAID/LPAC and the International Development Law Organization (IDLO). We thank these development partners for their supports.

6. The James A.A. Pierre Judicial Institute has concluded arrangements with LPAC to refurbish the Computer Lab at the Institute. Under the arrangements, LPAC will provide twelve (12) computers to the James A.A. Pierre Judicial Institute.

7. The Magistrate Sitting Program established by the Supreme Court in conjunction with the Ministry of Justice at the Monrovia Central Prison (MPC), aimed at curbing or minimizing the problem of prolonged detention without trial, continues to yield fruitful results. For the period January-December 2016, there were nine hundred and fifty-five (955) cases of pre-trial detention reported at the MPC. Of this amount, seven hundred and forty-five (745) cases were heard and disposed of. We hope to extend the Magistrate Sitting Program to other counties.

8. The Judiciary is a member of the Steering Committee of the Open Government Partnership (OGP). The OGP is a multi-stakeholder coalition of leading government agencies and civil society organizations working to advance transparency and accountability in government with the goals of increasing the responsiveness of the government to its citizens,

countering corruption, promoting economic efficiencies, harnessing innovation, and improving the delivery of services. Under the OGP 2015-2017 National Action Plan, the Judiciary was to establish Jury Management Offices in all the fifteen counties in Liberia and publish on its website the quarterly analysis of court returns. We are pleased to report that Jury Management Offices have now been established in seven (7) counties; we are determined to have the offices in the remaining counties opened as soon as funds are made available for that purpose. Meanwhile, we are currently publishing on the judicial website the quarterly analysis of court returns.

9. The National Association of Trial Judges of Liberia (NATJL), during the period under review, established sisterly relationship with the America Judges Association (AJA) and efforts are underway to enhance collaboration and cooperation between these two judicial bodies. As I said in my Opening Address during the October Term, A.D. 2016, the NATJL was granted an observer status to the International Association of Judges (IAJ). A delegation from the IAJ visited Liberia to assess the NATJL in preparation to granting it full membership status. We had a rewarding meeting with the delegation. We anticipate that the NATJL will soon be granted full membership to the IAJ. This will afford our judges training opportunities and judicial networkings amongst member states of the organization.

10. As part of our judicial reform program, we have concluded arrangements with the World Bank on the introduction of an E-Justice System. The E-Justice System will see the automation of court procedures such as filing of cases and returns, assignment of cases, transfer of records and most importantly the storage of records in a database. To this end, the World Bank, through the Liberia Telecommunications Authority (LTA), donated an assortment of digital hardware and software comprising computers, printers, scanners, servers, fiber optic cables, etc. to the Commercial Court as a pilot project. We have already prepared facilities within the Temple of Justice to install the equipment; we expect experts to train our technicians on the operations of the system.

At this juncture, distinguished ladies and gentlemen, I regret to inform you of the passing of some judicial workers during the period under review. We lost His Honor Joseph S. Fayiah, Resident Judge, First Judicial Circuit, Criminal Assizes “E”, Montserrado County. He died at the SOS Clinic on January 17, 2017, after a period of brief illness. Judge Fayiah started working in the Judiciary as a clerk, rose to the positions of associate magistrate and stipendiary magistrate, and after graduating from the Louis Arthur Grimes School of Law, he was appointed Resident Judge, First Judicial Circuit, Criminal Assizes “E”, Montserrado County. Judge Fayiah was a classic success story in the Judiciary.

Other members of the Judiciary who passed are:

NAME	POSITION	DATE OF DEATH	ASSIGNMENT
1 . His Honour Mathew B.Chea	Stip.Mag	Nov 26 2016	Kungma Magisterial Court-Sinoe County
2. His Honour Victor W. Tarpeh	Stip Mag	February 27 2017	Tienpo Magisterial court –Rivercess County
3. His Honor Marcus Bodia	Asso Mag	March 1,2017	Garraway Magisterial Court Grand Kru Co
4. James G. Moore	Magisteate Clerk	Dec. 10,2017	Tubmanburg Magisterial Court –Bomi Co
5.Alfred B. Seequeh	Secretary	Nov. 8, 2016	Chief Clerk’s Office – montserrado Co
6. Varney Smallwood	Bailiff	February. 8, 2017	Supreme Court
7. John SaahBaye	Bailiff	a	Circuit Court-Bomi Co.
8. Mulbah J. Kai	Bailiff	Dec. 24, 2016	Bopolu Magisterial Gbapulu county
9. Henry B. Williams	Caretaker	Dec. 11, 201	Maintenance Division- Montserrado Co
10. Juliet Wiah	Bailiff	Feb. 25, 2017	National LabourCourt – Montserrado Co

We extend profound sympathy to the families of these dedicated and committed Liberians who served their country so well and pray that God will pardon them of their inequities and grant unto them eternal rest.

Members of the Bar, distinguished ladies and gentlemen, before closing this Opening Address, I have deemed it necessary at this time to comment briefly on the prevalence of unlawful sale of land by some unscrupulous people in our country today. I here refer to the criminal conveyance of land in our society, particularly in urban areas. Under Liberian law, title to land can only be conveyed by the lawful owner. Liberian law also forbids the selling a parcel of

land to more than one person or entity. These clear and unambiguous provisions of our law, notwithstanding, criminal conveyance of land is at alarming proportions in our society today such that if decisive actions are not taken now, this may undermine peace and national security. The right to own property is sacrosanct; it is a right equated by the Liberian Constitution, with the right to life. *Article 20(a)* of our Constitution (1986) provides:

"No person shall be deprived of life, liberty, security of the person, property, privilege or any other right except as the outcome of a hearing judgment consistent with the provisions laid down in this Constitution and in accordance with due process of law."

Based on the quoted constitutional safeguard to real property right, this Court has always taken step(s) to protect the property rights of our citizens and warned our trial judges to handle property matters with the outmost care, giving all party litigants every opportunity to appear and defend their property rights.

In the case: *Sarah C. Kennedy and Catherine Johnson-Whisnant v. Ishmael B. Goodridge and Hilton*, 33 LLR 398 (1985), this is what this Court said:

"Questions of property, especially real property, and human life are to be handled with every available care by our courts. If you deprive a man of his life, you deprive him of further existence on earth; if you deprive him of his real property unjustifiably, you deprive him of a basic means of existence that is seriously difficult for one to obtain in our time, and which stands to be more difficult to obtain in the years ahead. Our warning

requires that our judges afford all parties who stand to lose life and/or property every chance and patience to appear and to defend their cause according to the means accorded them by law, and under no circumstances should it be maintained otherwise.”

As far back as 1949, sixty-eight (68) years ago, when the 1847 Constitution of Liberia was still in force and effect, this Court said in the case: *Kamga v. Williams et al.*, 10 LLR 114 (1949), that since the Constitution of the Republic guarantees to each citizen the right to the acquisition, protection, and defense of property. The legal procedure to contest this right should be meticulously and jealously guarded, and for that reason this Court has said that where a defendant in a real property case is returned summoned but fails or refuses to appear, the plaintiff is not thereby, as in other cases, immediately entitled to a judgment by default. This underscores the importance of property to our individual liberty, and in fact to our very existence. It goes to show that questions involving ownership to property, like questions of life, must be treated with due care to ensure that every opportunity is afforded party litigants to appear and to freely defend before decisions can be taken by the court.

By these holdings, this Court recognizes that real property is indispensable to the existence, dignity and liberty of every citizen of this nation.

But the efforts by this Court and our trial courts to protect property rights are being seriously undermined and rendered futile by the illegal sale and/or occupation of land by unscrupulous citizens, which act, in a number of cases, have resulted into violence and even death. *Republic of Liberia vs. Roland*

*Kaine* is a case in point. Examples of the illegal sale and occupation of private lands in Montserrado County abound and are causing untold problems for our trial judges as they attempt to uphold and ensure the rights of lawful land owners by repossessing them.

Reports from the Civil Law Court, 6<sup>th</sup> Judicial Circuit, Montserrado County, indicate that writs of injunction intended to keep property cases in *status quo* are often flagrantly violated and that in some cases where a land case has been concluded by the Supreme Court and the Civil Law Court is ordered to execute the mandate of the Supreme Court by repossessing a successful land owner, the party defendant, and even others who are not parties to the case, most often put up violent resistance, thereby preventing the lawful execution of the mandate of this Court. This cannot continue! If this is allowed to continue with impunity, the net effect would be to have illegal property claimants prevail against the rightful owners and the law. No civilized and lawful society can condone such act.

We have heard in some quarters that because our society is still fragile from war, and because of some prevailing political climate or other reasons, it is better not to disturb "a sleeping lion." This, in my view, is not a wise proposition, because the trouble with a lion asleep is that it is likely to wake up at the most inconvenient time, hungry, vicious, and ready to devour. The contention that altercations might ensue with propensity to disturb the public peace, and

therefore a lawful order of court should not be carried out, is without legal merits and defeat the spirit and intent of the law. As we have said from time to time, the best security a nation can have is the presence of the rule of law applicable to all.

We therefore call upon the three Branches of our Government to use their best efforts in tackling the problem of illegal sale and occupation of private land in a concerted way. 1) The Legislative Branch of Government, the people's representatives, should liaise with their constituents in the counties and various communities and impress upon them to refrain from the illegal sale and/or occupation of private lands and the dangers posed by such practice to the peace, safety and security of our nation; areas of the law that have been shown to be weak must be strengthened by appropriate amendment and legislation; 2) the Executive Branch of Government, through the newly established Land Authority, should educate and sensitize all citizens on the danger of illegal sale and/or occupation of private lands and the consequences thereof; the Ministry of Justice should arrest and prosecute recalcitrant and illegal land sellers and further assist the Judiciary in enforcing court orders, including judgments, survey orders, injunctions, etc.; and 3) the Judiciary must, as it has always done, continue to uphold and ensure, without fear or favor, the right of every citizen to own and dispose of real property in this nation. We further call upon all politicians, opinion leaders, traditional leaders, chiefs and anyone with authority who can influence the conduct and behavior of others, to prevail on those who



are illegally selling and/or occupying lands that belong to other citizens of this nation to desist forthwith, or face all the consequences provided for the law.

Let me conclude by advising Counsellors whose clients have cases on the Docket of the Supreme Court to make early request for the hearing of their cases.

May God Almighty bless us all; bless the works of our hands and save our Country, Liberia.

I THANK YOU!