

**ADDRESS PRESENTED ON BEHALF OF THE BODY OF SENIOR ADVOCATES OF NIGERIA
BY CHIEF T.J. ONOMIGBO OKPOKO SAN OON AT THE SPECIAL SESSION OF THE
SUPREME COURT OF NIGERIA TO MARK THE OPENING OF THE 2016/2017 LEGAL YEAR
AND THE INDUCTION OF NEW MEMBERS OF THE INNER BAR.**

Protocol

My Lord, the Chief Justice of Nigeria Honourable Mahmud Mohammed

My Lords, the Justices of the Appellate Court, serving and retired

The Honourable Attorney General of the Federation and Ministry of Justice

My Lords, the Judges of the High Court and National Industrial Court

Learned Senior Advocates of Nigeria

Our Royal fathers

The Learned Members of the Magistracy

The Learned Members of the Customary Sharia courts of Delta

Learned Members of the Bar

Members of the press

Invited guests

Distinguished Ladies and Gentlemen

1. This yearly routine of holding a special sessions to mark the opening of the legal year has now assumed a higher status and importance than it ever had, with it being combined with the induction ceremony to admit new Senior Advocates. Every Chief Justice of Nigeria and indeed every Justice of the Appellate Courts, look forward every year to the gathering of the executive arm of government, the learned Justice of our Court, the members of the only learned and Honourable profession of law, members of the press and members of the public, to deliver publicly, speeches from both arms of the legal profession and the Attorney General of the Federation in an atmosphere of celebration devoid of rancor.
2. By their nature, these ceremonies are preceded by the annual vacation where Judges are expected to have had and enjoyed their well-deserved rest in preparation for the task ahead in the new legal year. I therefore welcome your noble and learned justices from vacation and pray that the Good Lord will give you the strength to cope with the stress associated with the adjudication of cases in the new legal year.

3. Turning to our judges and justices on the seat of justice, it is most gratifying to hear from the Honourable Chief Justice of Nigeria that judicial reform is up for consideration and experimentation this new legal year. In particular with the advance made to sanitize and digitize the process filing system, the steps so far taken must be understood to be just the beginning of the necessary reform of the Nigerian Judicial system in order to attain the standards of its peers not only in Africa but in the advanced common law jurisdictions. Nigerian Judges have served meritoriously in the world court of justice. Our judiciary in the past provided heads of court for our sister countries in East Africa. If we did it then we can do more of it now.
4. In our nation as it stands today, no one needs to be told that the Bar and the Bench are at a cross road. For the Judiciary, the nation, in the recent past has witnessed the show of shame brought about by court of co-ordinate jurisdiction assuming jurisdiction to hear the same dispute, between the same parties and delivering verdicts that are totally in conflict with one another.

For the Chief Justice of Nigeria and the National Judicial Council, this is a very embarrassing development and I call on the regulatory authorities to step in immediately to do the damage control so as to save our justice system from further ridicule. This is not just a matter of corruption. Conflicting judgments go to the very root of the judicial system. If the established principle that trial courts have no power to set-aside their own judgement except in well-established circumstances, the principle that courts of co-ordinate jurisdiction cannot overrule themselves or set aside each other judgment, that the Court of Appeal itself cannot overrule itself are all in place, one wonders how come it, that conflicting judgments still rear their ugly heads. The National Judicial Council has to let Nigerians know what went wrong and what measures have been taken to prevent re-occurrence.

5. As for members of the Bar, there are repeated reports of conducts gravely unbecoming of a Gentleman occurring rather frequently. These type of conducts are responsible for the public perception of the judges and lawyers as unreliable and corrupt. This ought not to be. The Nigerian Judiciary has standards and those standards have to be maintained if we are to continue to be relevant in a fast changing world in which we live. If lawyers and Judges who operate in the justice sector accept the need for change, then

we all must also accept that the change we expect must begin with us. We must work to assist the judges in the dispensation of justice and the Honourable Attorney General of the Federation and the States.

6. I turn to the successful and fortunate members of the Bar, who are to be conferred with the rank of Senior Advocates of Nigeria and congratulate each and every one of them for scaling through the process. I have to remind you that apart from other qualifications, the Privileges Committee has found that each one of you, has achieved distinction in the legal profession. My emphasis today is, this distinction that has made you a Senior Advocate, is an asset which you must strive to hold and enhance for the remaining part of your life. It is not a matter of giving you an option. You have been adjudged to have achieved that distinction. Nothing short of that distinction will be acceptable from you henceforth. I must remind you that you do not cease to be a member of the Bar because you have been elevated to the inner Bar. You cannot remain a Senior Advocate if you are not a member of the Bar. To look down on members of the utter bar or the Bar Association itself, is the highest mark of impudence on the part of every Senior Advocate. No one should take that status lightly.
7. To our colleagues at the inner and utter Bar, we must appeal to them that they have a duty to assist the judges in the onerous tasks judges are expected to perform in the administration of justice. Judges rely on the submission of counsel. This must impose on counsel as officers of the Court, the duty to be honest and straightforward in their submissions so as to ensure that no lawyer by his action or inaction, misleads a judge into coming to a decision which may give rise to a miscarriage of justice. That is not the way of justice.
8. You already know that it is our duty to put our client's cases vigorously, truthfully and without hiding anything that the judge need to know. This is because the lawyer's duty to justice and to the court is more important than the duty he owes to his client. After all, his duty to the client is to present his client case, do all that he can lawfully do in favour of the client but this cannot be justified if the end product is to mislead or deceive the judge or take advantage of him in any way. Every lawyer must know that pains of injustice inflicted on its victim last forever.

There are some litigants out there whose brief you must reject. A client in civil case went to a lawyer to represent him. He said to the lawyer that he must win the case and that he is ready to pay the fees. The lawyer mentioned a fee and the litigant asked the lawyer "Are you sure I will win the case". When the lawyer said "I will do my best to win the case", the litigant gathered his file and as he left, he said "my kind of lawyer is the one who will do much than his best to win the case"

9. The Nigeria Bar Association, has now come up with the rule that the conduct of lawyers are to be judged not only by what they do in court but by their words, actions and utterances in and out of court. This can only be for the good of the profession that is fast losing its reputation in a society that is very skeptical of things being done transparently. Let us show that there is a difference between lawyers and other professionals and the generality of the Nigeria people. That is what will earn us honour and dignity in our chosen profession.
10. In the very recent past, it has been observed that lawyers do not read the body of a judgment before citing a pronouncement of a judge as the ratio decidendi in a case. Perhaps it is time for us to get back to the wise words of Honourable Justice Oputa, the Socrate of the Supreme Court. The ratio of a case is decided on the basis of the issue joined by the parties and supported by the evidence rightly accepted by the judge. A pronouncement of a judge, no matter how high in the hierarchy, cannot constitute a binding judicial decision unless it is related to the issue joined on the pleadings and the fact properly accepted by the judge. This has always been the basis of the principle of judicial precedent.

The recent experience of counsel citing a dissenting opinion of a Justice of the Supreme Court as a judgment of the Supreme Court must be avoided. Appeal must go their Lordships to watch out for such unethical behavior on the part of some lawyers and to identify such misdemeanours so as to protect themselves from being misled in the discharge of their duty.

11. I have said that Nigerian judges have made their mark and will continue to do so. There is an aspect which they need to look out for, which I feel is not being properly handled now. It is on the matter of control of the proceedings in court. At all times Judges must have control of their courts. Incompetence and flimsy

excuses by lawyers ought not to be rewarded with an easy adjournment. Litigation is a business and must be pursued in a business- like manner. Delay as is well known defeats justice. I appeal therefore that our judges must be the masters of their court in the conduct of cases before them.

12. Finally your Lordships, today is your day of joy, today is also our day of joy. I congratulate you for a job well done, let all of us support the new thinking in the country and the judiciary.

Let me remind you that in the seat of justice you are a representative of God. So I enjoin you to listen to what the scripture said about the commission to justice. It is in the book of 2 Chronicles 19:6 & 7, wherein Jehosaphat commissioned the judges thus:

“Consider carefully what you do, because you are not judging for mere mortals but for the Lord, who is with you whenever you give a verdict. Now let the fear of the Lord be on you. Judge carefully, for with the Lord our God there is no injustice or partiality or briber” *“New International Version*

Let me end this speech by a reference to the question of Standards and integrity. On the standard expected of a lawyer. I will give an example, whether you are at the Bar or on the Bench, the case in point is popularly known in English legal history as the case of "Bricks in the Canal". The actual case itself is *Dimes v. Grand Junction Canal* (1852) 3 HLC, 759. A very fine English Judge Lord Cottenham held 92 shares in the great junction canal, a joint venture company with numerous shareholders. He sat over a case in which one Dimes sued the company. Lord Cottenham heard the case and on appeal his judgement was upheld. Somehow, it became known that Justice Cottenham had 92 shares in the company. There was no suggestion that the Learned Judge ever thought of his shareholdings when trying the case. The House of Lords after consulting the Judges, set aside the judgment. In the course of his speech Lord Campbell at page 793 of the report said;

“no one can suppose that Lord Cottenham will be in the remotest degree, influenced by the interest that he had in the concern but it is of the last importance that the maxim that no man is to be a judge in his own cause should be held sacred It will have almost salutary influence when it is known that, in a case in which the Lord Chancellor of England has an interest, his decree was set aside”

Before and during the tenure of Lord Bacon, Judges in England have been taking bribes and almost every Judge was being suspected of bribe taking as many ignorant people do in our country today. A very brave clergy man by the name of Bishop Hugh Latimer wrote of bribe in his book

“omnes diligent munera. They all love bribe. Bribery is a princely kind of thieving. They will be waged by the rich, either to give sentence against the poor, or to put off the poor man's cause. This is the noble theft of princes and magistrates. They are bribe-takers. Nowadays they call them gentle rewards. Let them leave their colouring, and call them by their Christian name – bribes”

So the war against bribe in the judiciary has taken place long before Nigeria was born. In England it was won at the time of Lord Bacon who himself took bribe. Justice Bacon was the Lord Chancellor of England. He was accused of bribe-taking by the House of Commons and tried by the House of Lords. In the verdict delivered on the 3rd of May, 1620, the House of Lords pronounced sentence thus-

“that the lord Viscount, St Albans, Lord Chancellor of England, shall undergo a fine and ransom of E40, 000-that he shall be imprisoned in the Tower during the King's pleasure - That he shall forever be incapable of any office, place or employment, in the State or commonwealth - That he shall never sit in parliament, nor come within the verge of the Court”
(page 48 Landmarks in the Law)

With the sentence imposed on Lord Bacon, bribe in the judiciary in England came to an end and from that day on, on the sight of anything that look like bribe, the English judges ran away. These quotes can be found in the **“Landmarks in the Law” by Lord Denning**, page 48.

My Lord, I thank you and also thank my colleagues for the audience.

CHIEF T.J.ONOMIGBO OKPOKO SAN OON.

20th September, 2016