



SENATE OF THE FEDERAL REPUBLIC OF NIGERIA

VOTES AND PROCEEDINGS

Tuesday, 14th February, 2006

1. The Senate met at 10: 15 a. m. The Senate President read Prayers.
2. **Votes and Proceedings:**
The Senate President announced that he had examined the Votes and Proceedings of Thursday, 9th February, 2006 and approved same.

By unanimous consent, the Votes and Proceedings were adopted.
3. **Announcements:**
 - (i) The Senate President acknowledged the presence of Honourable Councillors of Esan South-East Legislative Council, Ubiaja, Edo State, to observe Senate Proceedings from the gallery.
 - (ii) The Senate President announced that he had received a letter from Senator Ugochukwu Uba which he read as follows:



Senator Ugochukwu B. Uba
CHAIRMAN
Senate Committee on Marine Transport THE
SENATE FEDERAL REPUBLIC OF NIGERIA

13th February 2006.

Senator Ken Nnamani
President of the Senate
National Assembly Abuja.

Your Excellency,

PETITION AGAINST THE CONSTITUTIONAL AND IRREGULAR NOMINATION OF
HONOURABLE JUSTICES ISA AYO SALAMI TO THE SUPREME COURT

I am most constrained to draw the attention of the Senate, through your Excellency, to the irregularity and unconstitutionality of the nomination of the above named Justice of the Court of Appeal to the Supreme Court

to fill the vacancy which occurred with the retirement of Honourable Justice Dennis Onyejife Edozie on Thursday 10 November, 2005 upon attaining the statutory age of 70 years.

Sir, it is a violation of the constitutional convention of Federal Character for Justice isa Ayo Salami from the Kwara State, North Central to be nominated to replace Justice Edozie from the South East, contrary to the practice in the judiciary of replacing a retiring Justice of the Supreme Court with a nominee from the same geo-political zone.

I dare say that it is insulting for the insinuation to be given to the Senate that there is no competent Justice or Legal Practitioners of 15 years standing from the geo-political zone which had produced the retired Justice Edozie.

It is a fundamental dictate of the Constitution enshrined in Section 14(3) that "The composition of the government of the Federation or any of the agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the Federal Character of Nigeria and need to promote national unity, and also to command national loyalty, thereby ensuring that there shall be no predominance of persons from a few State or from a few ethnic or other sectional groups in that Government or in any of its agencies".

I write to alert the Senate on the unconstitutionally of this nomination and for the Senate to reverse the injustice caused to the South East Zone thereby.

Please, find attached to this petition, a list of Court of Appeal Justices and their present divisions to show that there are a number of Honourable Justices from the South East; in addition to an impressive array of learned Senior Advocates from the same zone, which the Supreme Court can furnish to the Senate.

Mr. Senate President, I urge that in the mean time, the Senate should step down the business of the confirmation of Justice Isa Ayo Salami as a Justice of the Supreme Court until this petition is determined.

I look forward to your due consideration of this matter.

Yours truly,

(Signed)

Senator Ugochukwu B, Uba

CC: Distinguished Senators.

Senate Committee on Federal Character

5. Presentation of Bills:

(i) Institute of Certified Public Accountants of Nigeria Bill 2006 (HB. 55) — *Read the First Time.*

(ii) Anti-Casualisation Bill 2006 (SB. 271) — *Read the First Time.*

6. Committee on Judiciary, Human Rights and Legal Matters:

Confirmation of Nominee:

Motion made and Question Proposed: That the Senate do receive and consider the Report of the Committee on Judiciary, Human Rights and Legal Matters on the screening of Hon. Justice Francis F. Tabai, JCA, for appointment as a Justice of the Supreme Court of Nigeria and approve the recommendation (*Senator OserheimenA. Osunbor*).

Question put and agreed to.

Report presented and Laid.

Motion made and Question Proposed: That the Senate do resolve into the Committee of the Whole to consider the Report (*Senate Majority Leader*).

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

Report of the Committee on Judiciary, Human Rights and Legal Matters on the screening of Hon Justice Francis FT Tabai, JCA, for appointment as a Justice of the Supreme Court of Nigeria.

(SENATE IN THE COMMITTEE OF THE WHOLE)

Report of the Committee on Judiciary, Human Rights and Legal Matters on the screening of Hon. Justice Francis F. Tabai, JCA, for appointment as a Justice of the Supreme Court of Nigeria.

Debate:

Recommendation.

Nominee Recommended for Confirmation:

Hon Justice Francis F. Tabai, JCA, **for appointment as a Justice of the Supreme Court of Nigeria—Agreed to.**

Chairman to report progress.

(SENATE IN PLENARY)

The Senate President reported that the Senate in the Committee of the Whole considered the Report of the Committee on Judiciary, Human Rights and Legal Matters on the screening of the Hon Justice Francis F. Tabai, JCA, for appointment as a Justice of the Supreme Court of Nigeria.

Question: That the Senate do approve the Report of the Committee of the Whole — *Resolved in the Affirmative.*

Confirmation:

"Will the Senate confirm the nomination of Hon Justice Francis F. Tabai, JCA, for appointment as a Justice of the Supreme Court of Nigeria?" — Agreed to.

Nomination of Hon Justice Francis F. Tabai, JCA, for appointment as a Justice of the Supreme Court of Nigeria accordingly confirmed.

7. Committee on Independent National Electoral Commission (INEC):

Electoral Bill 2006 (SB. 153):

Motion made and Question Proposed: That the Senate do resolve into the Committee of the Whole to resume consideration of the Report of the Committee on Independent National Electoral Commission (INEC) on the **Electoral Bill 2006.**

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

Report of the Committee on Independent National Electoral Commission on the Electoral Bill 2006.

PART 1

**ESTABLISHMENT AND FUNCTION. ETC OF THE INDEPENDENT
NATIONAL ELECTORAL COMMISSION.**

Clause 1:

- (1) Without prejudice to the provision of Section 153 of the 1999 Constitution and item F in part one of the third Schedule to the Constitution, there is hereby established a body to be known as the Independent National Electoral Commission (in this Act referred to as "the Commission")

Committee's Recommendation:

Leave out the provision in sub-clause 1(1) and *insert* a **new** sub-clause 1(1) as follows
 "(1) The Independent National Electoral Commission established by the Constitution of the Federal Republic of Nigeria 1999, shall be a body corporate with perpetual succession: and which may sue and be sued in its corporate name" (*Senator David C. Brigidi*) — *Agreed to.*

- (2) The Commission —
 - (a) Shall be a body corporate **with** perpetual succession: and

(b) May sue and be sued in its corporate lame.

Committee's Recommendation:

Leave out the provision in sub-clause 1(2) (Senator David C. Brigidi) —Agreed to.

Question that Clause 1 do stand part of the Bill put and agreed to.

Clause 2:

- (1) The Commission shall consist of a Chairman who shall be the Chief National Electoral Commissioner and the Chief Executive of the Commission and twelve other members to be known as National Electoral Commissioners.
- (2) The Chairman and members of the Commission shall not be less than 50 and 40 years of age respectively.
- (3) The Chairman and members of the Commission shall be—
 - (a) persons of unquestionable integrity; and
 - (b) Appointed by the President, Commander-in-Chief of the Armed Forces subject to confirmation by the Senate.
 - (c) In exercising his powers to appoint a person as Chairman or member of the Independent National Electoral Commission, the President shall consult the Council of State.

Committee's Recommendation:

Leave out the provision in Clause 2 (Senator David C. Brigidi) — Agreed to.

Clause 3:

- (1) The Chairman and members of the Commission shall each hold office for a period of five years and on such terms and conditions as may be specified in their letters of appointment.
- (2) A member may resign his membership by notice in writing addressed to the President, Commander-in-Chief of the Armed Forces and that member shall, on the date of the receipt of the notice by the President, Commander-in Chief of the Armed Forces, cease to be a member.
- (3) There shall be paid to every member of the Commission such salaries and allowances as the Revenue mobilization Allocation and Fiscal Commission may from time to time provide.
- (4) A member shall not while holding office hold any other office of emolument whether in the Federal or State public service.

Committee's Recommendation:

Leave out the provision in Clause 3 (Senator David C. Brigidi) — Agreed to.

Clause 4:

- (1) The functions of the Commission shall be to—
 - (a) Organize, conduct and supervise all the elections and matters pertaining to elections into all the elective offices provided in
 - (b) register political parties in accordance with the provisions of the Constitution and other relevant enactment or law;
 - (c) monitor the organization and operation of the political parties including their finances;
 - (d) arrange for the annual examination and auditing of the funds and accounts of the political parties and publish a report on such examination and audit for public information;

- (e) conduct the registration of persons qualified to vote and the preparation, maintenance and revision of the register of voters for the purpose of any election;
 - (f) conduct voters civic education;
 - (g) monitor political campaigns and provide rules and regulations which shall govern the political parties;
 - (h) ensure that all Electoral Commissioners, Electoral and Returning Officers take and subscribe to the Oath of Office prescribed by law; and
 - (i) delegate any of its powers to any State Resident Electoral Commissioner;
 - (j) Carry out such other functions as may be conferred upon it by an Act of the National Assembly.
- (2) Notwithstanding the functions of the Commission specified under subsection (1) of this section, the Commission shall have power to divide the area of the Federation or as the case may be, the area of a State or an Area Council into such number of constituencies as may be prescribed by law for the purpose of elections to be conducted by the Commission.

Committee's Recommendation:

Leave out the provision in Clause 4 and *insert* a new Clause 4 as follows: "In addition to the functions conferred on it by the 1999 Constitution, the Commission shall have power to:

- (a) Conduct voter, civic education and promote knowledge of sound democratic election processes;

Amendment Proposed:

Leave out the provision in sub-clause 4(a) and *insert* the following sub-clauses as follows:

- (a) Conduct voter civic education;
- (b) promote knowledge of sound democratic election processes; (*Senator Jonathan S. Zwingina*).

Question that the amendment be made put and agreed to.

- (c) Conduct any referendum required to be conducted pursuant to the provision of the 1999 Constitution or any other law, Act of the National Assembly;
- (d) Issue rules, guidelines and regulations governing political parties and for the registration of voters or this Act or to give this effect to any power under this Act, the Constitution or any other enactment (*Senator David C. Brigidi*).

Amendment Proposed:

- (i) Immediately after the word "Voters" in line 2 *leave out* the word "or" and *insert* the word "under" instead thereof
- (ii) Immediately after the word "any" in line 2 *leave out* the word "power" and *insert* the word "provision" instead thereof (*Senator Bassey Ewa-Henshaw*).

Question that the amendment be made put and agreed to. Question that

Clause 4 as amended stand part of the Bill put and agreed to.

Clause 5:

- (1) There shall be established for the Commission a fund to be known as Independent National Electoral Commission fund.
- (2) There shall be paid into the fund established in pursuance to subsection (1) of this section-

- (a) such sums as may be made available to the Commission for the purpose of carrying out its functions in pursuance of Section 4 of this Act; and
 - (b) such sums as may, from time to time, be credited to the fund by way of payment of the principal and interest on and other charges in respect of any loan made out of the fund, and also interest from investment made from the fund.
- (3) Disbursements from the fund shall be made in accordance with rules established by the Commission.

Committee's Recommendation:

That the provision in Clause 5 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question that Clause 5 do stand part of the Bill put and agreed to.

Clause 6:

- (1) The Commission shall establish and maintain a separate fund from which there shall be defrayed all expenditure incurred by the Commission except such expenditure as may be incurred by it pursuant to Section 5 of this Act.
- (2) There shall be paid and credited to the fund established in pursuance of subsection (1) of this Section, such payments as may be made to it by the Federal Government for the running expenses of the Commission and all other assets from time to time accruing to the Commission otherwise than in pursuance of Section 5 of this Act.

Committee's Recommendation:

That the provision in Clause 6 be retained (*Senator David C. Brigidi*).

Amendment Proposed:

Leave out the provision in Clause (*Senator Tokunbo Afikuyomi*).

Question that the amendment be made put and agreed to.

Clause 7:

The Commission may, from time to time, apply the proceeds of the fund established in pursuance of Section 6 (1) of this Section —

Committee's Recommendation:

Leave out the provision in sub-clause 7(1) and **insert** the following:

"The Commission may, from time to time, apply the proceeds of the fund established in pursuance of Section 3 (1) of this Act -" (*Senator David C. Brigidi*) — *Agreed to.*

- (a) to defray the cost of administration of the Commission;
- (b) for reimbursing members or members of any Committee set up by the Commission for such expenses as may be expressly authorized by the Commission in accordance with the rates approved by it;
- (c) to the payment of the salaries, fees or other remuneration or allowances and pensions, superannuation allowance and gratuities payable to the officers and servants of the Commission, so however that no payment of any kind under this paragraph (except such as may be expressly authorized as aforesaid) shall be made to any person who is in receipt of emoluments from the **Government** of the Federation or the Government of a State.
- (d) For the maintenance of any property vested in the Commission; and
- (e) **For** and in connection with all or any of its functions under **this** Act.

Committee's Recommendation:

That the provision in Clause 7 be retained (*Senator David C. Brigidi*) ■ — *Agreed to.*

Question that Clause 7 do stand part of the Bill put and agreed to.

(SENATE IN PLENARY)

The Senate President reported that the Senate in the Committee of the Whole considered the Report of the Committee on Independent National Electoral Commission on the Electoral Bill 2006 and approved as follows:

Clause 1	—	As Recommended
Clause 2	—	As Amended
Clause 3	—	As Recommended
Clause 4	—	Deleted
Clause 5	—	As Recommended
Clause 6	—	As Recommended
Clause 7	—	As Recommended
Clause 8	—	As Recommended

Former Clause 10 to be redrafted by Senator Umaru Dahiru for submission to the Senate.

8. Adjournment:

Motion made and Question Proposed: That the Senate do adjourn till Wednesday, 15th February, 2006 at 10.00 a.m.

Adjourned accordingly at 1.58p. m.

Ken Nnamani
President of the Senate