

CHARLES D. B. NURSE, Appellant, v.
REPUBLIC OF LIBERIA, Appellee.

MOTION FOR REARGUMENT.

Argued October 23, 1972. Decided November 24, 1972.*

1. Reargument will be allowed when it is shown that in the opinion under consideration the Supreme Court manifestly overlooked some fact or point of law.

A motion was brought for reargument of an appeal decided May 28, 1971, alleging that the Supreme Court had overlooked a point of law raised by appellant in a motion to remand previously made, concerning the removal from office of the judge who had presided in the lower court. It appears that argument before the Court in the case decided May 28, 1971, had revolved only about the bill of exceptions in the case on appeal and the motion to remand. *Motion granted.*

Joseph Williamson for appellant. *The Solicitor General* for appellee.

MR. JUSTICE LEWIS, sitting by assignment, delivered the opinion of the Court.

We cull from the record that appellant filed a motion for reargument in this Court on May 31, 1971, embodying three counts.

The first two counts, and the third in a lesser degree, stress that the Court in its opinion delivered May 31, 1971, overlooked the point of the removal from office of the judge who had tried the case in the lower court, previously brought to the attention of that Court in a motion to remand. The motion has been opposed.

* The Chief Justice and Justices Henries and Horace disqualified themselves for participation in the case prior to appointment to the Court. Roderick N. Lewis served by appointment as Justice *ad hoc*.

The case was called on October 3, 1972, appellant being represented by counsellor Joseph E. Williamson and appellee by Solicitor General Roland Barnes. During argument, appellant's counsel informed the Court that he was not insisting on the point raised in count three of his motion, thereby leaving the Court with the impression that the point was waived. We shall therefore address our attention to the remainder of the issue.

It cannot be denied that the removal of judges from office is an inherent right vested in the Legislature by the Constitution, and whenever that august body, which is the first department of Government, by two-thirds vote, removes from office a judge for corruption, the removal is constitutional and irrevocable. Article IV, Section 1st.

Reargument of a cause may be allowed by petition when some palpable mistake has been made by inadvertently overlooking some fact or point of law. *Bracewell v. Coleman*, 6 LLR 206 (1938); *Webster v. Freeman*, 16 LLR 209 (1965); Rule IX, Part 1, Revised Rules of the Supreme Court (1972).

We are of the opinion that the point of Judge Free's removal contained in appellant's motion to remand filed before us on October 9, 1970, should have received some comment in the opinion handed down in the case decided May 28, 1971. This view is reinforced because, as was brought to the attention of this Court, on October 23, during argument of this motion, the motion to remand and the bill of exceptions were argued simultaneously.

Therefore, the motion is granted. It is so ordered.

Motion granted.