

AN ADDRESS DELIVERED BY:

THE CHAIRMAN OF THE
NIGERIAN BAR ASSOCIATION, BENIN BRANCH,
PRINCE COLLINS BENSON OGIEGBAEN

FOR AND ON BEHALF OF ALL THE OTHER
BRANCHES IN EDO STATE AT THE SPECIAL
COURT SESSION TO MARK THE

OPENING OF THE 2018/2019 LEGAL YEAR

IN THE EDO STATE JUDICIARY
ON FRIDAY THE 12TH DAY OF OCTOBER, 2018

AN ADDRESS DELIVERED BY THE CHAIRMAN OF THE NIGERIAN BAR ASSOCIATION, BENIN BRANCH PRINCE COLLINS BENSON OGIEGBAEN FOR AND ON BEHALF OF ALL THE OTHER BRANCHES IN EDO STATE AT THE SPECIAL COURT SESSION TO MARK THE OPENING OF THE 2018/2019 LEGAL YEAR IN THE EDO STATE JUDICIARY ON FRIDAY THE 12TH DAY OF OCTOBER, 2018.

The tradition of the ceremony to mark the opening of the New Legal Year dates back to the middle ages in England and Wales, where in those early times Judges arrived in a procession from the Temple Bar to the famous West Minster Abbey for a 45 minutes religious service, during which time they prayed for guidance in the New Legal Year.

This tradition of heralding the Legal Year with prayers is also observed by the Supreme Court of the United States, but without a formal ceremony.

It is in keeping faith with this tradition, which we cherish as part of the tradition inherited from the English Legal System that the Edo State Judiciary is observing this ceremony today. Apart from the pomp and pageantry associated with the ceremony, it affords the Bar and the Bench the opportunity to look back and assess its performance in the last year, especially as it concerns the administration of justice system delivery and then project on what it hopes to achieve in the New Legal Year.

CONSTITUTIONALISM AND THE DOCTRINE OF SEPERATION OF POWERS.

My Lords, the constitution is about power and political authority i.e. the location of power, the procedure for exercising power, the distribution of power and the limit of power.

My Lords, power is an aphrodisiac, a potent catalyst and a ready tool in the hands of dictators, tyrants, fascists and autocrats. Power is an intoxicant, a beguiling liquor, you have to imbibe from its source, again and again with stupendous and insatiable bacchanalian propensity, so stupefied by power was LOUIS IV of France that he once declared L'etat cest moi (I am the state). The reason is simple My Lords, with power a tyrant can acquire illegal wealth, subjugate the Governed to perpetual servitude akin to the fate of a barber's chair of perpetual motion devoid of

progress. Power has been used as an instrument to marginalize the citizenry, robotize the masses and enthrone the whims, caprices and predilictive idiosyncrasies of mediocres and imbeciles who compel other mortals to do their idiotic biddings.

The Constitution however is the legal source, it also has to do with the explicit guarantees of rights and obligations. The need for orderliness presupposes the need for a constitution. The constitution is needed to regulate and serve as a necessary fetters on the excesses of persons and Governmental Agencies entrusted with the welfare of society. Without the constitution there will be anarchy, lawlessness and arbitrary rule, society would easily degenerate back to the state of nature which **THOMAS HOBBS** so vividly described as:

"A war of all against all, a condition of internecine strife in which the life of man was solitary, short, poor, nasty and brutish".

The constitution is also needed to protect individuals and groups within a particular territory from tyrannous, despotic and oppressive Governments and from themselves.

In the words of **ALEXANDER HAMILTON** in the **FEDERALIST PAPERS**

"Constitutions are needed to provide checks on the ambition of the powerful and the passion of the populace, the exercise of authority must be kept within the bounds of law".

My Lords, Constitutionalism ensures that Governments do not become a monolithic structure. According to **S.A. DE SMITH**,

"The idea of constitutionalism involves the proposition that the exercise of Governmental functions shall be bound by rules prescribing the procedure by which legislative and executive acts are to be performed and delimiting their permissible contents".

The assertion by groups and individuals of a right to be left alone by the Government and to be free from oppression and tyranny was justified in theory by the Doctrine of Natural Rights and the idea of limited Government i.e., the notion that the sovereign power should be so constituted that its tendency towards a monopoly of power should be restrained by a system of checks and balances.

The favoured means of achieving this reflecting the practice of the British Constitution of the time was to divide power between the different agencies which all check and monitor the activities of one another. The idea received its most celebrated form in the American Constitution. The essential aim was to prevent the concentration of power in an individual or agency and so safeguard the natural rights of all the individuals in the community from intrusion by arbitrary government. That Government was necessary was not disputed, that it was likely to be arbitrary and despotic was widely believed and so many ways were sought by which the government of the modern state could discharge its essential functions whilst respecting the liberties and wishes of the citizenry.

My Lords, it was like using ambition to check ambition. This inevitably led to the competing rights of the three (3) Arms of Government. The alleged competition My Lords, there really ought to be none is a mere constitutional safety valve, enabling one arm of Government to act as a sentinel over the activities of the other, the alleged competition ought really to be in the form of a mutually symbiotic relationship that engenders a strive towards excellence, acting as crucial and necessary checks and balances on the often conflicting interest of society. Consequently My Lords, we need this healthy competition to serve as a refreshingly invigorating elixir that lubricates societal wheels of development.

THE JUDICIAL POWERS OF THE FEDERATION AND THE RULE OF LAW.

The Judicial Powers of the Federation is constitutionally vested in the Judiciary by virtue of Section 6 of the 1999 Constitution of the Federal Republic of Nigeria (as Amended).

The Judicial Powers vested in the Judiciary under Sub-Section 6 (a) and (b) of that section:

- "(a) Shall extend, notwithstanding anything to the contrary in this Constitution, to all inherent powers and sanctions of a court of law;

- (b) Shall extend to all matters between persons, or between Government or authority and to any person in Nigeria, and to all actions and proceedings relating thereto, for the determination of any question as to the civil rights and obligations of that person".

From the above provisions, it is apposite to note that apart from the Constitutional Powers of the Judiciary clearly delineated in the Constitution, the Judiciary is also imbued with inherent powers to ensure the pure and undiluted administration of justice.

My Lords, the questions to be asked are, with the awesome and ponderous powers of the Executive almost unifying both Executive and Legislative powers seeing that the Legislature seem to have ceded its powers to the Executive, what is the fate of the Judiciary?, is it still at parity with the other arms of Government as envisaged by theoreticians and advocates of the doctrine of separation and complementarity of powers? We think not My Lords. The Judiciary appears to be at the receiving end.

The Supreme Court of Nigeria realizing this inherent position of the Judiciary quoted with approval the dictum of ALEXANDER HAMILTON in the case of OBAYE V. OFILI to the effect that:

"The Judiciary is beyond comparison the weakest of the three departments of powers... (It) has influence over neither the sword nor the purse... It may truly be said to have neither FORCE nor WILL but merely judgment".

This picture of helplessness and hopelessness as painted by the Supreme Court is gory and unimpressive. To stifle the Judiciary and render it impotent, is to enthrone chaos, anarchy and subversion of democratic norms, for the Rule of Law to endure Governments however powerful must render itself amenable to the due process of law.

I commit to you My Lords, the case of SAIDU GARBA V. THE FEDERAL CIVIL SERVICE COMMISSION AND THE ATTORNEY-GENERAL OF THE FEDERATION, a case which highlights the anger and righteous indignation of the

Supreme Court in their deprecation of what constituted a blatant assault on the Rule of Law when the Appellant was dismissed from the public service while a case he had instituted against the Government was still pending.

Hear the Supreme Court:

"What remains now is an examination of the acts of the Respondents in dismissing the Appellant from office during the pendency of this action. Such action, I think is contemptuous of the Judiciary which has been seised with the determination of Civil Rights under the Constitution. For the Judiciary a powerful Arm of Government to operate under the Rule of Law, full confidence and this must be unadulterated must exist in that institution. It must indeed be demonstrably shown especially if it is another Arm of Government that is involved".

In *GOVERNOR OF LAGOS STATE V. OJUKWU*, the Supreme Court per OTUTU OBASEKI JSC (as he then was) did not hesitate to rebuke or castigate the Military Governor of Lagos State who refused to obey the lawful orders of a Court of Law. The Court stated thus:

"Once a dispute has arisen between a person and the Government or authority and the dispute has been brought before the Court, thereby invoking the Judicial powers of the State, it is the duty of the Government to allow the law to take its course, or allow the Legal and Judicial process to run its full course".

JUDICIAL ACTIVISM: A NECESSARY CHECK ON EXECUTIVE EXCESSES

I commit to you My Lords, the powerful commentaries of the Learned Justice C.A. OPUTA in his book "THE TWIN PILLAR OF JUSTICE",

"The Bench and the Bar form a mighty fortress for the protection of rights and the prevention of wrongs. They are the surest safeguard of the rights of man in modern society. The ordinary citizen may not and

perhaps cannot unaided protect himself against those concentration or power which by their weight or nature conduces to the oppression of the individual, it is the duty of the Bar and the Bench to ensure that there is a fair and equitable balance between those who have an exercise power and those who are subject to it".

Understandably and happily My Lords, the Courts in Nigeria especially the Supreme Court of Nigeria has blazed the trail in the titanic battle to use judicial activism as a necessary check on the ever thickening back of Executive excesses. The Nigeria Supreme Court has proudly announced its preeminent position in the scheme of things when it declared in **ADIGUN V. THE ATTORNEY-GENERAL OF OYO STATE**

"The Supreme Court is under the Constitution, a super-court deliberately meant and made to be so by organic law and the justices of that court now only to the extent of their decisions are supreme meant to be so by the Constitution".

We must hasten to add My Lords, that it is the duty of the Judicial Arm of Government to say what the law is and the courts pronounces with finality on the constitutionality of the actions of the other two Arms of Government.

The activist posture of the Nigeria Supreme Court was elevated to an edifying height of judicial craftsmanship and statesmanship in the sad but epochal case of **BELLO & ORS. VS. A-G OF OYO STATE**, where the deceased, one Nasiru Bello had been convicted and sentenced to death for armed robbery by the High Court of Justice of Oyo State, Ibadan. He then appealed against his conviction to the Court of Appeal, Ibadan Division. While his appeal was still pending, his execution warrant was signed by the State Government, upon the advice of the State's Ministry of Justice. He was, consequently executed in spite of the pendency of his appeal which had not been heard nor determined. His aggrieved dependants sued claiming damages for the wrongful killing of their bread winner by the State. The Plaintiffs predicated their action on the maxim, "Ubi Jus Ibi Remedium". The High Court, shockingly held that although the execution of the deceased in the circumstances was wrongful and unconstitutional, the wrong was not actionable at law at the

instance of the Plaintiff, because at Common Law, "no one can recover damages in tort for the death of another".

On appeal, the Court of Appeal again dismissed the appeal on the ground, *inter alia*, that the Plaintiffs had no cause of action, as their action did not fall within the purview of the Torts Law of Oyo State. The Plaintiffs being dissatisfied, appealed to the Supreme Court, which allowed the appeal, berated the Government and deprecated, in the strongest words, the premature termination of a citizen's life when his rights to Court had not been extinguished.

ANTHONY ANIAGOLU, JSC (as he then was) aggregating the pious indignation of the Supreme Court at this cold-blooded murder spat his venom thus:

"This is the first case in this Country, of which I am aware in which a legitimate Government of this country - past or present, colonial or indigenous - hastily and illegally snuffed off the life of an Appellant whose appeal had vested and was in being, with no order of Court upon the appeal, and with a reckless disregard for the life and liberty of the subject and the principles of the Rule of Law. The brutal incident has bespattered the face of the Oyo State Government with the paint-brush of shame".

HON. JUSTICE KARIBI-WHYTE, JSC (as he then was) added his own admirable judicial voice as follows:

"I think it is erroneous that the maxim *Ubi Jus Ibi Remedium* is only an English common law principle. It is a principle of justice of universal validity couched in Latin and available to all legal systems involved in the impartial administration of justice. It enjoins the court to provide a remedy whenever a plaintiff has established a legal right".

Expanding and expounding the vistas of the quintessence of justice, the Supreme Court also used the case of **GANI FAWEHINMI V. COL. HALILU AKILU & ANOR** to curb executive autocracy and despotism. The facts of this case are as follows:

On Sunday, the 19th October, 1986, Mr. Dele Giwa, a Journalist and Editor-in-Chief of a Weekly Magazine, NEWSWATCH, was killed in his residence at Ikeja in Lagos State by a parcel bomb.

On the 3rd of November, 1986, the Appellant, a friend and legal adviser to Mr. Dele Giwa (deceased) submitted to the Respondent, a 39 page documentation containing all details of the investigation he conducted together with an information accusing two Army officers of the murder of Dele Giwa.

Pursuant to Section 342 of the Criminal Procedure Law of Lagos State, the Appellant acting as a private prosecutor requested the Respondent as Director of Public Prosecutions, Lagos State to exercise his discretion whether or not, he would prosecute Col. Halilu Akilu and Lt. Col. A.K. Togun for the murder of Mr. Dele Giwa and if he declines to prosecute, to endorse a certificate to that effect on the information submitted to him by the Applicant/Appellant. This is to enable the Applicant/Appellant to prosecute Col. Halilu Akilu and Lt. Col. A.K. Togun for the murder.

On Thursday, the 6th of November, 1986, the Respondent informed the Appellant that he could not come to a decision whether or not to prosecute the two army officers for the murder of Mr. Dele Giwa until he received a Report of Police Investigation.

Consequent upon this, the Appellant filed an application in the High Court of Lagos State for leave to apply for an Order of Mandamus to compel the Respondent to decide whether or not to prosecute these two accused persons. The Learned Trial Judge dismissed the application. On appeal, the Court of Appeal dismissed the appeal on the grounds that the Appellant had no locus standi in the death of Mr. Dele Giwa to bring the application.

The two Courts held that the Appellant's application was hopeless, frivolous, improper, ill-timed, hasty and premature. One of the justices of the Court of Appeal, Hon. Justice Idris Legbo Kutigi JCA (as he then was) even went to the extent of saying that the application was doomed to failure any day anytime.

On appeal to the Supreme Court, the Supreme Court in a well considered judgment ruled in favour of the Appellant and set aside the judgment of the two Lower Courts. The Supreme Court per OTUTU OBASEKI JSC (as he then was) held thus:

"The peace of the society is the responsibility of all persons in the country and as far as protection against crime is concerned, every person in the society is each others keeper... though Cain challenged the locus standi of his being questioned as to the whereabouts of his brother, Abel, it was his reason that he was not his brother's keeper. That might have been in the outskirts of the Garden of Eden, in Nigeria it would be an unacceptable phenomenon and when it comes to the law of crime everyone is certainly his brother's keeper".

DO NIGERIAN JUDGES DO JUSTICE?

We shall seek in this address to answer this question through the cases: In **MINERE AMAKIRI V. IWOWARI** (unreported), the Chief Judge of the old Rivers State, Hon. Justice Ambrose Alagoa awarded substantial damages against the Defendants who had on the orders of Alfred Diets Spiff the Military Governor of the State, brutally assaulted and detained the Plaintiff on the grounds that a story concerning the state's educational policy published by the Plaintiff in the course of his normal duties as a journalist coincided with the Governor's birthday and thus embarrassed him. The Chief Judge held inter alia:

"We are not in a police state, so the rule of law in the country should not be trampled on. Any monster who uses his power arbitrarily would not be spared".

In **CHIEF AGBAJE V. COMMISSIONER OF POLICE** where he Inspector General of Police directed that the Applicant be detained in prison, in the ensuing suit for habeas corpus the Court held that the exercise of the power was not in conformity with the requirements of the law and accordingly made an order for the Applicant's release.

The Learned Judge quoted with approval the dictum of the Supreme Court of India in **SINGH V. NEW DELHI** to the effect that:

"This Court has often reiterated before that those who feel called upon to deprive other persons of their personal liberty in charge of what they consider to be their duty must scrupulously observe the forms and rule of law".

In **GLORIA MOWARIN V. THE ATTORNEY-GENERAL OF THE FEDERATION**, where the Applicant, Miss Gloria Mowarin was detained under Decree No. 2 of 1984 as variously amended by subsequent Decrees. She then applied to the Lagos High Court that her detention was illegal and therefore sought to enforce her fundamental right to freedom and liberty. The Trial Judge held that the then Vice President Admiral Augustus Aikhomu had no valid powers to order the detention of anyone under Decree No. 2 (as Amended). The Learned Judge explained further:

"The situation where Decree 24 1990 would give powers to the Vice President, which office has not yet been created is anomalous and a legislative absurdity".

There has however been some self imposed restraints by some Judges. In **GANI FAWEHIMI V. ATTORNEY-GENERAL OF THE FEDERATION** a High Court Judge while interpreting the ouster clause in Decree No. 2 in a suit involving the enforcement of fundamental human rights of the detainee i.e., Chief Gani Fawehimi dance a "judicial tango" by oscillating between fear and courage in deciding that the arrest of the detainee lawyer was illegal while at the same time holding that his detention under Decree No. 2 was lawful.

These two strange holdings we submit were definitely incongruous and ran counter to the well respected and often quoted dictum in the famous case of **MACFOY V. UAC LTD** where **LORD DENNING** clearly and lucidly stated as follows:

"If an act is void, then it is in law a nullity. It is not only bad, but incurably bad. There is no need for an order of the court to set it aside. It is automatically null and void without much ado... you cannot put something on nothing and expect it to stay there, it will collapse".

The Law Reports are replete with pronouncements and decisions of our Judges effectively demonstrating and indicating a new approach of judicial activism which is against formalism and technicalities but in favour of substantial justice. A few examples will suffice.

ANANABA OHUUA V. THE STATE in this case, the issue was whether or not Section 31 of the Supreme Court Act of 1960 stipulating thirty (30) days within which an Appellant could appeal from the decision of the Court of Appeal to the Supreme Court would be interpreted literally to deny an Appellant in a murder appeal his constitutional right of appeal to the Supreme Court where the notification of the dismissal of his appeal by the Court of Appeal was not communicated to him until 92 days thereafter. The Supreme Court held per **OPUTA JSC**;

"This Court is not a mechanical and automatic calculator. No. It is a Court of Law dealing with varying situations and applying the same law to these situations in order to do justice in each and every situation according to its peculiar surrounding circumstances... There is a delicate and clear distinction between extension of time and computation of time. Though the Supreme Court has no power to grant an extension of time in cases involving sentences of death, but it has all the powers to compute time... It is a recognized rule or canon of interpretation of Statutes, that they be interpreted so as to respect the vested and/or constitutional rights of the subject. It is the construction which preserves rather than destroys the constitutional and vested rights of the Appellant... that should be adopted and preferred".

OGBOMO V. THE STATE in this case, the Appellant was charged with the offences of robbery and conspiracy. He was convicted and sentenced to death. In his Appeal to the Court of Appeal which was eventually dismissed, it was contended for the Appellant that the charge against him was in contravention of the provisions of Section 33 (8) of the 1999 Constitution in that the words **Special Provisions** were not added to the description of the law creating the offence and that

therefore the offence charged was brought under a non-existing law. The appeal failed. The rationale of the Court's judgment was further expounded by OBASEKI, JSC when he stated thus:

"It will be falling into serious error in law and unreasonable depth of technicality occasioning grave miscarriage of justice to hold that the offence does not exist by virtue of the misdescription".

ANTHONY ANIAGOLU, JSC put it succinctly thus:

"The dictates of justice which command that the guilty be punished and the innocent set free, after a fair-hearing under procedural regularity, do not permit the acquittal of an otherwise guilty accused person upon fanciful errors contained in a charge".

I commit to you My Lords, the powerful dictum of LORD ATKIN in UNITED AUSTRALIA LTD V. BARCLAYS BANK to the effect that:

"When these ghosts of the past stand in the path of justice clanking their medieval chains, the proper course for the judge to take is to pass through undeterred".

My Lords, this address will not be complete without touching on some areas of our socio-economic, political and administrative developments so far. This aspect of this speech essentially contains request and hopes of what we expect the Government of the day to do for the citizenry.

RENOVATION OF THE COURT ROOMS

For the Judiciary to function efficiently and effectively, the court rooms must be conducive for the judges, the legal practitioners as well as the litigants and members of the public. A functional court with the requisite accessories and gadgets towards the prompt dispensation of justice is inevitable. We must however commend the collaborative effort of My Lord the Chief Judge of Edo State and the Governor of the State for the current building and massive renovation work going on in the High Court premises and in most of the court rooms at the State High Court some of which are already complete while others are at various stages of

completion. We further commend the State Government for the insightful building of a new wing of the State High Court and a National Industrial Court for the State especially the fast pace of work on both projects. A division of the National Industrial Court in Benin will bring much needed relief to our members who currently have to make the often hazardous journey to Akure, Kogi and other states where such divisions of the court exist.

We urge the State Government to extend this massive renovation and building work to the Magistrate and Customary Courts in Edo State. We urge the State Government to do something urgent about the sorry state of the area within the Magistrate Court premises at Evboriaria which is an eye sore. The premises is dirty and perennially waterlogged.

In this regard, we wish to draw the attention of the State Government to the state of the Magistrate Court 1 at Auch, whose roof has caved in and fallen to such state of disrepair that it is presently not fit to be called a poultry farm. We urge the State Government even in the face of scarce resources to immediately and urgently do something about the state of that court.

REDUCTION IN THE COST OF OBTAINING CERTIFICATE OF OCCUPANCY

We are grateful to the State Government for the recent reduction in the cost of obtaining Certificates of Occupancy at the States Bureau of Lands. We hope this reduction will also enure in favour of Applicants for Governor's Consent, Perfection of Long Leases and Mortgages. We believe this reduction will encourage investors, raise revenue for the state and bring back the business of lawyers at the Bureau of Lands which has been in limbo before now owing to the prohibitive cost, official bottlenecks and red tapism involved in the process. It is our hope that its implementation will be a reality and not a mirage.

DEPLOYMENT OF THE GEOGRAPHICAL INFORMATION SERVICE (GIS) TECHNOLOGY

We also commend the State Government for the deployment of the Geographical Information Service (GIS) Technology at the State's Bureau of Lands. We believe that the deployment of this system will to a large extent reduce the issue of overlapping registration of titles over the same land.

INFRASTRUCTURAL DEVELOPMENT

We commend the State Government for the rehabilitation and upgrade of key Government facilities, in particular the Civil Service Commission building, the Ministry of Infrastructure compound and the massive work going on at the Block C of the Secretariat Building which is directly adjacent to the NBA House. Though not completed the emerging skyline already provided by that edifices when viewed from the Bar House is a beautiful sight to behold and quite panoramic. We however wish to use the favourable auspices provided by this address to kindly remind the State Governor to hasten to fulfill the promise he made to the Bar at our Maiden Visit to him to help with the leaking roof of the Bar House and the upgrade of some of its facilities. The Bar places a lot of premium on such promises and will not rest until it is fulfilled.

COMMITTEE ON PREROGATIVE OF MERCY

We are also grateful for the recent convocation of the Committee on Prerogative of Mercy for the State to advice the State Government on the status of convicted inmates and those awaiting trial. We must however hasten to add that though we commend the State Government on the inclusion into that Committee of our dearest Prof. Violet Aigbokaevbo of the University of Benin who is also a Former Vice-Chairman of the Benin Branch of the NBA, we do not however see how the Committee can be said to have its full compliments of members without a representative or nominee of the Bar within whose jurisdiction the Committee is set up. The reason is not far fetched, we are the day to day operators of the criminal justice system and the most critical of the stakeholders in that system and more to this, it accords with the best practice anywhere in the world including the oldest and biggest democracies of the United Kingdom and the United States.

WELFARE OF MAGISTRATES AND AREA CUSTOMARY COURT PRESIDENTS

While the Bar commends the State Government for relatively providing the necessary basic things to enhance the performance of Judges in the State, we equally urge the State Government to take a critical look at the welfare of our Magistrates and Area Customary Court Presidents. There is the need to enhance the welfare of these category of judicial officers by providing them with official cars as well as enhancing their salaries. In this regard, the State Government is

specifically requested to pay our Area Court Presidents and Magistrates their June 2016 salary arrears.

CONTRACT STATE COUNSELS IN THE MINISTRY OF JUSTICE AND LEGAL ASSISTANTS (LA'S) OTHERWISE REFERRED TO AS JUDGES' ASSISTANTS.

We urge the State Government to use the opportunity of the ongoing recruitment exercise to automatically absorb these category of casual workers otherwise referred to as Contract State Counsels and Legal Assistants into the Edo State Civil Service as Senior State Counsels or as Senior Registrars because of the skill and experience they have acquired over time by closely working with the State's Ministry of Justice and our Judges. We believe that the skills and experience these category of workers have acquired as a result of their engagement and the periodic trainings and seminars they have undergone, is an asset to the State and should be put into positive use for the greater benefit of the State.

The Bar believes that the present administration in the State is labour friendly and will not persist in the casualization of these category of workers especially where an opportunity such as this have presented itself to properly integrate them into the State workforce.

FINANCIAL AUTONOMY FOR THE JUDICIAL ARM OF GOVERNMENT

We welcome the recent signing into law of the Bill granting Financial Autonomy to the Judicial Arm of Government as this will go a long way in ensuring and guaranteeing the independence and impartiality of the judiciary. We however also hope that its implementation would be a reality and not a mirage.

CONCLUSION

On the whole My Lords, the examples given above amply demonstrate that even in successive military regimes, Nigerian Judges have not hesitated to declare as null and void any decision or act of the Executive which did not conform with the laws of the land.

SAMUEL BUTLER in his book **ERHWON** (meaning Nowhere), has satirically created an imaginary society, a sort of inverted utopia where justice has been administered in a way quite different from the natural meaning of that concept. Fortunately, Nigeria is not Samuel Butler's **ERHWON**. In Nigeria we administer justice as a conventional concept as recognized and practiced in civilized nations.

LORD DENNING in eulogizing the English Judges for doing justice at all times has rightly observed "if justice had a voice it will speak like an English Judge". So we can confidently assert that if justice were to be a human being, she will undoubtedly be a replica of a Nigerian Judge.

In all of this, the Bar can say confidently that back home in our dear State, My Lord, the Honourable, the Chief Judge and the Judges of our High Court have approached the dispensation of Justice with courage, zest and an appreciable level of judicial activism.

My Lord, the Chief Judge, you are a Judge of courage and courage almost always wins. When you leave the centre stage of the Edo Judicial Administrative affairs, you will take with you an era, an aura and an enviable set of courageous judgments. You will also leave behind a legacy of infrastructural development and administrative ingenuity for all generations of future Chief Judges to emulate.

We however believe that there is always room for improvement as far as justice delivery is concerned. Consequently, the Federal and State Governments are under an obligation to sustain the administration of justice in the country by doing the following:

- a. To consider the desirability of making use of mechanical recording equipments and stenographers in court proceedings throughout the country instead of the judge having to take down evidence in long hand. It is gratifying to note that the Supreme Court has already embraced computer technology in its operations.

- b. To ensure that the Judge's library in his chambers either at the court or in his residence is stocked with Law Reports and valuable books and Journals which are updated from time to time so as to facilitate the process of reliable adjudication.
- c. To note that the provision of adequate stationery is very vital to the efficiency of the judiciary, hence record books, files, typing papers, stencils, carbon papers, cyclostyling papers, envelopes, correcting fluids etc. must never be in short supply.
- d. To see to it that court buildings are properly maintained and that they are well furnished and kept clean not only for the comfort of the Judges and their staff but also for the comfort of the litigants, witnesses and the audience who come to watch court proceedings.
- e. To provide each Judge with a well furnished residence so as to ensure his full relaxation after the usual energy sapping and brain exhausting judicial sittings. Standby generators should be provided in the Judge's Quarters because of frequent power failure.
- f. To provide road worthy and regularly serviced official cars for all Judges and other categories of judicial officers so as to ensure their mobility and comfort in the discharge of their duties.
- g. To guarantee adequate police protection in their offices and their residence because of the very delicate nature of their assignments.
- h. To provide full health care facilities for all Judges and other categories of judicial officers and in particular to subject them to regular periodic medical checkup because of the nature and demands of their jobs.
- i. To constantly ensure that the salaries paid to Judges and other categories of judicial officers are always adequate to sustain them and their families bearing in mind the rapidly changing economic realities of our country thereby removing any possible temptation of their receiving bribes or other forms of gratification.

On their own path, the Nigerian Judges must not rest on their oars but must be faithful worshippers in the temple of justice by bearing in mind the following:

- a. To know that a truly independent judiciary depends on the intellectual caliber and the quality of character of the Bar from which the Judges are drawn.
- b. To agree that Judges should be able to catch up with the dynamics of our ever changing society by continuous legal education bearing in mind the famous words in the Old Justinian Institute "**Ignorantia Judicis est Calamitas Innocentis**" (The Ignorance of the Judge is the calamity of the innocent).
- c. That a Judge should not use his power to punish for contempt to suppress methods of advocacy after all the lawyer and the judge are co-worshippers in the temple of justice.

Finally, I wish our members profound accomplishment in our legal profession as we begin the journey of a new legal year. Remember that ours is a call to service based on integrity and the dispensation of justice that is not delayed nor denied.

On a final note My Lords, I leave you with the powerful dictum of UDO UDOMA, JSC (as he then was) in the celebrated case **NAFIU RABIU V. KANO STATE**

"It is the duty of this court to bear in mind and constantly too, that the present constitution have been proclaimed the supreme law of the land, that it is a written organic instrument meant to serve not only the present generation but future generations of Nigerians, that it was made, enacted and given to themselves by the people of the Federal Republic of Nigeria in a constituent assembly properly assembled for that purpose and because it is autochthonous, it of necessity gains superiority to, over and above any other law ever devised for the governance of this country".

Thank you and God bless us all.

PRINCE COLLINS BENSON OGIEGBAEN
CHAIRMAN, NBA BENIN BRANCH