

IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC OF
LIBERIA, SITTING IN ITS OCTOBER TERM, A.D. 2024

BEFORE HER HONOR: SIE-A-NYENE G. YUOH.....CHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: YUSSIF D. KABA.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: YAMIE QUIQUI GBEISAY, SR.....ASSOCIATE JUSTICE
BEFORE HER HONOR: CEANEH D. CLINTON JOHNSONASSOCIATE JUSTICE

**IN RE: The Unconstitutionality of Several Actions taken by Certain
 Members of the House of Representatives**

Heard: November 27, 2024

December 6, 2024

MADAM CHIEF JUSTICE YUOH DELIVERED THE OPINION OF THE COURT

Mr. Justice Tubman speaking for the Supreme Court in the case *Fazzah v. The National Economy Committee*, 8LLR, 84, 85 (1943) opined that every so often: “...there arises some litigation in the course of judicial proceedings like a mighty billow raising itself to a magnificent height as out of the sea, arousing public excitement, curiosity, anxiety, and interest. The civilians, as seashore visitors and dwellers, look on, some with fear, others with satisfaction, and yet others with amazement and trembling; but these legal billows seem, as it were, to dash themselves upon the shore as do the ocean billows and recede into the sea again, for each is a part of the same ocean and of the same great national superstructure. Even so the three great departments of government, the legislative, executive and judicial, exercising themselves within their constitutional orbits, are often disturbed by legal gales, tornadoes, cyclones, and sometimes even tidal waves, but after a while they pass away, the sea is stilled, and they return to that from whence they came, for these great pillars of the State, though separate as billows, are one as the sea. Like a monstrous billow, this cause now being adjudicated has lifted itself, rolling on towards shore, and the noise of its tremendous roaring has been heard throughout the length and breadth of the Republic and possibly elsewhere; but now in a state of judicial tranquility and poise, we have come to the point of quelling, by judicial opinion and judgment, the boisterousness of this sea that has been roaring so loudly.”

The legal gales, tornadoes, and cyclones, causing this great boisterousness in Liberia today, ascends from of the three branches of Government, specifically from the House of Representatives of the 55th Legislature surrounding an internal dispute between Speaker, Counsellor J. Fonati Koffa and some members and Representative Nagbe Koon and some members, leading to the purported removal of Counsellor J. Fonati Koffa from the Office of Speaker of that august body.

We take judicial notice, that while it is true that the contentions surrounding this litigation has raised public excitement, curiosity, anxiety, and interest, the Supreme Court, for its part, is not new to internal disputes within the House of Representatives. In fact, the *case Snowe v. Members of the House of Representatives*, Supreme Court Opinion October Term A.D. 2007 attests that this is the second time, since our post-war era, the Supreme Court *en banc* is being called on to decide seemingly constitutional deadlocks arising from the internal disputing amongst members of the House of Representatives.

We must state here that while the *Snowe case* is the only judicial precedent the Supreme Court has as it relates to such internal dissention within the House of Representatives, we are however bound by law, precedents, and tradition of the Supreme Court to carefully examine the facts and circumstances of the matter, taking judicial cognizance of the relevant Constitutional provisions, applicable provisions of the Rules of the House of Representatives of the 55th Legislature, and other Supreme Court Opinions we deem very persuasive in speaking to the issues now before the Supreme Court.

However, before proceeding with our review of the present proceeding, the Court makes it emphatically clear that it is within the power and authority of the Supreme Court to say what the law is, without fear or favour.

The facts as culled from the records reveal that on November 22, 2024, a petition styled "*In Re: The Unconstitutionality of Certain Actions Taken by Some Members of the House of Representatives of the 55th Legislature*" was filed before the Supreme Court by Cllr. J Fonati Kofa, as Speaker of the House of Representatives, and Representatives of the 55th Legislature.

The prayer contained in the petition requests the Supreme Court to declare unconstitutional, the alleged actions of some members of the House of Representatives on the basis that those actions are in violation of Articles 20(a), 33 and 49 of the 1986 Constitution regarding due process, the designation of a Speaker as the Presiding Officer, respectively; and Rules 10 and 48 of the Rules and Procedures adopted by the House of Representatives of the 55th Legislature; and the prayer further states that their colleagues return to *status quo ante* pending the hearing and determination of the petition. We quote herein the petition, to wit:

IN RE: THE CONSTITUTIONALITY OF CERTAIN ACTIONS
TAKEN BY SOME MEMBERS OF THE HOUSE OF
REPRESENTATIVES OF THE 55TH LEGISLATURE

PETITIONER'S PETITION

"...AND NOW COMES, the Petitioners, J. Fonati Koffa, Speaker of the House of Representatives and Leadership of the House of Representatives of the 55th Legislature, and most respectfully pray Your Honors to determine the constitutionality of the following actions that were taken by certain Members of the House of Representative of the 55th legislature.

1. The convening by these Members of a purported and illegal Plenary of the House of Representatives without the Speaker, the constitutionally designated Presiding Officer of the House of Representatives in Article 49 of the Constitution, notwithstanding the fact that he is present and available to perform his duties.
2. The Members' use of the illegal Plenary to unconstitutionally suspend Honorables Edward Flomo, Abu Kamara and Marvin Cole as Members of the House of Representatives, without first affording them the necessary and required constitutional Due Process mandated by Article 20 of the Liberian Constitution and Rule 48 of the House Standing Rules
3. The Members' illegal restructuring and reconstituting of Statutory Committees of the House of Representatives in violation of the Committee's Chairman and Co- Chairmen appointment by the Speaker for 3 years and that they can only be removed by a two thirds vote of the entire Membership of the House of Representatives.
4. The Members' seizure and taking possession of the 2025 Draft National Budget although it was directed to Speaker Koffa in his capacity as the Presiding Officer of the House of Representatives, and

unlawfully acting on same in violation of Article 49 of the Constitution and Rule 10 of the House Standing Rules.

I. THE SUPREME COURT'S JURISDICTION

1. Article 66 of the 1986 Liberian Constitution states that: "The Supreme Court shall exercise final appellate jurisdiction in all cases whether emanating from courts of records, courts not of record, administrative agencies, autonomous agencies or any authority, both as to law and fact."
2. Chapter 2, Section 2.2 of the Judiciary Law states: "The Supreme Court of Liberia shall have jurisdiction.... on applications for remedial and extraordinary writs, including refusals to issue such writs and shall be the Court of final resort in all such".

II. THE UNCONSTITUTIONAL USURPATION OF THE SPEAKER'S AUTHORITY BY THESE MEMBERS

1. Article 49 of the Liberian Constitution designated the Speaker as the Presiding Officer of the House of Representatives with the constitutional mandate to '.... ensure the proper functioning of the House.'
2. Consistent with the aforesaid Article 49, the House of Representatives Standing Rule 10 provides that: "The Speaker shall be the principal officer of the House, responsible for calling, convening and presiding over all sessions".

The Members deliberately refused to attend regular and lawful session presided over by the Speaker of the House and are instead participating in unconstitutional gatherings illegally presided over by Deputy Speaker Fallah, in violation of Article 49 and House Standing Rule 10. A copy of a notarized affidavit issued by the Sergeant-at-Arms of the House of Representatives confirming the Respondents' refusal is hereto attached and marked Exhibit "P/1".

Legally, Speaker Koffa is and remains the Speaker of the House of Representative with the authority mandated by the Constitution and Rule 10 as the Presiding Officer of the House. Under Rule 10, he is vested with the sole authority to call, convene and preside over legislative sessions of the House. His constitutional authority cannot be replaced or usurp until he is removed in accordance with Article 49 which requires not only an affirmative vote of two thirds of the Membership of the House of Representatives, but also as a prerequisite for removal, a hearing consistent with due process of law. None of these mandatory constitutional requirements having been met, the action of the Respondents in usurping the duties, functions and responsibilities of Speaker Koffa is unconstitutional and null and void ab initio.

III- THE UNCONSTITUTIONAL SUSPENSION OF MEMBERS OF THE HOUSE OF REPRESENTATIVES

The Members compounded their use of the purported and illegal Plenary by unconstitutionally suspending Honorables Edward Flomo, Abu Kamara and Marvin Cole as Members of the House of Representatives without first affording them the necessary and required constitutional due process mandated by Article 20 of the Liberian Constitution and Rule 48 the House Standing Rules.

IV- THE UNCONSTITUTIONAL AND ILLEGAL RESTRUCTURING AND RECONSTITUTION OF STATUTORY COMMITTEES OF THE HOUSE OF REPRESENTATIVES BY THE MEMBERS.

The Members have illegally restructured and reconstituted under the alleged authority of the purported and illegal Plenary by restructuring and reconstituting Statutory Committees of the House of Representatives in violation of the Committees' Chairmen and Co-Chairmen appointment by the Speaker for 3 years terms, subject only to their removal by an affirmative vote of two thirds vote of the Membership of the House of Representatives.

V. UNCONSTITUTIONALLY SEIZING AND TAKING POSSESSION OF THE 2025 DRAFT NATIONAL BUDGET BY THE MEMBERS ALTHOUGH IT WAS DIRECTED TO SPEAKER KOFFA.

The 2009 Amended and Restated Public Finance and Management Act mandates the President of Liberia to submit the National Budget for the ensuing financial year to the House of Representatives. In the implementation of this statutory duty, the normal and established practise and procedure is for the President to submit the Budget within a transmittal letter directed to the Speaker of the House of Representatives, the Presiding Officer of the House. President Boakai complied with this established procedure by submitting the Budget with a November 18, 2024 transmittal letter addressed to the Presiding Officer, Speaker Koffa.

Wherefore, and in view of the foregoing, Petitioners respectfully request Your Honors for the Supreme Court of Liberia to declare as follow:

1. The Members' convening of a purported and illegal Plenary of the House of Representatives without the Speaker presiding to be unconstitutional and all actions and decisions taken there null and void ab initio and of no legal effect.
2. The Members' suspension of Honorables Edward Flomo, Abu Kamara and Marvin Bole as members of the House of Representatives, without first affording them the necessary and required constitutional Due Process mandated by Article 20 of the Liberian Constitution and Rule 48 of the House Standing Rules to be unconstitutional.

3. The Members' restructuring and reconstituting the Statutory Committees of the House of Representatives to be illegal.
4. The Members' seizure of the 2025 Draft National Budget and all actions and decisions taken thereon to be unconstitutional and a violation of Article 49 of the Constitution and Rule 10 of the House Standing Rules.

Petitioners also pray that Your Honors will ensure a Stay Order mandating and commanding the Parties to return to Status Quo Ante pending the determination of this Petition granting unto Petitioners any and all further relief as Your Honors may deem just and legal in the given facts and circumstances.”

Upon receipt of the petition, the Supreme Court *en banc* having determined that there was a dire need to expeditiously disposed of same and quiet the growing public excitement, curiosity, and anxiety, the Clerk of Court was ordered to issue the alternative writ, mandating all parties of interest to file returns on or before November 26, 2024, and also ordered a stay on all further proceedings and/or actions by the parties involved in the matter and return to *status quo ante* pending the final determination of this case. The Ministry of Justice, being the legal arm of the Government of Liberia, was also served with the alternative writ and mandated to file returns on the side of the law.

In compliance to the aforestated mandate, on November 26, 2024, returns were filed by the following: (1) Members of the House of Representatives by and thru Honorable Richard Koon Nagbe, as Speaker of the House of Representatives; and (2) the Ministry of Justice.

In his returns filed on behalf of the House of Representatives of the 55th Legislature, and in his designated capacity as Speaker, Honorable Richard Koon Nagbe, prayed this Honorable Court to deny the *In Re Petition* filed before the Supreme Court by Cllr. J Fonati Kofa, as Speaker of the House of Representatives, and Representatives of the 55th Legislature asserting the following: that the removal of Honorables J. Fonati Kofa, Edward Flomo, Abu Kamara, and Marvin Cole from their respective positions in the House is purely political and not justiciable before the Supreme Court; that the Supreme Court in keeping with several Opinions have refrained from answering political questions; that the Constitution vests in the House of Representative the authority to promulgate rules, hold quorum, and to expel their members under the rules adopted by the House of

Representatives; that all those persons listed in the *In Re* petition were accorded due process of law, and subsequently removed for being in breach of the rules of the House of Representatives; that Cllr. J. Fonati Kofa was removed based upon charges of corruption and unethical conduct; that Edward Flomo, Abu Kamara, and Marvin Cole were also removed on charges of unethical conduct impeding the work of the House of Representatives; and that under the doctrine of separation of powers, the Supreme Court cannot review the decision of the House of Representatives for removing its members who were investigated and found to be in breach of the House of Representatives Rules. Like the petition, we quote herein below the returns, to wit:

RETURNS OF THE MEMBERS OF THE HOUSE OF REPRESENTATIVES

AND NOW COME THE MEMBERS OF THE HOUSE OF REPRESENTATIVES, ACTING BY AND THROUGH THEIR SPEAKER, HONORABLE RICHARD NAGBE KOON, AND MOST RESPECTFULLY PRAY YOUR HONORS TO DENY THE PETITION OF HON. J. FONATI KOFFA AND CERTAIN ACTIONS OR CONDUCT OF THE PLENARY OF THE HOUSE OF REPRESENTATIVES; AND FOR LEGAL AND FACTUAL REASONS SHOWETH THE FOLLOWING:

I. FACTS OF THE MATTER:

1. That while the Honorable Supreme Court does not ordinarily entertain evidence, having assumed original jurisdiction over the matter of this Petition, as Your Honors are endowed with the power to do so; and consistent with this Honorable Supreme Court's Opinion in the case, *Snowe v. Members of the House of Representatives, Petition for the Writ of Prohibition, delivered 20 January 2007*, that Respondents should have presented testimonies of witnesses who testified against Petitioner Snowe and the documentary evidence to buttress the allegations contained in their Resolution to remove Petitioner Snowe, Speaker of the House of Representatives from office, in order to meet the constitutional due process threshold, Members of the House of Representatives beg leave of the Honorable Supreme Court to narrate some of the substantive facts of this matter and present some of the documentary evidence for consideration of Your Honors, as follow:

1.1 That Hon. J. Fonati Koffa, one of the Petitioners, was elected the Speaker of the House of Representatives shortly after the commencement of the 1st Session of the 55th Legislature in January, 2024.

1.2 That before Hon. J. Fonati Koffa became Speaker of the House of Representatives in January 2024, he was a member of the House of Representatives and thereafter (after Hon. Princee Moye, then Deputy Speaker was elected to be a Senator for Bong County):

1.3 That also before Hon. J. Fonati Koffa became Speaker of the House of Representatives of the 55th Legislature and while he served as a Member of the House of Representatives and also a Deputy Speaker of the House of Representatives, Hon. J. Fonati Koffa engaged in acts and conducted himself in a form and manner in violation of Article 90(a) of the 1986 Constitution: which provide that "no person, whether elected or appointed to any public office shall engage in any other activity which shall be against public policy or constitute conflict of interest". Hon. J. Fonati Koffa's conduct and actions are also in violation of Article 90(b) of the 1986 Constitution, which provides that no person holding public office shall demand and receive any other perquisites, emoluments or benefits, directly or indirectly, or on account of any duty required by Government. Furthermore, the conduct and acts of Hon. J. Fonati Koffa are also in violation of Rule 44 of the Rules and Procedures of the House of Representatives, validated and approved by the House of Representatives of the 53rd Legislature (hereinafter the "House's Rule"), which provide "Members are expected to fight corruption effectively by being free from corrupt practices and opposing corruption and set example in any anti-corruption struggle". The acts and conduct of Hon. J. Fonati Koffa are further in violation of Rule 45.2 of the House's Rules; which provides that: "No member may be employed or engaged him/herself in any occupation which is incompatible with the responsibilities vested in him/her or is damaging to the prestige or dignity of the House".

1.4 That some of the evidence of the violations of Article 90(a) of the 1986 Constitution and Rule 44 and Rule 45 of the House's Rules by Hon. J. Fonati Koffa are as follow: (i) Hon. Koffa's Law Firm, the International Law Group, LLC (during his services as a member of the House of Representatives, Deputy Speaker of the House of Representatives and Speaker of the House of Representatives) was and still is retained legal counsel for several state-owned enterprises (e.g. Liberia Petroleum Refining Company, Liberia Maritime Authority, Liberia Telecommunication Authority); for which state-owned enterprises the Legislature exercises oversight responsibilities. Copies of excerpts of the retainer agreements with the Liberia Petroleum Refining Company and the Liberia Telecommunication Authority are attached hereto in bulk as Exhibit "R/1".

1.5 That Hon. J. Fonati Koffa admitted at an interview on Spoon Radio that his law firm, the International Law Group, LLC, was indeed legal retained counsel for several state-owned enterprises but

that he divested himself from the aforesaid International Law Group, LLC after he became Member of the House of Representatives. However, this representation is false as after the demise of the mother of Hon. J. Fonati Koffa in 2022, the Liberia Telecommunication Authority made a financial contribution of US\$10,000.00 (Ten Thousand United States Dollars) towards the burial of his mother and that payment was made to the International Law Group LLC, as per photocopy of the Check Disbursement Voucher, dated February 22, 2022, and attached hereto is Exhibit "R/2"

1.6 That while serving as Deputy Speaker of the House of Representatives, for the 2023 fiscal year, the amount of US\$1,102,528.00 (United States Dollars One Million One Hundred Two Thousand Five Hundred Twenty-Eight) was appropriated in the National Budget for the office of the Speaker; but at the end of the fiscal year, the amount of US\$4,038,687.00 (United States Dollars Four Million Thirty-Eight Thousand Six Hundred Eight-Seven) had been disbursed – a whopping difference of US\$2,936.159.00 (United States Dollars Two Million Nine Hundred Thirty-Six Thousand One Hundred Fifty-Nine; for which no accountability was provided by Hon. J. Fonati Koffa. Reference: Exhibit "R/2A".

1.7 That **Article 38 of The Constitution** authorizes and empowers the House of Representatives and The Senate to "**establish its own committees and subcommittees**", but after assuming the office of Speaker of the House of Representatives, Hon. J. Fonati Koffa unilaterally (without the approval or concurrence of Plenary of the House of Representatives) established committees and subcommittees. Some of these committees and subcommittees are: (i) Committee on Science and Technology and (ii) Committee on Water and Sanitation. Hon. Koffa, while also serving as Speaker of the House of Representative, unilaterally and without the consent of the Plenary of the House of Representatives, established institutions of the House of Representatives, referred to as "Departments", namely: (i) Fleet Department; (ii) Nursing Departments; (iii) Project Department; and (iv) Legal Counsel Department; to which he appointed his closet allies and friends. For the establishment of the Legal Counsel Department, a Legal Drafting Department already exists at the House of Representatives, which is assigned the responsibility of providing legal services to the House of Representatives. As the House of Representatives conducts business through its committees and subcommittees, **House's Rules** provides for each committee and subcommittee of the House of Representatives and also specifically provides in Rule 63.1 that the House's Rules shall not be altered unless the Members of the House of representatives receive twenty-four hours-notice of the proposed change and a vote of two-thirds (2/3) of the members of the House of Representatives approve the change. Hon. J. Fonati Koffa's acts and conduct are violation of Rule 41.1 of the House's Rule; which forbid any member of the House of Representatives from misusing the power given to him/her by law.

1.8 That as per Protocols of ECOWAS, Liberia is entitled to have representations at the ECOWAS Parliament: and as per **Article 18 (a)**

Article 18(b) of the **ECOWAS Protocol** entitled: “*Elections, Term of Office and Vacancies*”. Liberia Representatives to the ECOWAS Parliament should have been elected, as has always been done. However, by a letter dated February 7, 2023, Hon. J. Fonati Koffa, without an election, appointed Liberia’s representatives to the ECOWAS Parliament. Copy of the communication from Hon. Fonati Koffa to the Speaker of the ECOWAS Parliament is **Exhibit “R/3”** hereto; and copy relevant of the **ECOWAS Protocol** on election of representatives to the ECOWAS Parliament is **Exhibit “R/4”** hereto.

1.9. That when these violations and improprieties listed above and others were raised by some members of the House of Representatives with Hon. J. Fonati Koffa, instead of addressing them to the satisfaction of his colleagues, Hon. J. Fonati Koffa left Liberia; and while out of Liberia, without invitation from His Excellency President Joseph Boakai, decided to join President Boakai on the latter’s visit to the Pope at the Vatican; thereby prolonging Hon. J. Fonati Koffa’s absence from Liberia.

1.10. Having failed to address the violations and improprieties and having ignored the grievances of the Members of the House of Representatives, forty-three (43) members of the House of Representatives decided that they will not sit under the gavel of Hon. J. Fonati Koffa until these violations, improprieties and grievances are addressed. Some of the members of the House of Representatives then decided to present a “Vote of No Confidence” against Hon. J. Fonati Koffa at the regular Sitting of the Plenary of the House of Representatives on Tuesday, October 15, 2024; but that exercise was obstructed by other members of the House of Representatives, and thugs from outside of the Capitol Building and insults and assaults were hurled upon those members of the House of Representatives, who went to attend the Sitting of that day. Upon Hon. J. Fonati Koffa’s return to Liberia, instead of addressing these violations, improprieties and grievances, he called a press conference on Spoon FM Talk Show and accused his colleagues of corruption; namely, trying to coerce him to include amounts in the Budget for their personal use and meeting in a room 1026 at which they were offered bribes to other members of the House of Representatives to sign a resolution and to vote to remove him from office. Whereupon, six (6) members of the House of Representatives filed a formal complaint against Hon. J. Fonati Koffa; a copy of which is hereto attached Exhibit “R/5”.

10.11. That Hon. Fonati Koffa was unable to convene the Plenary of the House of Representatives as he had only thirty (30) members (including himself), who attend in the main Chambers of the House of Representatives, while the forty-three (43) members convened in the Joint Chambers of the Legislature. One or two weeks thereafter, Deputy Speaker Thomas Fallah joined the forty-three (43) members with a quorum, business of the House of Representatives proceeded uninterruptedly. One of the first matters under the consideration was a reading of the complaint against Hon. J. Fonati Koffa and the setting up of an Ad Hoc Committee to investigate the complaint, while Hon.

J. Fonati Koffa was declared recused pending the outcome of the investigation.

II. JURISDICTION OF THE SUPREME COURT

2.1. Petitioners have submitted that this Honorable Court has jurisdiction over the House of Representatives regarding: (i) the holding of Session of the Plenary of the House of Representative with forty-three (43) members of the House of Representatives, presided over by the Honorable Thomas Fallah, Deputy Speaker, while Hon. J. Fonati Koffa is ready and available to serve as the Presiding Officer; (ii) the removal of Hon. J. Fonati Koffa from the position of Speaker of the House of Representatives; and (iii) the suspension of Honorables Edward Flomo, Abu Kamara and Marvin Cole. Members of the House of Representatives concede the existence and effect of Article 66 of the Constitution and Section 2.2 of the Judiciary Law, cited in the Petition and which state the power of the Honorable Supreme Court to be the final arbiter of constitutional issues and the power of the Honorable Supreme Court to issue remedial and extraordinary writs. Specifically, members of the House of Representatives concede the Honorable Supreme Court's power to judicial review; that is, to declare unconstitutional, null and void *ab initio* any law enacted by the Legislature, which is deemed in violation of the Constitution and to also declare unconstitutional, null and void *ab initio* and conduct of any House of the Legislature, which is deemed in violation of the Constitution. Members of the House of Representatives, however, submit that the Constitution provides at Article 3 thereof that the Government of Liberia consists of three (3) separate and distinct branches: the Legislature, Executive and Judiciary and that no person holding office in any one of these branches shall exercise the powers granted to the other two (2) branches of the Government. *In Re: Judiciary Inquiry Commission's Report on His Honor Logan Broderick*, 40 LLR 263 (2000); *The Liberia Produce Marketing Corporation v. The National Seaman's Port & General Workers Union of Liberia*, 33 LLR 132 (1985). The Honorable Supreme Court has specifically held that insofar as the separation of powers is concerned, no department or official of any of the three (3) departments of the government has the right or authority to perform or interfere with or obstruct the duties and functions assigned to either or both of the other two (2) departments. *Firestone Plantations Company v. Paye and Barbar & Sons*, 41 LLR 12 (2002). And the Honorable Supreme Court has also held that under the doctrine of separation of powers, none of the three (3) branches of government can usurp the functions of any of the other two (2). *JITCO INC. V. Sesay; The Liberia National Police Force, et al.*, 36 LLR 695 (1990).

2.2. And also further to Count 2.1 above, Members of the House of Representatives submit that while the Honorable Supreme Court in the exercise of its power of judiciary review may declare a law enacted by the Legislature to be unconstitutional, null and void where such law is actually in violation of the Constitution or may declare a conduct of either the Legislature or the Executive null and void where

such conduct is actually in violation of the Constitution, this Honorable Supreme Court must first determine its own jurisdiction over a matter because where jurisdiction is wanting, the court's action is null void *ab initio*. Two of such Opinions are: *Firestone Plantations Company v. Kollie*, 41 LLR 63 (2002); *MIN Liberia Corporation v. Toweh*, 30 LLR 611 (1983). And the Honorable Supreme Court has ruled in a number of cases before it that: "The Supreme Court acts ultra vires if it usurps functions of the Legislature no matter how it feels about a given issue". *Firestone Plantations Company v. Paye and Barbar & Sons*, 41 LLR 12 (2002).

2.3. In the instant matter, members of the House of Representatives pray Your Honors to take judicial notice that Article 38 of the Constitution authorizes and empowers the House of Representatives and the Senate to, among other things, "adopt its own rules and procedures"; pursuant to which the House's Rule were adopted by the House of Representatives of the 53rd Legislature and which **House's Rule** are still in full force and effect. Members of the House of Representatives also pray Your Honors to take judicial notice that Article 33 of the Constitution provides that a simple majority of each house shall constitute a quorum for the transaction of business... and Article 49 of the Constitution provides, among other things, that the Speaker, Deputy Speaker and other officers of the House of Representatives may be removed from office by resolution of two-third majority of the members of the House of Representatives. Members of the House of Representatives further pray Your Honor to take judicial notice that Rule 9.1 of the **House's Rule** reiterates that the Speaker, Deputy Speaker and other officers of the House may be removed from office for a cause by a resolution of two-thirds majority of the members of the House and that Rule 12.1 of the House's Rules also reiterates that a simple majority of the Members of the House shall constitute a quorum and quorum shall be necessary for the transaction of business. Members of the House of Representative also further submit that Rule 23.2 of the **House's Rule** provide that in addition to the **House's Rule**, the **Mason's Rules of Legislative Procedure** (hereinafter **Mason's Rules**) shall be observed, expect where it conflicts with the House's Rules or the Constitution.

2.4. Specifically, Section 73.3 of Mason's Rules (2010) provides that the courts cannot declare an act of a legislature void on account of noncompliance with rules of procedure made by itself to govern its own deliberations and not involving any constitutional provision. Also, Section 73.9 of Mason's Rules (2010) provides that generally courts will decline to interfere, as long as the affairs of the organization (legislative body) are conducted in accordance with its laws and rules, leaving all internal questions to the constitution and rules adopted by the body.

2.5. As stated above, when it became impossible for Hon. J. Fonati Koffa, over a period of weeks, to convene a quorum of the Plenary of the House of Representatives because forty-three (43) members of the House of Representatives refused to attend any Sitting presided over by him until the allegations of corruption, conflict of interest and

mismanagement were resolved, Deputy Speaker Thomas Fallah joined the forty-three (43) members (who constituted the simple majority quorum of not less than thirty-seven (37) members in order for the House of Representatives to transact business. It is this assembly of the Members of the House of Representatives, which the Petitioners refer to as unconstitutional and illegal; but the fact of the matter is that without the confidence, support and cooperation of at least thirty-seven (37) of all the members of the House of Representatives, Hon. J. Fonati Koffa was factually incapacitated from presiding over the deliberations of the House of Representatives. And Members of the House of Representatives submit that there is nothing illegal or unconstitutional about the exercise of their right not to sit under the gavel of Hon. J. Fonati Koffa, who had been accused of acts ad conduct of corruption, conflict of interest and mismanagement in violation of Article 90(a) and Article 90(b) of the Constitution and Rule 44.1, Rule 45.1 and Rule 45.2 of the House's Rules, especially as Rule 8.1 of the House's Rules provide that in the absence of the Speaker, the Deputy Speaker shall preside over the House of Representatives and shall exercise all rights and powers assigned to the Speaker. Members of the House of Representatives pray Your Honors to first acknowledge that the incapacity of Hon. J. Fonati Koffa to garner a simple majority of all members of the House of Representatives to constitute a quorum after weeks of attempts is tantamount to his "absence" from the Plenary of the House of Representatives. Members of the House of Representatives also pray Your Honors to confirm their right not to sit under the gavel of Hon. J. Fonati Koffa and their right to assemble in another hall at the Capititol Building under the gavel of the Deputy Speaker Thomas Fallah is not unconstitutional or illegal, especially as Hon. J. Fonati Koffa has a complaint against him for violating various provision of the Constitution and the House's Rules; but that those rights are protected by Article 17 (Freedom of Association and Assembly) of the Constitution and the House's Rules.

2.6. The Political Question Doctrine. Members of the House of Representatives submit that the holding of legislative sittings by forty-three(43) members of the House of Representatives under the gavel of the Deputy Speaker Thomas Fallah, even though Hon. J. Fonati Koffa was at the Capitol Building but could not obtain the simple majority of the membership of the House of Representatives to get a quorum as required by law to conduct the business of the House of Representatives, the removal of Hon. J. Fonati Koffa from the Office of Speaker of the House of Representatives ad the suspension of Honorables Edward Flomo, Abu Kamara and Marvin Cole were a political process, a political issue; which , pursuant to Opinions of this Honorable Court and general principles of law, are not justiciable. In the landmark case, *Massaquoi v. Republic*, 3 LLR 411 (1933), the Supreme Court ruled that: *"There is a vital difference between justiciable matters and matter political. Courts of law are instituted for the purpose of deciding only such questions as are susceptible of determination by the application of well-recognized rules of law and equity. Political questions shall not, however, be determined by courts of law because thee ware no principles of either law or equity*

by which they can be decided.” Also, it is a general principle of jurisprudence that ordinarily, a controversy must be justiciable; that is it must be appropriate for judicial inquiry and adjudgment. A controversy is not justiciable if it exclusively or predominantly involves political questions the determination of which is a prerogative of the legislative or executive branch of the government. **20 Am Jur 2d Courts Section 80.**

2.7. That further to Count 2.6 above, this Honorable Supreme Court, insofar as the “political doctrine question” and “separation of power question” are concerned has ruled that as to the issue of separation of powers, no matter how the Supreme Court feels about any given issue, it would be acting ultra vires if it usurps the functions of the Legislature. *Firestone Planations Company v. Paye and Barbar & Sons*, 41 LOLR 12 (2002). And the Honorable Supreme Court has over the years scrupulously declined to interfere in legislative affairs, except where it is exercising its power of judicial review - to examine and declare the unconstitutionality of a law enacted by the Legislature or determine the unconstitutionality of the conduct of the Legislature. And even then, the Supreme Court is cautious and reluctant when passing on the constitutionality of a law. *The Republic of Liberia v. The Leadership of the National Bar Association of Liberia*, 40 LLR 635 (2001).

2.8. For the reasons set forth above, Members of the House of Representatives pray Your Honors to refuse jurisdiction over the matter of the Petition.

III. ALLEGED UNCONSTITUTIONAL USURPATION OF THE SPEAKER’S AUTHORITY BY MEMBERS OF THE HOUSE OF REPRESENTATIVES

3.1 That Members of the House of Representatives don’t deny the language of **Article 49 of the Constitution** that the Speaker of the House of Representatives shall be the presiding officer of the House of Representatives; but Members of the House of Representatives pray Your Honors to take judicial notice that the same **Article 49 of the Constitution** provides a Deputy Speaker and other officers shall be elected by the House of Representatives. The obvious purpose of having a Deputy Speaker position, which wasn’t provided for in the **1847 Constitution, as amended through 1975**, is that the Deputy Speaker shall assist the Speaker in the performance of the duties and responsibility of the Office of the Speaker of the House of Representatives and shall act in the absence or incapacitation of the Speaker of the House of Representatives. And it is this language which is stated in **Rule 8.1 of the House’s Rules**: that “In the absence of the Speaker, the Deputy Speaker of the House of Representatives shall preside over the sitting of the August Body and shall exercise all rights and powers assigned to the Speaker”.

3.2. As stated in the FACTS above, this was a situation where Hon. J. Fonati Koffa, then Speaker had been accused of acts and conduct,

which appear to be in violation of Article 90(a) and 90(b) of the Constitution and in violation of Rule 44.1 and Rule 45.1 and Rule 45.2 of the House's Rules on corruption and conflict of interest and that forty-three (43) members of the House of representatives had decided that until the accusations levied against Hon. J. Fonati Koffa are investigated and he is exonerated, they would not sit under his gavel as Presiding Officer of the House of Representatives. This was the situation that over a few weeks Hon. J. Fonati Koffa tried to convene a Sitting of the House of Representatives, but was unsuccessful because he could not get the quorum of thirty-seven (37) members of the seventy-three (73) members of the House of Representatives form a quorum to transact the business of the House of Representatives, as required by Article 33 of the Constitution and Rule 12.1 of the House's Rules. Simply stated, Hon. J. Fonati Koffa, by being unable to get a quorum of the House of Representatives to transact business was incapacitated as Speaker of the House of Representatives and Deputy Speaker Thomas Fallah was duty-bound to step in as Presiding Officer to preside over the conduct of the business of the House of Representatives, especially at the time when the presentation of the 2025 Draft Budget, which was delayed, was looming. Members of the House of Representatives submit that this was not an unconstitutional usurpation of Hon. J. Fonati Koffa's authority as Speaker of the House of Representatives, as without the support and cooperation of a simple majority of the members of the House of Representatives, he factually lacked any authority; the exigencies of the circumstances warranted that the forty-three (43) members of the House of Representatives (who constituted an excess over and above the required quorum of thirty-seven (37) be seated as the Plenary and Deputy Speaker Thomas Fallah presides so that the business of the House of Representatives would not be obstructed.

3.3. That Members of the House of Representatives deny that gathering of forty-three (43) members of them, who insisted that the accusations of corruption and conflict of interest in violation of the Constitution and the House's Rules against Hon. J. Fonati Koffa and his exoneration from such accusations before they will sit under his gavel was not and cannot be unconstitutional gatherings. These gatherings were in keepomg with the OATH taken by each of the forty-three (43) members of the House of Representatives to serve in their respective constituencies irrespective of the incapacitation of Hon. J. Fonati Koffa to continue to serve as Speaker of the House of Representatives while these accusations were pending unresolved. Similarly, the decision of Hon. Thomas Fallah, Deputy Speaker, to join the forty-three (43) members of the House of Representatives during the incapacitation of Hon. J. Fonati Koffa in order to preside over the proceedings of the Plenary of the House of Representatives was not an unconstitutional and illegal usurpation of the powers of Hon. J. Fonati Koffa. Certainly, had these gatherings not occurred, the House of Representatives would have been at a standstill and a constitutional crisis would have precipitated.

3.4. That as to the averment of the Petition that Hon. J. Fonati Koffa *“is end remains the Speaker of the House of Representatives with the authority mandated by the Constitution and Rule 10 as the Presiding Officer of the House”*, that averment is false and misleading. First, Members of the House of Representatives pray Your Honors to take judicial notice that Article 49 of The Constitution provides in part that the Speaker, Deputy Speaker and other elected officers may be removed from office for cause by resolution of a two-thirds majority of the members of the House. A similar provision is found at **Article 9.1** of the **House’s Rules**.

3.5. Complementing Count 3.4 above, shortly after Deputy Speaker Thomas Fallah assumed the office of Presiding Officer of the House of Representatives, Hon. J. Fonati Koffa being incapacitated as the consequence of facts and law narrated above, the written complaint against Hon. J. Fonati Koffa filed by six (6) members of the House of Representatives, in persons of Hon. Samuel Kogar (District No. 5, Nimba County), Hon. Johnson S.N. Williams, Sr. (District No. 3, River Gee County), Hon. Anthony F. Williams (District No. 2, Maryland County), Hon. Alex J. Grant (District No. 1 , River Cess County), Hon. Prince Toles (District No. 8, Montserrado County), and Samuel N. Brown, Sr. (District No.1, Nimba County), was read in Plenary of the House of Representatives. A motion was made and seconded to set up an Ad Hoc Committee to investigate the Complaint and report to Plenary, which is the normal procedure for such matters, and that Hon. J. Fonati Koffa stood recused from the position of Speaker of the House of Representatives pending the outcome of the investigation. Copy of the Complaint is attached hereto as **Exhibit “R/5”**

3.6. The Ad Hoc Committee cited Hon. J. Fonati Koffa on three (3) separate occasions to attend the investigation, meet his accusers and present any defense he may have to the accusations; but he refused to accept the citation. Copies of the Citation (in the form of a letter dated November 15, 2024, and Return of the Dispatcher, Mr. George Chelleh are attached hereto in bulk as **Exhibit “R/6”**. And in the face of the Return that Hon. J. Fonati Koffa refused to accept the Citation and refused to attend to the investigation, a default judgment was entered against him and the complainants allowed to present evidence to prove their Complaint against Hon. J. Fonati Koffa. Transcript of the minutes of the investigation is attached hereto as **Exhibit “R/7”**.

3.7. That Members of the House of Representatives pray Your Honors that some of the evidentiary material in support of the Complaint presented at the investigation are the following: (i) legal retainer agreements between state-owned enterprises and the International Law Group LLC (Hon. J. Fonati Koffa’s law firm) while Hon. J. Fonati Koffa was a member of the House of Representatives, Deputy Speaker and Speaker of the House of Representatives and transaction between him and some of these state-owned enterprises in his capacity as their legal counsel; (ii) record of the amount of US\$1,102,528.00 (United States Dollars One Million One Hundred Two Thousand Five Hundred Twenty-Eight) was appropriated in the

National Budget for the 2023 fiscal year for the office of Deputy Speaker, but at the end of the fiscal year, the amount of US\$4,038,687.00 (United States Dollars Four Million Thirty-Eight Thousand Six Hundred Eighty- Seven) had been disbursed — a whopping difference of US\$2,936,159.00 (United States Dollars Two Million Nine Hundred Thirty-Six Thousand One Hundred Fifty-Nine; (iii) record of the establishment/creation of a Committee on Science and Technology a Committee on Water and Sanitation, a Fleet Department, Nursing Department, Project Department and Legal Counsel Department without the approbation of Plenary; (iv) record of appointment, instead of election of Liberia's representatives to the ECOWAS Parliament in violation of the ECOWAS Protocol; (v) unfounded accusations by Hon. J. Fonati Koffa on public radio of corruption by his colleagues of the House of Representatives merely to bring his colleagues into public disrepute because they had filed a Complaint against him; and (vi) other species of evidence, which show that Hon. J. Fonati Koffa had acted and conducted himself in violation of Article 90(a) of the Constitution, Safe d4.J and Rule 45.1 and mile d5.2 of the house's Rules — all three (3) of which provisions are against comiption and conflict of interest by elected or appointed officials of Government. Evidence was also presented to show that by establishing/creating new committees and departments of the House of Representatives without the consent and approval of Plenary, Hou. J. Fonati Koffa exceeded his power and duties as defined in Rule 7 of the House's Rules. The Ad Hoc Committee also concluded that Hon. J. Fonati Koffa had violated Rule 41.1 and Rule 41.2 of the House's Rules by misusing the powers granted to him as Speaker.

3.8. The Ad Hoc Committee made a report to Plenary, by which the Ad Hoc Committee found Hon. J. Fonati Koffa liable of the accusations levied against him in the Complaint and its addendum thereto and recommended that Hon. J. Fonati Koffa be removed from the office of Speaker of the House of Representatives for those reasons. A vote was taken and a Resolution signed by fifty (50) members of the House of Representatives for the removal of Hon. J. Fonati Koffa was introduced on the Floor of Plenary and accepted. Hon. J. Fonati Koffa was accordingly removed from the office of Speaker of the House of Representatives. Copies of the transcript/minutes of the proceeding of the Ad Hoc Committee, the Report of the Ad Hoc Committee and the Resolution for the Removal of Hon. J. Fonati Koffa are attached hereto and respectively marked **Exhibit "R/7", "R/8" and "R/9"**.

3.9. That Members of the House of Representatives say that Rule 10.1 of the House's Rules provide that a new speaker shall be elected within sixty (60) days after the office of the Speaker becomes vacant by reason of removal ... On the basis of this provision of the House's Rule, an election of Speaker to succeed Hon. J. Fonati Koffa was held shortly after his removal and Hon. Richard Nagbe Koon was elected on Thursday, October 15, 2024 as Speaker to succeed Hon. J. Fonati Koffa.

3.10. That Members of the House of Representatives say that on the basis of the above, Hon. J. Fonati Koffa is not Speaker of the House of Representatives; Hon. Richard Nagbe Koon is the Speaker of the House of Representatives as of Thursday, November 21, 2024, when he was elected and sworn into office by Hon. Thomas Fallah, Deputy Speaker of the House of Representatives.

IV. ISSUE OF UNCONSTITUTIONAL SUSPENSION OF MEMBERS OF THE HOUSE OF REPRESENTATIVES

4.1. That in response to the alleged unconstitutional suspension of Honorables Edward Flomo, Abu Kamara and Melvin Cole, Members of the House of Representatives says that after Hon. J. Fonati Koffa refused to respond to their grievances and oral accusations of violations of Article 90(a) of the the Constitution and several Rules of the house's Rules, as narrated above, and left Liberia, certain members of the House of Representatives decided to present a "Vote of No Confidence" in Hon. J. Fonati Koffa to continue to serve as Speaker of the House of Representatives at the Sitting of Plenary of the House of Representatives on Tuesday, October 15, 2024. When Hon. J. Fonati Koffa became aware of this process, he sent an electronic communication to Members of the House of Representatives by which he requested the Sitting be held at 4:00 p.m. the afternoon of Tuesday, October 15, 2024, as he would arrive in Liberia by private jet early that day, but not before 10:00 a.m. His request was rejected by most members of the House of Representatives and the Sitting for Tuesday, October 15, 2024 at 10:00 a.m. remains unchanged.

4.2. That when Members of the House of Representatives proceeded to the regular Chambers of the House of Representatives for the normal 10:00 a.m. Sitting on Tuesday, October 15, 2024, it was observed that Honorables Edward Flomo, Abu Kamara and Marvin Cole and several other members of the House of Representatives had closed the doors to the entrance of the regular Chambers of the House of Representatives and obstructed the other members of the House of Representatives, including Deputy Speaker Thomas Fallah, from entry into the Chambers. The obvious intention of that conduct was to obstruct and stop the reading and consideration of the presentation of the "**Vote of No Confidence**". In addition to that Honorables Flomo, Kamara, Cole and their co- conspirators hurled insults at those members of the House of Representatives who went to attend Sitting on Tuesday, October 15, 2024. This situation caused those members of the House of Representatives to move to the Joint Chambers of the Legislature for the October 15, 2024 Sitting; but again the other members of the House of Representatives (including Honorable Flomo, Kamara and Cole), along with thugs (not employees of the Capitol Building) disrupted the holding of Sitting of the House of Representatives at the Joint Chambers on Tuesday, October 15, 2024 by throwing stones at those who were in attendance for the Sitting and spraying pepper sprays.

4.3. That Members of the House of Representatives say that with those disruptions and assaults on them, they moved into the yard of the Capitol Building (where the flag poles are located at the Capitol Building Wing for the House of Representatives to read the "Vote of No Confidence" in Hon. J. Fonati Koffa to continue to serve as Speaker of the House of Representatives. Again, Honorables Flomo, Kamara, Cole and their co-conspirators from the House of Representatives, along with their thugs threw stones at the Honorable Members of the House of Representatives and assaulted them. The text of the "Vote of No Confidence" was never completely read to the public because of those assaults, insults and obstructions.

4.4. That Members of the House of Representatives say that they have video- recordings of the insults, assaults and obstructions referred to in Counts 4.1, 4.2 and 4.3 above; which could be delivered to Your Honors to view, if Your Honors so request.

4.5. That Members of the House of Representatives say that Hon. J. Fonati Koffa did not return to Liberia on Tuesday, October 15, 2024 as he had promised; he returned to Liberia on Sunday, October 20, 2024. This clearly shows that Hon. Koffa's information that he would have returned to Liberia by private jet on Tuesday afternoon, October 15, 2024 was merely a charade to subvert the presentation of the "Vote of No-Confidence" at the scheduled Sitting of the Plenary of the House of Representatives on Tuesday, October 15, 2024.

4.6. That it is this experience as narrated in Counts 4.1 through 4.5., which caused Members of the House of Representatives to continue to meet and eventually convene Sittings of the House of Representatives to continue to meet and eventually convene Sittings of the House of Representatives in the Joint Chambers of the Legislature. And it is this convening of Sittings in the Joint Chambers of the Legislature, which Petitioners refer to as an unconstitutional and illegal meeting of Members of the House of Representatives even though there is no law or rule, which mandates and directs that Sittings of the House of Representatives shall be only in the regular Chambers of the House of Representatives. As to the place of meeting of the Legislature, the only provision of law is that the Legislature shall meet in Monrovia. Legislative Law, Section 3. It is a historical fact that in 2007, while the Capitol Building was undergoing renovation, the Legislature convened at the Unity Conference Center in the Settlement of Virginia; which historical fact, Members of the House of Representatives pray Your Honors take judicial notice of.

4.7. That further to the suspension of Honorables Edward Flomo, Abu Kamara and Marvin Cole, Members of the House of Representatives say that a formal complaint, dated November 7, 2024, was filed by Hon. Alexander Poure (District No. 3, River Gee County), Hon. Sylvester Minah (District No. 8, Nimba County) and Hon. Steve Tequah (District No. River Cess County) against the said Honorables and other co-conspirators for their insults, assaults and obstruction of legislative proceeding on Tuesday, October 15, 2024. The Complaint was read at a Sitting of the Plenary of the House of

Representatives and a motion was entertained and passed that Plenary of the House of Representatives convenes as a "Committee of the Whole" and conduct an investigation into the aforesaid complaint. Honorables Flomo, Kamara and Cole were cited on three (3) different occasions for the investigation; but except for Hon. Flomo who received the third citation, the other two Honorables refused to accept the citations or to appear for the investigation. As for Hon. Flomo, who accepted the third citation, he wrote Plenary of the House of Representatives that unless the citation was served on him from the office of Hon. J. Fonati Koffa, he would not respond or otherwise appear. Copies of the complaint and the citation are attached hereto in bulk as **Exhibit "R/10"**.

4.8. That Members of the House of Representatives say that the investigation of Honorables Flomo, Kamara and Cole was conducted in their absence; at which time the video-recording of their insults, assaults and obstructions were displayed for all members of Plenary of the House of Representatives to watch. A final decision was reached that the named Honorables were liable for violating **Rule 42.1** of the **House's Rules** (which requires that every member of the House of Representatives shall, at any place, keep the prestige and dignity of the House and refrain from undesirable acts) and violating **Rule 42.2** of the **House's Rules** (which prohibits a member of the House insulting, abusing or harassing other persons within the confines of the House, or causing disturbance to the activities of the House. Copy of the minutes of the investigation and Report of the investigation are attached hereto in bulk as **Exhibit "R/11"**.

4.9. That Members of the House of Representatives say that a vote of the Plenary of the House of Representatives was taken to sanction Honorables Flomo, Kamara and Cole and they were sanctioned by suspension for thirty (30) meeting days of the House of Representatives pursuant to **Rule 48.7(c)** of the **House's Rules**. Members of the House of Representatives say that there was nothing unconstitutional or illegal about the suspension of Honorable Edward Flomo, Honorable Abu Kamara and Honorable Marvin Cole; their suspension was perfectly in keeping with law and the **House's Rules**.

V. ISSUE OF THE ALLEGED UNCONSTITUTIONAL AND ILLEGAL RESTRUCTURING AND RECONSTITUTION OF STATUTORY COMMITTEES OF THE HOUSE OF REPRESENTATIVES.

5.1. That the Members of the House of Representatives say that a few of the powers and responsibilities of a speaker of the House of Representatives are to: (i) Appoint the Chairpersons and Co-Chairpersons of Statutory Committees; (ii) Appoint members of Statutory Committees in consultation with the House's Leadership; and (iii) Appoint Chairpersons, Co-Chairpersons and Members of Standing Committees in consultation with the House's Leadership. **Rule 7.4, Rule 7.5 and 7.6 of the House's Rules**. Given this sole power of a speaker of the House of Representatives, it is customary that whenever a speaker of the House of Representatives is removed

from office the statutory and standing committees are restructured and reconstituted by the succeeding speaker of the House of Representatives. An affidavit of Hon. J. Alex Tyler, former Speaker of the House of Representatives and now a Senator from Bomi County, and another affidavit of Hon. Prince Moye, former Deputy Speaker of the House of Representatives and now Senator of Bong County, both affidavits attesting to this practice is hoary with age, is attached hereto in bulk as Exhibit "R/12". Members of the House of Representatives pray Your Honors to take judicial notice that Sen. J. Alex Tyler confirms that when he succeeded Hon. Edwin Melvin Snowe as Speaker of the House of Representatives, all statutory and standing committees of the House of Representatives were reconstituted and restructured by him as the succeeding Speaker of the House of Representatives. Members of the House of Representatives also pray Your Honors to take judicial notice that Sen. Prince Moye confirms that when Hon. J. Alex Tyler was removed from the position of Speaker of the House of Representatives, statutory and standing committees of the House of Representatives were reconstituted and restructured by his successor, Hon. J. Emmanuel Nuquay, and he, Sen. Prince Moye, then a member of the House of Representatives. took over as Chairman of the House's Statutory Committee on Ways, Means and Finance (**Rule 57.4** of the **House's Rules**) from Hon. Moses Kollie. Copy of the Affidavits of Sen. J. Alex Tyler, Former Speaker of the House of Representatives and of Sen. Prince Moye. Former Deputy Speaker of the House of Representatives are attached hereto in bulk as **Exhibit "R/12"**.

5.2. That Members of the House of Representatives submit that the plea of Petitioners that the restructuring and reconstitution of statutory committees of the House of Representation upon the removal of Hon. J. Fonati Koffa from office as Speaker of the House of Representatives is without any merit.

VI. ISSUE OF THE ALLEGED UNCONSTITUTIONAL SEIZING AND TAKING POSSESSION OF THE 2025 DRAFT NATIONAL BUDGET BY MEMBERS ALTHOUGH IT WAS DIRECTED TO SPEAKER KOFFA.

6.1. The President of Liberia is required by law to submit the Proposed Budget and accompanying documents to the Legislature not later than two (2) months before the start of the fiscal year. **Public Financial Management Act, Section 11.1**. As the fiscal year for the Government starts on the 1st day of each calendar year, the President was required to send the Proposed Budget for the 2025 Fiscal Year not later than the end of October 2024. Which means when the dispute at the House of Representatives precipitated, the possibility of timely submission of the Proposed Budget was virtually non-existent. On the basis of that, it is public knowledge that the President of Liberia requested the Legislature for additional time to submit the Proposed Budget for the 2025 Fiscal Year; which request was granted. But when the Proposed Budget was ready for submission to the Legislature, the issue of removal of Hon. J. Fonati Koffa from the office of Speaker of the House of Representatives was confronting the

House of Representatives; the fact that Hon. J. Fonati Koffa was unable to get a quorum of the House of Representatives to conduct the business of the House of Representative was also publicly-known; and the position of Deputy Speaker Thomas Fallah on these matters was not publicly known. Whereupon the President of Liberia wrote letters to both The Senate and the House of Representatives advising them that giving the situation at the House of Representatives he was consulting on the process of submission of the Proposed Budget for the 2025 Fiscal Year. Members of the House of Representatives pray Your Honors to take judicial notice of these publicly known facts.

6.2. That Members of the House of Representatives say that while the President of Liberia was consulting on the matter of submission of the Proposed Budget for the 2025 Fiscal Year and after several attempts by Hon. J. Fonati Koffa to get a quorum of thirty- seven (37) members of the House of Representatives to conduct the business of the House of Representatives failed, Hon. Thomas Fallah, Deputy Speaker of the House of Representatives, joined the forty-three (43) members of the House of Representatives at the Joint Chambers of the Legislature; which then completed the Plenary of the House of Representatives with a Presiding Officer and a quorum to conduct the business of the House of Representatives. These are publicly-known facts, which Members of the House of Representatives pray Your Honors to take judicial notice of.

6.3. That when the President of Liberia eventually submitted the proposed Budget for the 2025 fiscal year, it order not to be drawn in the matter at the House of Representatives, he addressed it to the Presiding Officer of the House of Representatives, not to Hon. J. Fonati Koffa as erroneously alleged by Petitioners; and the Proposed Budget was delivered to the Acting Clerk of the House of Representatives, who in term delivered to Hon. Thomas Fallah, Deputy Speaker, of the House of Representatives, considering that Hon. J. Fonati Koffa, could not garner the simple majority of members of the House of Representatives to form a quorum to conduct a business of the House of Representatives, while Deputy Speaker Fallah was presiding over forty-three (43) of the seventy-three (73) members of the House of Representatives and therefore had the quorum to conduct the business of the House of Representatives. Members of the House of Representatives submit that this was not an unconstitutional seizure and taking possession of the Proposed Budget for the 2025 Fiscal Year; this was the obvious, practical and pragmatic manner of ensuring that the Proposed Budget for the 2025 Fiscal Year will be passed upon by the majority members of the House of Representatives. For had the Acting Clerk of the House of Representatives delivered the Proposed Budget for the 2025 Fiscal Year to Hon. J. Fonati Koffa, who could not garner a simple majority of the members of the House of Representatives to form a quorum to conduct the business of the House of Representatives, the Proposed Budget would have remained unattended to by the Plenary of the House of Representatives, which alone has the constitutional power and authority to originate all revenue bills. Article 34f) of the Constitution. Members of the House of Representatives therefore

submit that the delivery of the Proposed Budget by the Acting Clerk of the House of Representatives to Deputy Speaker Fallah to be passed upon by the Plenary of the House of Representatives under his gavel, as Hon. J. Fonati Koffa was incapacitated since he could not garner a simple majority of the members of the House of Representative to form a quorum cannot under any parity of reasoning or law be characterized as an unconstitutional seizure and taking possession of the 2025 Proposed Budget.

VII. EFFECT OF DECLARING THE ACTIONS AND CONDUCT OF THE MEMBERS OF THE HOUSE OF REPRESENTATIVES UNCONSTITUTIONAL, NULL AND VOID AB INITIO SHOULD THE HONORABLE SUPREME COURT GRANT THE PRAYER OF THE PETITIONERS.

7.1. Members of the House of Representatives say that declaration of their conduct and action unconstitutional, null and void *ab initio* will not only precipitate a constitutional crisis and a financial calamity for the governance of Liberia, but it will also disrupt the entire social fabric of the Republic of Liberia, as the Government will not be able to pay its debts, especially salaries to government employees, and meet other financial obligations with the 2025 Proposed Budget unapproved by the House of Representatives because it is in the possession of Hon. J. Fonati Koffa, who is unable to garner a simple majority of the members of the House of Representatives to conduct any business of the House of Representatives. That is, where Your Honors to grant the prayer of the Petition, the President of Liberia would have to re-submit the Proposed Budget for the 2025 Fiscal Year to Hon. J. Fonati Koffa, who is incapacitated to serve as Speaker of the House of Representatives as he cannot garner a simple majority of the members of the House of Representatives to conduct the business of the House of Representatives. And with the failure of the House of Representatives to pass on the Proposed Budget for the 2025 Fiscal Year, the financial calamity for the governance of Liberia would be imminent and that is likely to destroy the social fabric of the Republic and regrettably be the underlying factor for revolt or uprising. Members of the House of Representatives pray Your Honors not to allow Petitioners to cause Your Honors to be their path or avenue for the financial calamity, social unrest and political disruption Your Honors' granting of the prayer of the Petition could cause.

7.2. That Members of the House of Representatives submit that courts are intended to solve problems, not to be the creators of problems or to be the facilitators or the engines for problems in society. What this Petition does is to pray that Your Honors be Petitioners' creators for financial calamity, social unrest and political disruption for Liberia only because Hon. J. Fonati Koffa wants to retain the office of Speaker of the House of Representatives and his co-conspirators want to similarly maintain their positions as Chairpersons of certain statutory committees of the House of Representatives at all costs. The fundamental principle of democratic governance that the courts add a fulcrum of a Republic will be

ultimately destroyed in Liberia were Your Honor to grant the pray of the Petitioners.

VIII. PRAYER

Wherefore and in view of the foregoing, members of the House of Representatives pray Your Honor to refuse jurisdiction over the matter of the petition; but if Your Honors decide to assume jurisdiction, to rule and order that there is nothing unconstitutional or illegal about the actions and conduct of the Members of the House of Representatives to warrant declaring such actions and conduct unconstitutional, null and void *ab initio* as prayed for by Petitioners. Members of the House of Representatives also pray Your Honors to grant them any other and further relief as Your Honors might deem fit and appropriate under the circumstances.

In its returns, the Ministry of Justice basically prayed the Supreme Court to be dropped from these proceedings as a party on grounds that the crux of the petition is based upon an internal wrangling among the members of the House of Representatives; that the contentions between the petitioners and the respondents do not raise a constitutional challenge to an existing statute (law) that requires the Ministry of Justice to appear and defend the law; and that based upon the doctrine of separation of powers, the Executive Branch of Government through the Ministry of Justice cannot advise the House of Representatives or the Supreme Court on this case as it will be exceeding its jurisdiction. We quote the Ministry's returns, to wit:

MINISTRY OF JUSTICE'S RETURNS

"...NOW COMES the Ministry of Justice of the Republic of Liberia acknowledging the service of a Writ of this Honorable Court upon it of the filing of the above-entitled cause of action and directing that it appear and file official Returns on the side of the law before the Full Bench of the Supreme Court by November 26, 2024, as to whether or not the Petitioners' Petition should be granted, herewith in obedience to the said Order of the Honorable Supreme Court do hereby submits the following returns, to wit:

The Ministry of Justice says that the Executive Branch of Government of the Republic of Liberia is clothed with the constitutional mandate and prerogative to enforce the laws of Liberia, while the Ministry of Justice, headed by Minister of Justice, is the legal arm and chief law enforcement agency of the Executive Branch with the statutory mandate to inter alias (a) Procure the proper evidence for and conduct, prosecute, or defend all suits and proceedings in the courts in which the Republic of Liberia or

any officer thereof, as to such officer, is a party or may be interested, (b) Institute all legal proceedings necessary for law enforcement, and (c) Furnish opinions as to Legal matters and render services requiring legal skill to the President and other agencies of the executive branch of Government. See Title 12 LCLR Chapter 22 subsection 22.2 (a) (b) (c).

The Ministry of Justice further says that as the Government of Liberia is not a party to the Petition, it is assuming that the service of the writ upon the Ministry of Justice and the instruction for the Minister of Justice to file official Returns is predicated upon Section 5.64 of the Civil Procedure Law which reads as follows:

“When the constitutionality of an act of the Legislature affecting the public interest is drawn into question in any action to which the Republic of Liberia or an officer, agency or political subdivision thereof is not a party, the court shall so notify the Attorney General or County, District, or Territorial Attorney, who shall have the right to intervene in support of the constitutionality of the statute.” (Emphasis ours)

The Ministry of Justice says that predicated on the referenced statute, this Honorable Court has with longstanding precedent opined and held that when the constitutionality of a statute is called to question, the Minister of Justice and Attorney General shall be called to stand and support the side of the law. See: In Re: Petition of Benjamin J. Cox For Declaratory Judgment on the Constitutionality of Section 17.1 of the Judiciary Law, Revised Code, Governing Qualifications For Admission to the Liberia National Bar, 36 LLR 1990

Further to counts Two (2) and Three (3) of this Returns, the Ministry of Justice says that a reading of the Petitioners' Petition reveals that the constitutionality of a statute is not being questioned rather it is the determination of the constitutionality of actions taken by certain members of the House of Representative of the 55th Legislature that is before the Supreme Court.

The Ministry of Justice says that the averments of the Petitioners' Petition do not challenge the constitutionality of or impute unconstitutionality to any statute, rules or regulations for which the Ministry of Justice should be compelled to intervene in keeping with section 5.64 of 1LCLR and in keeping with long-standing precedent of the Honorable Supreme Court which is hoary with age in our jurisdiction.

Further to Count Six (6) above, the Ministry of Justice says that a review of Petitioners' Petition does not reveal an attack on the constitutionality of any statute or the Standing Rules of the House of Representatives, but

rather that the Petitioner seek an interpretation of the provisions of those instruments as they relate to the powers, authority, functions and operations of the House of Representatives. In such cases, not only is intervention by the Ministry of Justice not required as a matter of Law, or otherwise, but the Ministry is precluded from giving an opinion that could operate to the benefit of one side of the dispute against the other.

The Ministry of Justice submits, in furtherance of Counts Six (6) and Seven (7) that while Chapter 22, Section 22.2 of the Executive Law authorizes the Minister to give legal opinions, prosecute and defend matters involving the Republic of Liberia and any official or officer thereof, the provision does not authorize the Minister to intervene in any intra-factional matter involving government officials of the Legislature. It is only the Court that can speak to the issues raised by the Petitioner in such situations, especially where it involves a different and separate Branch of the Government and where the Court may have to decide if the proper suit has been brought as would warrant the Court delving into the merits of the case. Hence, the Ministry of Justice prays that it be relieved of responding to the allegations made in the Petition or defend any law, the constitutionality of which has not been challenged by the Petitioner.

The Ministry of Justice says that in view of the facts, as gleaned from the Petitioners' Petition, and the controlling statute, the Ministry of Justice is legally prohibited from intervening in the matter.

As we stated earlier in count One (1) above, the Ministry of Justice's role, duties and responsibilities are defined by statute, same being Title 12 LCLR Chapter 22 subsection 22.2.

The Ministry of Justice also respectfully request your Honors to take judicial notice of Article 3 of the Constitution which provides that "Liberia is a unitary sovereign state divided into counties for administrative purposes. The form of government is Republican with three separate, coordinate branches: the Legislative, the Executive and the Judiciary..." (Emphasis ours.) This has been interpreted to mean that by virtue of the separation of the Legislative and Executive branches of the Government of Liberia, under the Constitution of Liberia, each being independent of the other, each will respect its jurisdictional boundaries and that the Executive Branch of Government, through the Ministry of Justice, is without authority to interfere with or give advice to the Supreme Court relative to the Legislature or its officers in the exercise of their legislative functions. The Supreme Court of Liberia has strongly upheld this provision of the Constitution. See: *In Re: Judiciary Inquiry Commission's Report on His Honor Logan Broderick*, 40 LLR 263 and *Firestones Plantation Company v. Paye and Barbar & Sons*, 41 LLR 12

The Ministry of Justice submits that the Executive Branch looks forward to the House of Representatives independently or with the support of the final arbiter of justice, the Supreme Court of Liberia, resolving the impasse at the House of Representatives, but the Executive Branch of Government, through the office of the Minister of Justice/Attorney cannot in any way legally intervene in the matter to meet that end.

Further to the entire Petition, the Ministry of Justice maintains that the Minister of Justice is estopped from advising this Honorable Court on this matter as it will be exceeding its jurisdiction and the jurisdiction of the Executive Branch Government.

WHEREFORE AND IN VIEW OF THE FOREGOING, The Ministry of Justice prays that your Honors accept his Returns in accordance with the mandatory statutory and decisional laws of our jurisdiction, drop the Ministry of Justice from proceedings and grant unto it all other relief that is just, legal and equitable in the premises...”

On November 27, 2024, the Supreme Court listened to oral arguments from all the parties including the Ministry of Justice. The Court says from the onset that it is in agreement with the legal argument advanced by the Ministry of Justice that the contentions brewing out of the House of Representatives are not challenges to an existing statute that require the Ministry of Justice to appear and defend pursuant to the Executive Law, Revised Code 12:22.2(a)(b)(c); The Civil Procedure Law Revised Code 1:5.64. In light of the aforesaid, we hold that the Ministry of Justice is hereby dropped from these proceedings since there is no challenge to any existing statute, requiring the Ministry’s representation on the side of the law.

That being said, the Court shall now proceed to dispose of what it has determined to be the relevant and contentious issues in this case. The Supreme Court has opined that it need not pass on every issue raised in a bill of exceptions or the briefs filed by the parties, but only those that are germane to the determination of a case. *Olivia Newton v. Augustus D. Kormah*, Supreme Court Opinion, October Term, A. D. 2022; *CBL v. TRADEVCO*, Supreme Court Opinion October Term 2012; *Knuckles v. TRADEVCO*, 40 LLR 49, 53(2000); *Vargas v. Morns*, 39 LLR 18, 24 (1998); *LAMCO J.V. v. TRADEVCO*, 26 LLR 554 (1978).

Hence, we have determined that there are two (2) issues dispositive of this case, to wit:

- 1) Whether or not the Supreme Court has jurisdiction to decide issues arising out of internal disputes among the members of the House of Representatives as in this present case.
- 2) Given the circumstances of this case, what is the interpretation of Article 33 and Article 49 of the Constitution.

We shall dispose of these issues in the order of their presentment, keeping in mind that the Court must adhere to the dictates of the requisite law, to firstly and of its own accord make a determination as to whether or not it has the mandatory jurisdiction to become seized of and render any decision in this case. This position of the Court is supported by plethora Supreme Court Opinions stating that: "a court must of necessity, and if need be, upon its own motion always consider the question of its jurisdiction primarily over any issue brought before it, since it is bound to take notice of the limits of its authority." *K. Rasamny Bros. v Burnet*, 21 LLR 271, 277 (1972); *SCANSHIP v Flomo*, 41 LLR 181, 188 (2002); *The Intestate Estate of the late Chief Murphey-Vey John et al v. The Intestate Estate of the late Bendu Kaidii et al.* 41LLR 277, 282 (2002). Hence the first issue which is whether the Supreme Court has jurisdiction to decide constitutional issues arising out of internal dissensions among the members of the House of Representatives as in this present case.

As earlier stated in the opening of this Opinion, this is not the first time the Supreme Court has been called upon to resolve internal wrangling in the House of Representatives neither is it the first time the Supreme Court's jurisdiction has been challenged during these appellate review proceedings on grounds that the issues emanating from the House of Representatives are purely political and not judicial.

The allegations contained in a petition for prohibition in the *Snowe case* were that a majority members of the House of Representatives of the 52nd Legislature convened in the Township of Virginia and adopted a resolution, removing Hon. Edwin Melvin Snowe Jr., as Speaker of the House of Representatives, whilst he was presiding as Speaker with other members sitting in the Capital City of Monrovia at the Centennial Memorial Pavilion.

Hon. Snowe's allegations also challenged his removal on grounds that he was not accorded due process before being removed from the Office of Speaker; and that his removal was unconstitutional. Upon receipt of the Court's precepts, the respondents in the *Snow case* filed returns and prayed the Court to deny the petition on grounds that the question surrounding the removal of Hon. Snowe were purely political and within the sole discretion of the members of the House of Representatives and that under the doctrine of separation of powers, the Supreme Court cannot review the political decision of the House of Representative.

The Supreme Court listened to oral arguments *pro et con* and thereafter sustained the alternative writ and granted the peremptory writ of prohibition on the basis that the removal of Hon. Snowe was unconstitutional since he was not accorded due process before being removed from the Office of Speaker.

The Supreme Court in disposing the question surrounding the Court's authority to review the petition for a writ of Prohibition of Hon. Snowe held thus:

“Article 66 of the Liberian Constitution (1986) provides that the Supreme Court shall be the final arbiter of constitutional issues and shall exercise final appellate jurisdiction in all cases whether emanating from the courts of record, court not of records, administrative agencies, autonomous agencies or any authority, both as to the law and fact except cases involving ambassadors, ministers, or cases in which a county 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 powers granted herein.”

We see that in giving interpretation to Article 66 of the Constitution and the Supreme Court's constitutional authority as the final arbiter, the Court also held that “any other authority as provided for in Article 66 of the Constitution, includes, within limitations, acts by both the Legislative and Executive Branches of the Government; for it is emphatically the province and duty of the judicial department to say what the law is.” *Id.*

The Court further held that “the nature of the power of the Supreme Court to declare acts unconstitutional is one of an obligatory duty and that the rule is fixed;

that the duty in a proper case to declare a law unconstitutional cannot be declined and must be performed in accordance with the deliberate judgment of the tribunal before which the validity of the enactment is directly drawn into question.”

Like the *Snowe case*, this Bench has determined that the petitioners have drawn into question the violation of their constitutional rights guaranteed under Article 20 (a) of the Liberian Constitution and as the Final Arbiter of Constitutional issues it is therefore obligatory upon this Court to declare whether the petitioners constitutional rights were violated, and if they were, to declare the act of their removal unconstitutional. *Id.* In light of the aforesaid, we hold that the Supreme Court does have jurisdiction to decide allegations of violation of the constitutional rights of members of the Legislature, even if arising out of internal wrangling among the members of the House of Representatives as same clearly falls within the purview of Article 66 of the Constitution.

Having determined our jurisdiction to hear and decide this case which is based on allegations of violation of constitutional rights, we shall now proceed to the second issue which deals with the interpretation of Article 33 of the Constitution. The petitioners argued that the course pursued by the filing of the “*In Re*” proceeding was proper in order for the minority to compel the attendance of absent members. Article 33 of the Constitution provides that

“a simple majority of each House shall constitute a quorum for the transaction of business, but a lower number may adjourn from day to day and compel the attendance of absent members. Whenever the House of Representatives and the Senate shall meet in joint session, the presiding officer of the House of Representatives shall preside.”

We take judicial notice that Rules 12 and 13 of the House of Representatives of the 55th Legislature is a replicate of Article 33 of the Constitution, dealing with quorum and the transactions of business in the House.

We note that all the parties have relied on Article 33 of the Constitution along with Rules 12 and 13 of the House of Representatives of the 55th Legislature as a basis to advance their respective positions. The petitioners have argued that according to

the Constitution and the House's Rules, the respondents' quorum is illegal because the constitutional Presiding Officer (the Speaker) is not chairing the respondents' quorum; that petitioner Koffa and other minority members of the House of Representatives have repeatedly met in the Chambers of the House and have tried to compel the respondents to attend session as required by the Constitution and the Rules; but the respondents have deliberately refused to honor their citations and have decided to hold their own session outside the prescribed course of dealings. The petitioners have consistently drawn our attention to the constitutional phrase: "*...a lower number may adjourn from day to day and compel the attendance of absent members*" as the basis for their argument.

The respondents for their part have counter-argued that they have already expressed a vote of no confidence in the leadership of the Speaker; that their quorum in the Joint-Chambers of the Legislature is legitimate for the transaction of business since they met the constitutional requirement of a simple majority as prescribed in the Constitution and the Rules; that their quorum is being chaired by a presiding officer in person of the Deputy Speaker who is legally clothed with the same authority as the Speaker to preside over their deliberations in the absence of the Speaker; that they have cited the petitioners and other minority members of the House to attend session in the Joint Chambers but they refused and that they are constitutionally vested with the authority to conduct the business of the House of Representatives. Like the petitioners, the respondents have also drawn our attention to the constitutional phrase: "*...a simple majority of each House shall constitute a quorum for the transaction of business...*" as the basis for their argument.

Before proceeding further, we deem it necessary to address the issue of "a vote of no confidence" raised in the returns of the Respondents. This Court has opined in the case *Kpargo v. Jallah et al*, Supreme Court Opinion October Term, 2014 that "the Constitution provides the framework, within which the Legislature operates, and any act, including a vote of no confidence, that breaches constitutional provisions or due process shall be subject to judicial review.

This Court having listened to the arguments of the lawyers regarding Article 33 of the Constitution, has observed that the parties have cleverly attempted to interpret the Constitution in a sequestered or piece-meal style, more favorable to their case, rather than looking at the entire provision holistically. Example, the petitioners

believe that since the Constitution provides that “...a lower number [of the House of Representatives] may adjourn from day to day and compel the attendance of absent members” they and minority members of the House have the right to compel the respondents to attend session and that the sitting of the respondents outside the Chambers of the House without the Speaker is illegal.

On the other hand, the respondents believe that since the Constitution provides that “...a simple majority of each House shall constitute a quorum for the transaction of business...” they (the respondents) are legally entitled to conduct the business of the House in the absence of the petitioners and the minority members.

It is the law in vogue that the Constitution must be interpreted in light of the entire document rather than a sequestered pronouncement, because every provision is of equal importance, and even where there is apparent discrepancy between different provisions, the Court should harmonize them if possible. *Garlawolu et al v. NEC*, 41LLR, 377, 384-386(2003), *the Liberia Institute of Certified Public Accountants v. Ministry of Finance, et al.*, 38LLR 657 (1998), *The Estate of Frank Tolbert v. Gibson-Sonpon*, 37 LLR 113 (1993),.

The Supreme Court has consistently held that “in interpreting the provisions of a [constitution] statute, all provisions or sections relating to the same subject, or provisions, having the same general purpose should be construed together as though they constituted one law, or, one provision and that they must be [construed] governed by one system, one spirit and policy. *Commercial Fisheries Corporation v. PUK YANG Fisheries*, 35LLR 534 546, (1998); *Roberts v. Roberts* 7 LLR 358 (1942); *Abraham v. Cooper* 21 LLR 157 (1972).

Being guided by the constitutional principles of law enounced in the cases *Garlawolu et al v. NEC*, 41LLR, 377, 384-386(2003), *the Liberia Institute of Certified Public Accountants v. Ministry of Finance, et al.*, 38LLR 657 (1998), *The Estate of Frank Tolbert v. Gibson-Sonpon*, 37 LLR 113 (1993); *Commercial Fisheries Corporation v. PUK YANG Fisheries*, 35LLR 534 546, (1998); *Roberts v. Roberts* 7 LLR 358 (1942); *Abraham v. Cooper* 21 LLR 157 (1972) it is our opinion that the Framers of the Constitution in crafting the Article 33 set a simple majority as the quorum for the transaction of business in anticipation that not every single member of the House of Representatives would be present at every sitting of the House of Representatives; that there would be instances where some members

of the House would be absent from work due to personal, health or official reason; and that the work of the House will not be stalled due to absence of few members. We strongly believe that it is in light of the aforesaid that the Framers in crafting Article 33 of the Constitution stated that “...a simple majority of each House shall constitute a quorum for the transaction of business...”

But be that as it may, the Framers also anticipated the possibility that there would be a lack of quorum to conduct the business transaction of the House. In other words, there would be instances in the House where a few members would be sitting, a number less than a simple majority, and being small in terms of numerical strength they are constitutionally incapacitated to conduct the business transaction of the House. In such a case, where there is no quorum to conduct the business transaction of the House, the Constitution clearly restricts the minority members to adjourn their sitting for that day but allow them to compel the absent members to attend. Hence the phrase: “...a lower number [of the House of Representatives] may adjourn from day to day and compel the attendance of absent members.”

In interpreting Article 33 of the Constitution, this Court says unequivocally that whether a simple majority is sitting or lower number, in both cases a presiding officer, defined in Article 49 of the Constitution is the Speaker, and in his/her absence, the Deputy Speaker.

This interpretation of the Court regarding quorum and the restrictions on the minority articulated in Article 33 of the Constitution is also incorporated in Rules 7, (7.2), 8(8.1), 12 and 13 of the House of Representatives of the 55th Legislature which states:

“a quorum shall consist of simple majority of the members of the Honorable House of Representatives which shall be necessary for the transaction of business. However, a minority may meet from day to day. Meetings at which a quorum is not present, only a motion to compel the attendance of absent members or to adjourn may be made.

“Upon a quorum being present and the Presiding Officer having taken the Chair, the Sergeant-At-Arms shall cry for the commencement of the day’s Session, following which the Chaplain shall offer prayers.”

Assuming that the Speaker is presiding over minority members, the Constitution is devoid of the mechanism for how the minority is to compel attendance of absent members. We have observed that the Legislature has promulgated no enabling statute or standing rules setting forth the process for compelling absentee members to attend sessions as envisioned under Article 33 of the Constitution. For example, there is an enabling statute for the constitutional provision on the right to appeal, (Article 20(b). The enabling Statute for the enforcement of Article 20(b) is the Civil Procedure Law, 1:1.52, which states how the Supreme Court assumes jurisdiction of an appeal. The constitution stating that the right to appeal is inviolable, however, the enabling statute set by the Legislature defines how that constitutional provision is exercised and executed.

In the instant case, the Legislature not having given an enabling statute to ensure compliance with Article 33 of the Constitution or that the Court could interpret or apply, the Supreme Court cannot do for the Legislature what is within its purview to do, as to do so will be a violation of the constitutional mandate on the separation of powers.

WHEREFORE AND IN VIEW OF THE FOREGOING, any sittings or actions by members of the Legislature not in conformity with the intent of Articles 33 and 49 of the Constitution are *ultra vires*. Hence, Members of the House of Representatives are to conduct themselves accordingly. The Clerk of this Court is hereby ordered to inform the parties. AND IT IS HEREBY SO ORDERED.

When this case was called for hearing, Counsellors James E. Pierre and Arthur Tamba Johnson appeared for the petitioners. Counsellors G. Varney Sherman, Sr. and Garrison D. Yealue, Jr. appeared for the respondents, while Counsellors Augustine C. Fayiah, Solicitor General, Republic of Liberia, Jerry D. K. Garlawolu, Assistant Minister for Litigation, and Joel E. Theoway, Assistant Minister for Economic Affairs appeared for the Ministry of Justice.