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THE PROBLEM OF INCORPORATING "THE WESTMINSTER MODEL" IN A WRITTEN CONSTITUTION: THE EXPERIENCE OF WESTERN NIGERIA 1962—64 AND SUBSEQUENT REACTIONS

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THE "WESTMINSTER MODEL" CONSTITUTION

The long association between Nigeria and Britain meant that in the transition from colonial status to independence, the pattern of government would be built on the main outlines of "the Westminster Model" — resulting in a system, *mutatis mutandis* similar to that operative in the United Kingdom. But the United Kingdom Constitution is largely unwritten, while the Constitution by which Nigeria became independent was written. Taking into account this difference, and the fact that their socio-political milieu is not the same, it was not certain whether "the Westminster Model" would work as effectively in Nigeria as it did in Britain. Unfortunately, nobody seems to have considered this aspect of the situation at the time of its drafting. As Mackintosh rightly points out:

> In many ways the most remarkable feature of the period during which it was framed, was the lack of discussion of how it was likely to work in practice and how far the structure would be affected by the activities and outlook of the Nigerian parties and their leaders.[1]

How the structure would be affected by the activities and outlook of the Nigerian parties and their leaders, would soon become clear. Within two years of independence, both the nation and the Constitution were shaken by what is now commonly known as the Western Nigeria crisis of 1962.

THE WESTERN NIGERIA CRISIS 1962

When Nigeria became independent in 1960, the constitutional structures of the regions then making up the Federation were similar, and each a replica of the central government. In the Western Region, at the top of the hierarchy was the governor in whom the executive power of the region was vested. The governor, however, in the exercise of his powers acted on the advice of his ministers, who constituted the second tier of the hierarchy. The Council of Ministers was appointed by the Governor acting on his own initiative.[2] The Western Region Constitution also held the following provision (Section 33) in respect of the power of the Governor to dismiss the prime minister:

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"(10)... The Ministers of the Government of the Region shall hold office during the Governor's pleasure:
Provided that-
(a) the Governor shall not remove the premier from office unless it appears to him that the Premier no longer commands the support of a majority of the members of the House of Assembly..."[3]

In 1962, two years after Nigeria achieved independence, serious disagreements arose on the interpretation of the latter. The facts about the crisis were, briefly, as follows. In 1962, the Action Group (AG), the party which appeared to have established an unshakable hold on Western Nigeria, fell into warring factions. The main reason was the attempt by a section of the AG leadership, headed by its national leader, Obafemi Awolowo, beginning in 1959, to change the language of political controversy based on sectionalism and elitism to one of a more populist and universalistic orientation. The section led by Chief S.L. Akintola, AG's deputy national leader, its regional leader as well as Premier of the region, argued that the interests of the AG would be better served if party boundaries were left congruent with the regional domain of the government. The latter's objections were overridden. It was on this basis that the AG contested the 1959 general elections and lost. This, not unexpectedly, was taken by the more conservative elements of the party leadership as proof of the failure of the new "policy" of the party. They also took the failure as a reinforcement of their contention that the better strategy was for the AG to maintain and consolidate its party boundaries and from that point seek to join a "winning coalition". Consequently, not only had the new directional change in party orientation cost the party a place in the federal coalition and, therefore, a loss of federal patronage, it had also led to a dissipation of scarce resources, resources which could have been hoarded and more judiciously expended to secure the maximum possible returns.[4]

But the differences did not end there. Underlying the differences outlined above was another — that of ideology. The party leadership did attempt to move to the left in the period between 1959–66 when the party proclaimed it was subscribing to the ideology of "democratic socialism". However, to Chief Akintola and several of the more conservative party leaders, the economic elite who had provided the financial prop to the party, this was unacceptable. They sought access to federal patronage through a *rapprochement* with the Northern Peoples Congress (NPC) — the major partner in the Federal Coalition Government of NPC and National Council of Nigerian Citizens (NCNC) — and made no secret of their hostility to socialism, democratic or otherwise.

The conflict between the two factions came into the open at the Eight Annual Congress of the party in February 1962, where Akintola was judged and found wanting by the National Executive of the party which was undoubtedly sympathetic to Awolowo. Akintola was asked to resign his premiership as well as his party office. Instead, on May 20th, 1962, Akintola wrote to the Governor, Adesoji Aderemi, asking for the dissolution of the regional legislature. But in a separate letter to the Speaker of the House of Assembly, he asked for an emergency meeting of the House for May 23rd in order to consider a motion of confidence in him and his government. Both requests were refused. I have found no evidence that the Speaker gave reasons for his refusal; but the Governor did give reasons for rejecting the dissolution asked for by Akintola.

Drawing the attention of the Premier to Section 38 (1) (a) of the Western Nigeria Constitution whereby the Governor is empowered to act according to his own deliberate judgement when considering such a request for the dissolution of the regional legislature, the Governor observed that the Premier had requested the Speaker to summon a meeting for May 23rd, 1962, in order to prove that he still had the support of the majority in the House.[5] And so the Governor concluded: "In all the circumstances, particularly in order not to frustrate the holding of a meeting of the House next Wednesday, I must refuse the dissolution."[6]

The plot thickened however, when on receiving a petition dated May 21, 1962. signed by a majority of the members of the House of Assembly (including the Speaker[7]). stating that they no longer has confidence in the Premier[8] and begging the Governor to exercise his powers under S.33 (10)(a) of the Constitution of Western Nigeria to remove Akintola from his office as Premier, the Governor did just that, replacing Akintola with Alhaji D.S. Adegbenro.[9] Akintola refused to abide by the Governor's orders, alleging that the process through which his removal was effected was wrong, since he was not allowed to test his popularity on the floor of the (regional) legislature.[10] But that was not all. Going a step further, Akintola advised the Queen[11], through the Federal Prime Minister, to remove the Governor and on top of all that filed an action asking the High Court of Western Nigeria to restrain the Governor from dismissing him (Akintola). While all this was pending, on May 25, 1962 a meeting of the House was summoned to enable the new Premier, Alhaji Adegbenro, to seek a vote of confidence. Twice that day the House met; twice disorder broke out and on both occasions police had to intervene with tear gas to clear the House.

Subsequent events moved swifty. On the 29th of May, the Federal Parliament passed a motion declaring the Western Region to be under a state of emergency. Under Section 65 of the Federal Constitution then in operation, such a motion allowed the government to legislate on any matters in order to secure peace, order and good government. And so the Federal Parliament approved regulations which relieved the Governor, Premier, Ministers, Speaker of the House and Superintendent of the Local Government Police of their duty.[12] A sole administrator was appointed to rule the region at the Federal Prime Minister's pleasure. That, in a nutshell, was the Western Nigeria crisis of 1962.

EFFECT OF THE CRISIS

The crisis raised a number of constitutional issues, foremost of which were:

1. Could the Governor dismiss a Premier on the basis of evidence submitted to show that the Premier no longer had the support of the lower House, if such evidence comes from sources other than a vote of confidence?
2. Did a State of Emergency exist in Western Nigeria in May 1962; and was the Federal Government entitled to the range of powers it employed? And what was the role of the judiciary?

A full treatment of any of these points will take us too far afield, and so I will endeavour to handle it as it was done by the actors at the time the events occurred.

1. Could the Governor dismiss a Premier on the basic of evidence other than that

emanating from the floor of the house, submitted to show that the Premier no longer had the support of the lower House?

Akintola thought not. On this ground, therefore, he filed an action in the High Court of Western Nigeria challenging his deposition. The plaintiff's case was argued on two grounds: firstly, that Section 33(10)(b) of the Constitution which said that "the Governor shall not remove the Premier from office unless it appears to him that the Premier no longer commands the support of a majority of the members of the House of Assembly", requires a prior decision of the House of Assembly on the matter; secondly, that the Constitution of the Western Region was a deliberate attempt to write down the conventions of the United Kingdom Constitution, by which such a removal would be unconstitutional, and that he was by right the Premier of the Western Region. The defendants counter-claimed, inter alia, that the removal of the plaintiff from office of Premier was valid and effective.

At the request of the counsel for the plaintiff, section 108 (2) of the Federal Constitution was invoked[13] and the issue was referred to the Federal Supreme Court which decided in favour of Chief Akintola. The argument was that the Governor can only rely on an official source of information and that this must be in the form of votes of the House.

Three of the judges involved in the case thought that if the Constitution had intended to make the dismissal of the Premier a matter of the Governor's discretion, it would have said so. Failing this, they held that "the framers..... wanted the House to be responsible at every level for the ultimate fate of the Government and Premier. Law and convention cannot be replaced by party-political moves outside the House."[14]

One of the judges, Mr. Justice Brett, dissented. He argued that in matters open to the Governor's discretion, there was no limitation on the sources of information. Brett agreed that a vote of the House would be the best evidence, but he maintained that other possibilities were not excluded. In the words of Brett himself: "Always assuming good faith, the Constitution does not preclude the governor from acting on any information which he considers reliable. It would be unwise to apply in practice unwritten conventions of the British Constitution."[15]

But Brett's was the only dissenting voice against the other three judges and, in keeping with Section 108(3) of the Federal Constitution[16], the High Court of Western Nigeria gave judgement in favour of Akintola. However, Adegbenro was given leave by the Supreme Court to appeal to the Privy Coucil. To this I will return later.

2. Did a State of Emergency exist? Was the Federal Government entitled to the range of powers it employed? And what was the role of the judiciary?

The Nigerian Independence Constitution (1960) empowered Parliament to legislate beyond the limits of its powers to an extent that might be necessary or expedient for the purpose of securing peace, order and good government during any period of emergency, which was defined to mean any period during which the federation was at war or there was in force a resolution by Parliament declaring that a state of public emergency existed or that democratic institutions in Nigeria were threatened by subversion.[17] What was to constitute a state of emergency was left undefined. However, according to sections 107 — 111 of the Federal Constitution, the Supreme Court had the power to adjudicate in all cases concerning the Constitution or the relations between the Federal Government and the regions. But when Adegbenro and Chief Rotimi Williams[18] instituted court actions challenging the constitutionality of the entire declaration of emergency and the emergency regulations, the Federal Supreme Court (FSC) refused to consider the issues involved. Stating that the definition of emergency was the prerogative of the Federal Parliament, and that the courts would not enquire into the circumstances surrounding the reasonableness of such parliamentary definitions or resolutions, it merely accepted the evidence that there was a resolution of both Houses of the Federal Parliament declaring that a state of emergency did exist.[19] Commenting on this, Awa wrote:

> It should be noted that at this time the federal government had no political hold on the Supreme Court and would not have found it easy to influence the court since the independence of the latter was carefully safe-guarded in the Constitution.

But more interesting is his conclusion on the issue:

> The point of all this is that the exercise of the emergency powers was subject to the Due Process of the Law and this means that the units of the federation did not owe their power to the arbitrary will of the federal government.[20]

On the face of it. Awa is probably right in his disapproval of the position adopted by the Federal Supreme Court. However, not every body disapproved. On the same issue Mackintosh wrote:

> Judging by the precedents of the U.K. and Commonwealth countries, the Supreme Court was probably correct in taking this stand, since in all of them the courts have refused to substitute their discretion for that of politicians where the matter (as in this case) is explicitly left to parliament.[21]

Was the Federal Government entitled to the range of power it employed?

The Nigerian Constitution of 1960, as already indicated, left undefined what was to constitute a state of emergency and the Supreme Court's refusal to adjudicate on the constitutionality of the emergency declaration left the question unanswered. But, as Nwabueze points out, "in its ordinary meaning emergency seems to presuppose some event, usually of a violent nature, endangering or threatening public order or public safety. This is the usual meaning assigned to it in most democratic constitutions ... The danger or threat must be an imminent one, and the event giving rise to it must involve a considerable section of the public, since only so can public order or public safety be said to be in jeopardy".[22]

In the Western Region in May, 1962, the disturbances took place only within the chambers of the Western Region House of Assembly and were caused by only ten pro-Akintola members, out of a total membership of 117. Furthermore, the rest of Western Nigeria remained peaceful and unaffected by the disorderly behaviour of the legislators. When the police cleared and locked up the Region's House of Assembly, the members returned to their respective homes and there was no sign of any attempt or intention to carry the affray outside the House. The trouble-makers were apparently satisfied that they had achieved their objective, which was to prevent the House from approving the new government. In the light of what I have just outlined, "it cannot be seriously doubted that the declaration of a State of emergency upon the strength of the situation prevailing in Western Nigeria at the time was ill-motivated and that it was made for a purpose other than that envisaged by the Constitution"[23] And, indeed, many people in the region at that time believed that the disorder on the floor of the legislature was a calculated plan by the Akintola faction to enable the Federal government to intervene the way it did.

That the coalition partners in the Federal government were interested in seeing the break-up of the Action Group cannot be doubted. Not only was the "new" ideology adopted by the Action Group displeasing to a faction of the party, it also widened the gulf between the AG and the NPC—NCNC Federal Government. The change in ideological orientation:

> was seen by many as a *volte face* designed to gain electoral advantage for the AG and to sabotage the objective of economic growth as a prerequisite of social stability. In the logic of the coalition government, the AG's policies would discourage foreign investors, augment unemployment, and so swell the ranks of its adherents.[24]

On top of that, the NPC had never really forgiven the AG for the methods it used while campaigning in the North for the 1959 general elections. The AG had based its Middlebelt campaign primarily on support for a Middlebelt State. This angered the NPC which has adopted the motto "One North, One People, irrespective of religion or tribe". The NCNC too, had its own particular reason for being interested in the break-up of the AG. It was looking for areas to extend its power base in order to maintain its bargaining weight in the Federal Coalition. The North had been foreclosed to it, not because of the partnership between NPC and NCNC, but because all attempts to penetrate the area had ended in failure. The prospects were better in the West where the AG hold on the Region was shaky at best. So it would seem that Awolowo's strategic and ideological shift and the resulting split of the Action Group played into the hands of his political enemies and they did not fail to exploit it.

That the Federal Government intervention was ill-motivated can further be seen in the following. After the state of emergency had been declared, or even at the end of it, it would have been possible to hold an election in order to decide which of the parties or factions had the support of the electorate. This was not done. On the contrary , the emergency lasted for six months, and when it was finally lifted, Chief Akintola was reinstated as Premier of the Western Region. But that was by no means the end of the story. I indicated earlier that the Federal Supreme Court had ruled that Akintola's dismissal was wrong, and that Adegbenro had been given leave to appeal to the Privy Council -- which he did.

The Decision of the Privy Council

The Privy Council's decision was given on May 28, 1963 and it reversed the decision of the Federal Supreme Court. The argument was not very far from that posited by Mr. Justice Brett of the Federal Supreme Court: no limitation as to the Governor's source of information, discretion left to the Governor and the application of conventions of the British Constitution (unwritten) to the interpretation of a written Nigerian Constitution would be unwise. To quote from the Privy Council decision:

> By the words, ... it appears to him', the judgement as to support enjoyed by a Premier is left to the Governor's own assessment, and there is no limitation as to the material on which he is to base his judgements or the contacts to which he may resort for the purpose. There would have been no difficulty at all in so limiting him, if it had been intended to do so.[25]

This decision of the Privy Council posed another constitutional dilemma. If the decision were to be accepted, it would mean not only that Akintola's present regime was illegal, but also that Adegbenro had been the rightful Premier all along. In the event, neither Akintola nor the Federal Prime Minister were prepared to accept the Privy Coucil decision.

To nullify the decision of the Privy Council a hurried constitutional amendment with retroactive effect was introduced in the Western Nigeria Parliament which provided that the Governor could remove the Premier only in consequence of a vote of no confidence of the House.[26] This move was supported by the Federal Prime Minister. Any objections that might have been raised against this were dismissed as the Prime Minister, citing a recent constitutional enactment in the British colony of Gambia, pointed out that:

> within the last few days, the British Government found itself compelled by a very similar situation to amend also with retrospective effect an act of the Gambian Legislature in order to validate an enactment declared invalid by the West African Court of Appeal on a narrow construction of a phrase in that law.[27]

And so, on June 3rd, 1963, the Federal Parliament approved the amendment to the Constitution of Western Nigeria, thus confirming Akintola in power.

Subsequent Reactions to the Western Nigeria Crisis

> One of the results of a situation where a threat to unity becomes imminent but is met effectively is that it stimulates centralizing tendencies, with the consequential abolition of duality in the executive, as well as perhaps duality in the legislature and in the parties.[28]

One of the aftermaths of the crisis of 1962 was that the Action Group as a party emerged emasculated to such a point that in December 1962 the Federal Prime Minister withdrew official recognition of its status as the opposition party in the central government, "arguing that a handful of 13 members could not be expected to provide an alternative government".[29]

The decision of the Federal Supreme Court not to adjudicate on whether or not the Federal Government was right to take over the Government of Western Nigeria in 1962[30] gave the Federal Government "a tremendous weapon over the Regional Governments which does not seem to have been contemplated when the Constitution was framed".[31] The take-over destroyed two of the cardinal objectives of Federalism:

> (a) to enable each group in a plural society to look after its own internal affairs free from outside interference; and
> (b) to form a device for constitutionalism in limiting the powers of the centre, so as to prevent it from becoming an instrument of domination and tyranny.[32]

Perhaps, before 1962, one could have safely discounted Federal Government intervention in the Regions. From then onwards, it was a looming possibility, hanging over the nation like Damocles' sword. The Federal Government's intervention in Western Nigeria eventually led to the alteration of power in the centre. One of the results accruing from the successful emasculation of the Action Group was that the NPC, thanks to the defection to its ranks of certain former Action Group members, had now an absolute majority in the Federal House of Assembly. Feeling that it could then do without the NCNC, its coalition partner in the Federal Government, the NPC "became intensely arrogant towards its partner"[33]; after all, the NPC only needed to get control of the Senate and its grip on the Federal Government would be total and firm. To achieve this, the NPC offered to ally with the United Peoples Party, (UPP) formed and led by Akintola in the wake of the 1962 crisis. The alliance in place, and with the prompting of the NPC, Akintola issued an ultimatum to the NCNC members of the Western Region legislature: join the Nigerian Natinoal Democratic Party (NNDP) (into which the UPP had been converted for purposes of the alliance with the NPC) or those who are in the government of the region will be removed. It was a calculated move; for had those threatened called his bluff, Akintola would have found his NNDP to be in a minority and would have had to ask for a dissolution. However, as Dudley points out, Akintola

> had banked on the fact that the NCNC members would not want to face a dissolution for two reasons: (a) not all the members could be sure of being re-elected; and (b) those in the executive were not sure that if they were re-elected, they would retain their cabinet appointments [34]

Akintola took a calculated risk and it paid off. He got a majority in the new Assembly and the NCNC saw its dream of controlling the West and thereby improving its bargaining weight in the Federal Coalition Government evaporate overnight.

Another attempt by the NCNC to regain its bargaining weight in the Federal Coalition ended in the crisis which arose over the general election of 1964. The election had occasioned a crisis over the powers of the President under the 1963 constitution: the executive authority of the Federation was vested in him, and he was the Commander-in-Chief of the armed forces. Yet, he was essentially a constitutional, not an executive, Head of State who exercised his powers generally on the advice of his ministers. In January, 1965, a trial of strength developed, the then President, Dr. Nnamdi Azikiwe, indicating his reluctance to appoint a Prime Minister on the basis of an election which had proved abortive due to partial boycots in certain regions. The impasse that ensued needed the intervention of the Chief Justice of the Federation and the Chief Justice of Eastern Nigeria before it could be resolved.[35]

The leaders of the NCNC and the AG (both parties had come together in the United Progressive Grand Alliance (UPGA) as counterweight to the Nigerian National Alliance (NNA), the alliance of the NPC and NNDP) having in a sense 'lost' the 1964 Federal elections looked to the promised West-regional election scheduled for 1965 as a source of change, but, as Dudley aptly points out:

> In this they only displayed their naivety, for in a context where the rules are that there are no rules — the Federal elections had shown this only too clearly — to trust to an election as a means of change could only be sheer naivety.[36]

The outcome of the election were claims and counter-claims of victory on the one hand, and allegations and counter-allegations of rigging on the other. The overall result was widespread violence.

It is interesting to note that, following the widespread violence just mentioned, the Prime Minister rejected demands that the Federal Government should declare an emergency and take over the government as it did in 1962. Yet, while maintaining that the widespread killings and arson in the region were the internal concern of the regional government, the Prime Minister did not hesitate to send in the police and army to help bolster up the tottering Akintola regime.

From that moment the writing was on the wall and when the army struck on January 15, 1966, I remember quite clearly, most Nigerians were not surprised; the only surprise was that it had not come earlier. There was jubilation all over the country. However, the young majors who ousted the Balewa regime in January, 1966, were forced to hand over power to a more senior officer, Major-General J.T.U. Aguiyi Ironsi. The latter's response to the fissiparous tendencies of the Nigerian Federation was to centralise, However, when it appeared that centralisation would guarantee Ibo domination of the country, the majority elements in the North rose against it. This culminated in a mutiny of soldiers from that region. The communal violence and loss of life which followed led to further demands by minority groups for protection through autonomy, especially among the Middle-belt peoples. One solution considered at the time was provincial devolution, an idea revived by the Northern leadership as an alternative to the complete dispersal of Northern power. Even the traditional Hausa-Fulani aristocracy seemed prepared to accept a restriction of their power to the area of their traditional homeland. At a Constitutional Conference, Northern representatives did not rule out a division of the North if other regions would also accept division. The preservation of their social structure, religion and style of politics was held possible within smaller and ethnically more homogeneous areas even if control of the region and federation was no longer possible.[37]

SUMMARY

"The Westminster Model" as it existed in Nigeria, from the time of independence in particular until the first military coup in 1966, though similar to the system operative in the United Kingdom, had one markedly different trait. It was written, unlike the Constitution of the United Kingdom. Under stress, it was discovered that analogies drawn from the unwritten Constitution of the United Kingdom are not conclusive in interpreting a written one. This is what Mr. Justice Brett pointed out in his dissenting opinion in the Akintola v. Adegbenro case, and this position was also adopted by the Privy Council when the case was appealed to it. When all the parallels had been examined, the task left to Nigerians was that of constructing a written constitution.[38]

But there is danger in constructing a written constitution modelled on a system that is not only unwritten but also bound by different constitutional and political conventions. If in a written constitution like that of (1960—1966), the conventions of its parent are not specifically incorporated it becomes understandable that one cannot have recourse to said constitutional conventions. Presumably, each new state must develop its *own* conventions, which admittedly is difficult without constitutional continuity.

However, though no one can doubt that the Federal Government intervention and suspension of the Western Region Government in 1962 took place strictly according to legal rules, yet the spirit of the Cosntitution should have brought to mind that Nigeria is a Federal State and something more than the purported "emergency" was needed to warrant the intervention. The same thing can be said of the 1964 federal election crisis. Owing to the widespread irregularities, the President, following the spirit of the Constitution which called for free and fair elections, initially refused to call on any party to form a government. But he was forced to call on, or rather to reappoint, Alhaji Abubakar Tafawa Balewa of the NPC to form a new government as the letter of the Constitution demanded.

From 1962 onwards, crisis followed crisis in Nigeria; and daily the barometer swung further towards dissatisfaction with "the Westminster Model". And daily it became more clear that mere changes in some sections of the constitution, as happened in 1963, were not enough. Nigeria, it was thought, needed a constitution that was not built on the framework of "the Westminister Model".

"THE WASHINGTON MODEL" CONSTITUTION

In 1975, the Nigerian military rulers, in power since 1966, decided that the reins of power would be returned to civilians in 1979. While reaffirming faith in and commitment to "a stable system of Government through constitutional law", the military rulers insisted, and rightly too, that this "can best be achieved through the creation of viable political institutions which will ensure maximum participation and consensus and orderly succession to political power".

General Murtala Mohammed, military Head of State from July 1975 to February 1976, addressing the inaugural meeting of the Constitution Drafting Committee (CDC) on the 18th of October, 1975, exhorted the members to draw up a constitution which would reflect past experience and at the same time pay attention to the equally important fact that a good constitution should be capable of influencing the nature and the orderly development of the politics of a people. Therefore, any constitution devised should seek to:

(i) eliminate cut-throat political competition based on a system of winner-takes-all. As a corollary, it should discourage electoral malpractices;

(ii) discourage institutionalised opposition to the government in power and, instead, develop consensus politics and government, based on a community of all interests rather than interests of sections of the country;

(iii) firmly establish the principle of public accountability for all holders of public office. All public office holders must be seen to account openly for their conduct of affairs;

(iv) eliminate over-centralisation of power in a few hands, and as a matter of principle, decentralise power wherever possible, as a means of diffusing tension. The powers and duties of the leading functionaries of Government should be carefully defined; and

(v) taking the realities of the situation into account, it should evolve a free and fair electoral system which will ensure adequate representation of the peoples at the centre.[39]

For the purpose of devising the new constitution, those basic principles, including the need for an executive Presidency, appeared so self-evident that they were prescribed by the military rulers as essential. The general feeling would seem to have been that a monocephalous executive Presidential System was better suited to the needs of the country at a crucial transitional period of its history when unity and more effective and dynamic state action was required. So it was that Nigeria, turning its back on "the Westminster Model", adopted a new constitutional structure which can aptly be regarded as a version of "the Washington Model", which was enacted in September, 1978 and came into force a year later.

As Read aptly points out, the basic questions asked of the new Constitution were as follows. Will it work? Will it promote and facilitate the political art required to achieve the necessary compromises, to realise fully "the Federal Character of Nigeria"? Will it succeed to the extent that rumours of further coups will wither away?[40] No ready answers were available then. Time alone held the answer. It is quite true that the process of preparing the 1979 Constitution revealed fears that many political problems might recur — witness the acrimony over whether the Constitution should provide for a Federal Sharia Court of Appeal to satisfy the Muslim citizens, in particular, and the far North, in general. Such a provision was opposed by non-Muslims nationwide since they viewed it as favouring a particular religion in a multi-religious country which claimed to be a secular state.[41] But *pari passu* with the fears mentioned above

> was the strong hope that the problems could be faced with a new spirit of compromise which is perhaps the most vital ingredient for the success of any Federal System. If willingness to compromise is absent, the accretion of Federal power which occurred under military government and is confirmed by the constitution might suffice to avert future constitutional breakdown.[42]

But it did not take long to discover that this hope had been unrealistic. Right from its inception, the "new" model was put to the test in the most unpropitious circumstances when the Judiciary was called upon to adjudicate in the celebrated litigation of Awolowo v. Shagari and others.[43] The litigation arose from the basically simple question of interpretation of the Electoral (Amendment) Decree 1979, No. 32, giving effect to the provisions recommended by the CDC and consequently included in the "new" Constitution for elections to be held in the future. Section 34A (1) of the Decree provided that:

> A candidate for an election to the office of President shall be deemed to have been duly elected to such office where —
> (a) ...
> (b)....
> (c) there being more than two candidates —
> (i) he has not less than one-quarter of the votes cast at the election in each of at least two-thirds of all the States of the Federation.

It was fateful that the results of the first election held under this formula, carefully devised to ensure that the successful presidential candidate has a proven, widely — diffused minimum of support throughout Nigeria, should raise the awkward question: in how many states must a quarter of the votes be received to satisfy the requirement in paragraph (c) (i)? Is two-thirds of nineteen states, for this purpose, thirteen states or only twelve and two-thirds? Resolving this question taxed the ingenuity, in turn, of lawyers advising rival candidates, the Federal Electoral Commission, the Election Tribunal and the Supreme Court.

At the presidential election, held on 11th August, 1979, there were five candidates: Alhaji Shehu Shagari (NPN), Chief Obafemi Awolowo (UPN), Dr. Nnamdi Azikiwe (NPP), Alhaji Aminu Kano (PRP) and Alhaji Ibrahim Waziri (GNPP). On 16th August the Returning Officer (the third respondent) announced that Alhaji Shehu Shagari had been elected as President, after the election results in all the states had been declared. Four days later Chief Awolowo petitioned the Election Tribunal contending that Alhaji Shehu Shagari had not been duly elected in accordance with section 34A (1) (c) (i). The Election Returns had shown that Shagari had received 5,688,857 votes and Awolowo 4,916,561 votes. Shagari had received at least a quarter of the votes cast in twelve states; Awolowo a quarter of the votes cast in six states. However, in Kano state Shagari had received 243,423 votes — 19.94 per cent of the total cast. Had he polled twenty-five per cent of the votes cast in Kano state, he would have had a quarter of the votes cast in thirteen states and under section 34A(1) his victory would have been beyond question. For want of 5.06 per cent of the votes in Kano state, had Shagari failed — albeit narrowly — to satisfy section 34A (1)? Awolowo thought so, and took the case before the Election Tribunal and the Supreme Court. In both instances, the gravamen of his case was that two-thirds of nineteen states for the purpose of section 34(A)(I)(c)(i) is thirteen states and that a candidate must, therefore, obtain a quarter of the votes in at least thirteen states, which the first respondent had not done. To cut a long story short, neither the Election Tribunal nor the Supreme Court was moved. The victory of Alhaji Shehu Shagari was upheld.

The decision has been questioned by at least one legal expert; it was mistrusted by many Nigerians at the time, and was bitterly resented by the opposition in general and the petitioner in particular. According to Read, the decision

> fails to give due weight to the words 'each of' in the key phrase 'in each of at least two-thirds of all the states...'; those words surely require that, in making the necessary calculations to determine the proportion of votes obtained, each state must be considered as a whole — an interpretation reinforced by the phrase 'at least' which qualifies the 'two-thirds of all the states'.[44]

The decision is still bitterly resented by Chief Awolowo and his supporters. Unsavoury statements were issued against the court and especially against the Supreme Court, and quite a few acrimonious letters went to and fro between Chief Awolowo and the then Chief Justice.[45]

The ripples generated by that case had hardly died down when another case dealing with the Constitution came up; Tony Momoh v. Senate of the National Assembly and Two Others.[46] Briefly, the facts of the case were as follows.

Tony Momoh, editor of the *Daily Times* (Nigeria's leading daily) from March, 1976 to May, 1980 had a column published in his paper every Monday. It was unsigned and went by the name of Grape Vine. On February 4, 1980, Grape Vine published, *inter alia,* a story titled "MP's, Senators and Cards". The story said that a few Senators

and members of the House of Representatives had printed complimentary cards and were "barging" into offices of government officers and top men in the private sector, and were spending their official hours dropping their names and status and seeking for contracts. An incensed Senate spent the day after the story broke, February 5, 1980, debating the piece in the gossip column. They took a resolution inviting the editor of the *Daily Times* and the "Grape Vine Columnist" to appear before the Senate to tell all they knew about the impropriety of members of the National Assembly "who are in the pinnacle of law-making and are as a result expected to maintain a commendable level of probity"[47] Two days before he was expected to appear in the Senate Chamber, the editor, Tony Momoh, himself a lawyer, went to the Lagos High Court to challenge the constitutionality of the Senate's action. Momoh's counsel, Gani Fawehinmi, argued that the order from the Senate infringed his client's fundamental right of free expression, "the right to hold opinion and receive and impart ideas and information without interference."[48] He urged the court to quash the Senate Order. By the time the substantive motion was heard, the Senate had again debated the issue and resolved to rescind their decision to invite the editor. The High Court of Lagos, therefore, thought there was nothing to quash.[49]

What would have happened, had Momoh appeared before the Senate, is now an academic question. But it is interesting to note that the story which gave rise to this litigation was true and what the National Assemblymen were accused of then was only the tip of the iceberg in their catalogue of misconduct. All through the Second Republic, the members of the National Assembly conducted themselves in a way that suggests that they were nothing but a crop of shady politicians, bedroom barterers, corrupt and opportunistic wheeler-dealers whose chief concern seemed to have been only self-aggrandisement and the perpetuation of power.[50]

About the same time the National Assembly was having their brush with the Press, another litigation came up: Shugaba Abdulrahan Darman v. Federal Minister of Internal Affairs and others.[51] Briefly, the facts of the case were these.

In February, 1980, Shugaba A. Darman, the majority leader of the Great Nigeria Peoples' Party, one of the five parties that contested the 1979 elections, was arrested at his house early in the morning, served with a deportation order and taken immediately and without further formalities across the border to the neighbouring Chad Republic. The grounds of this action were that Shugaba was a non-Nigerian citizen and a security risk. Not satisfied, Shugaba's supporters appealed to the court for redress. When the case came before the court, the trial judge found that the basis of the deportation was false and unfounded, and was born out of a conspiracy by members of a rival political party, and that the whole process showed evidence of bad faith and a callous and arbitrary display of power. In the words of Ayo Adefila, judge of the Maiduguri[52] High Court:

> I cannot in this case before me rule out political victimisation ..that it is this victimisation that led to the deportation of the applicant who has been in parties (in Nigeria) since 1951 starting with NEPU then NPC.

The judge went on to rule the deportation order was *ultra vires,* null and void, and constituted a violation of Shugaba's fundamental rights, personal liberty, privacy and freedom to move freely throughout Nigeria. But even before the ruling of the court, it was widely said in the country at the time that, whatever the merits of the case, the deportation was a rather high-handed way of treating a solid citizen and elected leader of the people. The incident aroused considerable uneasiness in non-NPN states at the time: the whole episode was seen in terms of political victimisation. Such allegations of political victimisation were to characterise the Second Republic (1979–83) and they were made by all the parties in areas where they were not in political control.

Contrary to the hopes of well-meaning Nigerians that party politics in the Second Republic, with the hindsight of experience, would be more subdued and devoid of acrimony and violence, the differences between the political parties had increased to such an extent that, by 1983, they had assumed irreconcilable proportions, posing a threat to peace.[53] Perhaps a strong executive President providing a clear focal point of loyalty would have ameliorated the situation. Lipset has shown that the legitimacy of the American system of government owes much to the deep-seated personal loyalty, confidence and veneration which Americans felt towards their first President, George Washington. To the countrymen of his day, the personality of Washington was almost divine, an object of worship. Factional antagonism which might have undermined or even destroyed the fledgling constitutional structure just brought into existence was held in check out of respect for his authority, thus giving the consitution a chance to strike root and gain acceptance.[54]

The first executive President of Nigeria, Shehu Shagari, could not attract anything approximating personal loyality, confidence or veneration. It is said that the primary function of the political executive is leadership. It is the seat of authoritative power in society, entrusted with the management of the country's collective affairs. The first executive President of Nigeria failed to provide this authoritative leadership. The consequence was that he could not mediate between contending parties and allowed the nation to be treated to what appeared to be a screen replay of the Federal Government of the First Republic — a record of irresponsibility and indiscipline among Ministers, and an inability of the Chief Executive to control them.

The Nigeria 1979 Constitution posed a lot of powers in the Presidency. But the first executive President of Nigeria was incapable of wielding even minimal power. Most of the major policies of government were determined, instead, within the National Party of Nigeria (NPN), not by the agencies of government; and within the party, policy determination and direction was the prerogative of the oligarchical consortium of Umaru Dikko, Adisa Akinloye, Alex Ekwueme and Joseph Wayas, the party barons. With all indications pointing to party instead of presidential rule, how could the presidency be a focus of national unity or mediate between contending parties for the general benefit of the country?

What role did the judiciary play in all this? In liberal democratic systems, the judiciary is vital in maintaining both the stability of the constitutional order and confidence in it. It is for this reason that there is provision for an impartial and independent judiciary. In Nigeria of the Second Republic, the desire for a strong, impartial and independent judiciary found expression in the Chapter on Fundamental Objectives and Directive Principles of State Policy of the Constitution. Thus, Section 17(1) provides that

"the State Social Order is founded on ideals of freedom, equality and justice" and, partly in furtherance of this, Section 17 (2) (e) provides that "the independence, impartiality and integrity of courts of law, and easy accessibility thereto, shall be secured and maintained".

The judiciary in the Second Republic, like the executive, began its life in the most unpropitious circumstances when it was called upon to adjudicate in the case of Awolowo v. Shagari and Others, discussed earlier in this paper. The position adopted by the judiciary in general and the supreme Court in particular was suspect among many Nigerians at the time. However, subsequently, the performance of the Courts did go at least some way in reassuring all and sundry of its impartiality, so much so that it earned for itself the endearing appellative "the last hope of the common man". but all that was to change after the 1983 general elections. The period leading to the elections in August 1983 was marked by acrimony and violence as thugs — persons trained by an association to use or display physical force or coercion to promote any political objective or interest — roamed the streets at will. Yet, the Constitution outlawed this in Section 207. The elections themselves were conducted in such a way as to give but a poor reflection of the popular will. The situation is best summed up by the comment in *West Africa* magazine a little over a week after the December, 31, 1983, Coup. According to the magazine, the elections of August 1983

> wounded the image of the second republic. Even if they had not been the disaster people had foreseen ... the malpractices and ensuing violence ... caused unquantifiable psychological damage. The clear attachment of so many Nigerians to their voters' rights which the elections demonstrated only made the experience more painful, and the whole political class stood indicted.[55]

The outcome of the elections left Nigerians in a confused and distracted national mood while the courts were inundated with election litigations. But there was still some hope, no matter how slight, that the courts would demonstrate that there was still some elasticity in the system. Again, this turned out to be wishful thinking. The performance of the courts was anything but worthy of praise, as all over Nigeria judges gave conflicting judgements in cases where the facts were basically the same. For example, in October 8, 1983 the Supreme Court gave a decision in the Anambra State of Nigeria gubernatorial case between the candidates of the National Party of Nigeria (NPN) and the Nigerian People's Party (NPP). The former won and the latter lost by a razor-edged margin of four judges to three. Four judges, Messrs Sowemimo, Irekefe, Bello and Uwais. It ruled that there were some allegations of falsifications and inflation of votes made by the NPP candidate against the Federal Electoral Commission (FEDECO). These allegations, according to the judges, were of a criminal nature and, as is the rule in such cases, they ought to be *proved beyond reasonable doubt*. This the plaintiff had failed to do. The other three judges, Messrs Kayode Esho, Obaseki and Nnamani, J.J.

held that the standard of proof required was that of a civil case and that the case should be proved *on the balance of probabilities*. But on the balance of numbers the plaintiff lost the case.

A week later, Saturday, October 15, 1983, the Supreme Court decided a similar case, this time between the Unity Party of Nigeria (UPN) and NPN gubernatorial candidates in Ondo State of Nigeria. One judge, Ayo Irikefe, maintained his position held in the case decided a week earlier, arguing that allegations of commission of crime ran through the pleadings of the UPN candidate and that the proof required was that of "beyond reasonable doubt". He, therefore, awarded the case to the defendant, the NPN candidate. Three other judges, Obaseki, Kayode Esho and Nnamani, also maintained the position they held a week earlier, saying that the burden of proof required in the case was "the balance of probability". It is interesting to note that this view was also shared, in this case, by three other judges, Sowemimo, Bello and Uwais, although in the case decided a week earlier these three judges had held that the proof required was "beyond reasonable doubt". So with a six-to-one verdict the UPN candidate won and, of course, the NPN candidate lost.[56]

The Supreme Court, of course, is not bound by its previous decisions; nobody, therefore, expected it to be consistent in its judgements all the time. The question that most Nigerians wanted answered, however, was simply this: If two cases have an identical set of facts and are based on an identical set of laws, why should judgements be different? No answer was forthcoming! Since the cases treated above were not isolated instances, the outcome was that confidence in the judiciary plummeted. The "last hope of the common man" had gone the way of the legislature and the executive. The courts were accused, in vitriolic terms, of lack of courage, inability to dispense justice without minding whose ox is gored and inability to successfully suppress partisan political sentiments in making pronouncements on cases before them, to mention only a few accusations.

By December, 1983, both the electorate and the army concluded that one could not rely on the democratic process to effect a change in government, since the system had become vulnerable to manipulation by those who had the means and power to do so. Thenceforth, the writing was on the wall once again and when the army, on December 31, 1983, announced it was taking over, just like in 1966, it was welcomed with jubilation.

CONCLUSION

During the period of the struggle for independence, Nigerian leaders would settle for no less than "the Westminster" type of government and constitution — which was what was adopted at independence in 1960. Less than a decade afterwards, the glamour had worn off and Nigerians learnt the hard way that "the Westminster Model" was not what they had thought it was going to be.

The crisis that rocked Nigeria between 1962 and 1966 served to demonstrate the imprecision and/or uncertainty, and, therefore, the imperfect nature of "the Westminster Model". At first glance, therefore, one may be tempted to say that the fall of the First Republic was a sad reflection upon "the Westminster Model" But after the events

from October 1979 culminating in the Eve of New Year, 1984, military coup d'etat in Nigeria, one is forced to the conclusion that no other model could have fared any better. When Nigeria adopted "the Washington Model" Constitution in 1979, adroit preparations were made for its sustenance and millions of Naira were spent to maintain it, in the desire to avoid all the problems and pitfalls of the First Republic. But for all the troubles and expenses put into it, all that Nigerians got out of it was as predicted as far back as 1978 by William and Turner:

> Civilian rule is ... likely to repeat the 'failure of politics', and hence to invite in its turn a fresh demonstration from the military of the "failure of administration'.[57]

Certain circles in Nigeria have attributed the collapse of the Second Republic to the imperfect nature of the Presidential System. This author shares the opposite view that the Presidential System was not responsible for the demise of the Second Republic. While the system is not perfect — which system in which part of the world is perfect? — the principle it sought to preserve was the insulation of the business of government from the controversies of politics. That principle remains valid.

Why then did the Second Republic, with "the Washington Model" constitution, collapse? The Second Republic collapsed because, ultimately, the reality of political parties proved difficult to transcend. Ghai and McAuslan once remarked:

> Politicians in developing countries are yet to develop the right attitude towards the Constitution; they are yet to learn to regard and respect it as an 'umpire above the political struggle', and not as a weapon in that struggle which can be used and altered in order to gain temporary and passing advantages over one's political opponents.[58]

Nigerian politicians fitted well into the pattern outlined in the quotation above. They failed to see politics as a game aimed at promoting healthy rivalry, peace and unity in the country. The primal urge to power and the distrust it engenders propelled all parties to excesses and those with greater power made greater use of it.

By way of conclusion, it must be emphasised that the collapse of the Presidential System after four years is a clear manifestation of thefailure in a series of experiments in which an alien form of government is grafted on a people whose background and circumstances are totally dissimilar from those among whom it originated and who are virtually on every count demonstrably ill-prepared to make it work. One cannot blame the constitution *per se*. Imperfect though it may have been, it was a brave effort calculated to counter the sort of problems that wrecked the First Republic. But the finest constitution in the world is rendered nugatory, if those charged with operating it set about subverting the lofty principles behind it. "Within the constraints set by the rules and properties of any political system, the capability of the system to adapt itself to environmental changes is a function of the culture and behaviour of the actors operating the system".[59] So the problem is not the constitution *per se;* the crucial problem is the imposition of a constitutional model which anticipated technological and socio-economic changes which have not taken root even among the westen-educated elite.

It is highly likely that Nigerian economy and socio-cultural milieu are ill-adapted to sustain the tensions of party conflict. Therefore borrowed constitutional models, particularly in the absence of anchorage in supporting norms and/or conventions, will have little reality beyond their physical existence as a set of written symbols bound to be deposited, eventually, in government archives.

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2. The Constitution of Western Nigeria, NIGERIA (Constitution) Order in Council, 1960, Fourth Schedule, S.I. 1960 No. 1652.
3. Id., Sections 33(10) and 33(10)(a).
4. Dudley, B.J., *Instability and Political Order: Politics and Crisis in Nigeria* (Ibadan: the Univ. Press, 1973), p. 72 f. It should be noted that, for the Nigerian political elite, politics involves not the conciliation of competing demands arising from an examination of the various alternatives entailed by any course of political action, but the extraction of resources which can be used to satisfy elite demands and to buy political support. The political relation is essentially a relation of patron and client in which the patron survives only to the extent that he satisfies the demands of the clients, and clients give their support in so far as the patron "delivers the goods". The ability to extract, and therefore to deliver, is of course directly related to the extent of control over the instrumentalities of government.
5. It would appear that the Governor was unaware of the fact that the Speaker wouldn't summon the House as requested by Akintola(?).
6. House of Representatives Debates, Col. 2194 (May 29, 1962).
7. The signatures on the petition numbered 66 or 65, a slender majority of the 117 elected members. There were 124 seats in the Western Region House of Assembly at that time, but seven were vacant.
8. The real reason, of course not stated, was to have Akintola replaced before the meeting of Parliament, thus preventing Akintola from dissolving it before members could recoup their election expenses.
9. There can be no doubt but that the Governor was pressed into dismissing Akintola. See Mackintosh, op. cit., p.447 f.; also an article by the same author: "Politics in Nigeria: The Action Group Crisis of 1962", in: *Political Studies*, 11 (1963), pp. 126—55.
10. Ezera, K., *Constitutional Development in Nigeria* (Cambridge: the Univ. Press, 1964), p. 271.
11. Nigeria was then a Dominion —— a Monarchy with Queen Elizabeth 11 of England as her Queen.
12. "Emergency Powers (General) Regulations, 1962", in: *Laws of the Federation of Nigeria* 54 (1962), B. 101—3.
13. Nigeria: *Constitution 1960* S. 108 (2): Where any question as to the interpretation of the Cosntitution of a Region arises in any proceedings in a High Court of a territory and the court is of the opinion that the question involves a substantial question of Law, the Court may, and shall if any party to the proceedings so requests, refer the proceedings to the Federal Supreme Court.
14. See Akintola v. Aderemi and Adegbenro in IALLNLR, p. 455 f.
15. Id., p. 459.
16. Nigeria: *Constitution 1960*, S. 108(3): Where any question is referred to the Federa Supreme Court in pursuance of this section, the Federal Supreme Court shall give its decision upon the question and the Court in which the question arose shall dispose of the case in accordance with that decision.
17. Nigeria: *Constitution 1960*, S. 70.
18. Chief Rotimi Williams, legal adviser to the Action Group and member of the national executive of the same party, was served restriction orders soon after Majekodunmi took over as administrator of Western Nigeria in 1962.
19. See Williams v. Majekodunmi (FSC 166/1962) and Alhaji D.S. Adegbenro v. A—G. of the Federation, Sir Abubakar Tafawa Balewa and Dr. M.A. Majekodunmi (FSC 170/1962), in IALLNLR (1962) pp. 413—430 and pp. 431—441.
20. Awa, E.O., *Issues in Federalism* (Benin City: Ethiope Publishing Corporation, 1976), p. 9.
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22. Nwabueze, B.O., *Constitutionalism in the Emergent States* (London: C. Hurst & Company, 1973), p. 175.
23. Ibid.
24. Anifowose, R. *Violence and Politics in Nigeria: The Tiv and Yoruba Experience* (Enugu & New York: NOK Publishers Ltd., 1982), p. 187 f.
25. See IALLNLR (1962), pp. 465—81 or AELR 3(1963) pp. 544 ff. for report on the Privy Council decision.
26. Western House of Assembly Debates, Ibadan, May 27, 1963
27. In the 1963 general election in the Gambia, Mr. Juwara, as he then was, defeated the former Premier, Mr. Pierre N'Jie. But a decision of the West African Court of Appeal invalidated the Voters' Register for the Lower River Division of the Gambia, which in effect invalidated the election. The then British Secretary of State for the Colonies, Mr. Sandys, arranged to have the Gambia House of Representatives "Validated" by an Order in Council See *West Africa*, London 1963, pp. 370 and 565.
28. Selasie, B.H., *The Executive in African Governments* (London: H.E.B. 1974), p. 76.
29. Nwabueze, op.cit., p. 155. The number originally elected in 1959 was 73.
30. Perhaps it is worth mentioning here that courts in other states have taken the same view. See, for example, Stephen Kalong Ningkang v. Government of Malaysia, in I.M.L.J. 1968, pp. 119—129
31. Mackintosh, op. cit., p. 61.
32. Nwabueze, op. cit., p. 134.
33. Ibid.
34. Dudley, B.J., *An Introduction to Nigerian Government and Politics* (London: MacMillan Press Ltd, 1982), p. 67.
35. Wether the Judiciary did right to get involved is another matter which would take too long to go into here.
36. Dudley, op. cit., p. 72.
37. See P.C. Lloyd, "The Ethnic Backgraound to the Nigerian Crisis", in: S.K. panter-Brick (ed.), *Nigerian Politics and Military Rule: Prelude to the Civil War* (London: Athlone Presse, 1970), p. 9.
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39. In: *Report of the Constitution Drafting Committee containing the Draft Constitution*, (Lagos: Federal Ministry of Information, 1976), Vol. 1.. XLII.
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THE NIGERIAN LEGISLATURE: AN APPRAISAL OF THE IMO STATE LEGISLATURE

*A.E.C. Ogunna**

INTRODUCTION

Democracy has been defined as a system of government under which the people exercise the governing power directly or through representatives periodically elected by themselves.[1] Under the modern state system the people cannot exercise real governing power directly. The only means through which the people can exercise political power is via their elected representatives. Thus, the representative assembly (the legislature) has become an indispensable institution of modern democratic government. The legislature is a body of elected representatives of the people empowered to make and un-make laws for the welfare of the people who they represent. The primary purpose of the legislature is to represent the popular will, check tendencies toward absolutism in the state, and make laws for the welfare and the promotion of the good life of the entire people. But for the legislature to satisfy this purpose it should be truly representative in character, knowledgeable and mature in judgement, selfless, responsive, responsible, competent and effective in the discharge of its functions, discreet and judicious in the exercise of its powers, and high in its integrity.

The Nigerian legislature developed through a series of constitutional developments starting from 1922 when the Clifford Cosntitution provided the elective principle for the first time in Nigeria. The British imperialists trained the Nigerian politicians in the Westminster parliamentary system with the result that when Nigeria attained its independence in 1960 it adopted the parliamentary system of government. In this system, the Nigerian legislature was dominated and controlled by the executive arm of government, and the executive depended on the majority support of the legislature in order to be in power. With this "fusion" of tne legislative and executive powers during the First Republic, the legislature became the centre of political power in the Nigerian political system. After the collapse of the First Republic on the 15th of January, 1966, the military ruled Nigeria without an elected legislature for approximately fourteen years. The military produced the Constitution of the Federal Republic of Nigeria, 1979, with which it handed over political power to the elected representatives of the people. Principally, the Constitution provided for federal presidentialism. This is a system of government in which the governmental powers are shared between the federal and state governments, and each level of government has an executive which constitutes the focal point of the entire system, separated from the legislature and the judiciary, with an

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