



SENATE OF THE FEDERAL REPUBLIC OF NIGERIA

VOTES AND PROCEEDINGS

Tuesday, 28th March, 2006

1. The Senate met at 10:20 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, 16th March, 2006 and approved same.

By unanimous consent, the Votes and Proceedings were adopted.
3. Message from the President:
The Senate President announced that he had received a letter from the President, Commander-in-Chief which he read as follows:



PRESIDENT,
FEDERAL REPUBLIC OF NIGERIA

PRES/134

March 17, 2006

Senator Ken Nnamani,
President of the Senate, Senate
Chambers, National Assembly
Complex, Abuja.

Dear Senate President,

REQUEST FOR CONFIRMATION OF APPOINTMENT OF RIVERS STATE
NOMINEE IN THE REVENUE MOBILISATION. ALLOCATION
AND FISCAL COMMISSION

The Revenue Mobilisation, Allocation and Fiscal Commission is one of the Federal Executive bodies established under Section 153(1) of the 1999 Constitution. By the provision of Part 1(N) of the Third Schedule of the 1999 Constitution, the Commission shall comprise the Chairman and one member from each State of the Federation and the Federal Capital Territory.

You will, however, recall that following my letter PRES/134 of 28th January, 2005 forwarding the respective States nominees for confirmation by the Senate as members of the Revenue Mobilisation, .

Allocation and Fiscal Commission, the Rivers State nominee, Barrister Akedi Sunday Oyaghiri, did not scale through the Senate screening due to an adverse security report in his service record.

I am, therefore, presenting Barrister Frank Achinike OWHOR, whose Curriculum Vitae is attached herewith, as a replacement for Barrister Oyaghiri.

I look forward to your action.

*Yours Sincerely,
(Signed)
OLUSEGUN OBASANJO*

4. Presentation of Bill:

Solid Minerals Development Agency Bill 2006 (SB. 302) — *Read the First Time.*

5. Committee on Solid Minerals:

Report of the Conference Committee on the Nigerian Geological Survey Agency (Establishment, etc.) Bill 2006 (SB. 07):

Motion made and Question Proposed: That the Senate do receive and consider the Report of the Conference Committee on Solid Minerals on the Nigerian Geological Survey Agency (Establishment, etc.) Bill 2006 (SB.07) and approve the **recommendations"**(**Senator Cosmas G. Niagwan**).

Question put and agreed to. Report presented and Laid. Question,

that the Report be adopted, resolved in the Affirmative.

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

Electoral Act (Amendment) Bill 2006 (SB. 152):

Motion made and Question Proposed: That the Senate do resolve into the Committee of the Whole to resume consideration of the Electoral Act (Amendment) Bill 2006 (*Senate Majority Leader*).

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

(MR. PRESIDENT IN THE CHAIR)

Report of the Committee on Independent National Electoral Commission on the Electoral Act (Amendment) Bill 2006.

Clause 102: (1) No individual or other entity shall donate more than N2m to any political party.

Amendment proposed:

Leave out the words "or other entity" in line 1 after the word "individual" (Senator Umaru Dahiru).

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

Another Amendment Proposed:

Leave out the figure "N2m" and insert a figure "N10m" instead thereof(Senator Udoma Udo Udoma).

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

Further Amendment Proposed:

Immediately after the figure "N2m" in line 2 insert the words "in cash and or in kind at any given time" (Senator David Mark).

Question, that the amendment be made, put and agreed to. (2) Every

political party shall keep an account book into which shall be recorded:-

Amendment proposed:

Immediately after the word "book" *insert* the words "and or register of assets" (Senator Olatokunbo O. Ogunbanjo).

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

- (a) all monetary and other forms of contribution received by the party for the purposes of the election campaign; and
 - (b) the name and address of any person or entity that contributes any money or other things which exceeds (N1,000,000).
- (3) No political party shall accept any monetary or other contribution exceeding (N1, 000,000.00) unless it can identify the source of the money or other contribution to the commission.

Amendment proposed:

Leave out the word "source of the money or other contribution to the commission" in lines 2 and 3 and *insert* the word "contributor" instead thereof (Senator Lawal Shuaibu).

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

- (4) Every political party procuring the election of a candidate shall within three months after the announcement of the results of the election, file a report of the contributions made by individuals and entries to the Commission.

Amendment proposed:

Leave out the word "procuring" in line 1 and *insert* the word "sponsoring" instead thereof (Senator Olatokunbo O. Ogunbanjo).

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

Clause 102 as amended do stand part of the Bill, put and agreed to.

Clause 103: (1) For the purpose of the proper and peaceful conduct of political rallies and processions, the commissioner of police in each state of the Federation and the Federal Capital Territory, Abuja is by this Act empowered to provide adequate security for processions at political rallies in the states and the Federal Capital territory, Abuja.

Amendment proposed:

Leave out the words "is by this Act empowered to" in line 3 and *insert* the word "shall" instead thereof (Senator Titus Olupitan).

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

- (2) A person who, while present at a political rally or procession or voting centre, has with him any offensive weapon or missile otherwise than in pursuance of a lawful duty is guilty of an offences and liable on conviction to a fine N100,000.00 or imprisonment for a term 2 years or both.
- (3) for the purpose of subsection (2) of this section, a person shall be deemed to be acting in pursuance of a lawful duty if he is acting in his capacity as a police officer or as member of a security agency authorized to carry arms and is specifically posted to be present at that political rally procession.
- (4) In this section:- "offensive weapon or missile" includes any cannon gun, rifle, carbine, revolver, pistol or any other firearm, bow and arrow, spear, cutlass, knife, dagger, axe, cudgel, or any other thing capable of being used as an offensive weapon or missile, including teargas, acid, and any inflammable substance capable of injuring a person (Senator David C. Brigidi).

Question, that Clause 103 as amended do stand part of the Bill, put and agreed to.

- Clause 104:
- (1) No Political campaign or slogan shall be tainted with abusive language directly or indirectly likely to injure religious, ethnic, tribal or sectional feelings.
 - (2) Abusive, intemperate, slanderous or base language or insinuations or innuendoes designed or likely to provoke violent reaction or emotion shall not be employed or used in political campaigns.
 - (3) Places designed for religious worship, palaces of traditional rulers, army formation or barracks, police stations, public offices and educational institution shall not be used,
 - (a) for political campaigns, rallies and processions; or
 - (b) To promote, propagate or attack political parties, candidates or their programmes or ideologies.
 - (4) Masquerades shall not be employed or used by any political party, candidate or person during political campaigns or for any other political purpose.

Amendment proposed:

Immediately after the word "person" in line 2 *insert* the words "to intimidate political opponents" (*Senator David Mark*).

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

- (5) No political party or member of a political party shall retain, organize train or equip any person or group of person for the purpose of enabling them to be employed for the use or display of physical force or coercion in promoting any political objectives or interest, or in such manner as to arouse reasonable apprehension that they are organized, trained or equipped for that purpose.
- (6) No political party or candidate shall keep or use private security organization, vanguard or any other group or individual by whatever name called for the purposed of providing security, assisting or aiding the political party or candidate in whatever manner during campaigns rallies, processions or elections.
- (7) Notwithstanding the provision of subsection (6) of this section a candidate at an election may keep or use a private security or individual for his personal protection during campaigns, rallies or processions.

A political party or person who contravenes any provision of this section is guilty of an offence and liable on conviction-

- (a) In the case of an individual, to fine of N50,000 or imprisonment for a term of 6 month; and

Amendment proposed:

Immediately after the word "to" in line 1 *insert* the words "a maximum" and reflect consequentially wherever the penalty occurs in the Act (*Senator Patrick Osakwe*).

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

- (b) In the case of a political party, to a maximum fine of N500,000.00 in the first instance and til,N1000,000.00 for any subsequent offence, payable jointly by the Chairman, Secretary and Treasurer of the political party at the national, State, local Government Area, Area Council or Ward level, as the case may be.

Question that Clause 104 as amended do stand part of the Bill put and agreed to.

- Clause 105:
- (1) No candidate, person or group of persons shall directly or indirectly offer or aid in offering inducement in any form whatsoever to a person at a political campaign for the purpose of corruptly influencing that person or any other person to support or refrain from supporting a political party or candidate.

- (2) No candidate, person or group of persons shall directly or indirectly give or offer to give any money or valuable consideration to any person during a political campaign in order to induce that person or any other person to support or refrain from supporting a political party or candidate.
- (3) No candidate, person or group of person shall directly or indirectly threaten any person with the use of force or violence during any political campaign in order to compel that person or any other person to support or refrain from supporting a political party or candidate.

Amendment proposed:

Leave out the provision in sub-clause 105(3) (Senator David Mark).

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

- (4) No person or group of persons shall accept any inducement, money or valuable consideration from any person, candidate or political party in order to compel **that** person or any other person to support or refrain from supporting a political party or candidate.
- (5) Any person or political party that contravenes the provisions of this section is guilty of an offence and liable on conviction-
- fa) in the case of an individual, to a maximum fine of N100,000.00 or 12 months imprisonment; and
- (b) In the case of a political party to a maximum fine of N250,000.00 in the first instance, and N500,000.00 for any subsequent offence, payable jointly by the Chairman, Secretary and Treasurer of the political party at the National, State, Local Government Area, Area Council or ward level, as the case may be.

Question, that Clause 105 as amended, do stand part of the Bill, put and agreed to.

Clause 106:

No candidate, person or group of persons shall directly or indirectly threaten any person with the use of force or violence during any political campaign in order to compel that person or any other person to support or refrain from supporting a political party or candidate.

Amendment proposed:

Insert a new sub-clause 106(2) as follows:

- "(a) in the case of an individual, to a maximum fine of N 1 00,000.00 or imprisonment term of one year; and
- (b) In the case of a political party to a maximum fine of N250,000.00 in the first instance, and N500,000.00 for any subsequent offence, payable (*Senator Udoma Udo Udoma*).

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

Question, that Clause 106 as amended do stand part of the Bill, put and agreed to.

Clause 107:

All political parties, candidate, agents and supporters of political parties shall conform to the provision of this Act, guidelines on political campaigns and all party activities.

Committee's Recommendation:

That the provision in Clause 107 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 107 do stand part of the Bill, put and agreed to.

Clause 108:

Where a political party ceases to exist in accordance with any provisions of this Act, a person elected on the platform of the political party in an election under this Act shall remain validly elected, complete his tenure, and for purposes of identification, be regarded as a member of the political party under which he was elected, but such a person cannot stand for re-election in the name of that political party.

Committee's Recommendation:

That the provision in Clause 108 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 108 do stand part of the Bill, put and agreed to.

Clause 109: Any political party registered by the commission in accordance with the provision of any law in force immediately before the coming into force of the constitution of the Federal Republic of Nigeria 1999 and this Act shall be deemed to have been duly registered under this Act.

Committee's Recommendation:

That the provision in Clause 109 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 109 do stand part of the Bill, put and agreed to.

Clause 110:

- (1) For the purposes of this Act. The period of campaigning in public by every political party shall commence 45 days before polling day and end 24 hours prior to that day.
- (2) A registered political party which through any person acting on its behalf during the 24hours polling day-
 - fa) Advertises on the facilities of any broadcasting undertaking; or
 - (b) Procures for publication or acquiesces in the publication during the period described in paragraph (a) of an advertisement in a newspaper for the purpose of promoting or opposing a particular registered party or the election of a particular candidate, is guilty of an offence under this Act and on conviction shall be liable to a fine of N500,000.00

Committee's Recommendation:

That the provision in Clause 110 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question that Clause 110 do stand part of the Bill, put and agreed to.

Clause 111: A candidate who directly or through any person acting on his behalf:-

- (a) during the **24hours** immediately preceding polling day, or on polling day advertises on the facilities of any broadcasting undertaking; Or
- (b) procures for publication or acquiesces in the publication during the period described in paragraph (a) of an advertisement in a newspaper for the purpose of promoting or opposing a particular registered party or the election of a particular candidate, is guilty of an offence under this Act and on conviction shall be liable to a fine of N50, 000.00 or to imprisonment for six months.

Committee's Recommendation:

That the provision in Clause 111 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 111 do stand part of the Bill, put and agreed to.

Clause 112:

- (1) A government owned print or electronic medium shall give equal access on daily basis to all registered political parties or candidates of such political parties.
- (2) A denial of such access and equal time constitute an offence punishable in the first instance with a fine of N500, 000.00 and the withdrawal of the license of the offending electronic media house by the National Broadcasting Commission for a period of 12 months on any subsequent violation.
- (3) A person other than a political party or a candidate who procures any materials for publication for the purposes of promoting or opposing a particular political party or the election of a particular candidate over the radio, television, newspaper, magazine, handbills or any print or electronic medium whatsoever called during the 24 hours immediately preceding or on polling day is guilty of an offence and liable on conviction to a fine of N50,000.00 or imprisonment for six (6) months or to both.

Committee's Recommendation:

That the provision in Clause 112 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 112 do stand part of the Bill, put and agreed to.

Clause 113: (1) A candidate and his party shall campaign for the elections in accordance with such rules and regulations as may be determined by the commission.

- (2) State apparatus including the media shall not be employed to the advantage of any political party or candidate at any election.
- (3) Media time shall be allocated equally among the political parties at similar hours of the day.
- (4) At any public electronic media, equal airtime shall be allotted to all political parties during prime times at similar hours each day, subject to the payment of appropriate fees.
- (5) At any public media, equal coverage and conspicuity shall be allotted to all political parties.
- (6) Any public media that contravenes subsections 3 and 4 of this section shall be guilty of an offence and on conviction be liable to a maximum fine of N500, 000.00 in the first instance and to a fine of N1, 000,000.00 for subsequent conviction.

Committee's Recommendation:

That the provision in Clause 113 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 113 do stand part of the Bill, put and agreed to.

Clause 114: (1) A person, print or electronic medium who broadcasts, publishes, advertises or circulates any material for the purpose of promoting or opposing a particular political party or the election of a particular candidate over the radio, television, newspaper, magazine, handbills, or any print or electronic medium whatsoever called during twenty four hours immediately preceding or on polling day is guilty of an offence under this Act.

- (2) Where an offence under subsection (1) of this section is committed by a body corporate, every principal officer of that body is equally guilty of an offence under this Act.
- (3) Where a person is convicted of an offence under this section he shall be liable—
 - (a) In the case of a body corporate to a maximum fine of N500,000.00
 - (b) In the case of an individual to a maximum fine of N100, 000.00 or to imprisonment for 12 months.

Committee's Recommendation:

That the provision in Clause 114 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 114 do stand part of the Bill, put and agreed to.

Clause 115: Any candidate, person or association who engaged in campaigning or broadcasting based on religious tribal, or sectional bias for the purpose of promoting or opposing a particular political party or the election of a particular candidate is guilty of an offence under this Act and on conviction shall be liable to a maximum fine of N100,000.00 or imprisonment for 12 months or to both.

Committee's Recommendation:

That the provision in Clause 115 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 115 do stand part of the Bill, put and agreed to.

PART VI PROCEDURE FOR ELECTION TO AREA COUNCIL

Clause **116:** (1) The conduct of elections into the offices of Chairman, Vice Chairman and a member of an Area Council and the recall of a member of an Area Council and there call of a member of an Area Council shall be under the direction and supervision of the Commission in accordance with the provision of this Act.

(2) The Register of voters compiled and the polling units established by the commission and any other regulation, guideline, rule or manual issued or made by the commission shall be used for election into the Area Council or recall of a member.

Committee's Recommendation:

That the provision in Clause 116 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 116 do stand part of the Bill, put and agreed to.

Clause **117:** (1) There shall be elected for each Area Council in the Federal Capital Territory a Chairman and Vice- Chairman.

(2) There shall be elected from each Registration Area in an Area Council, Councilors.

Committee's Recommendation:

That the provision in Clause 117 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 117 do stand part of the Bill, put and agreed to.

Clause **118:** (1) Subject to the provision of this section, the Commission shall divide each Area Council into such number of Registration Area not being less than 10 and not more than 20 as the circumstance of each Area Council may require.

(2) The boundaries of each ward shall be such that the number of inhabitants of the Registration Area is as nearly equal to the population quota of the registration Area as is reasonably practicable.

(3) The Commission shall review the division of every council into wards at an interval of not less than 10 years and may alter such Registration Area in accordance with the provision of subsection(l) of this section to such extent as it may be considered desirable in the light of the review.

(4) Notwithstanding the provision of subsection (3) of this section, the commission may, at any time, carry out such a review and alter the Registration Area in accordance with the provisions of this section to such extent as it considered necessary in consequence of any amendment to section 3 of the constitution or any provision replacing that provision or reason of the holding of a National Population Census or pursuant to an Act of the National Assembly.

Committee's Recommendation:

That the provision in Clause 118 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 118 do stand part of the Bill, put and agreed to.

Clause **119:** A A person shall be qualified for election under this part Act if

(a) he-is a citizen of Nigeria;

(b) Is a registered voter?

(c) Has attained the age of 25 years

(d) Is educated up to at least the school certificate level or is equivalent;

Committee's Recommendation:

That the provision in Clause 119 be retained (*Senator David C. Brigidi*) -*Agreed to.*

Question, that Clause 119 do stand part of the Bill, put and agreed to. Clause 120: A

person shall not be qualified to contest an Area Council election under this Act if:-

- (a) Subject to the provision of section 28 of the constitution, he has voluntarily acquired the citizenship of a country other than Nigeria or, except in such cases as may be prescribed by the National Assembly, has made a declaration of allegiance to such a country;
 - (b) Under any law in force in any part of Nigeria, he is adjudged to be a lunatic or otherwise declared to be of unsound mind;
 - (c) He is under a sentence of death imposed on him by any competent court of law of tribunal in Nigeria or sentence of imprisonment or fine for an offence involving dishonesty or fraud (by whatever name called) or any other offence imposed on him by such a court or tribunal constituted by a competent authority for any other sentence imposed on him by such a court or tribunal;
 - (d) Within a period of less than 10 years before the date of election to the Area Council, he has been convicted and sentenced for an offence involving dishonesty or he has been found guilty of contravention of the code of conduct;
 - (e) He is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of Nigeria.
 - (f) He is a person employed in the public service of the Federation or of any State or Area Council (other than a person holding elective office) and he has not resigned, withdrawn or retired from such employment 30 days before the date of election.
 - (g) He is a member of any secret society
 - (h) He has been indicted for embezzlement or fraud by a judicial commission of inquiry or an Administration panel of inquiry or Tribunal set up under the Tribunal of inquiry Act, a tribunal of inquiry law or any other law by the Federation or State Government which indictment has been accepted by the Federal or State Government, as the case may be.
 - (i) He has within the preceding period of 10 years presented a forged certificate to the commission
 - (j) He has been dismissed from the public service of The Federation or State; or
 - (k) He has been elected to such office at any two previous elections in the case of chairman.
- (2) Where in respect of any person who has been-
- (a) Adjudged to be lunatic;
 - (b) Declared to be unsound mind
 - (c) Sentenced to death or imprisonment; or
 - (d) Adjudged or declared bankrupt,

Any appeal against the decisions is pending in any court of law in accordance with any law in force in Nigeria, subsection (1) of this section shall not apply during a period beginning from the date when such appeal is lodged and ending on the date when the appeal is finally determined or as the case may be, the appeal lapses or is abandoned, whichever is earlier.

- (3) For the purpose of subsection (2) of this section an "appeal" includes any application for an injunction or an order of certiorari, mandamus, prohibition or habeas corpus, or any appeal from any such application.

Committee's Recommendation:

That the provision in Clause 120 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 120 do stand part of the Bill, put and agreed to.

- Clause 121:
- (1) Election into all the Area Council shall be held on the same date and day throughout the Federal capital territory.
 - (2) By-elections to fill vacancies that occur in Area Councils shall be held within 30 days from the date the vacancy occurred.
 - (3) The date mentioned in subsection(1) of this section shall not be earlier than sixty days before and not later than 30 days before the expiration of the term of office of the last holder of that office.
 - (4) Where a vacancy occurs not more than three months before the day the Area Council stand dissolved there shall be no by-election to fill me vacancy.
 - (5) Where a vacancy occurs more than three months before the day the Area Council stand dissolved there shall be a by-election to fill the vacancy not later than 30 days from the date the vacancy occurred.
 - (6) Voting shall be by open secret ballot

Committee's Recommendation:

That the provision in Clause 121 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 121 do stand part of the Bill, put and agreed to.

- Clause 122: The Procedure for filing nominations and the casting and counting of votes for Area Council election shall be the same as is applicable to other elections under this Act.

Committee's Recommendation:

That the provision in Clause 122 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 122 do stand part of the Bill, put and agreed to.

- Clause 123: (1) If after the expiration of time for the delivery of nomination papers and the withdrawal of candidates for election of Councilors under this Act only one candidate remain duly nominated, that candidates shall be declared returned unopposed.
- (2) If after the expiration of time for the delivery of Nomination papers and the withdrawal of candidates for election of councilors under this section more than one candidate remains duly nominated, a poll shall be taken in accordance with the provision of this Act.
 - (3) Where at the close of nomination for election to the office of chairman, only one candidate-
 - (a) has been nominated; or
 - (b) remains nominated by reason of the disqualification, withdrawal, incapacitation, disappearance, or death of the other candidate, the commission shall extend the time for nomination by seven days, PROVIDED that where after the extension, only one candidate remain validly nominated there shall be no further extension

Committee's Recommendation:

That the provision in Clause 123 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 123 do stand part of the Bill, put and agreed to.

Clause 124: (1) A candidate for an election to the office of Chairman shall be deemed to have been duly elected to the office where being the only candidate nominated for the election he has:-

- (a) a majority of YES votes over NO votes cast at the election and.
 - (b) Not less than one-third of the votes cast at the election in each of the least two-thirds of all the wards in the Area Council as the case may be.
- (2) A candidate for an election to the office of the chairman shall be deemed to have been elected where there being only two candidates for the election-
- (a) he has a majority of the votes cast at the election; and
 - (b) He has not less than one-quarter of at votes cast at the election in each of the least two-thirds of all the wards in the Area Council, as the case may be.
- (3) If no candidate is duly elected under subsection (2) of this section, the commission shall within 7 days conduct a second election between the two candidates, and the candidate who scores the majority of votes cast at the election shall be deemed duly elected at the election.
- (4) A candidate for an election to the office of chairman shall be deemed to have been duly elected where, there being more than two candidates for the election-
- (a) he has the highest number of votes cast at the election; and
 - (b) He has not less than one-quarter of the votes cast at the election in each of at least two -thirds of all wards in the Area Council, as the case may be.
- (5) if no candidate is duly elected in accordance with subsection (4) of this section, there shall be a second election in accordance with subsection (6) of this section at which the only candidates shall be.
- (a) the candidate who scored the highest number of votes at the election held under subsection (4)
 - (b) one among the remaining candidates who has the majority of votes in the highest number of wards so that where there are more than one candidates, the one among them with the highest total number of votes cast at the election shall be the second candidate for the election.
- (6) In default of a candidate been duly elected under this section, the Commission shall within 7 days of the result of the election held under the said subsections of the section arrange doe another election between the two candidates and a candidate at such an election shall be deemed to have been duly elected to the office of a Chairman of the Area Council if he has.
- (a) a majority of the votes at the election; and
 - (b) Not less than one quarter of the votes cast at the election in each of at least two thirds of al! the wards in the Area Council, as the case may be.
- (7) If no candidate is duly elected under subsection (6) of this section, arrangements shall be made within 7 days of the result of the last election, for another election between the two candidates specified in subsection (6) of this section, and a candidate at this last election shall be deemed duly elected to the office of Chairman of a Local Government/Area Council if he scores a simple majority of votes at the election.

Committee's Recommendation:

That the provision in Clause 124 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 124 do stand part of the Bill, put and agreed to.

- Clause 125:
- (1) If a person duly elected as Chairman dies before taking and subscribing to the Oath of Allegiance and the Oath of office, the person elected with him as Vice Chairman shall be Sworn in as Chairman who shall then nominate and with the approval of a majority of the members of the Area Council appoint a new Vice-chairman.
 - (2) Where the Vice Chairman is appointed from among the Councilors as the new Vice Chairman, the Commission shall conduct a bye election to fill the vacant seat created in the Ward from which the new Vice - Chairman has been appointed
 - (3) Where the persons duly elected as chairman and Vice- Chairman of an Area Council die before taking and Subscribing the Oath of Allegiance and Oath of office during which period the Area Council has not been inaugurated. The Commission shall within 21 days conduct an election to fill the vacancies.

Committee's Recommendation:

That the provision in Clause 125 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 125 do stand part of the Bill, put and agreed to.

- Clause 126:
- An Area Council shall stand dissolved at the expiration of a period of three years commencing from the date;-
- (a) when the Chairman took the Oath of office ; or
 - (b) When the legislative arm of the council was inaugurated whichever is earlier.

Committee's Recommendation:

That the provision in Clause 126 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 126 do stand part of the Bill, put and agreed to.

- Clause 127:
- (1) A member of an Area Council shall vacate his seat in the Council
 - (a) on the date given in his letter of resignation ;or
 - (b) if he becomes Vice-president, Deputy Governor, Vice-Chairman of the Area Council, Minister of the Government of the Federation or Commissioner of a state; or
 - (c) being a person whose election was sponsored by a Political Party, he resigns from that party or becomes a member of another Political party before the expiration of the period for which the Area Council was elected;

Provided; that his membership of the latter political party is not as a result of a division in the political party of which he was previously a member or of a merger of two or more political parties or factions by one of which he was previously sponsored; or
 - (d) if he becomes a member of a secret society or does any other thing disqualifying him from holding the office of chairman or Councilor under this Act; or
 - (e) If the Speaker of the Area Legislative Council receives a certificate under the hand of the Commission stating that the provisions of section 129 of this Act have been complied with in respect of the recall of that member.
 - (2) The Speaker of the Area Legislative Council shall give effect to subsection (1) of this section, so that Speaker shall first present evidence satisfactory to the Area Council that any of the provisions of that subsection has become applicable in respect that member.

Committee's Recommendation:

That the provision in Clause 127 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 127 do stand part of the Bill, put and agreed to.

- Clause 128:**
- (1) The Chairman or Vice-Chairman may be removed from office in accordance with the provision of this section.
 - (2) Whenever a notice of any allegation of gross misconduct in writing signed by not less than one -third of the members of the Area Legislative Council stating that the holder of the office Chairman or Vice Chairman is guilty of misconduct in **the performance of the functions of his office**, detailed particulars of which shall be specified is presented to the Speaker of the Area Legislative Council.
 - (3) The speaker of the Area Legislative Council shall within 7 days of the notice, cause a copy of the notice to be served on the holder of the office and on each member of the Area Legislative Council and shall also cause any statement made in reply to the allegation by the holder of the office to be served on each member of the Area Legislative Council.
 - (4) Within 14 days of the presentation of the notice, (whether or not any statement was made by the holder of the office in reply to the allegation contained in the notice) the Area Legislative Council, shall resolve by motion without any debate whether or not the allegation shall be investigated
 - (5) A motion of the Area Legislation Council that the allegation be investigated shall not be declared as having been passed unless it is supported by the votes of not less that two -thirds majority of all the members of the Area Legislative Council.
 - (6) Within 7 days of the passing of a motion under subsection (4) of this section, the Speaker of the Area Legislative Council shall inform the Chief Judge of the Federal Capital Territory, Abuja, who shall appoint a Panel of seven persons who in the opinion of the Chief Judge are of unquestionable integrity not being members of-
 - (a) any public or civil service;
 - (b) a legislative house; or
 - (c) a political party to investigate the allegation as provided in this section.
 - (7) The holder of an office whose conduct is being investigated under this section shall have the right to defend himself in person or be represented before the Panel by a legal practitioner of his own choice
 - (8) A Panel appointed under this section shall -
 - (a) Have such power and exercise its function in accordance with such procedure as may be prescribed by an Act of the National Assembly; and
 - (b) Within three months of its appointment, report its findings to the Area Legislative Council.
 - (9) Where the Panel report to the Area Legislative Council that the allegation has not been proven no further proceedings shall be taken in respect of the matter.
 - (10) Where the report of the Panel is that the allegation against the holder of the office has been proven, then within 14 days of the receipt of the report, the Area Legislative Council shall consider the report with the holder of the office being present at the meeting and if by a resolution of the Area Council supported by not less than two-thirds majority of all its members, the report of the Panel is adopted then the holder of the office shall stand removed from office as from the date of the adoption of the report.

Committee's Recommendation:

That the provision in Clause 128 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 128 do stand part of the Bill, put and agreed to.

- Clause 129: A member of an area Council may be recalled as a member if -
- (a) there is presented to the chairman of the Commission a petition in that behalf signed by not less than one half of the persons registered to vote in that member's constituency alleging their loss of confidence in that member; and
 - (b) the petition is thereafter approved in a referendum conducted of by the commission within 90 days the date of the receipt of the petition by a simple majority of the votes of the persons registered to vote in that member's constituency

Committee's Recommendation:

That the provision in Clause 129 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 129 do stand part of the Bill, put and agreed to.

PART VII
PROCEDURE FOR LOCAL GOVERNMENT
COUNCIL ELECTION.

- Clause 130: Voting in Local Government elections shall be by open-secret ballot.

Committee's Recommendation:

That the provision in Clause 130 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 130 do stand part of the Bill, put and agreed to.

- Clause 131: The procedure for filing nominations and the casting and counting of votes for Local Government Council elections shall be the same as is applicable to other elections under this Act.

Committee's Recommendation:

That the provision in Clause 131 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question that Clause 131 do stand part of the Bill put and agreed to.

- Clause 132:
- (1) If after the expiration of time for the delivery of nomination papers and the withdrawal of candidates for election of Councilors under this act only one candidate remains duly nominated, that candidate shall be declared returned unopposed.
 - (2) If after the expiration of time for the delivery of nomination papers and the withdrawal of candidates for election of Councilors under this section more than one candidate are dully nominated, a poll shall be taken in accordance with the provisions of this Act.
 - (3) Where at the close of nomination for election to the office of Chairman only one candidate :-
 - (a) has been nominated or
 - (b) Remains nominated by reason of disqualification, withdrawal, incapacitation, disappearance, or death of the other candidates, the State Independent Electoral Commission shall extend the time for nomination by 7 days. PROVIDED that where after extension only one candidate remain validly nominated there shall no further extension.

Committee's Recommendation:

That the provision in Clause 132 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 132 do stand part of the Bill, put and agreed to.

- Clause 133:
- (1) A candidate for an election to the Office of the Chairman shall be deemed to have been duly elected to the office where being the only candidate nominated for the election he has:
 - (a) A majority of YES votes over NO votes cast at the election; and
 - (b) Not less than one-third of the votes cast at the election in each of at least two-thirds of all the wards in the Local Government. But where the only candidate fails to be elected in accordance with this subsection then there shall be fresh nominations.
 - (2) A candidate for an election to the office of the Chairman shall be deemed to have been elected. Where there being only two candidates for the election:-
 - (3) If no candidate is duly elected under subsection (2) of this section, the State Commission shall within 7 days conduct a second election between the two candidates, and the candidate who scored the majority of votes cast at the election shall be deemed duly elected at the election.
 - (4) A candidate for an election to the office of Chairman shall be deemed to have been duly elected where, there being more than two candidates for the election-
 - (a) He has the highest number of votes cast at the election; and
 - (b) He has not less than one-quarter of the votes cast at the election in each of at least two-thirds of all wards in the Local Government, as the case may be.
 - (5) If no candidate is duly elected in accordance with subsection (4) of this section, there shall be a second election in accordance with subsection (6) of this section at which the only candidates shall be
 - (a) the candidate who scored the highest number of votes at the election held under subsection (4) of this section; and
 - (b) one among the remaining candidates who has the majority of votes in the highest number of wards so however that where there are more than one candidate, the one among them with the highest total number of votes cast at the election shall be the second candidate for the election.
 - (6) In default of a candidate duly elected under this section, the State Independent Electoral Commission shall within 7 days of the result of the election held under the said subsections arrange for another election between the candidates and a candidate at such Election shall be deemed to have been duly elected to the office of a Chairman of a Local Government if he has-
 - (a) a majority vote cast at the election; and
 - (b) Not less than one-quarter of the vote cast at the election in each of at least two-thirds of the wards in the Local Government Area.
 - (7) If no candidate is duly elected under subsection (6) of this section, arrangements shall be made within 7 days of the result of the last election, for another election between the two candidates specified in subsection (6) of this section, and a candidate at this election shall be deemed duly elected to the office of Chairman of a Local Government if he scores a simple majority of votes cast at the election.

Committee's Recommendation:

That the provision in Clause 133 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 133 do stand part of the Bill, put and agreed to.

PART VIII
ELECTORAL OFFENCES.

- Clause 134: Any person who-
- (a) **without** authority, destroys, mutilates, defaces or removes or makes any alteration in any notice or document required for the purpose of registration under this Act;
 - (b) knowingly gives false information or makes a false statement with reference to any application for registration of his name or with reference to any objection to the retention of the name of a person in the register of voters;
 - (c) presents himself to be or does any act whereby he is by whatever name or description howsoever, included in the register of voters for a constituency in which he is not entitled to be registered or causes himself to be registered in more than one registration or revision centre;
 - (d) publishes any statement or report which he knows to be false or does not believe to be true so as to prevent persons who are qualified to register from registering as voters;
 - (e) makes in any record, register or document which he is required to prepare, publish or keep for the purpose of registration, any entry or statement which he knows to be false or does not believe to be true;
 - (f) impedes or obstructs a registration or a revision officer in the performance of his duties;
 - (g) Without proper authority, wears the identification of a registration officer or assistant registration officer or wears any other identification purporting to be the identification of a registration officer or assistant registration officer.
 - (h) Forges a registration card; or
 - (i) Carries out registration or revision of voters at a centre or place not designated by the Commission, commits an offence and liable on conviction to a maximum fine of N100, 000.00 or to 12 months imprisonment or to both.

Committee's Recommendation:

That the provision in Clause 134 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 134 do stand part of the Bill, put and agreed to.

- Clause 135:
- (1) A person commits an offence if he-
 - (a) forges any nomination paper
 - (b) willfully defaces or destroys any nomination paper
 - (c) delivers to an electoral officer any nomination paper knowing it to be forged;
 - (d) signs a nomination paper as a candidate in more than one constituency at the same election;
 - (e) forges any ballot paper or official mark on any ballot paper or any certificate of return;
 - (f) willfully destroys any ballot paper or official mark on any ballot paper or any certificate of return;
 - (g) without authority gives a ballot paper to any person;
 - (h) willfully places in any ballot box any unauthorized paper;

- (i) willfully removes from a polling station any ballot paper whether or not the ballot paper was issued to him in that polling station;
 - (j) without authority destroys or in any other manner interferes with a ballot box or its contents or any ballot paper then in use or likely to be used for the purpose of an election;
 - (k) signs a nomination paper consenting to be a candidate at an election knowing that he is ineligible to be a candidate at that election;
- (2) A person who commits an offence under subsection (1) is liable on conviction to a maximum fine of N200, 000.00 or to imprisonment for 2 years or to both.
- (3) A person commits an offence if:
- (a) without proper authority prints a ballot paper or what purports to be or is capable of being used as a ballot paper at an election;
 - (b) being authorized by the Commission to print ballot papers, prints more than the number or quantity the Commission authorized;
 - (c) without authority, is found in possession of a ballot paper when he is not in the process of voting and at a time when the election for which the ballot paper is intended is not yet completed;
 - (d) manufactures, constructs, imports into Nigeria, has in his possession, supplies to any election official or uses for the purpose of an election, or causes to be manufactured, constructed or imports into Nigeria, has in his possession, supplies to any election official or uses for the purpose of an election, or causes to be manufacture, constructed, or imported into Nigeria, any election official for use for the purpose of any election, any ballot box including any compartment, appliance, device or mechanism on or by which a ballot paper may or could be secretly placed or stored in, or having been deposited during polling may be secretly diverted, misplaced or manipulated.
- (4) A person who commits an offence under subsection (3) of this section is liable on conviction to a maximum fine of N5, 000,000.00 and imprisonment for 5 years.
- (5) An attempt to commit any offence under this section shall be punishable in the same manner as the offence itself.

Committee 'S Recommendation:

That the provision in Clause 135 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 135 do stand part of the Bill, put and agreed to.

Clause 136: Any person who, at a political meeting held after the date for an election has been announced-

- (a) acts or incites another to act in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was convened; or
- (b) Has in his possession an offensive weapon or missiles, commits an offence and liable on conviction to a maximum fine of N100, 000.00 or imprisonment for 12 months or both.

Committee's Recommendation:

That the provision in Clause 136 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 136 do stand part of the Bill, put and agreed to.

- Clause 137: . Any person who-
- (a) being entitled to a voters card, gives it to some other person for use at election other than an officer appointed and acting in the course of his duty under this Act;
 - (b) not being an officer acting in the course of his duty under this Act, receives any voters card in the name of some other person for use at an election;
 - (c) without lawful excuse has in his possession more than one Voters card; or
 - (d) buys, sells, procures or deals, with a voters card otherwise than as provided in this Act, commits an offence and is liable on conviction to a maximum fine of N100,000.00 or imprisonment for 12 months or both.

Committee's Recommendation:

That the provision in Clause 137 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question that Clause 137 do stand part of the Bill put and agreed to.

- Clause 138:
- (1) No person shall provide for the purpose of any other person to a registration office or to a polling station any government vehicle or boat, or any vehicle or boat belonging to a public corporation except in respect of a person who is ordinarily entitled to use such vehicle or boat and in emergency in respect of an electoral officer.
 - (2) Any person who contravenes the provisions of this section commits an offence and is liable on conviction to a maximum fine of N50, 000.00 or to imprisonment for six months or to both.

Committee's Recommendation:

That the provision in Clause 138 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question that Clause 138 do stand part of the Bill, put and agreed to.

- Clause 139:
- (1) Any person who-
 - (a) applies under this Act to be included in any list of voters in the name of some other person, whether such name is that of a person living or dead or of a fictitious person;
 - (b) Having once to his knowledge been properly included in a list of voters under this Act as a voter entitled to vote at any election. Applies, except as authorized by this Act, to be included in any other list of voters prepared for any constituency as a voter at an election;
 - (c) Applies for a ballot paper in the name of some other person. Whether such name is that of a person living or dead or of a fictitious person;
 - (d) having voted once at an election applies at the same election for another ballot paper;
 - (e) votes or attempts to vote at an election knowing that he is not qualified to vote at the election; or
 - (f) Induces or procures any other person to vote at an election knowing that such person is not qualified to vote at the election, commits an offence and is liable on conviction to a maximum fine of N100, 000.00 or 12 months imprisonment or both.
 - (2) Any person who commits the offence of impersonation or who aids, abets, counsels or procures the commission of that offence, shall be guilty of an offence and be liable on conviction to a maximum fine of N100,000.00 or imprisonment for twelve months or both.

- (3) No person charged with the offence of impersonation shall be convicted except on the evidence of at least two witnesses.

Committee's Recommendation:

That the provision in Clause 139 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 139 do stand part of the Bill, put and agreed to.

- Clause 140:
- (1) Any officer appointed for the purpose of this Act, who without lawful excuse commits any act or omits to act in breach of his official duty commits, an offence and on conviction is liable to a maximum fine of N100, 000.00 or 12 months imprisonment or both.
 - (2) Any polling officer who fails to report promptly at his polling station on an election day without lawful excuse commits an offence of dereliction of duty and on conviction is liable to a maximum fine of N100, 000.00 or 12 months imprisonment or both.
 - (3) Any polling officer who fails to discharge his lawful duties at his polling station without lawful excuse commits an offence of dereliction of duties and on conviction is liable to a maximum fine of N100, 000.00 or 12 months imprisonment or both.
 - (4) Any person who announces or publishes an election result knowing same to be false or which is at variance with the signed certificate of return commits an offence and on conviction is liable to 36 months imprisonment.
 - (5) Any Returning or Collation Officer who delivers or causes to be delivered a false certificate of return knowing same to be false to the Commission or a State Independent Electoral Commission. Commits an offence and on conviction is liable to and 36 months imprisonment.
 - (6) Any person who delivers or causes to be delivered a false Certificate of Return knowing same to be false to any news media commits offence and on conviction is liable to 24 months imprisonment.

Committee's Recommendation:

That the provision in Clause 140 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 140 as amended do stand part of the Bill, put and agreed to.

- Clause 141:
- (1) Any person who does any of the following-
 - (a) directly or indirectly by himself or by any other person on his behalf, gives, lends or agrees to give or lend, or offers, promises;
 - (b) promises to procure or to endeavor to procure, any money or valuable consideration to or for any voter, to or for any person on behalf of any voter, or to or for any other person, in order to induce any voter to vote, to refrain from voting, or corruptly does any such act on account of such voter having voted or refrained from voting, at any election;
 - (c) directly or indirectly, by himself or by any other person on his behalf, corruptly makes any gift, loan, offer, promise, procurement or agreement to or for any person, in order to induce such person to procure or to endeavor to procure the return of any person as a member of a Legislative House or to an elective office or the vote of any voter at any election;
 - (d) upon or in consequence of any gift, loan, offer, promise, procurement or agreement, corruptly procures, or engages or promises or endeavors to procure, the return of any person as a member of a Legislative House or to an elective office or the vote of any voter at any election;

- (e) advances or pays or causes to be paid any money to or for the use of any other person, with the intent that such money or any part thereof shall be expended in bribery at any election, or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election or
 - (f) After any election directly, or indirectly, by himself, or by any other person on his behalf receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced, any other person to vote or refrain from voting or having induced any candidate to refrain from canvassing for votes for himself at any such election, commits an offence and on conviction is liable to a maximum fine of N100, 000.00 or twelve months imprisonment or both.
- (2) A voter commits an offence of bribery who before or during an election directly or indirectly himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan, or valuable consideration, office, place or employment, for himself, or for any other person, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any such election.
 - (3) Nothing in this section shall extend or apply to money paid or agreed to be paid for on account of any lawful expenses bona fide incurred at or concerning any election.
 - (4) Any person who commits the offence of bribery is liable on conviction to a maximum fine of N100 000.00 or imprisonment for 12 months or both.
 - (5) Any person who conspires, aids or abets with any other person to commit any of the offences under this part of this Act shall be guilty of the same offence and punishment thereto.
 - (6) For the purposes of this Act, a candidate shall be deemed to have committed an offence if it was committed with his knowledge and consent or the knowledge and consent of a person who is acting under the general or special authority of the candidate with reference to the election.

Committee's Recommendation:

That the provision in Clause 141 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 141 do stand part of the Bill, put and agreed to.

- Clause 142:**
- (1) Any person who is convicted of an offence under this part of this Act which amounts to corrupt practice or is convicted of aiding, abetting, counseling or procuring the commission of such offence shall, in addition to any other penalty, be disqualified during a period of four years from the date of his conviction from being,
 - (a) registered as a voter or voting at any election; and
 - (b) Elected under this Act or, if elected before his conviction, from retaining the office to which he was elected.
 - (2) For the purposes for this section, a candidate shall be deemed to have committed a corrupt practice if it was committed with his knowledge and consent or the knowledge and consent of a person who is acting under the general or special authority of the candidate with reference to the election.

Committee's Recommendation:

That the provision in Clause 142 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 142 do stand part of the Bill, put and agreed to.

- Clause 143:**
- (1) Every person in attendance at a polling station including every officer charged with the conduct of an election and his or her assistants and every polling agent

and candidate in attendance at a polling station or at the collation centre, as the case may be, shall maintain and aid in maintaining the secrecy of the voting,

- (2) No person in attendance at a polling booth under this section shall, except for some purposes authorized by law, communicate to any person information as to the name or number on the register of nay voter who has or has or has not voted at the place of voting.

- (3) No person shall-

.. . (a),... Interfere with a voter casting his vote, or by any other means obtain or attempt to obtain in a polling station information as to the candidate for whom a voter in that place is about to vote for or has voted for; or.

(b) Communicate at any time to any other person information obtained in a polling station as to the candidate to whom a voter is about to vote or has voted for.

- (4) Any person acting contrary to the provisions of this section commits an offence and is liable upon conviction to a maximum fine of N50, 000 or to imprisonment for six months or both.

Committee's Recommendation:

That the provision in Clause 143 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 143 do stand part of the Bill, put and agreed to.

Clause 144: Any person who -

- (a) votes at an election or induces or procure any person to vote at an election, knowing that he or such person is prohibited from voting thereat, or
- (b) before or during an election, publish any statement of the withdrawal of a candidate at such election knowing it to be false or reckless as to its trust or falsity; or
- (c) before or during an election published any statement as to the personal character or conduct of a candidate calculated to prejudice the chance of election of the candidate or to promote or procure the election of another candidate and such statement is false and was published without reasonable grounds for belief by the person published it that the statement was true, Commits an offence and is liable on conviction to a maximum fine of N50, 000.00 or imprisonment for a term of 6 months or both.

Committee's Recommendation:

That the provision in Clause 144 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 144 do stand part of the Bill, put and agreed to.

Clause 145: (1) Any person who knowingly votes or attempts to vote in a Constituency in respect of which his name is not on the register to votes commits an offence and is liable on conviction to a maximum fine of N50, 000.00 or to imprisonment for 6 months or both.

- (2) Any person who knowingly brings into a polling station during an election a voters card issued to another person commits an offence and is liable on conviction to a maximum fine of N50, 000.00 or to imprisonment for 6 months or both.

Committee's Recommendation:

That the provision in Clause 145 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 145 do stand part of the Bill, put and agreed to.

Clause 146: Any person who at an election acts or incites others to act in a disorderly manner commits an offence and is liable on conviction to a maximum fine of N50,000.00 or imprisonment for a term of 6 months or both.

Committee's Recommendation:

Leave out the figures and words "N50,000.00 and 6 months" and insert the figures and words "N100,000.00 and 12 months" instead thereof (Senator David C. Brigidi) — Agreed to.

Question, that Clause 146 do stand part of the Bill, put and agreed to.

- Clause 147:
- (1) No person shall on the date on which an election is held do any of the following things in a polling station or within a distance of 300 meters of a polling station
 - (a) Canvass for votes;
 - (b) Solicit for the vote of any voter;
 - (c) Persuade any voter not to vote particular candidate;
 - (d) Persuade any voter not to vote at the election;
 - (e) Shout slogans concerning the election;
 - (f) Be in possession of any offensive weapon or wear any dress or have any facial or other decoration which in any event is calculated to intimidate voter,
 - (g) exhibit, wear or tender any notice, symbol, photograph party card referring to the election;
 - (h) Use any vehicle bearing the colour or symbol of a political party by any means whatsoever,
 - (i) loiter without lawful excuse after voting or after being refused to vote;
 - (j) Blare siren.
 - (2) Any person who snatches or destroy any election materials shall be liable to 24 months imprisonment.
 - (3) No person shall in the vicinity of a polling unit or collation centre on the day of which an election is held:
 - (a) Convene, hold or attend any public meeting during the hours of poll as may be prescribed by the Commission; or
 - (b) unless appointed under this Act to make official announcements; operate any megaphone, amplifies or public address apparatus; or
 - (c) Wear or carry any badge, poster banner, flag or symbol relating to a political party or to the election.
 - (4) A person who contravenes any of the provisions of this section commits an offence and is liable on conviction to a maximum fine for N50, 000.00 or imprisonment for 6 months for every such offence.

Committee's Recommendation:

That the provision in Clause 147 be retained (Senator David C. Brigidi) — Agreed to.

Question, that Clause 147 do stand part of the Bill, put and agreed to.

- Clause 148: A person who -
- (a) Corruptly by himself or by any other person at any time after the date of an election has been announced, directly or indirectly gives or provides or pays

money to or for any person for the purpose of corruptly influencing that person or any other person to vote or refrain from voting at such election, or on account of such person or any other person having voted or refrained from voting at such election, or on account of such person or any other person having voted or refrained from voting at such election; or

- (b) Being a voter corruptly accepts or takes money or any other inducement during any of the period stated in paragraph (a) of this section, commits an offence and is liable on conviction to a maximum fine of N100,000.00 or 12 months imprisonment or both.

Committee's Recommendation:

That the provision in Clause 148 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 148 do stand part of the Bill, put and agreed to.

Clause 149:

A person who -

- (a) directly or indirectly by himself or by another person on his behalf, make use of or threatens to make use of any force, violence or restraint;
- (b) inflicts or threatens to inflict by himself or by any other person, any temporal or spiritual injury, damage harm or loss on or against a person in order or induce or compel that person to vote or refrain from voting, or on account of **such** person having voted or refrained from voting; or
- (c) by abduction, duress, or a fraudulent device or contrivance, impedes or prevents the free use of the vote by a voter or thereby compels, induces, or prevails on a voter to give or refrain from giving his vote;
- (d) by preventing any political aspirants from use of the media, designated vehicle, mobilization of political support and campaign at an election, commits the offence of undue influence and is liable on conviction to a maximum fine of N100,000.00 imprisonment for twelve months and shall in addition be guilty of corrupt practice under Section 137 of this Act and the incumbent be disqualified as a candidate in the election.

Committee's Recommendation:

That the provision in Clause 149 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question that Clause 149 do stand part of the Bill put and agreed to.

Clause 150:

The offences referred to in this Act apply to recall of a member of a Legislative House and a member of a Local Government Council.

Committee's Recommendation:

That the provision in Clause 150 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 150 do stand part of the Bill, put and agreed to.

**PART IX:
DETERMINATION OF ELECTION PETITIONS
ARISING FROM ELECTIONS**

Clause 151:

- (1) No election and return at an election under this Act shall be questioned in any manner other than by a petition complaining of an undue election or undue return (in this Act referred to as an "election petition") presented to the competent tribunal or court in accordance with the provisions of the Constitution or of this Act, and in which the person elected or returned is joined as a Party,
- (2) In this section "tribunal or court" means:
 - (a) in the case of Presidential election, the Court of Appeal; and

- (b) In the case of any other elections under this Act, the Election Tribunal established by the Constitution not later than 14 days before the Election.

Amendment Proposed:

Leave out all the words after "Constitution" in line 2 (Senator Umaru Dahiru).

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

- (3) The Election Tribunals provided for under the Constitution and this Act shall be constituted not later than 14 days before the Election. *(Senator David C. Brigidi).*

Question, that Clause 151 as amended do stand part of the Bill, put and agreed to.

Clause 152: An election petition under this Act shall be presented within thirty (30) days from the date the result of the election is declared.

Committee's Recommendation:

That the provision in Clause 152 be retained *(Senator David C. Brigidi) — Agreed to.*

Question, that Clause 152 do stand part of the Bill, put and agreed to.

Clause 153: (1) There shall be established for the Federal Capital Territory one or more Election Tribunals (in this Act referred to as the Area Council Election Tribunal) Which shall, to the exclusion of any other court or tribunal, have original jurisdiction to hear and determine any question as to whether -

- (a) any person has been validly elected to the office of Chairman, Vice - Chairman or;
- (b) The term of office of any person elected to the office of Chairman, Deputy Chairman or Councilor has ceased.

Committee's Recommendation:

Leave out the word "Deputy" in line 2 and insert the word "Vice" instead thereof (Senator David C. Brigidi) — Agreed to.

- (c) the seat of a member of an Area Council has become vacant and
- (d) A question or petition brought before the Area Council Election Tribunal has been properly or improperly brought.
- (2) An Area Council Election Tribunal shall consist of a Chairman and four other members.
- (3) The Chairman shall be a Chief Magistrate and four other members shall be appointed from among Magistrate of the Judiciary of the Federal Capital Territory, Abuja and legal practitioners of at least 10 years post-call experience, non-legal practitioners of unquestionable integrity or other members of the judiciary of the Federal Capital Territory not below the rank of a Magistrate.

Committee's Recommendation:

That the provision in Clause 153 be retained *(Senator David C. Brigidi) — Agreed to.*

Question, that Clause 153 do stand part of the Bill, put and agreed to.

- Clause 154: (1) there shall be established for the Federal Capital Territory FCT) the Area Council Election Appeal Tribunal which shall to the exclusion of any other court or tribunal hear and determine appeal arising from the decision of the Area Council Election Petition Tribunal.
- (2) The decision of the Area Council Election Appeal Tribunal in respect of Area Council elections shall be final.

- (3) An Area Council Election Appeal Tribunal shall consist of a Chairman and four other members and the Chairman shall be a judge of the High Court and the four other members shall be appointed from among judges of the High Court of the Federal Capital Territory, Abuja, Qadis of the Sharia Court of Appeal of the Federal Capital Territory, Abuja, Judge of the Customary Court of Appeal or other members of the Judiciary of the Federal Capital Territory, Abuja not below the rank of a Chief Magistrate.

- (4) The quorum of an Area Council Election Tribunal shall be the Chairman and two other members *Committee's Recommendation:*

That the provision in Clause 154 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 154 do stand part of the Bill, put and agreed to.

Clause 155:

- (1) An election petition may be presented by one or more of the following persons:
- (a) a candidate in an election
 - (b) a Political Party which participated in the election
- (2) The person whose election is complained of is, in this Acts, referred to as the Respondent, but if the petition complains of the conduct of an Electoral Officer, a Presiding Officer, a Returning Officer or any other person who took part in the conduct of an election, such officer or person shall for the purpose of this Act be deemed to be a Respondent and shall be joined in the election petition in his or her official status a necessary party.

Committee's Recommendation:

- (i) *Leave out* the word "shall" in lines 4 and 5 and *insert* the word "may" instead thereof
- (ii) Immediately after the word "party" in line 6 *insert* the following words "provided that where such officer or person is shown to have acted as an agent of the Commission, his non-joiner as aforesaid will not on its own operate to void the petition if the Commission is made a party. (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 155 do stand part of the Bill, put and agreed to.

Clause 156:

- (1) An election may be questioned on any of the following grounds, that is to say:
- (a) That a person whose election is questioned was at the time of the election, not qualified to contest the election;
 - (b) That the election was invalid by reason of corrupt practices or non-compliance with the provisions of this Act,
 - (c) That the respondent was not duly elected by majority of lawful votes cast at the election; or
 - (d) That the petitioner or its candidate was validly nominated but was unlawfully excluded from the election.
- (2) An act or omission which may be contrary to an instruction or directive of the Commission or of an officer appointed for the purposed of the election but which is not contrary to the provisions of this Act shall not of itself be a ground for questioning the election.

Committee's Recommendation:

That the provision in Clause 156 be retained (*Senator David C. Brigidi*) ~ *Agreed to.*

Question, that Clause 156 do stand part of the Bill, put and agreed to.

- Clause 157:
- (1) An Election shall not be liable to be invalidated by reason of non compliance with the provisions of this Act if it appears to the Election Tribunal or Court that the election was conducted substantially in accordance with the principles of this Act and that the non compliance did not affect substantially the result of the election.
 - (2) An election shall not be liable to be questioned by reason of a defect in the title, or want of title of the person conducting election or acting in the office provided such a person has the right or authority of the Commission to conduct the election.

Committee's Recommendation:

That the provision in Clause 157 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 157 do stand part of the Bill, put and agreed to.

- Clause 158:
- (1) Subject to subsection (2) of this section, if the Tribunal or the Court as the case may be, determines that a candidate who was returned as election was not validly election on any ground, the Tribunal or the Court shall nullify the election.
 - (2) If the Tribunal or the Court determines that a candidate who was returned as elected was not validly elected on the ground that he did not score the majority of valid votes case at the election, the Election Tribunal or the Court, as the case many be, shall declare as elected the candidate who scored the highest number of valid votes case at the election and satisfied the requirements of the Constitution and this Act.
 - (3) On the motion of a respondent in an election petition the Election Tribunal or the Court as the case may be may strike out an election petition on the ground that it is not in accordance with the provisions of this Part of this Act or the provisions of First Schedule of this Act.

Committee's Recommendation:

Leave out the provision in Clause 158(3) and *insert* a new 158(3) as follows: "(3) subject to the provisions of subsection 2 of section 150 of this Act, on the motion of a respondent in an election petition, the Election Tribunal or the Court, as the case may be, may strike out an election petition on the ground that is not in accordance with the provision of this part of this Act, or the provision of the First Schedule to this Act (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 158 do stand part of the Bill, put and agreed to.

- Clause 159: Without prejudice to the provisions of section 294 subsection (1) of the Constitution of the Federal Republic of Nigeria 1999 an election petition and an appeal arising there from under this Act shall be given accelerated hearing and shall have precedence over all other cases or matters before the Tribunal or Court.

Committee's Recommendation:

That the provision in Clause 159 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 159 do stand part of the Bill, put and agreed to,

Clause 160:

Committee's Recommendation:

Insert a new subclause 160(1) as follows and renumber existing subclauses subsequently:
 " (1) Notwithstanding anything to the contrary in any other enactment, notice of appeal on an election petition under this Act shall be given withing 21 days from the date of the date of appealed against" (*Senator David C. Brigidi*) — *Agreed to.*

- (2) If the Election Tribunal or the Court as the case many be determines that a candidate returned as elected was not validly elected and if notice of appeal against that decision is given within 21 days from the date of the decision. The candidate returned as elected shall, notwithstanding the contrary decision of the Election Tribunal or the Court remain in office pending the determination of the appeal.

- (3) If the Election Tribunal or the Court as the case may be determines that a candidate returned as elected was not validly elected the candidate returned as elected shall notwithstanding the contrary decision of the Election Tribunal or the Court remain in office pending the expiration of the period of 21 days within which an appeal may be brought.

Question, that Clause 160 do stand part of the Bill, put and agreed to.

Clause 161:

- (1) Where the Commission, an Electoral Officer, Returning Officer to any other official of the Commission has been joined as a respondent in an election petition, a Legal Officer of the Commission or a Legal Practitioner engaged by the Commission shall represent the Commission, Electoral Officer, Presiding Officer, Returning Officer or other official of the Commission at the Tribunal or Court.
- (2) The Attorney-General of the State concerned (acting in person or through any of his Legal Officers) or the Attorney General of the Federation (acting in person or through any of his Legal Officers) may represent the Commission and the Officers referred to in Sub-Section 1 of this Section with the written consent or authority of the Commission.
- (3) A private Legal Practitioner or Legal Officer engaged by the Commission pursuant to Sub Section (1) and (2) of this Section shall be entitled to be paid such professional fees or honorarium, as the case may be, to be determined by the Commission.

Committee's Recommendation:

That the provision in Clause 161 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 161 do stand part of the Bill, put and agreed to.

Clause 162:

The rules of procedure to be adopted for election petitions and appeals arising there from shall be those set out in First Schedule to this Act.

Committee's Recommendation:

That the provision in Clause 162 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 162 do stand part of the Bill, put and agreed to.

PART X MISCELLANEOUS

Clause 163:

Notwithstanding the powers of the Commission to conduct elections or referendum as conferred by this Act and the Constitution, the Commission shall conduct referendum or plebiscite for the creation of States or on any other matter in respect of which a referendum or plebiscite may be required under the Constitution or any other law made by the National Assembly.

Committee's Recommendation:

That the provision in Clause 163 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 163 do stand part of the Bill, put and agreed to.

Clause 164:

If the registration card of a voter is lost or accidentally destroyed the voter may attend in person at the office of the registration officer and apply for another registration card and the registration officer shall make such enquires as the Commission may prescribe for he purpose; and where the registration officer is satisfied as to the loss or accident all destruction card, he may issue another card to the voter

Committee's Recommendation:

That the provision in Clause 164 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 164 do stand part of the Bill, put and agreed to.

- Clause 165:**
- (1) The Commission may prescribe:
 - (a) a scale of remuneration for officers appointed under this Act for the conduct of elections;
 - (b) A scale of maximum charges in respect of other expenses incurred by an Electoral Officer, a Presiding Officer or a Returning Officer in connection with an election, and may revise the scale as it thinks fit or expedient.
 - (2) An Electoral Officer, Presiding Officer, or Returning Officer shall, in addition to any remuneration prescribed under paragraph (a) of subsection (1) of this section be entitled to such sums in respect of expenses not exceeding the prescribed scale, in connection with the conduct of an election as are reasonable.
 - (3) The Commission may pay such honoraria as it may determine to all other persons and officers who may be involved in one way or the other in conducting an election under this Act, or in carrying out any task in connection with an election or election petition arising there from.
 - (4) All fees and remuneration approved under subsection (1) of this section shall be charged upon the Consolidated Revenue Fund of the Federation and shall be paid in such manner as the Commission deems fit.

Committee's Recommendation:

That the provision in Clause 165 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 165 do stand part of the Bill, put and agreed to.

- Clause 166:** No person who has voted in any election under this Act shall in any legal proceedings arising out of the election be required to say for whom he voted.

Committee's Recommendation:

That the provision in Clause 166 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 166 do stand part of the Bill, put and agreed to.

- Clause 167:** The Commission shall consider any recommendation made to it by a Tribunal with respect to the prosecution by it of any person for an offence disclosed in any election petition.

Committee's Recommendation:

That the provision in Clause 167 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 167 do stand part of the Bill, put and agreed to.

- Clause 168:**
- (1) An offence committed under this Act shall be triable in a Magistrate Court of the State in which the offence is committed or the Federal Capital Territory, Abuja.
 - (2) A prosecution under this Act shall be undertaken by Legal Officers of the Commission or any legal Practitioner appointed by it.

Committee's Recommendation:

That the provision in Clause 168 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 168 do stand part of the Bill, put and agreed to.

- Clause 169:**
- (1) An order for an inspection of a polling document or an inspection of a document or any other packet in the custody of the Chief National Electoral Commissioner or any other officer of the Commission may be made by the Election Tribunal or the Court it is satisfied that the order required is for the purpose of institution or maintaining an election petition.
 - (2) A document other than a document referred to in subsection (1) of this section relating to an election and which is retained by the chief National

Electoral Commissioner or any other officer of the Commission in accordance with this section shall be open for inspection on an order made by the Tribunal or a Court in exercise of its powers to compel the production of documents in legal proceedings, but shall not otherwise be open for inspection.

Committee's Recommendation:

That the provision in Clause 169 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 169 do stand part of the Bill, put and agreed to.

Clause 170: Without prejudice to other provision of this Act, the Commission may delegate any of its powers and Functions to any National Electoral Commissioner, Resident Electoral Commissioner, Electoral Officer, any other officer of the Commission or any other officer appointed under the provision of this Act subject to any conditions or limitations which it may consider necessary or expedient to impose and no such delegation shall be construed to limit the right of the Commission to exercise such power, itself.

Committee's Recommendation:

That the provision in Clause 170 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 170 do stand part of the Bill, put and agreed to.

Clause 171: The Commission may, subject to the provision of this Act, issue regulations, guidelines, or manuals for the purpose or giving effect to the provisions of this Act and for its administration thereof.

Committee's Recommendation:

That the provision in Clause 171 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 171 do stand part of the Bill, put and agreed to.

Clause 172: The commission shall have power to conduct civic education and enlightenment in the print and electronic media to enhance its functions.

Committee's Recommendation:

That the provision in Clause 172 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 172 do stand part of the Bill, put and agreed to.

Clause 173: Notwithstanding any defect or error in any notice, form or document made or given or other thing whatsoever done in pursuance of the provisions of this Act or rules made there under, such notice, form or document, is hereby validated with effect from the date on which it was made, given or done respectively.

Committee's Recommendation:

That the provision in Clause 173 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question, that Clause 173 do stand part of the Bill put and agreed to.

INTERPRETATION

Clause 174: (1) In this Act, unless the context otherwise requires:

"Appointment" includes to an office, confirmation of appointment, promotion or transfer;

Question, That the meaning of the word "Appointment" be as defined in the Interpretation to this Act, put and agreed to.

"Area Council" means Area Councils recognized and existing by virtue of section 3 (6) of the 1999 Constitution and as set out in Part II of the First Schedule thereof and any additional Area Councils provided by an Act of the National Assembly in accordance with section 8 (5) of the Constitution;

Question, That the meaning of the words "Area Council" be as defined in the Interpretation to this Act, put and agreed to.

"Association" means a body of persons (corporate or otherwise) who agree to act together for any common purpose and includes an association formed for any ethnic social cultural, occupational or religious purpose;

Question, That the meaning of the word "Association" be as defined in the Interpretation to this Act, put and agreed to.

"Attorney-General of the Federation " means the Chief Law Officer of the Federation;

Question, That the meaning of the words "Attorney-General" be as defined in the Interpretation to this Act, put and agreed to.

"Authority" includes government or government agency;

Question, That the meaning of the word "Authority" be as defined in the Interpretation to this Act, put and agreed to.

"Chief Electoral Commissioner" means the Chairman of Independent National Electoral Commission;

Question, That the meaning of the words "Chief Electoral Commissioner" be as defined in the Interpretation to this Act, put and agreed to.

" Civil Service" means service of the Federation, State or Local Government in a civil capacity as staff of the Federal, State, or Local Government assigned with the responsibility of any business of the Government;

Question, That the meaning of the words "Civil Service" be as defined in the Interpretation to this Act, put and agreed to.

"Clerk" means the Clerk of the National Assembly, Clerk of the State House of Assembly, and Clerk of the Legislative House of the local Government or Area Council or any person acting in that capacity;

Question, That the meaning of the word "Clerk" be as defined in the Interpretation to this Act, put and agreed to.

"Commission" means the Independent National Electoral Commission established by the Constitution;

Question, That the meaning of the word "Commission" be as defined in the Interpretation to this Act, put and agreed to,

"Constitution" means the Constitution of the Federal Republic of Nigeria 1999;

Question, That the meaning of the word "Constitution" be as defined in the Interpretation to this Act, put and agreed to.

"Decision" means in relation to court or tribunal any determination of that court or tribunal and includes a Judgment, decree, conviction, sentence, order or Recommendation;

Question, That the meaning of the word "Decision" be as defined in the Interpretation to this Act, put and agreed to.

"Election" means any election held under this Act and includes a referendum.

Question, That the meaning of the word "Election" be as defined in the Interpretation to this Act, put and agreed to.

"Electoral Officer" means a staff of the Commission who is the head of the Commission's office at a Local Government Area or Area Council level¹

Question, That the meaning of the words "Electoral Officer" be as defined in the Interpretation to this Act, put and agreed to.

"Federation" means the Federal Republic of Nigeria;

Question, That the meaning of the word "Federation" be as defined in the Interpretation to this Act, put and agreed to.

"Function" includes power and duty;

Question, That the meaning of the word "Functions" be as defined in the Interpretation to this Act, put and agreed to.

"General Election" means an election held in the Federation at large and at all level, a regularly recurring election to select officers to serve after the expiration of the full terms of their predecessors

Question, That the meaning of the words "General Election" be as defined in the Interpretation to this Act, put and agreed to.

"Government" includes the Government of the Federation, of a State or of a Local Government Area or Area Council, or any person or organ exercising power or authority on its behalf;

Question, That the meaning of the word "Government" be as defined in the Interpretation to this Act, put and agreed to.

"House' or Legislative House'" means the House of Assembly of a State, the House of Representatives or the Senate and includes the Legislative House of Local Government Area or Area Council;

Question, That the meaning of the words "House 'or Legislative House'" be as defined in the Interpretation to this Act, put and agreed to.

"Leader of an association" means every person holding an executive position in that association, including in particular, the Chairman, Secretary or Treasurer of the association and every member of its committee of management, however, described;

Question, That the meaning of the words "Leader of an association" be as defined in the Interpretation to this Act, put and agreed to.

"Legal Incapacity" means a person disqualified under the Constitution or the present Act or any other Law, Rules and Regulations from Registering as a voter or from contesting election;

Question, That the meaning of the words "Legal Incapacity" be as defined in the Interpretation to this Act, put and agreed to.

"Local Government" means Local Government recognized and existing by virtue of section 3 (6) of the 1999 Constitution and set out in parts 1 and 2 of the first schedule thereof and any additional Local Government provided for by an Act of the National Assembly in accordance with section 8 (5) of the constitution.

Question, That the meaning of the words "Local Government" be as defined in the Interpretation to this Act, put and agreed to.

"National Assembly" means the Senate and the House of Representatives.

Question, That the meaning of the words "National Assembly" be as defined in the Interpretation to this Act, put and agreed to.

"Offensive weapon or missiles" includes any cannon, gun, rifle, carbine, machine gun, cap-gun, flint-lock gun, revolver, pistol, air gun, air pistol, or other firearms, (whether whole or in detached pieces) bow and arrow, spear, cutlass, machete, knife, dagger, cudgel, or any piece of wood, metal, bottle, or stone, acid, corrosive powder, irritating pressurized gaseous liquid.

Question, That the meaning of the words "Offensive weapon or missiles" be as defined in the Interpretation to this Act, put and agreed to.

"Office" or "Public Office" means any of the offices the occupation to which is by election or appointment under this Act;

Question, That the meaning of the word "Office" be as defined in the Interpretation to this Act, put and agreed to.

"Petition" means an election petition under this Act;

Question, That the meaning of the word "Petition" be as defined in the Interpretation to this Act, put and agreed to.

"Political Party" includes any association of persons whose activities include canvassing for votes in support of a candidate for election under this Act and registered by the Commission;

Question, That the meaning of the words "Political Party " be as defined in the Interpretation to this Act, put and agreed to.

"Polling Station" means the place enclosure, booth, shade or house at which voting takes place under this Act and includes polling unit;

Question, That the meaning of the words "Polling Station " be as defined in the Interpretation to this Act, put and agreed to.

"President" means **the** President of the Federal Republic of Nigeria;

Question, That the meaning of the word "President" be as defined in the Interpretation to this Act, put and agreed to.

"Registrar" includes Chief Registrar; Deputy Chief Registrar and Registrars of other grades of the Supreme Court, Court of Appeal, Federal High Court and the High Court of State;

Question, That the meaning of the word "Registrar" be as defined in the Interpretation to this Act, put and agreed to.

"Registration Officer" includes supervisory assistant registration officer and assistant registration officer;

Question, That the meaning of the words "Registration Officer" be as defined in the Interpretation to this Act, put and agreed to.

"Resident Electoral Commissioner" means the Commissioner deployed for the time being to a State;

Question, That the meaning of the words "Resident Electoral Commissioner" be as defined in the Interpretation to this Act, put and agreed to.

"Return" means the declaration by a Returning Officer of a candidate in an election under this Act as being the winner of that election;

Question, That the meaning of the word "Return" be as defined in the Interpretation to this Act, put and agreed to.

'School Certificate or its equivalent' means the following

- (a) a Secondary School Certificate or its equivalent or Grade II Teachers Certificate, the City and Guilds Certificate; or
- (b) education up to Secondary School Certificate level; or
- (c) Primary six School Leaving Certificate or its equivalent and
 - (i) service in the public or private sector of the Federation in any capacity acceptable to the Commission for a minimum of 10 years; and
 - (ii) attendance at courses and training in such institutions as may be acceptable to the Commission for periods totaling up to a minimum of 1 year; and
- (Hi) The ability to read, write, understand and communicate in the English Language to the satisfaction of the commission; and
- (d) any other qualification acceptable to the Commission;

Question, That the meaning of the words "School Certificate or its equivalent" be as defined in the Interpretation to this Act, put and agreed to.

"Secret Society" includes any association, group or body of person (whether registered or not):

- (a) that uses secret signs, oaths, rites or symbols and which is formed to promote a cause, the purpose or part of the purposes of which is to foster the interest of its members and to aid one another under any circumstances without due regard to merit, fair play or justice to the detriment of the legitimate interest of those who are not members;
- (b) the membership of which is with the function or dignity of any public office under this Act or any other enactment and whose members are sworn to observe oaths of secrecy;
- (c) the activities of which are not known to the public at large;
- (d) the names of whose members are kept; and
- (e) whose meetings and other activities are held in secret;

Question, That the meaning of the words "Secret society" be as defined in the Interpretation to this Act, put and agreed to.

"State" when used otherwise than in reference to one of the component parts of the Federal Republic of Nigeria shall include government of a State;

Question, That the meaning of the word "State" be as defined in the Interpretation to this Act, put and agreed to.

"State Commission" means State Independent Electoral Commission established by section 197 of the Constitution.

Question, That the meaning of the words "State Commission" be as defined in the Interpretation to this Act, put and agreed to.

All references in this Act to a State in the Federation shall, where appropriate, be deemed to include references to the Federal Capital Territory.

Question that Clause 174 do stand part of the Bill put and agreed to.

Clause 175: The following enactment are hereby repealed;-

- (a) The Electoral Act of **2002** is hereby repealed,
- (b) INEC Estab. Act No. 17 of 1998.
- (c) INEC (Amendment) Act No. 33 of 1998.

Committee's Recommendation:

That the provision in Clause 175 be retained (*Senator David C. Brigidi*) — *Agreed to.*

Question that Clause 175 do stand part of the Bill put and agreed to.

Clause 176: This act may be cited as the Electoral Act 2004.

Amendment Proposed:

Leave out the figure "2004" and insert the figure "2006" instead thereof (Senator Udoma Udo Udoma).

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

Question, that Clause 176 as amended do stand part of the Bill, put and agreed to.

FIRST SCHEDULE PROCEDURE FOR ELECTION PETITIONS.

1. In this Schedule:

" Attorney- General" means the Attorney-General of the Federation and includes the Attorney-General of a State where the context admits;

" Civil Procedure Rules" means the Civil Procedure Rules of the Federal High Court for the time being in force;

"Election" means any election under this Act to which an election petition relates;

"Registry" means the Secretary of an Election Tribunal established by the Constitution of this Act and shall include the Registrar of the Court of Appeal or any officer or Clerk acting for him,

"Tribunal" means an Election Tribunal established under this Act or the Court of Appeal;

"Tribunal Notice Board" means a notice board at the registry or a board at the place of hearing where notice of presentation of election petition or notice of hearing an election or any other notice may be given or posted.

Question, That Paragraph 1 do stand part of First Schedule to the Bill, put and agreed to.

- 2.**
 - (1) At the time of presenting an election petition, the petitioner shall give security for all costs which may become payable by him to a witness summoned on his behalf or to a respondent.
 - (2) The Security shall be of such amount not less than N5, 000.00 as the Tribunal or Court may order and shall be given by depositing the amount with the Tribunal or Court.
 - (3) Where two or three persons join in an election petition, a deposit as may be ordered under Sub-paragraph (2) of this paragraph of this Schedule shall be sufficient.
 - (4) If no security is given as required by this paragraph, there shall be no further proceedings on the election petition.

Question, That Paragraph 2 do stand part of First Schedule to the Bill, put and agreed to.

- 3.**
 - (1) The presentation of an election petition under this Act shall be made by the petitioner (or petitioners if more than one) in person, or by this Solicitor, if any, named at the foot of the election petition to the Secretary, and the Secretary shall give a receipt.

- (2) The Petitioner shall, at the time of presenting the election petition, deliver to the Secretary a copy of the election petition for each respondent and ten other copies to be preserved by the Secretary.
- (3) The Secretary shall compare the copies of the election petition received in accordance with sub-paragraph (2) of this paragraph with the original petition and shall certify them as true copies of the election petition on being satisfied by the comparison that they are true copies of the election petition.
- (4) The petitioner or his Solicitor, as the case may be, shall, at the time of presenting the election petition, pay the fees for the service and the publication of the petition, and for certifying the copies and, in default of the payment, the election petition shall be deemed not to have been received, unless the Tribunal or Court otherwise orders.

Question, That Paragraph 3 do stand part of First Schedule to the Bill, put and agreed to.

4. (1) An election petition under this Act shall :-
 - (a) specify the parties interested in the election petition;
 - (b) specify the right of the petitioner to present the election petition;
 - (c) state the holding of the election, the scores of the candidates and the persons returned as the winner of the election; and
 - (d) State clearly the facts of the election petition and the ground or grounds on which the petition is based and the relief sought by the petitioner.
- (2) The election petition shall be divided into paragraphs each of which shall be confined to a distinct issue or major facts of the election petition, and every paragraph shall be numbered consecutively.
- (3) The Election petition shall further:-
 - (a) conclude with prayer or prayers, as for instance, that the petitioner or one of the petitioners be declared validity elected or returned, having polled the highest number of lawful votes cast at the election or that the election may be declared nullified, as the case may be ; and
 - (b) be signed by the petitioner or all petitioners or by the Solicitor, if any, named at the foot of the election petition.
- (4) At the foot of the election petition there shall also be stated an address of the petitioner for service at which address documents intended for the petitioner may be left and its occupier.
- (5) If an address for service is not stated as specified in sub-paragraph (4) of this paragraph, the petition shall be deemed not to have been filed unless the tribunal or Court otherwise orders.
- (6) An election petition which does not conform with sub-paragraph (1) of this paragraph or any provision of that sub-paragraph is defective and may be struck out by the tribunal or Court.

Question, That Paragraph 4 do stand part of First Schedule to the Bill, put and agreed to.

5. Evidence need not to be stated in the election petition, but the tribunal or Court may order such further particulars as may be necessary:-
 - (a) to prevent surprise and unnecessary expenses;
 - (b) to ensure fair and proper hearing in the same way as in a civil action in the Federal High Court; and
 - (c) On such terms as to costs or otherwise as may be ordered by the Tribunal or Court.

Question, That Paragraph 5 do stand part of First Schedule to the Bill, put and agreed to.

6. For the purpose of service of an election petition on the respondents, the petitioner shall furnish the Secretary with the address of the respondents' abode or **the** addresses of places where personal service can be effected on the respondents.

Question, That Paragraph 6 do stand part of First Schedule to the Bill, put and agreed to.

7. (1) On the presentation of an election petition and payment of the requisite fees, the Secretary shall forthwith;-
- (a) cause notice, of the presentation of the election petition, to serve on each of the respondents;
- (b) post on the tribunal notice board a certified copy of the election petition; and
- (c) set aside a certified copy for onward transmission to the person or persons required by law to adjudicate and determine the election petition.
- (2) In the notice of presentation of the election petition, the Secretary shall state a time, not being less than five days but not more than seven days after the date of service of the notice, within which each of the respondents shall enter an appearance in respect of the election petition.
- (3) In fixing the time within which the respondents are to enter appearance the secretary shall have regard to :-
- (a) the necessity of securing a speedy hearing of the election petition; and
- (b) the distance from the Registry or the place of hearing to the address furnished under sub-paragraph (4) of paragraph 4 of this Schedule.

Question, That Paragraph 7 do stand part of First Schedule to the Bill, put and agreed to.

- (1) Subject to sub-paragraph (2) and (3) of this paragraph, service on the respondents:-
- (a) of the document mentioned in (1) Sub-paragraph (1) (a) of paragraph 7 of this Schedule; and
- (b) Of any of the document required to be served on them before entering appearance, shall be personal.
- (2) Where the petitioner has furnished, under paragraph 6 of this Schedule, the addresses of **the** places where personal services can be effected on the respondents and the respondents or any of them cannot be found at the place or places, the Tribunal or Court on being satisfied, on an application supported by an affidavit showing that all reasonable efforts have been made to effect personal service, may order that service of any document mentioned in sub-paragraph (1) of this paragraph be effected in any manner mentioned in the relevant provision of the Civil Procedure Rules for effecting substituted service in Civil cases and that services shall be deemed to be equivalent to personal services.
- (3) The proceedings under the election petition shall not be vitiated notwithstanding the fact that:-
- (a) the respondents or any of them may not have been served personally; or
- (b) The document on which substituted service has been effected pursuant to an order made under sub-paragraph (2) of this paragraph did not reach the respondent, and in either case, the proceeding may be heard and continued or determined as if the respondents or any of them had been served personally with the document and shall be valid and effective for all purposes.

Question, That Paragraph 8 do stand part of First Schedule to the Bill, put and agreed to.

- (1) Where the respondent intends to oppose the election petition, he shall-
- (a) within such time after being served or deemed to have been served with the election petition; or
- (b) where the secretary has stated a time under sub-paragraph (2) of paragraph 7 of this schedule, within such time as is stated by the secretary, enter an appearance

by filing in the Registry a memorandum of appearance stating that he intends to oppose the election petition and giving the name and address of the solicitor, if any, representing him or stating that he acts for himself, as the case may be, and in either case, giving an address for service at which documents intended for him may be left or served.

- (2) an address for service and its occupiers are not stated, the memorandum of appearance shall be deemed not to have been filed, unless the Tribunal or the Court otherwise orders.
- (3) The memorandum of appearance shall be signed by the respondent or his solicitor, if any.
- (4) At the time of filling the memorandum of appearance, the respondent or his solicitor, as the case may be, shall-
 - (a) leave a copy of the memorandum of appearance for each of the other parties to the election petition and three other copies of the memorandum to be preserved by the secretary; and
 - (b) pay the fees for service as may be prescribed or directed by the secretary; and in default of the copies being left and the fees being paid at the time of filling the memorandum of appearance, the memorandum of appearances shall be deemed not to have been filed, unless the Tribunal or Court otherwise orders.
- (5) A respondent who has a preliminary objection against the hearing of the election petition on grounds of law may file a conditional memorandum of appearance.

Question, That Paragraph 9 do stand part of First Schedule to the Bill, put and agreed to.

10. (1) If the respondent does not file a memorandum of appearance as required under paragraph 9 or of this schedule, a document intended for service on him may be posted on the Tribunal notice board and that shall be sufficient notice of service of the document on the respondent.
- (2) The non-filing of a memorandum of appearance shall, not bar the respondent from defending the election petition if the respondent files his reply to the election petition in the Registry within a reasonable time, but, in any case, not later than twenty on (21) days from the receipt of the election petition.

Question, That Paragraph 10 do stand part of First Schedule to the Bill, put and agreed to.

11. The Secretary shall cause copies of the memorandum of appearance to be served on, or its notice to be given to the other parties to the election petition.

Question, That Paragraph 11 do stand part of First Schedule to the Bill, put and agreed to.

12. (1) The respondent shall, within fourteen (14) days of entering an appearance file in the Registry his reply, specifying in it which of the fact alleged in the election petition he admits and which he denies, and setting out the facts on which he relies in opposition to the election petition.
- (2) Where the respondent in an election petition, complaining of an undue return and claiming the seat or office for a petitioner intends to prove that the claim is incorrect or false, the respondent in his reply shall set out the facts and figures clearly and distinctly disproving the claim of the petitioner.
- (3) The reply may be signed by the respondent or the solicitor representing him, if any.
- (4) At the time of the reply, the respondent or his solicitor, if any, shall leave with the secretary copies of the reply for service on the other parties to the election petition with ten (10) extra copies of the reply to be preserved by the Secretary, and pay the fees for service as may be prescribed or directed by the Secretary, and in default of leaving the required copies of the reply or paying the fees for service, the replay shall be deemed not to have been filled, unless the Tribunal or Court other wise order.

Question, That Paragraph 12 do stand part of First Schedule to the Bill, put and agreed to.

13. The Secretary shall cause a copy of the reply to be served on each of the other parties to the election petition.

Question, That Paragraph 13 do stand part of First Schedule to the Bill, put and agreed to.

14. (1) Subject to sub-paragraph (2) of this paragraph, the provisions of the Civil Procedure Rules relating to amendment of pleading shall apply in relation to an election petition or a reply to the election petition as if for the words "any proceedings" in those provisions there were substituted the words "the election petition or reply."
- (2) After the expiration of the time limited by-
- (a) Section 152 of this Act for presenting the election petition, no amendment shall be made -
- (i) introducing any of the requirement of sub-paragraph (1) of paragraph 4 of this schedule not contained in the Election petition ; or
- (ii) effecting a substantial alteration of the ground for, the prayer in the petition ; or
- (iii) except anything which may be done under the provisions of sub-paragraph (3) of this paragraph, effecting a substantial alteration of or addition to, the statement of facts relief or to support the ground for or sustain the prayer in the election petition; and
- (b) paragraph 12 of the Schedule for filing the reply, no amendment shall be made:-
- (i) alleging that the claim of the seat or office by the petitioner is incorrect or false; or
- (ii) except anything which may be done under the provisions of sub-paragraph (3) of this paragraph, effecting any substantial alteration in or addition to the admissions or the denials contained in the original reply filed, or to the facts set out in reply.

Question, That Paragraph 14 do stand part of First Schedule to the Bill, put and agreed to.

15. When a petitioner claims the seat alleging that he had the highest number of valid votes cast at the last election, the party defending the election or return at the election shall set out clearly in his reply particulars of the votes, if any which he objects to and the reasons for his objection against such votes, showing how he intends to prove at the hearing that the petition is not entitled to succeed.

Question, That Paragraph 15 do stand part of First Schedule to the Bill, put and agreed to.

16. (1) If a person in his reply to the election petition raises new issues of facts in defense of his case which the petition has not dealt with, *the* petitioner shall be entitled to file in the Registry, within five (5) days from the receipt of the respondent's reply, a petitioner's reply in answer to the new issues of fact, so however that:-
- (a) the petitioner shall not at this stage be entitled to bring in new facts, grounds prayers tending to amend or add to the contents of the petition filed by him; and
- (b) The petitioner's reply does not run counter to the provisions of sub-paragraph (1) of paragraph 14 of this Schedule.
- (2) The time limited by sub-paragraph 91) of this paragraph shall not be extended.

Question, That Paragraph 16 do stand part of First Schedule to the Bill, put and agreed to.

17. (1) If a party in an petition wishes to have further particulars or other directions of the Tribunal or Court, he may, at any time after entry of appearance but not later than ten days after the filing of the reply, apply to the Tribunal or Court specifying in his notice of motion the direction for which he pray and the motion shall, unless the Tribunal or Court other wise orders, be set down for hearing on the first available day.

- (2) If a party does not pray as provided in sub-paragraph (1) of this paragraph, he shall be taken to require no further particulars or other paragraph, he shall be taken to require no further particulars or other directions and the party shall be barred from so applying after the period laid down in sub-paragraph 10 of this paragraph has lapsed.
- (3) Supply of further particulars under this paragraph shall not entitle the party to go beyond the ambit of supply such further particulars as have been demanded by the other party, and embark on undue amendment of , or additions to, his petition or reply, contrary to paragraph 14 of this Schedule.

Question, That Paragraph 17 do stand pan of First Schedule to (he Bill, put and agreed to.

18. Every election petition shall be and determined in an open Tribunal Court,

Question, That Paragraph 18 do stand part of First Schedule to the Bill, put and agreed to.

19. (1) Subject to the provisions of sub-paragraph (2) of this paragraph, the time and place of the hearing an election petition shall be fixed by the Tribunal or Court and the notice of the time and the place of the hearing, which may be as in form TF: set out in Schedule 2 of this Act, shall be given by the Secretary at least five days before the day fixed for the hearing by :-
- (a) posting the notice on the Tribunal notice board; and
 - (b) sending a copy of the notice by registered post or through a messenger to :-
 - (i) the petitioner's address for service;
 - (ii) the respondent's addresses for service, if any ; or
 - (iii) the Resident Electoral Commission or the Commission as the case may be;
- (2) In fixing the place of hearing, the Tribunal or Court shall have due regard to the proximity to and accessibility from the place where the election was held.

Question, That Paragraph 19 do stand part of First Schedule to the Bill, put and agreed to.

20. The Resident Electoral Commissioner or Commission as the case may be shall publish the notice of hearing by causing a copy of the notice to be displayed in the place which was appointed for the delivery of nomination papers prior to the election or in some conspicuous places within the constituency, but failure to so or any miscarriage of the copy of notice of hearing shall not affect the proceedings if it does not occasion injustice against any of the parties to the election petition.

Question, That Paragraph 20 do stand part of First Schedule to the Bill, put and agreed to.

21. The posting of the notice of hearing on the Tribunal notice board shall be deemed and taken to be good notice, and the notices shall not be vitiated by any miscarriage of the copy or copies of the notice sent pursuant to paragraph 19 of this Schedule.

Question, That Paragraph 21 do stand part of First Schedule to the Bill, put and agreed to.

22. (1) The Tribunal or Court may, from time to time by order made on the application of a party to the election petition or at the instance of the Tribunal or Court, postpone the beginning of the hearing to such day as the Tribunal or Court may consider appropriate having regard at all times to the need for speedy conclusion of the hearing of the election petition.
- (2) A copy of the order shall be sent by the Secretary by registered post or messenger to the Electoral Officer or the Resident Electoral Commissioner or the Commission who shall publish the order in the manner provided in paragraph 20 of this schedule for publishing the notice of hearing, but failure on the part of the Electoral Officer or Resident Electoral Commissioner shall not affect the postponement.
- (3) The Secretary shall post or cause to be posted on the tribunal notice board a copy of the order.

- (4) Where the Tribunal or Court gives an order of postponement at its own instance a copy of the order shall be sent by the Secretary by registered post or messenger to the address for service given by the petitioner and to the address for service, if any, given by the respondents or any of them.
- (5) The provision of paragraph 21 of this Schedule shall apply to an order or a notice of postponement as they do to the notice of hearing.

Question, That Paragraph 22 do stand part of First Schedule to the Bill, put and agreed to.

- 23. If the Chairman of the Tribunal or Presiding Justice of the Court has not arrived at the appointed time for the hearing or at the time to which the hearing has been postponed, the hearing shall be by reason of that fact stand adjourned to the following day and so from day to day.

Question, That Paragraph 23 do stand part of First Schedule to the Bill, put and agreed to.

- 24. (1) No formal adjournment of the Tribunal or Court for the hearing election petition shall be necessary, but the hearing shall be deemed adjourned and may be continued from day to day until the hearing is concluded unless the Tribunal or Court otherwise directs as the circumstances may dictate.
- (2) If the Chairman of the Tribunal or the Presidency Justice of the Court who begins the hearing of an election petition is disabled by illness or otherwise, the hearing may be recommenced and concluded by another Chairman of the Tribunal or Presidency Justice of the Court appointed by the appropriate authority.

Question, That Paragraph 24 do stand part of First Schedule to the Bill, put and agreed to.

- 25. (1) After the hearing of an election petition has begun, if the inquiry cannot be continued on the ensuing day or, if that day is a Sunday or a public holiday, on the day following the same, the hearing shall not be adjourned sine die but to a definite day to be announced before the rising of the Tribunal or Court and notice of the day to which the hearing is adjourned shall forthwith be posted by the Secretary on the notice board.
- (2) The hearing may be continued on a Saturday or on a public holiday if circumstance dictate.

Question, That Paragraph 25 do stand part of First Schedule to the Bill, put and agreed to.

- 26. (1) All interlocutory questions and matters may be heard and disposal of by the Chairman of the Tribunal or the Presidency Justice of the Court who shall have control over the proceedings as a Judge in the Federal High Court.
- (2) After the hearing of the election petition is concluded, if the Tribunal or Court before which it was heard has prepared its judgment but the Chairman or the Presiding Justice is unable to deliver it due to illness or any other cause, the judgment may be delivered by one of the members, and the judgment as delivered shall be the judgment of the Tribunal or Court and the member shall certify the decision of the Tribunal or Court to the Resident Electoral Commissioner, or to the Commission.

Question, That Paragraph 26 do stand part of First Schedule to the Bill, put and agreed to.

- 27. (1) At the conclusion of the hearing, the Tribunal shall determine whether a person whose election or return is complained of or any other person, and what person, was validly returned or elected, or whether the election was void, and shall certify the determination to the Resident Electoral Commissioner or the Commission.
- (2) If the Tribunal or Court has determined that the election is invalid, then, subject to section 160 of this Act where there is an appeal and the appeal fails, a new election shall be held by the Commission.
- (3) Where a new election is to be held under the provisions of this paragraph, the Commission shall appoint a date for the election which shall not be later than 3 months from the date of the determination

Question, That Paragraph 27 do stand part of First Schedule to the Bill, put and agreed to.

28. (1) An election petition shall not be withdrawn without leave of the Tribunal or Court.
- (2) here the petitioners are more than one no application for leave to withdraw the election petition shall be made except with the consent of all the petitioners.
- (3) The application for leave to witlidraw an election shall be made by motion after notice of the application has been given to the respondents.
- (4) The notice of motion shall state the grounds on which the motion to withdraw is based, supported with affidavit verifying the facts and reasons for withdrawal, signed by the petitioner or petitioners in the presence of the secretary.
- (5) At the time of filling the notice of motion the petitioner or petitioners shall leave copies for service on the respondent.
- (6) The petitioner or petitioners shall also file the affidavits required under paragraph 29 of this schedule together with copies for each respondent and pay the fees prescribed or directed by the secretary for services.

Question, That Paragraph 28 do stand part of First Schedule to the Bill, put and agreed to.

29. Before the leave for withdrawal of an election petition is granted, each of the parties to the petition shall produce an affidavit, stating that-
- (a) to the best of the deponents knowledge and belief no agreement or term of any kind whatsoever has been made; and
- (b) No undertaking has been entered into, in relation to the withdrawal of the petition, but if any lawful agreement has been made with respect to the withdrawal of the petition, the affidavit shall set forth that agreement and shall made the foregoing statement subject to what appears from the affidavit.

Question, That Paragraph 29 do stand part of First Schedule to the Bill, put and agreed to.

30. (1) The time for hearing the motion for leave to withdraw the election petition shall be fixed by the Tribunal or Court.
- (2) **The** Secretary may give notice of the day fixed for the hearing of the motion to the respondents and post or cause to be posted on the Tribunal notice board a copy of the notice.

Question, That Paragraph 30 do stand part of First Schedule to the Bill, put and agreed to.

31. If the election petition is withdrawn, the petitioner shall be liable to pay appropriate costs to the respondents or any of them unless the Tribunal or Court otherwise orders.

Question, That Paragraph 31 do stand part of First Schedule to the Bill, put and agreed to.

32. (1) If a sole petitioner or the survivor of several petitioners dies then subject to sub-paragraph (2) and (3) of this paragraph, there shall be no further proceedings on the election petition and the Tribunal or Court may strike it out of its cause list.
- (2) The death of a petitioner shall not affect his liability for the payment of costs previously incurred in the course or proceedings in respect of the election petition prior to its abatement.
- (3) Where notice, with copies for each party to the election petition supported by the affidavit of two witnesses testifying to the death of a sole petitioner or of the survivor of several petitioners, is given to the secretary, he shall submit the notice to the Tribunal or Court and if the Tribunal or Court so directs, the Secretary shall-
- (a) serve notice thereof on the other parties to the petition
- (b) post or cause to be posted a notice thereof on the Tribunal notice board; and

- (c) Cause notice thereof to be published in conspicuous places in the constituency, in such form as the Tribunal or Court may direct.

Question, That Paragraph 32 do stand part of First Schedule to the Bill, put and agreed to.

33. (1) If before the hearing of an election petition, a respondent, other than the Electoral Officer, the Returning Officer or Presiding Officer, gives to the Tribunal or Court notice in writing signed by him or his Solicitor before the Secretary that he does not intend to oppose the election petition, the Secretary shall-
- (a) serve notice thereof on the other parties to the election petition; and
- (b) post or cause to be posted a notice thereof on the Tribunal notice board.
- (2) The respondent shall file the notice with a copy for each other party to the election petition not less than six days before the day appointed for hearing of the election petition.
- (3) A respondent who has given notice of his intention not to oppose the election petition shall not appear or act as a party against the election petition in any proceeding on it, but the giving of the notice shall not of itself cause him to cease to be a respondent.

Question, That Paragraph 33 do stand part of First Schedule to the Bill, put and agreed to.

34. (1) Where a notice of-
- (a) the petitioner's intention to apply for leave to withdraw an election petition; or
- (b) the death of the sole petitioner or the survivor of several petitioners; or
- (c) the respondent's intention not to oppose an election petition, is received after notice of hearing of the election petition has been given, and before the hearing has begun, the Secretary shall forthwith countermand the notice of hearing.
- (2) The countermand shall be given in the same manner, and, as near as may be, as the notice of hearing.

Question, That Paragraph 34 do stand part of First Schedule to the Bill, put and agreed to.

35. Where the respondent has not entered an appearance, or has not filed his reply within the prescribed time or within such time as the Tribunal or Court may have allowed, or has given notice that he does not intend to oppose the petition, then if-
- (a) there remains no more than one other candidate in the election who was not returned, or
- (b) the election petition contains no prayer for a determination that the election was void; or
- (c) there are no facts or grounds stated in the election petition or in the reply, if any, or stated in any further particulars filed in the proceedings or otherwise appearing on proof of which it ought to be determined that election was void; or
- (d) the election petition is one complaining of undue return and claiming the seat or office for the candidate who was not returned and the respondent has not raised any formal or written objections to any of the votes relied on by the petitioner, the Tribunal or Court may, if it deems fit determine the proceedings on the election petition without hearing evidence or further evidence, and in any case, the proceedings shall be continued and determined on such evidence or otherwise as the Tribunal or Court may deem necessary for the full and proper determination of the election petition.

Question, That Paragraph 35 do stand part of First Schedule to the Bill, put and agreed to.

36. (1) The fee payable on the presentation of an election petition shall not be less than N 1,000.00

. . (2) A hearing fees shall be payable for the hearing at the rate of N40 per day of the hearing but no exceeding N200 in all, but the Tribunal or Court may direct a different fee to be charged for any day of the hearing.

- (3) For the purpose of sub-paragraph (2) of this paragraph, the petitioners shall make a deposit of not less than N200 at the time of presenting his petition.
 - (4) Subject to the provision of this paragraph, the fees payable in connection with an election petition shall be at the rate prescribed for civil proceedings in the Federal High Court.
 - (5) No fees shall be payable by the Attorney-General of the Federation (acting in person or through any other legal officer) or by a respondent who was the Commission or any of its officers appointed pursuant to the provisions of this Act.
-
- (6) No fees shall be payable for the summoning of witnesses **summoned** by the Tribunal or Court at its own instance.

Question, That Paragraph 36 do stand part of First Schedule to the Bill, put and agreed to.

- 37. (1) **All** costs, charges and expenses of and incidental to the presentation of an election petition and to the proceedings consequent thereon, with the exception of such as are otherwise provided for, shall be defrayed by the parties to the election petition in such manner and in such proportions as the Tribunal or Court may determine, regard being had to-
 - (a) the disallowance of any cost, charges or expenses, which may in the opinion of the Tribunal or Court have been caused by vexatious conduct, unfounded allegation or unfounded objection on the part of the petitioner or of the respondent, as the case may be; and
 - (b) the discouragement of any needless expenses by throwing the burden of defraying the expenses on the Party by whom it has been caused; whether that Party is or is not on the whole successful.
- (2) Where the Tribunal or Court declare an election to be void, it may, if satisfied that the invalidity was due either wholly or in part to the culpable default of an officer responsible for the conduct of the election in the performance of his duties imposed by this Act, order **that** the whole or part of the cost awarded to the successful petitioner be paid by that officer.

Question, That Paragraph 37 do stand part of First Schedule to the Bill, put and agreed to.

- 38. Money deposited as security shall, when no longer needed as security for cost, charges or expenses, be returned to the person in whose name it deposited or to the person entitled to received it by order of the Tribunal or Court which may be made on motion after notice and proof that all just claims have been satisfied or otherwise sufficiently provided for as the Tribunal or Court may require.

Question, That Paragraph 38 do stand part of First Schedule to the Bill, put and agreed to.

- 39. (1) The Tribunal or Court may, on applicant made by a person to whom any costs, charges or expense is payable, order it to be paid out of a deposit made to secure it, after notice to the party by or on whose behalf the deposit was made, requiring him to file a statement within a specified time whether he opposes the application and the ground of his opposition.
- (2) Where a dispute arises on an application under sub-paragraph (i) of this paragraph, the Tribunal or Court shall afford every person affected by the dispute an opportunity of being heard and shall make such order there on as it may deem fit.
- (3) A person shall be deemed to have been afforded the opportunity of being heard if notice of the appointed time for the inquiry into the dispute was given to him, though the person may not have been present at the making of the inquiry.
- (4) A notice to be given to a person under this paragraph may be given by the Secretary handing him the notice or sending it to him by registered letter-
 - (a) in the case of a party at the address for services;

(b) In the case of an application for payment, at the address given in his application, so however, that the provisions of this sub-paragraph shall not preclude the giving of notice may be given or which may be authorized by the Tribunal or Court.

- (5) Execution may be levied under an order for payment made by the Tribunal or Court under this paragraph in the same manner and to the same extent as execution may be levied under judgment for the payment of money.

Question, That Paragraph 39 do stand part of First Schedule to the Bill, put and agreed to.

40. (1) On the hearing of an election petition, the Tribunal or Court may summon a person as a witness who appears to the Tribunal or Court to have been concerned in the election.
- (2) The Tribunal or Court may examine a witness so summoned or any other person in the Tribunal or Court although the witness or person is not called and examined by a party to the election petition, and thereafter he may be cross-examined by or on behalf of the petitioner and the respondent.
- (3) The expenses of a witness called by the Tribunal or Court at its own instance shall, unless the Tribunal or Court otherwise orders, be deemed to be costs of the election petition and may, if the Tribunal or Court so directs, be paid in the first instance by the Secretary in the same way as State witness' expenses and recovered in such manner as the Tribunal or Court may direct.
- (4) Where the Tribunal or Court summons a person as a witness under this paragraph, the provisions of the Civil Procedure Rules relating to the expenses of persons ordered to attend a hearing shall apply as if they were part of this paragraph.
- (5) The Tribunal or Court shall-
- (a) in making and carrying into effect an order for the production and inspection of documents used in the election; and
- (b) in the examination of any witness who produces or will produce a document, ensure that the way in which the vote of a particular person has been given shall not be disclosed.

Question, That Paragraph 40 do stand part of First Schedule to the Bill, put and agreed to.

41. (1) A person called as a witness in a proceeding in the Tribunal or Court shall not be excused from answering a question relating to an offence or connected with an election on the grounds that the answer thereto may incriminate or tend to incriminate him, or on the ground of privilege.
- (2) A witness who answers truly all questions which he is required by the Tribunal or Court to answer shall be entitled to receive a certificate of indemnity under the hand of the Chairman or the Tribunal or Presiding Justice of the Court stating that the witness has so answered.
- (3) An answer by a person to a question before the Tribunal or Court shall not, except in the case of a criminal proceeding for perjury in respect of the answer, be admissible in any proceeding for perjury in respect of the answer, be admissible in any proceeding, civil or criminal, in evidence against him.
- (4) When a person has received a certificate of indemnity in relation to an election and legal proceedings are at any time brought against him for an offence against the provisions of this Act, committed by him prior to the date of the certificate at or in relation to that election, the Tribunal or Court having cognizance of the case shall, on proof of the certificate, stay the proceeding, and may, at its discretion award to that person such costs as he may have been put to in the proceeding.

Question, That Paragraph 41 do stand part of First Schedule to the Bill, put and agreed to.

- 42." At the hearing of an election petition complaining of an undue return and claiming the seat or office for a petitioner, the respondent may, subject to the provisions of sub-paragraph (2) of paragraph

12 of this schedule, give evidence to prove that the election of the petitioner was undue in the same manner as if he were the person presenting the election petition complaining of the election.

Question, That Paragraph 42 do stand part of First Schedule to the Bill, put and agreed to.

43. (1) The Tribunal or Court shall have power, subject to the provisions of section 152 of this Act and paragraph 14 of this schedule, to enlarge time for doing any act or taking any proceedings on such term (if any) as the justice of the case may require except otherwise provided by any other provision of this schedule.
- (2) An enlargement of time may be ordered although the application for the enlargement is not made until after the expiration of the time appointed or allowed.
- (3) When the time for delivering a pleading or document or filing any affidavit, answer or document, or doing anything or act is or has been fixed or limited by any of the sections paragraphs or rules under or in pursuance of this Act or by a direction or an order of the Tribunal or Court, the costs of an application to extend the time, where allowed or of an order made there on shall be borne by the party making the application unless the Tribunal or Court otherwise orders.
- (4) Every application for enlargement or abridgement of time shall be supported by affidavit.
- (5) An application for abridgement of time may be *ex parte*, but the Tribunal or Court may require notice of the application to be given to the other parties to the election petition.
- (6) An application for enlargement of time shall be made by motion after notice to the other party to the election petition but the Tribunal or Court may, for good cause shown by affidavit or otherwise, dispense with the notice.
- (7) A copy of an order made for enlargement or abridgement of time shall be filed or delivered together with any document filed or delivered by virtue of the order.

Question, That Paragraph 43 do stand part of First Schedule to the Bill, put and agreed to.

44. (1) Where a summons, notice or document, other than a notice or document mentioned in sub-paragraph 1 of paragraph 7 of this Schedule, is required to be served on a person for a purpose connected with an election petition, it may be served by delivering it to the person or by leaving it at his last known place of abode in the constituency with any person there found who is a resident of the abode and appears to be 18 years of age or more.
- (2) After a party has given an address for service it shall be sufficient if, in lieu of serving him personally with a document intended for him, the document is served-
- (a) on the person appearing on the paper last filed on his behalf as his Solicitor wherever the person may be found or, if the person is not found at his office, on the clerk there apparently in charge; or
- (b) on the person named as occupier in his address for service wherever the person may be found or, if the person is not found at the address, on-
- (i) the person there found apparently in charge, if such address is a place or business, or
- (ii) a person, other than a domestic servant, there found who is a resident of the address and appears to be 18 years of age or more.
- (3) A party may change his address for service by given notice of his new address for service and its occupier to the Secretary and to each party to the election petition but until a notice is received by the Secretary his old address for service shall continue to be his address for service.
- (4) Where service by one of the modes specified in this paragraph has proved impracticable, the Tribunal or Court may, on being satisfied, on an application supported by an affidavit showing what has been done, that all reasonable efforts, have been made to effect service-

- (a) order that service be effected in any of the ways mentioned in the provision of the Civil Procedure Rules relating to substituted service which service shall be sufficient; or
- (b) dispense with service or notice as the Tribunal or Court deems, fit.

Question, That Paragraph 44 do stand part of First Schedule to the Bill, put and agreed to.

- 45. Two or more candidate may be made respondent to the same petition and their case may, for the sake of convenience be heard at same time but for all purposes (including the taking of security) the election petition shall be deemed to be a separate petition against each of the respondents.

Question, That Paragraph 45 do stand part of First Schedule to the Bill, put and agreed to.

- 46. Where two or more petitions are presented in relation to the same election or return, all the petitions shall be consolidated, considered and be dealt with as one petition unless the Tribunal or Court shall otherwise direct in order to do justice or an objection in line against one or more of the petitions has been upheld by the Tribunal or Court.

Question, That Paragraph 46 do stand part of First Schedule to the Bill, put and agreed to.

- 47. (1) Where an election petition complains of the conduct of an Electoral Officer, a Presiding Officer, Returning Officer or any other official of the Commission he shall for all purpose be deemed to be a respondent and joined in the election petition as a necessary party, but an Electoral Officer, a Presiding Officer, Returning Officer or any other official of the Commission shall not be at liberty to decline from opposing the petition except with the written consent of the Attorney-General of the Federation.
- (2) If consent is withheld by the attorney-general under sub-paragraph (1) of this Paragraph the Government of the Federation shall indemnify the Electoral Officer, President Officer, Returning Officer or such other official of the Commission against any cost which may be awarded against him by the Tribunal or Court in respect of the election petition.
- (3) where the Commission Officer, a Presiding Officer, Returning or any other official of the Commission has been joined as a respondent in an election petition, a Legal Officer of the Commission or a Legal Practitioner engaged by the Commission or the Attorney General of the State concerned (acting in person or through any of his Legal Officers) or the Attorney-General of the Federation (acting in person or through any Legal Officers) shall present the Commission Electoral Officer, Presiding Officer, Returning Officer or other official of the Commission at the Tribunal or Court.
- (4) A private Legal Practitioner engaged by the Commission under sub-paragraph (3) of this paragraph shall be entitled to be paid his professional fees and a Legal Officer so engaged shall be paid such honorarium as may be approved by the Commission.

Question, That Paragraph 47 do stand part of First Schedule to the Bill, put and agreed to.

- 48. In the absence of express provision in this schedule, a party filing any document or process paper in connection with any step being taken in the proceedings of an election petition shall, unless the Secretary otherwise directs, leave with the Secretary copies of the document or process paper for service on each of the parties to the election petition in addition to **three** copies which the Secretary may preserve.

Question, That Paragraph 48 do stand part of First Schedule to the Bill, put and agreed to.

- 49. (1) Non-compliance with any of the provisions of this schedule, or with a rule of practice for the time being operative, except otherwise started or implied, shall not render any proceeding void unless the Tribunal or court so direct, but the proceeding may be aside wholly or in part as irregular, or amended, or otherwise dealt with in such manner and on such term as the Tribunal or court may deems fit and just.
- (2) An application to set aside an election petition or a proceeding resulting there from for irregularity or for be not be allowed unless made within a reasonable time and when the

.party making the application has not taken any fresh step in the proceedings after knowledge of the defect.

- (3) An application to set aside an election petition or a proceeding pertaining thereto shall show clearly the legal grounds on which the application based.
- (4) An election petition shall not be defeated by an objection as to form if it is possible at the time objection is raised to remedy the defect other than by way of amendment or as may be directly by the Tribunal or Court .
- (5) An objection challenging the regularity or competence of an election petition shall be heard and determined before any further steps in the proceedings if the objection is brought immediately the defect on the face of the election petition is noticed.

Question, That Paragraph 49 do stand part of First Schedule to the Bill, put and agreed to.

50. Subject to the express provision of this Act, the practice and procedure of the Tribunal or the Court in relation to an election petition shall be as nearly as possible, similar to the practice and procedure of the Federal High Court in the exercise of its civil jurisdiction, and the Civil Procedure Rules shall apply with such modifications as may be necessary to render them applicable having regard to the provision of this Act, as if the petitioner and the respondent were respectively the plaintiff and **the** defendant in an ordinary civil action.

Question, That Paragraph 50 do stand part of First Schedule to the Bill, put and agreed to.

51. Subject to the provision of this Act, an appeal to the Court of Appeal or to the Supreme Court shall determined in accordance with the practice and procedure relating to appeals in the Court of Appeal or to the Supreme Court as the case may be regard being had to the need for urgency on electoral matters.

Question, That Paragraph 51 do stand part of First Schedule to the Bill, put and agreed to.

SECOND SCHEDULE

INDEPENDENT NATIONAL ELECTORAL COMMISSION

OATH/AFFIRMATION OF NEUTRALITY

I _____ Do Solemnly swear/affirm that I will be faithfully to the Federal Republic of Nigeria; that as _____

I will discharge my duties to the best of my ability in accordance with the Constitution of the Federal Republic of Nigeria, the Electoral Act and the Guidelines issued by the Independent National Electoral Commission: **that I** will do the right to all candidates and political parties according to law without fear or favour, affection or ill-will.

So help me God.

Deponent

Sworn to / Affirmed at: _____ . _____

This: _____ day of _____ 20 _____

Before me: _____

Resident Electoral Commissioner
Electoral Officer.

*Question, That Paragraph 1 do stand part of Second Schedule to the **Bill**, put and agreed to.*

THIRD SCHEDULE

(FORMS)

Question, That Paragraph 1 do stand part of Third Schedule to the Bill, put and agreed to.

SUPPLEMENTAL

1. Transitional Provisions

- (1) The statutory functions, rights, interests, obligations and liabilities of the Independent National Electoral Commission established pursuant to the 1998 Decree, existing before the commencement of this Act under any contract or instrument, or in law or in equity shall, by virtue of this Act, be deemed to have been assigned to and vested in the Independent National Electoral Commission established by this Act.
- (2) Any such contract or instrument as is mentioned in subsection (1) of this section, shall be of the same force and effect against or in favour of the Independent National Electoral Commission established by this Act and shall be enforceable as fully and effectively as if instead of the Independent National Electoral Commission existing before the commencement of this Act, the Independent National Electoral Commission established by this Act has been named therein or had been a party thereto.
- (3) The Independent National Electoral Commission established by this Act shall be subject to all the obligations and liabilities to which the Independent National Electoral Commission existing before the commencement of this Act was subject immediately before the commencement of this Act and all other persons shall have the same rights powers and remedies against the Independent National Electoral Commission established by this Act as they had against the Independent National Electoral Commission of Nigeria existing before the commencement of the Act.
- (4) Any proceeding or cause of action pending or existing immediately before the commencement of this Act, by or against the Independent National Electoral Commission existing before the commencement of this Act in respect of any right, interest, obligation or liability of the Independent National Electoral Commission existing before the commencement of this Act may be continued or as the case may commenced and any determination of the court of law, tribunal or other authority or person may be enforced by or against the Independent National Electoral Commission established by this Act to the same extent that such proceeding or enforced by or against the Independent National Electoral Commission existing before the commencement of this Act.
- (5) All assets, funds, resources and other movable or immovable property, which immediately before the commencement of this Act, were vested in the Independent National Electoral Commission existing before the commencement of this Act shall by virtue of this Act and without further assurance, be vested in the Independent National Electoral Commission established by this Act.
- (6) Any person who immediately before the coming into force of this Act is the holder of any office in the Independent National Electoral Commission existing before the commencement of this Act shall, on the commencement of this Act, continue in office and be deemed to have been appointed by his office by the Independent National Electoral Commission established by this Act unless the authority by which the person was appointed terminates the appointment.

Question, That Paragraph 1 do stand part of Supplemental to the Bill, put and agreed to.

Chairman to report Bill.

(SENATE IN PLENARY)

The Senate President reported that the Senate in the Committee of the Whole resumed consideration of the Report of the Committee on Independent National Electoral Commission (INEC) on the Electoral Act (Amendment) Bill 2006 and approved as follows:

Clause 102 - 106	—	As Amended
Clause 107 - 175	—	As Recommended
Clause 176	—	As Amended
First Schedule	—	As Recommended
Second Schedule	—	As Recommended
Third Schedule	—	As Recommended
Supplemental	—	As Recommended
Title	—	As Recommended

Question, That the Report of the Committee of the Whole be approved, Resolved in the Affirmative.

Motion made and Question Proposed: That the Bill be read the Third Time(Senate Majority Leader).

Question put and agreed to.

Bill accordingly read the Third Time and Passed.

7. Adjournment:

Motion made and Question Proposed: That the Senate do adjourn till Wednesday, 29th March, 2006 at 10.00 a.m. (Senate Majority Leader).

Adjourned accordingly at 1:55 p.m.

Ken Nnamani
President of the Senate