PUNISHMENT FOR CONTEMPT OF COURT UNDER THE UNIFORM HIGH COURT CIVIL PROCEDURE RULES IN NIGERIA.

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INTRODUCTION

The uniform High Court Civil procedure Rules that was enacted into law by many States of Nigeria in 1987 and 1988 and 1988, introduced a unique provision in its order 42, wherein detailed provisions are made for punishment of contempt of court committed by failure to obey lawful orders made by the High Court.

This paper sets out to examine the law before the advent of the uniform High Court Rules and compare the present position with what obtained before the rules come into operation.

Importantly, the paper looks at other laws within Nigeria on the topic and conclusions are reached on the exhaustiveness or otherwise of the provisions of the new rules on the subject matter as it relates to procedural steps that must be taken in an application for committal of disobedience of a court order.

It is the opinion of the writer that the new rules are not exhaustive of the mandatory step necessary for the punishment of contempt of court, committed by failure to carry out the order of a court of competent jurisdiction.

Contempt for court has long been classified into two broad branches namely:-

Contempt in facie curiae (contempt in the face of the court) and contempt ex facie curiae (contempt committed outside the court).

An example of the former is when a litigant does or says anything while in court which tends to bring down court's esteem and authority in the estimation of reasonable men.

The example of the latter is when a litigant dose or says anything outside the court like defying an order of injunction the effect of which is to slight the court or its authority.

Like the classic writer, Oswald put in his book Contempt of Court:

"To speak generally, contempt of court mat be said to be constituted by any conduct that tends to bring the authority and administration of the law into disrespect or disregard, or to interfere with or prejudice parties, litigants or their witnesses during the litigation".

The power of the superior courts of record to punish for either type of contempt has never been in doubt and has Constitutional backing[2]. We are not concerned in this paper with the substantive law of contempt as such but rather with the procedure for committal in cases of contempt committed ex facie curiae. There are many standard text books on the subject of the substantive law of contempt which an interested reader may consult on the subject.

The focus herein is the procedure available for the committal of a person that defies the lawful order of a court of law. Under the Rules applicable in most states High court [Civil procedure] Rules 4 and relate same to the Judgment [Enforcement] Rules [5] made pursuant to the sheriffs and Civil Process Act Cap .189 and the rules made pursuant to the Act. This analysis is all the more pertinent given the recent views expressed by the Courts on the interpretation of order 42 High court [Civil procedure] Rules 1989 of Kwara state in two unrelated cases 7 In the first cases Alhaji Ibrahim Adabata v. Alhaji Babatunde Mustapha 8 the judgement creditor/applicant brought an application for committal pursuant to order 42 rules [1] and [2] of the Kwara state High court [Civil procedure] Rules 1989 asking that the respondent/judgement debtor be committed to prison ''for flagrant disobedience to an order of this honourable court delivered on 8th day of June , 1988 and which order [drawn up order] was served on the contemnor on 9th day of June, 1988''

A point of preliminary objection was taken to the application on the ground that there had been non-compliance with section 72 of the Sheriffs and Civil process Law [8a] and order IX rule 13 (1) of the Judgement (Enforcement) Rule [9] The Court overruled the objection, holding among other things that the provision of Order 422 of the High Court (Civil Procedure) Rules are to be interpreted without reference to the Sheriffs and Civil Process Law and the Rules made pursuant to the Law [10]

In the second case Mr. Rufus Afolabi V. Attorney – General of Kwara State & ors[11] the application for committal was met with objections similar to the earlier case. The trial judge only held that he was satisfied that the parties were properly served not actually deciding whether the requirements of Chapter 123 Laws of Northern Nigeria was complied with or not. He found the alleged contemnors guilty and passed his sentence.

We shall not concern ourselves with the fine distinction between criminal and civil contempt. It is enough to say that whether civil or criminal contempt, both are criminal offences that carry penal sanctions and the standard of proof required for both, is proof beyond reasonable doubt before conviction.

Order 42

There are 9 rules in Order 42 of the High Court (Civil Procedure) Rules 1989, Kwara state (hereinafter called Rules of Court)[12].

Rule 1

Rule 1(1) makes provisions for the power of the court to punish for contempt which "may be exercised by an order of committal".

Rule 1 sub-rule 2 makes provisions for the situations when the court can exercise its powers of committal. Rule 2 deals with the method by which an application to the court for committal. The rule declares that the application for committal "shall be made to the court by motion on notice supported by an affidavit and shall state the grounds of the application".

The court was given the power to hear an application for committal in private under rule 4(1) in any of the following under listed situations, that is to say:

"(a) where the application arises out of proceedings relating to the wardship or adoption of infant or wholly or mainly to the guardianship, custody, maintenance or upbringing of an infant or right of access to an infant;

(b) Where the application arises out of proceedings relating to a person suffering or appearing from mental disorder;

(c) Where the application arises out of proceedings in which a secret process, discovery or invention was in issue;

(d) where it appears to the court that in the interest of the administration of justice or for reasons of national security the application should be heard private;

But except as aforesaid, the application shall be heard in open court".

Sub-rule 2 of rule 4 allows the court that hears committal proceeding in private to read its order in open court stating:

(a) "The name of the persons.

(b) In general term, the nature of the contempt of court in respect of which the order of committal is being made.

(c) If he is being committed for a fixed period, the length of that period".

Sub-rule 3 places emphasis on the fact that an applicant for committal proceedings can only rely on the grounds formulated in his application under rule[2].

Sub-rule 4 allows the person standing trial for contempt to give evidence viva voce if he so wishes.

The power of the court to punish for contempt in facie curiae was preserved by rule[5].

By rule 6(1), the court that makes an order of committal is empowered to suspend same "for such period or on such terms or conditions as it may specify".

Sub-rule 2 of rule 6, makes it mandatory, unless otherwise directed by the court for the applicant for the order of suspension to serve a notice on the person against whom it is made, the terms of each order.

Rule 7 sub-rule 1, gives the court the discretion to discharge a person committed to prison for contempt of court.

Sub-rule 2 of rule 7 allows the Sheriff to take possession of anything which the court orders should be given to any person or deposited in Court which was in the possession of the person committed to prison for contempt but there must have been issued a writ of sequestration.

Rule 8 restores the power of the court to impose a fine or order security for good behaviour of a person found guilty of contempt in lieu of imprisonment.

Rule 9 make the return of all writs issued under the order returnable to the court and provides further:-

"If a return of non est inventus is made, one or more writs may be issued on the retuned of the previous writ"

The above is an overview of the provisions of order 42.

The Sheriffs and Civil Process Act[13]

It is trite that the above Act, deals with the appointment and duties of Sheriffs, the enforcement of Judgments, and the service and execution of civil process of the court.

It is also undoubted that general rules of procedure in the High Court only regulate the procedure for practice before judgement, at the High Court. Generally once judgement is entered, the provisions of the Sheriffs and civil process Act and rules made there under guide steps to be taken especially in the area of the enforcement of the judgements delivered by the courts.

The relevant section of the Act that calls for special treatment is section 72 which provide thus:

If any person refuses or neglects to comply with an

Order made against him, other than for payment of

Money, the court instead of dealing with him as a judgement debtor guilty of the misconduct defined in paragraph (1) of section 66, may order that he be committed to prison and detained in custody until he has obeyed the order in all things that are to be immediately performed and given such security as the court thinks fit, if any, at the future time thereby appointed, or in case of this no longer having the power to obey the order then until he has been power to obey the order then until he has been imprisoned for each time or until he has been imprisoned for each time or until he has paid such fine as the court directs"

From the above provision, it cannot be disputed that a person that wilfully disobeys the order of a court can be proceeded against under the above section. By Section 94 of the Act, the Chief Justice was given the power to make rules for the smooth administration of the Act. Acting under this section of the act, the Chief Justice made the Judgments (Enforcement) Rules (hereinafter called the Rules) [14]

Of importance is order 13 rules (1) and (2) which is quoted in-extenso hereunder:

"(1) When an order enforceable by committal under section 72 of the ordinance (Act) has been made, in the absence of the judgement debtor and is for he delivery of goods without the option of paying their value or is in the nature of an injunction, at the time when the order is drawn up, and in any other case, on the application of the judgment creditors, issue a copy of the order endorsed with a notice in form 48, and the copy so endorsed shall be served on the judgment debtor in like manner as a judgment summons

(2) If the judgement debtor fails to obey the order, the registrar on the application of the judgment creditor shall issue a notice in Form 46 not less than two clear days after service of the endorsed copy of the order and the notice shall be served on the judgment debtor in like manner as a judgment summons".

It is clear from the above provisions that it is mandatory for the registrar in serving the order, to endorse from 48 thereon Moreover, in the even of the failure of the judgement debtor to obey the order with the endorsed form 48 in sub-rule 1, the registrar is expected under sub-rule 2 to attach from 49 to the application of th4 judgement creditor asking that the judgement debtor be committed for contempt of court upon the application of the judgement creditor asking that the judgment debtor be committed for contempt of court, upon the application of the Judgement creditor.

As it will be shown shortly, the above sub-rules have been interpreted in a number of decisions of our courts but before we examine the interpretations. We shall now consider the desirability or otherwise of interpreting order 42 to the exclusion of the rules made pursuant to the Act.

Analysis

To recapitulate, we have stated earlier that rules of court in the strict sense only regulate the exercise of the jurisdiction of the court and do not their own confer jurisdiction.

That this position should be so was given judicial stamp in the case of clement v. Iwuanyanwu [15] where the supreme court said, inter alia as follow:-

"I think it is trite that Rules of Court are Rule of Procedure. They do not themselves and of themselves alone confer jurisdiction. They merely regulate the exercise of a jurisdiction conferred aliunde. This point was clearly brought out by Brett, F.J. in Ogunremi & Anor: Adeniyi v. Dada Asiyanbi & ors. (19622) I All N.L.R 633 at page 671"

It is submitted from the foregoing, that all the rules under Order 42 are not meant and cannot be interpreted alone without reference to the Sheriffs and Civil process Act and rules made there under.

That this is the correct view can be gathered from the wordings of rule 2 of order 42.

The said rule makes the barest provisions for the application to be filed to committal proceedings but did not provide any details of how the application is to be served on the person sought to be

committed or the steps the person sought to be committed should take upon receipts of the application.

There is, a lacuna and resort must be made to the Rules made pursuant to the Sheriffs and Civil Process Act.

Moreover, the Act and Rules made there under are deemed to have been made by the National Assembly being Federal Legislations. By virtue of constitutional provisions they are they are existing laws.[16]

It is submitted that, that being so the Uniform High Court rules being state Legislations cannot override, overrule nor be superior to Federal Legislations on the some point [17]

Even going by the doctrine of covering the field, the rules of procedure in the High Court cannot be interpreted on committal proceeding without cognisance of the Act and rules made under, it both being Federal Legislations on the some point.

Another important thing that ought to be taken into consideration is the effect of an order of committal for contempt. There can be no doubt that where contempt is held proved, it is a conviction. In the matter of Obiekwe Aniweta[18] the Court of Appeal said:

"It is also clear ht the offence of contempt of court being sui generic has not by that reason removed it from the realms of criminal proceedings. The essential ingredients of criminal proceedings are still retained in a contempt case in that it has been established that "on person should be punished for contempt of court, which is a criminal offence, unless the specific offence charged against him be distinctly stated, and an opportunity of answering it given him"

It is now trite that a criminal allegation must be proved beyond reasonable doubt before a conviction can be sustained.

Since an application for committal for contempt is a criminal proceeding, it is submitted that all the steps that may lead to a conviction like filing of papers and service have to be scrupulously and strictly observed. It will indeed paper and services have to be scrupulously and strictly observed. It will indeed be mockery of the rule of law and justice. If an applicant for committal proceeding can have same as a matter of course, without fulfilling the basic rules of natural justice.

The provision of Order 42 rule 2 are too loose, liberal and open to serious abuse and lapses if recourse is not had to the Act and its Rules. It is our submitted that any rules that can lead to the conviction of the subject must be strictly construed and applied.

For ease of reference Order 42 rule 22 provides:

"(1) An application for an order of committal shall be made to the court by motion on notice supported by an affidavit, and shall state the grounds of the application.

(2) The notice of motion, affidavit and grounds shall be served personally on the person sought to be committed; but may dispense with personal service where the justice of the case so demands".

Sub-rule 2 provides for the waiver of personal service. It dispenses with personal service without providing for the grounds upon which the court must be satisfied before it dispenses with personal service. A lot of problems are envisaged in the interpretation of this portion of the rule.

There will be nothing preventing an applicant for committal proceeding without the least effort at personal service from misinforming the court as to his inability to serve the person to be committed personally.

Even if it is true that the person to be committed cannot be served because he cannot be found, how then will the order of committal if made be enforced?

The maxim of law id lex non cogit ad impossibilia. The Supreme Court had adopted the maxim in the case of Abubakar v. Smith & ors.[19]where it held that it would not make an order that did not stand the chance of being enforced. In other words, the court would not allow itself to make an unenforceable order.

Another important thing to note about the sub-rule is that a case may arise wherein the person to be committed is genuinely unaware of the proceedings. To allow the court to dispense with personal service in such a situation will be wroughting havoc on natural justice.

The Court of Appeal has set down in admirable manner the above postulation in the famous case of Rt. Hon. (Dr.) Nnamdi Azikiwe v. FEDECO & Anor. In Re: Dr. Olu Onagoruwa[20]when that court said:

"As the appellant had no notice of the Order, he cannot be expected to comply with it even if he wanted to. There is no doubt that the news media carried the news of the courts proceedings of that day and the appellant being a legal adviser of one of the leading newspapers in the country must have read of it. But it is unreasonable to expect him to act on reports in newspaper, or treat the said reports as a Court Order. Although, he may do so if he wished, it did not amount to disobedience of the Court order if he rescues, or neglects to do anything without being served with a properly drawn up order of the court. The omission to serve on the Appellant the court's order is in my opinion the first flaw in the proceeding".

The above opinion of the Court of Appeal underscores the importance of personal service in committal proceedings.

I shall now examine how the Courts had interpreted Order IX rule 13 (1) and (2) of the Judgments (Enforcement) Rules.

In the old case of Eminil v. Tuakyi[21] the West African Court of Appeal in setting aside a conviction for contempt said among other things inter alia:

"A motion to show cause why a person should not be committed for contempt of Court is an application affecting the liberty of the subject and is always regarded by the courts as a matter strictissimi juris"

In G.M Boyo v. The State[22] the supreme Court set aside the order of the trial Court granting an ex-parte application calling on the appellant to show cause because in the main, the trial judge did not satisfy himself that all condition precedent to making the application have been fulfilled. In the conditions precedent to making the application have been fulfilled. In the case of Ajana Enwelun v. Nnagbo Ekwesie [23] the committal for contempt was set aside by Kaine Ag. C.J because in his words

" I have to start by saying that the affidavits of service before me show that only two of the forty-two persons sought to be committed to prison were personally served with from 49 together with a copy of the motion and affidavit namely Onwesi Ogua to have been served through their leader whose name was not given. I am of opinion that the latter is not good service on the forty men …I am also of opinion that this is fatal to the application for committal.''

Also in Afolabi .v. 24 the trial judge struck out a leg of the application for committal because;

''…The application in respect of which the respondent is asked to show cause why he should not be committed to prison cannot now be entertained in view of the fact that the condition precedent to bringing the application has not been fulfilled".

In the case of Latunji Ajimoti-Olofa v. Bello Adedidu Mogaji & Ors [25] the trial court dismissed an application for committal brought pursuant to order 10 rules 8 to 16 of the High court (Civil procedure) Rules (W.R.L.N. 293 of 1958), holding the application ought to have been brought under order 9 rule 13 of the judgments (Enforcement) Rules (Cap. 205) at page 589 of Vol. VI of the Laws of Nigeria. The order which the court has been asked to enforce in this application is in the nature of an injunction. The procedure adopted by the applicant and which has been described briefly above does not accord with the one laid down in the Judgments (Enforcement) Rules, The procedure for the enforcement of this particular order is, in my view, the procedure for the enforcement of this particular order is in my view, that laid down in rule 13 of order IX of the Judgments (Enforcement) Rules, that laid down in rule 13 of order IX of the Judgments (Enforcement) Rules,

This view is supported by the case of Omopena v. Adelaja [26] where it was held that a motion for committal to enforce judgment granting an injunction was bad in law because it did not comply with the procedural requirement of rule 13 in order IX of the Judgements (Enforcement) Rules for enforcing such a Judgment by committal under section 71 of the Sheriffs and Enforcement of Judgments and orders ordinance. From the above reasons I find that the procedure adopted in this application is irregular.

In Pauline C. Okwuosa v. Emmanuel A Okwuosa [27] Oputa J. (as he then was quoted with approval the holding of Greene M.R. in the case of Gordon v. Gordon (1946) I Allo E.R. 247 at page 250. That to the following effect:

"Attachment and committal are very technical matters and as orders for committal or attachment affect the liberty of the subject, such rules as exist

in relation to them must be strictly obeyed. However disobedient the party against whom the order is directed may be unless the process of committal and attachment has been carried out strictly in accordance with the rules, he is entitled to this freedom."

His Lordship in the Okwuosa case set aside the application for committal. The question one should try to settle is what is the proper order where the court holds that the application for committal is defective by virtue of irregular steps taken?

In some of the above cases[28], the applications were struck out, while in others the applications were dismissed. It is our opinion that the proper order it an order of dismissal.

The above view is supported by the decision of the Supreme Court in the case of T.A.A. Awosanya Snr. Magistrate Lagos State v. Board of Customs and Excise [29] it is our submission that this is the correct view because to allow the applicant another chance of initiating the contempt proceeding will amount to trying the alleged contemnor for the same offence twice. It is trite that except in cases where a retrial is ordered in a criminal case, an accused person cannot be made to answer the same charge twice[30].

The strict adherence to the proper procedure in a contempt proceeding is a sine qua non to its success, and this is well illustrated in the following passage of the Judgment of the Supreme Court in the Awosanya case (Supra) When that court said:

"Now assuming that the appellant his committed a contempt of the Federal Revenue Court, what is the proper procedure of dealing with such a case? It is settle law that the contemnor is to be brought to trial by an order of attachment by way of a warrant for committal: Order 5 Rule 18 (2) (b) of the High Court of Lagos Civil procedure Rules which by reference to order 52 Rules 1 (2) a of the English Supreme Court Rules (see white Book, 1973 Vol.1 also order 52 Rule 5). Governs cases of contempt consisting of any disobedience of a court order."[31]

From the Awosanya's case it can be seen that the Supreme Court went as far as importing the rules in England into the rules in Lagos State to ensure that the tradition of cautious adjudication in contempt proceeding are not jettisoned for a rule of the thumb and hastiness.

The existence of the Sheriffs and civil process Act and Rules made pursuant to it in our state books makes it all the more compelling to read their provisions into the interpretation of the provisions of order 42 of the Uniform High Court (Civil procedure) Rules, This, it is submitted is prudent and safer in the administration of justice especially in committal proceedings.

My view on this matter has been vindicated by the recent decision of the Court if Appeal in the case of Alhaji S.O Oyeyinka V. Aliu Yesuf Osague [32] where the Court of Appeal had to construe the provisions of order 42 of the Bendel State High court Rules 1988.

That Court held rightly in my view that the provisions of the High Court Rules dealing with committal proceeding are not exhaustive of the

steps that an applicant has to take in such proceedings. Honourable Justice Ubaezonu J.C.A. delivering the judgement of the Court with which Honourable Justice Thompson Akpabio and Atinuke Omobonike Ige J.J.C.A. concurred declared inter alia as follows [33]

It will, however, be noticed that order 42 rule 2 of the 1988 Edict does not make a provision as to what should be done before an application of an order of Committal shall be made to the court. This lacuna, if I may call to so is what section 63 of the Sheriffs and Civil process Law of Bendel and order 9 rule 13 (1) and (2) of the Judgment Enforcement Rules provide for. As I have said earlier. It is not the intention of the legislature that the Sheriffs Law and its rules shall be thrown over board.

The Sheriffs and Civil Process Law and the Judgment (enforcement) Rules are made in such a way as to ensure that a person being deprived of his liberty in respect of an order of judgment made in a civil litigation deliberately intended to flout the order of the Court. Furthermore, the law and its rule are made to ensure that, that person is given an opportunity to retrace his steps by service on him Forms 48 and 49. If he remains recalcitrant, then the Court will descend on him and commit him to prison. I do not think that it is the intention of the legislature that the 1988 Edict is to sweep away these checks and balance by one stroke of the pen and commit the contemnor to prison merely by bringing an application as prescribed by order 42 of the 1988 Edict. The price placed on human liberty by our law should grow rather than diminish with time. I do not think that the law of this country regarding the freedom of individual has descended to such abysmal depth of ' rough and read justice' of medieval era that a person shall be thrown into prison for contempt ex-facie curie without giving him an opportunity to retrace his steps, it is therefore my from view that in a committal proceeding the two laws shall be married together by observing the provisions of section 63 of the Sheriffs and Civil process law and complying with requirements of order 9 rule 13 of the judgment Enforcement Rules. It is after that, that an application under order 42 of the 1988 Edict shall be made to the Court. Failure to comply with the aforementioned procedure makes the committal proceeding patently defective, and any order made thereon a nullity"

It is submitted that the position of the law was as stated in the above dictum of the Court of Appeal.

Conclusion

I have shown from all that had been said above that the proceeding for committal is specie of criminal proceedings I have also shown that like in other areas of criminal law, the expects a strict proof of the commission of a crime, that is proof beyond reasonable doubt. The provisions of order 42 of the Uniform High court [Civil Procedure] Rule have been shown to be very liberal, inelegant and simplistic .However, it is shown that those provisions should not be interpreted independently of the provisions of the sheriffs and Civil process

Act and the Judgment [Enforcement] Rules for the following reasons among others.

1. The provisions of the Uniform rules are 'mere' rules that are made to help the court exercise the jurisdiction conferred by the constitution and other substantive Laws

2. Rules of court on their own alone cannot confer jurisdiction on a court but only regulate the exercise of such jurisdiction.

3. The sheriffs and Civil process Act and Rules made pursuant to it are Federal Legislations and by virtue of section 274 of the 1979 Constitution are existing Laws.

4. Rules of court made by a state cannot derogate from substantive law made by the Federal Legislature.

5. Committal proceedings being a specie of criminal proceeding cannot be treated like ordinary procedural matters.

6. The doctrine of covering the field will operate to make the provisions of the Federal Law applicable in the interpretation of the committal procedure contained in the rules of court.

7. Since a motion for committal is a strictissimi juri, then all the rules for its application ought to be technical and strict.

8. Failure of the applicant to meet the strict procedure for committal proceedings, should result in the dismissal of the application.

9. To give an applicant whose application is vitiated by serious irregularity an opportunity of coming back to court for a similar application will amount to a double jeopardy for the respondent.

The note of warning sounded by the Supreme Court in the case of Boyo v. Attorney-General of Mid-West[34] is quite instructive.

> "Whether the contempt is the face of the court or not in the face of the court, it is important that it should be borne in mind by Judges that the court should use its summary powers to punish for contempt sparingly. It is important to emphasize the fact that judges should display undue degree of sensitiveness about this matter of contempt and they must act with restraint on the occasions".

This should always be borne in mind by all concerned in the administration of justice. Therefore, it is my view that any type of committal proceedings should still be treated with the caution it deserves.

NOTES

1. Oswald's Contempt of Court 3rd edition 1910 at p. 6 quoted by Borrie and Lowe in their book The Law of Contempt at p.1.

2. Sections 6.32 of the Constitution of the Federal Republic of Nigeria 1979 as amended.

3. (a) Contempt of Court by Oswald

   (b) The Law of Contempt: by Borrie and Lowe

   (c) The Low of Contempt: by Anthony Atlidge and David Eady.

4. See for example.

   Order 42 High court (Civil Procedure) Rules of Kwara State 1987 and Order 42 High Court (Civil Procedure) Rules of Oyo State 1988. The Kwara State Rules were re-enacted in 1989 in substantial from like the 1987 Rules.

5. The judgment (enforcements) Rules.

   Rules of Court made under section 94 of the Sheriffs and Civil process ordinance (Now Act) Chapter 189 of the Federation of Nigeria, Lagos Laws 1958.

6. Sheriffs and Civil Process Act Cap. 189 Laws of Federation of Nigeria and Lagos Laws 1958.

7. See the unreported decisions in:

   (a) Alhaji Ibrahim Adabata v. Alhaji Babatunde Mustapha: Suit No. KWS/113/82ruling delivered on 4/5/89 per Ibiwoye J.

   (b) Mr. Rufus Afolabi v. Attorney General of Kwara State & 2 Ors. Suit No. KWS/93/89 ruling delivered on 20/7/89 per Gbadeyan J.

8. There was no appeal against the ruling.

8a. Cap. 123 laws of Northern Nigeria 1963 applicable to Kwara State. The provisions are totally impair-materi with the provision of Cap. 189 Laws of the Federation of Nigeria.

9. Chapter 123 Vol. v. Laws of Northern Nigeria 1963 applicable to Kwara State.

10. The Provisions of Cap. 189 Laws of the Federation Supra and Cap. 123 Laws of Northern Nigeria Supra are impari material including arrangement of sections. Also chapter 189 laws of the Federation Supra and Chapter 123 Laws of Northern are also impair material in all their provisions.

11. There was an appeal on this case. The Court of Appeal reversed the decision of the High Court and set aside the verdict of guilt passed on the applicants by the trial court - *see Military Governor of Kwara State v. R.A. Afolabi (1991) 6 N.W.L.R. (Pt 196) 212.*

12. The provision is uniform in all the rules of court promulgated since the uniform rules came into force in 1987.

13. Hereinafter called the Act.

14. Chapter 189 Laws of the Federation of Nigeria 1958.

15. Per Oputa JSC (1989)4 SCNJ (pt. 11) 213 at p. 217.

16. Section 274. 1979 Constitution.

17. (i) Section 1(3) Constitution of the Federal Republic of Nigeria 1979.

(ii) Section 2 of Degree No. 1 Constitution (suspension and medication) Degree 1984.

18. Appeal No. FCA/EA7/78 delivered on 31st day of May 1978 reported in The Law of Contempt in Nigeria (Case Book) by Chief Gani Fawehinmi at pp. 89-97 particularly p. 92.

19. (1973)6 SC 31.

20. Reported at pp. 270-228 The Law of Contempt in Nigeria Supra particularly at p. 273 per phil-Ebosie J.C.A.

21. (1952) 14 WACA 1 at per Sowemimo J.S.C.

22. (1966-69) E.N.L.R 14.

23. Suit No. N/49/71 per Odumosu J. reported at page 184 the law of Contempt in Nigeria Supra.

24. (1960) WRNLR 193 per Fatayi Williams J. (as he then was).

25. 19 N.L.R. 17.

26. (1973) E.C.S.L.R. Vol. 3 (pt. 1) p.75.

27. For example G.M Boyo v. State. Okwuosa supra.

28. (1975)3 SC 47 at p.69.

29. Section 33(9), (10) 1979 Constitution, Yesufu Abodunde v.4 FSC 70.

30. Awosanya supra at p. 58.

31. (1994)2 N.W.L.R (pt 328) 617.

32. Op cit page 631 per Ubaezonu J.C.A.

33. (1971)1 All NLR 324 at p. 352.