KEYNOTE ADDRESS BY THE HONOURABLE, THE CHIEF JUSTICE OF NIGERIA AND CHAIRMAN, BOARD OF GOVERNORS, NATIONAL JUDICIAL INSTITUTE, HON. MR. JUSTICE WALTER SAMUEL NKANU ONNOGHEN, *GCON*, *FNJI*, AT THE OPENING CEREMONY OF THE ONE DAY SYMPOSIUM FOR JUSTICES, JUDGES AND JURISTS ON SECTION 84 OF THE EVIDENCE ACT, 2011, HELD AT THE ANDREWS OTUTU OBASEKI AUDITORIUM, NATIONAL JUDICIAL INSTITUTE ON 21ST MAY, 2018.

PROTOCOL

It gives me great pleasure to be in your midst this morning on the occasion of the opening ceremony of the Symposium for Justices, Judges and Jurists on Section 84 of the Evidence Act, 2011.

This Symposium is the first of its kind organized by the National Judicial Institute, as part of its continuing judicial education programs. It is designed to avail participants the opportunity to brainstorm and share knowledge on this area of the law. It will further contribute to the sustenance of excellence in the administration of justice in Nigeria.

Brother Judges, Distinguished Ladies and Gentlemen, our nascent democracy has to be nurtured, consolidated and developed. This duty, no doubt, imposes on all of us severe obligations and conscious efforts.

The entrenchment of the Rule of Law which is the corner stone of any democratic system will only translate to a mere mantra unless the Judiciary not only dispenses justice, but is also seen by the citizenry to be doing so fairly, timely and justly. A weak Judiciary is a recipe for anarchy, impunity, poverty, underdevelopment and instability.

Also, the several provisions of our Constitution has in succession come before your Lordships, for interpretation and enforcement in conformity with the arduous task imposed on the courts by the Constitution. The

Courts are at all times prepared to perform this role expeditiously and with minimum costs to the litigants. This process, amongst others can rapidly enhance the true comprehension of our Constitutional provisions as a step towards the identification of the grey areas requiring future amendments, modifications, alterations, and/or even complete deletions.

The advent of technological development and the consequent evolution of paperless transactions have permeated every sphere of life, and the legal system is no exception. In the event of disputes involving transactions conducted through electronic means, parties are bound to rely on electronic evidence of such transactions. The amendment of the Evidence Act, 2011 was intended to provide for the use of such electronic evidence in court proceedings. Prior to this amendment, the admissibility of electronic evidence in court proceedings had been shrouded in controversy due to the absence of specific provisions in the previous Act.

In light of the foregoing, this Symposium shall serve to shed light on the grey areas of the Evidence Act, 2011 with particular regard to Section 84 of the Act. I must state categorically however, that this Symposium could not have come at a better time as we gradually approach an election year, bearing in mind that you will be taken to task to evaluate electronically generated evidence arising from Election Petitions. It is my firm belief that this Symposium will bring to the front-burner salient issues on the proper management and handling of electronically generated evidence and the means of resolving same without any loss of precious time; thereby assisting both Legal Practitioners, Judicial Officers in the adjudication and resolution of lingering disputes.

In **Kubor v. Dickson** (2013) 4 NWLR (Pt 1345) 534, the Supreme Court held that the admissibility of a computer-generated document or document downloaded from the internet is governed by the provision of

section 84 of the Evidence Act, 2011. In this matter, I delivered the lead judgment and held inter alia:

> *".....Granted, for the purpose of argument, that exhibits "D" and "L" being computer generated documents or e-documents downloaded from the internet are not public documents whose secondary evidence are admissible only by certified true copies then it means that their admissibility is governed by the provisions of section 84 of the Evidence Act, 2011. There is no evidence on record to show that the appellants in tendering exhibits "D" and "L" satisfied any of the above conditions. In fact, they did not as the documents were tendered and admitted from the bar. No witness testified before tendering the documents so there was no opportunity to lay the necessary foundations for their admission as e-documents under section 84 of the Evidence Act, 2011.*
>
> > *No wonder therefore that the lower court held, at page 838 of the record thus:*
> >
> > *"A party that seeks to tender in evidence a computer generated document needs to do more than just tendering same from the bar. Evidence in relation to the use of the computer must be called to establish the conditions set out under section 84 (2) of the Evidence Act, 2011."*
> >
> > *I agree entirely with the above conclusion. Since appellants never fulfilled the pre-conditions laid down by law, exhibits "D" and "L" were inadmissible as computer generated evidence documents."*

My Lords, you will all agree with me that whenever digitally generated evidence is sought to be tendered in your courts, the opposing counsel would quickly object to the admissibility of such evidence on the ground of non-compliance with the provision of Section 84 of the Evidence Act,

2011. It suffices to say therefore that for electronically generated evidence to be admissible, evidence as to the functionality of the computer must first be adduced.

This section of the law has hitherto been given diverse interpretation by various courts. This has contributed to the delay in dispensing with cases which borders on this section. Notwithstanding the laudable provision of the law therefore, extreme circumspection and acute vigilance must be the key words for courts in this area of evidence. It is very important to emphasize, that Judges at all levels must appreciate how this section of the Evidence Act is applied. I therefore urge you all not to be in a haste to deliver rulings or judgments when issues pertaining to the non-compliance of Section 84 are raised.

I would like to reiterate that this laudable provision of the Evidence Act, 2011 must be given the attention it deserves at this symposium. I believe this Symposium will give you the opportunity of expanding your horizon, by providing an in-depth look into this vital section of our evidence law in our dynamic society. The Judiciary must be seen as a bastion of hope and freedom for the common man and an uncompromisingly fair umpire in the eyes of litigants and the general public.

Permit me at this juncture to thank the Administrator of the National Judicial Institute, Hon. Mr. Justice R.P.I. Bozimo, ***OFR,*** under whose leadership the National Judicial Institute has become much more visible, proficient and indeed proactive.

One can say with satisfaction that the Institute's curriculum is adequate in responding to the needs of Judicial Officers, noting however, that there is room for advancement, having regard to the resources available to the Institute in the areas of infrastructure and human resources.

I must in particular, thank the Chairmen of Sessions and Resource Persons who have been carefully chosen to share their wealth of experience and knowledge with us. At this juncture, I urge participants at this Symposium to pay rapt attention, contribute meaningfully and participate actively.

I must not fail to thank the Fourth Estate of the Realm, for their presence and reportage of the programs of the Judiciary.

On this note, it is my singular honour to formally declare the Symposium for Justices, Judges and Jurists on Section 84 of the Evidence Act, 2011 open.

I wish us all very fruitful and rewarding deliberations.

May the Almighty God bless us all. Amen.

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