

JUDGE'S CHARGE

DELIVERED ON TUESDAY, MAY 15, 2018, BY HIS HONOR GEORGE W. SMITH,
RESIDENT/ASSIGNED CIRCUIT JUDGE, DURING THE FORMAL OPENING OF THE MAY 2018 TERM
OF COURT, 15TH JUDICIAL CIRCUIT, RIVER GEE COUNTY, REPUBLIC OF LIBERIA.

Mr. Acting Superintendent and County Officials;
Mr. County Attorney;
Public Defenders;
Judges of Specialized Courts and Magistrates;
The Lord City Mayor;
The Clerk of Court, Clerical and Ministerial Staffs;
Heads and Officers of All Law Enforcement Agencies;
The Principal and Staff of Tweh Jayklay High School, and 12th Graders;
Prospective Jurors;
The Clergy; and
Members of the Press

I welcome you all to the formal opening of the May 2018 term of this Honorable Court. The May term is the second quarterly term of Court for the year 2018, the first quarterly term being the February term 2018. The third and fourth quarterly terms of court are the August and November 2018 terms, respectively. Each and every term of court commences the second Monday in each of the months, pursuant to statute. Hence, the May 2018 term of court should have commenced yesterday, Monday, May 14, 2018, same being the second Monday of May, 2018. But since this date fell on a holiday, the opening date of all the circuit courts in the Country, besides the Six Judicial Circuit, Commercial, and Criminal Assize "E" Courts in Montserrado County, has been extended to today, May 15, 2018.

During the early days of the United States' existence, the federal Supreme Court Justices were the ones who used to ride the various circuits of the United States – something we present-day circuit judges do in Liberia - the formal opening of the circuit courts in the fifteen (15) counties by circuit judges for the transaction of judicial business. In those days in the United States, the opening of courts "was an important event", just like how the quarterly opening of the circuit courts in Liberia is an important event. In the United States, "The Justices used the occasion to explain the new federal government, particularly when they met with grand juries. The "charges" or instructions given by the Justices often included informal "civil lessons" unrelated to the merits of any case: the Justices made appeals to patriotism, honor, and duty, and explained the role of the federal government and the concept of federalism." See: FORWARD by Chief Justice Warren E. Burger to the book titled "The Supreme Court of the United States: Its Beginning & Its Justices 1790-1991."

Today, therefore, in this JUDGE'S CHARGE, I take this occasion to make appeals to patriotism, honor, and duty. Patriotism means "of one's father; fatherland." Liberia is our fatherland. We

inherited this land or Country from our forefathers. Patriots are those who are “devoted to and ready to support and defend” their country/fatherland. We must therefore defend and support our country against environmental harm or degradation, for example.

Today, I am impelled to focus my Charge on a particular problem that adversely impacts our environment – the littering of plastic bags. The rate at which plastic bags are disposed of and littered here in Liberia by some of us is so alarming that I am moved to speak on the topic: **THE LITTERING OF PLASTIC BAGS AND THE ENVIRONMENTAL DANGER THEREOF: AN URGENT NEED TO ENFORCE OUR ENVIRONMENTAL SANITATION LAW.**

Just take a look at our public roads, streets, streams, pools, ditches, gutters, water-courses, drains or drainages - all are littered and covered by plastic bags and other debris.

The law prohibits us from causing our streets, roads or any parts thereof, streams, water-courses, pools, ditches, gutters, drains or drainages to be dirty or foul or in such a state or so situated “as to be offensive, prejudicial, injurious or dangerous to health.” In other words, it is unlawful for one to litter, dispose of plastic bags, dirt and other refuse on the streets, roads, in the streams, water-courses, pools, ditches, gutters, drains/drainages, etc. See: Public Health Law, Title 33 vol. V, Liberian Code of Laws Revised, Part III Environmental Sanitation, Chapter 21 Nuisances, section 21.1(c).

Damage Caused By Plastic Bags.

Both terrestrial and aquatic varieties of animals – animals on land and those in waters (e.g. fishes) – eat plastic bags. When animals swallow plastic bags they do suffer from intestinal problem that can kill them. Animals can also be poisoned by the chemicals used to make plastic bags. Secondly, littering of plastic bags in the open environment can cause water/rains to sweep the plastic bags along with other debris into the sewage and drainage systems, thus clogging the systems and consequently leading to flood; and, as we’d know, flood or excess water can damage our buildings and other property, generate pollution that can spread far and wide. Flood also impedes mobility of both motorists and pedestrians. Thirdly, littering and disposing of plastic bags by people all around the environment deteriorates our aesthetic or beautiful environment. In other words, littering of plastic bags and other debris in the environment defaces and makes our environment ugly. The aesthetic deterioration of our environment also has an adverse impact on human health, culture, and economy. For instance, scientific studies have held that aesthetic deterioration of the environment impedes recovery time of a sick person. Also, it is anti-cultural for human beings to live in a dirty environment. I recall as kids we were reprimanded by our parents and teachers for throwing trash away to the wrong place; in the Anglo-American countries from whence we inherited the common law tradition, you are ticketed for dropping your trash to the wrong place. Further, dirty environment diminishes the economic value of your land or real property. See the article: “How Do Plastic Bags Affect Our Environment”: By Greener Ideal Staff, published January 10, 2018.

I therefore charge that those engaged in the bad and unlawful practice of disposing of plastic bags, dirt and other refuse, trash, rubbish, garbage in the manner enumerated herein must cease such illegal practice. Those involved in this bad, illegal and unlawful practice, under our Public Health Law, “shall be liable to a civil penalty not exceeding one hundred dollars; and if the offense, violation or default is of a continuing nature, to a further civil penalty of not exceeding twenty-five dollars for each day during which he [or she] continues to be in default after being officially notified of his [or her] default. See: Public Health Law, section 5.1 Civil penalties for offenses for which no other penalty is provided.

The Liberian Legislature has done its job by enacting the Public Health Law to, among other things, protect our environment by making it unlawful and punishable the human practice of disposing of plastic bags, dirt and other refuse in the manner stated herein. Now, it is the duty and responsibility of the Executive Branch to execute this law by prosecuting violators thereof; whilst it is the duty and responsibility of the Judicial Branch, the courts, to decide cases involving violation of the Public Health Law and punish or correct violators of this law.

I therefore charge county health officers and inspectors, and local authorities, pursuant to sections 4.3, 4.4 & 4.5 of our Public Health Law, to execute our Environmental Sanitation provisions of the Public Health Law. I charge you to institute law suits, if necessary, against those illegally disposing of plastic bags, dirt and other refuse in the manner stated in this CHARGE. I also charge city or municipal corporations, the police and all law enforcement officers to arrest and/or prosecute those in the illegal practice of throwing plastic bags, dirt and other refuse all around the environment. The police, all law enforcement officers and city corporations must now start arresting, prosecuting and ticketing/fining drivers and passengers who throw plastic bags, dirt and other refuse from vehicles into those prohibited areas of our environment. Construe me not as interfering with or instructing the Executive Branch to do its job. I am merely coordinating with the Executive Branch; for, the three branches of the Legislative, Executive and Judicial work in coordination.

“Any Justice of the Peace or Magistrate exercising functions within the limits of cities, towns, and commonwealth districts are vested with jurisdiction over cases arising under the Sanitary Act of December 19, 1930, as amended, and the City Ordinances. Justices of the Peace or Magistrates shall set aside Mondays in every week for the trial of all cases arising out of the Sanitary Act and City Ordinances issued from time to time. Such trials shall be summary and judgment shall be rendered and enforced without delay.” See: Rule 6, RULES AND REGULATIONS FOR THE GOVERNANCE OF THE MAGISTRATE AND TRAFFIC COURTS.

To you, our magistrates and justices of the peace, I charge Your Honors to set aside Monday of every week to speedily try cases involving violation of our Environmental Sanitation law and City Ordinances. And this ends my CHARGE on the topic: **“THE LITTERING OF PLASTIC BAGS AND THE ENVIRONMENTAL DANGER THEREOF: AN URGENT NEED TO ENFORCE OUR ENVIRONMENTAL SANITATION LAW”**.

Let me seize this opportunity to officially announce to the people of River Gee County that we now have a notary public who was appointed by President Ellen Johnson-Sirleaf just before she retired from the Executive Mansion. Our new notary public is Mrs. Tenneh Subah. She was additionally appointed justice of the peace.

What are the powers and duties of a notary public?

Under section 20.1 (3) of the Judiciary Law, “Notary public shall have the power and it shall be their duty to demand acceptance and payment of checks, promissory notes, bills of exchange and other negotiable instruments; to protest such instruments for non-acceptance and nonpayment; to take down, certify and acknowledge affidavits and other documents and written instruments; and to exercise such other powers and perform such other duties as may be prescribed by common law, commercial usage and the law of nations.” A notary public, under section 20.1(4) of the Judiciary Law, shall receive his/her fee for the performance of each notarial act requiring his/her seal and signature.

What is the jurisdiction of justice of the peace?

The justice of the peace has jurisdiction to hear minor offences. The jurisdiction of justices of the peace is outlined under section 8.3 of the Judiciary Law.

Now that we have a notary public here, the people of River Gee are relieved of the burden and cost of travelling elsewhere just to notarize their documents. For example, local government officials of River Gee appointed by the President will not have to travel to Monrovia to notarize their Assets Declaration Forms.

I would also like to remind the public that the Probate Division of this Court is fully constituted. We also now have a Government Service Center here in the City of Fishtown; there, we have the Office of the Registrar of Deeds, Births, Deaths and Marriages. Individuals who have title documents to lands and real property are admonished to bring their title documents to this Court in order to have same probated and then taken to the Registrar’s office for registration in the Achieve.

Nobody can legally manage and/or dispose of the properties of dead persons. In order to do so, you must obtain legal documents from the Court; that is, letters of administration or letters testamentary, depending on whether the dead person did or did not make a will. As Administrator/Administratrix or Executor/Executrix of a deceased person’s property, you can only sell that property upon obtaining a legal document called decree of sale from the Court. These legal documents are required to be registered in the Achieve at the Office of the Registrar of Deeds, Births, Deaths, and Marriages. Adoptions and guardianships are other legal issues dealt with by the Court and the Registrar’s Office.

Congratulations Madam Tenneh Subah for your preferment as notary public and justice of the peace of River Gee County. I charge Your Honor to justify the confidence reposed in you to serve in these capacities.

Finally, it is very important that I comment on the illegal seizure of judges' vehicles by the Presidential Task Force set up for the retrieval of vehicles owned by the Government of Liberia (GOL).

After I, a sitting judge wrote a letter, followed by text messages, to the Minister of State for Presidential Affairs, Hon. Nathaniel McGill, requesting him to intervene regarding the unlawful seizure of my private vehicle by the Presidential Task Force, there being no reply from Hon. McGill, compels me to comment on the said Task Force's unlawful seizure of judges' vehicles in order to draw the President's attention so that His Excellency President George M. Weah can take action.

Legally, the Presidential Task Force's mandate covers the retrieval of only GOL's vehicles and not those privately-owned, including vehicles purchased in good faith and for valuable consideration by individuals, from the GOL.

On Saturday, April 21, 2018, the Task Force headed by one Mr. David appeared at the garage where my 2012 Ford Everest jeep registration # A614007 was being repaired and the said Task Force unlawfully seized the vehicle, notwithstanding my ownership documents thereto was shown to David and informing him that I was a sitting judge.

Though this vehicle was officially assigned to me as a judge by the GOL who originally owned the vehicle, after the vehicle turned five (5) years old and was highly depreciated same was sold to me a year ago on May 11, 2017. This GOL's policy of disposing of its old and depreciated vehicles is not unique to Liberia. This policy obtains in other countries.

Despite the Task Force was shown my ownership documents to this vehicle and aware or ought to have been aware of the GOL's policy as stated herein, yet the Task Force failed to exercise its sound judgment by unlawfully seizing my vehicle. This illegal and unlawful act of the Task Force does not augur well and is unrepresentative of the good image of this Government. This illegal and unlawful act of members of the Task Force cannot be attributed to ignorance on their part; rather, some of the members, if not all, are just overzealous, sycophantic and megalomaniac. The President did not and could not have authorized such an illegal and unlawful act of Mr. David and/or the Presidential Task Force.

The Task Force's act of seizing judges' privately-owned vehicles is not only a violation of Articles 20(a) and 21(b) of the Constitution, but also criminal under section 12.70(a) of our Penal Law, abuse of office; for, any person acting in an official capacity, like a member of the Task Force, taking advantage of such capacity commits a first degree misdemeanor if he/she knowingly seizes another's property or dispossess another person of his/her property rights, in this case Judge Smith. Also, the unlawful and disrespectful act of seizing my vehicle by Mr. David and his

men, members of the Task Force, does not only injure Judge Smith in his private capacity. This illegal and unlawful act impugns the dignity of Judge Smith as a judge as well as the Court over which Judge Smith presides. The act is therefore contemptuous and punishable as such. Further, the Task Force's unlawful and disrespectful act of subjecting Judge Smith to such an ignominy - seizure of his vehicle - impugns the dignity of the entire government and country over which the President presides at the apex.

I therefore kindly request His Excellence President George M. Weah to instruct the Task Force to return my vehicle unto the custody of the Court Administrator at the Temple of Justice for onward delivery to me since I am presently out of Monrovia in River Gee County on official assignment.

During this May 2018 term of Court, we have seven (7) cases on the trial docket. "Clearing the trial docket by the disposition of cases shall be the foremost concern of the judge assigned to preside over the term." See: Rule 7, Circuit Court Rules as Revised (1999).

I am committed to clearing the trial docket during this May 2018 term of Court. This commitment, however, cannot be achieved without the cooperation of those other actors involved in the administration of justice. I therefore charge the lawyers who are arms of this Court, the clerical and ministerial staffs, the prison authorities and all other actors involved in the administration of justice before this Honorable Court to work diligently with the Court and Judge to ensure that the trial docket is cleared.

With the power in me vested, I hereby declare the formal opening of the May 2018 term of the 15th Judicial Circuit Court, River Gee County, Republic of Liberia. AND IT IS HEREBY SO ORDERED.

GOD BLESS THIS HONORABLE COURT AND SAVE THE STATE.