

NOTES AND NEWS

Notes et Informations

ACADEMIC JUDGES IN AFRICA

The recent elevation of Professor T. O. Elias to the bench of the Supreme Court of Nigeria as Chief Justice of the Federation provides an opportunity for a brief note on an interesting new phenomenon in African academic and judicial circles. The Editors of the Journal would like first of all to offer their congratulations to Dr. Elias, who after many years of scholarly writing, which have marked him out as the most prolific as well as the most distinguished of modern Nigerian jurists, has for some time now been making a double contribution, as Attorney-General of the Federation as well as in his capacity of Professor of Law and Dean of the Law Faculty in the University of Lagos. We wish him many years of successful tenure of his high office, while at the same time we pay our respects and offer our appreciation to his predecessor as Chief Justice, Sir Adetokunbo Ademola, who was one of the founding fathers both of this Journal and of the International African Law Association.

Academic judges in Africa (and we speak now only of common law Africa) are of two kinds. The earlier and better represented class consists of those holders of high judicial office who have, while in that office, contributed to African legal scholarship and education. That a judge should write a book is neither surprising nor particularly novel in the common law world; that a judge should hold a Ph.D. degree granted for two or more years of continuous supervised research is somewhat more unusual. Among other Nigerians so qualified two names call for particular mention: Mr. Justice G. B. A. Coker, member of the Supreme Court and author of a book on *Family Property among the Yorubas*; and Chief Justice T. A. Aguda, who served for a time as Dean of the Faculty of Law at the University of Ife, before coming on to the High Court Bench. Chief Justice Aguda, who both holds a London Ph.D. degree and is author of a standard work on the law of evidence in Nigeria, has very recently been appointed as Chief Justice of Botswana; and to him also we offer our warmest congratulations. We are so fortunate as to be able to include an article from his pen in this number of the Journal.

Another interesting phenomenon is the appointment of judges to posts in legal education. Mr. Justice N. A. Ollennu of Ghana, author of numerous books and other studies on the law of Ghana, has also served as honorary professor at the University of Ghana and as Director of Legal Education. Mr. Justice Amissah is currently acting Dean of the Faculty of Law in the University of Ghana; while Mr. Justice Fuad was at one time in charge of the Law Development Centre in Uganda. The University of Dar es Salaam is another university where the Faculty of Law has currently had to call on a serving member of the judiciary to act as its head.

But, returning to the second class of academic judges, those who have established a reputation in the academic world before being appointed to the bench, the appointment of Professor K. Bentsi-Enchill (Professor and Dean in the Faculty of Laws at the University of Zambia for its most forma-

tive period, before returning to a professorship in Ghana) to the Supreme Court in Ghana is equally noteworthy. Mr. Justice Bentsi-Enchill has held high academic office in many countries, including the United States, and is author of a standard work on Ghana land law, as well as many stimulating and critical shorter pieces. Although it is common form in some continental European countries for professors of law to be appointed to judicial office, and although in the United States there has been far more interchange between university and law court than in either England or Africa, the transition is a somewhat unusual one. (One might add that voices are increasingly raised in England suggesting that some distinguished legal academics might be suitable for appointment to appeal courts there, though no action has yet been taken to implement this. The appointment of Professor A. Phillips as chairman of quarter sessions in Hampshire—and now to the Crown Court—is of special significance, not least because Professor Phillips is a founder member of the editorial committee of this Journal.)

What is interesting to consider is the nature of the contribution that these academic (in the best sense of the word) judges are likely to make to the administration and development of the law. The very full and deeply thought-out judgments of Mr. Justice Kurankyi Taylor in Ghana (himself a legal scholar of high distinction) perhaps point the way. Given the fact that a great deal of adaptation and development of the law in Africa must be carried out over the next decade and that, from the nature of the case, this cannot be left entirely to the legislator, it is as well that the judiciary should be enriched by those whose inclination and training lead them to take a profound and analytical view of the law. No one would wish to see a bench staffed entirely by academic judges (in either sense); but the strengthening of the higher courts in this way cannot fail to lead to most interesting and useful, indeed creative, developments in the law.