



# SENATE OF THE FEDERAL REPUBLIC OF NIGERIA

## VOTES AND PROCEEDINGS

Thursday, 10th November, 2005

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1. The Senate met at 10:25 a.m. The Deputy Senate President read Prayers.
2. Votes and Proceedings:  
The Deputy Senate President announced that he had examined the Votes and Proceedings of Wednesday, 9th November, 2005 and approved same.

*By unanimous consent, the Votes and Proceedings were adopted.*

3. **Announcement(s):**  
(i) The Deputy Senate President announced that he had received a letter of Appreciation from Bauchi State Government which he read as follows:



**BAUCHI STATE OF NIGERIA**  
Office of the Executive Governor  
Government House,  
P. M. B. 0059,  
Bauchi.

Tel: 077-543821, 54313  
Fax-07-542611, 54384

GH/OFF/S/2

10th November, 2005

*Distinguish Senators of the Federal Republic of Nigeria The  
Senate National Assembly Abuja*

*My dear Distinguished Senators,*

**LETTER OF APPRECIATION: PASSAGE OF NATIONAL PARK  
SERVICE ACT (AMENDMENT) BILL 2005**

*I write on behalf of myself, government and people of Bauchi State to express our deep appreciation and gratitude to your distinguished Senators for the passage of the National Park Service Act (Amendment) Bill 2005.*

2. As you may be aware, the proposed project is to provide a benchmark for eco-tourism development in Nigeria and indeed in the whole of Africa. It is surely an opportunity for our people to rife the dividends of democracy by providing economic empowerment. Please be assured that our vision and commitment to transform the Yankari Game Reserve into an internationally acclaimed tourist attraction remain on course.

3. This action is a clear testimony of your confidence in my government and I shall do everything possible to uphold this trust. We sincerely cherish this spirit of good partnership existing between the Senate and the people and government of Bauchi State.

4. While thanking you once more, accept my warm personal regards and assurance of my best wishes.

Yours very sincerely,

Signed:

**Ahmadu Adamu Mu 'azu**  
Governor

(it) The Deputy Senate President read a Special Birthday Invitation letter from Senator I. S. Martyns-Yellowe as follows:



THE SENATE  
Federal Republic of Nigeria.  
**SENATOR I. S. MARTYNS-YELL-OWE (MD)**  
Chairman, Senate Committee on Environment & Ecology

ANNOUNCEMENT

9th November, 2005.

Dear Distinguished Senators, **SPECIAL INVITATION TO MY 60TH**

**BIRTHDAY CELEBRATIONS.**

By the special Grace of God, I shall be 60 years old on November 12, 2005.

To commemorate the occasion, two complementary literary events have been put together. These are:

- (1) a public lecture, titled: "Honour and Integrity in a developing polity", which will be delivered by Professor Jerry Gana, the Special Adviser to the President on political matters;
- (2) the public presentation of my biography: "Martyns-Yellowe: the path of honour," by a professional biographer, Mr. Victor Kalu. Chief Ojo Maduekwe, the Special Adviser to the President on legal and constitutional matters will be the book reviewer; while Dr. (Mrs.) Ndi Okereke-Onyuike, Director General of the Nigerian Stock Exchange will present the book.

The book seeks to highlight the truism that drops of individual experience sketched in biographies generally amount to the overall community experience; and that to learn about a community, we must necessarily learn about the history of individuals within it.

In deference to my party, the PDP, which has fixed its zonal congress nationwide on 12/11/05, I have shifted events for the birthday to Saturday, November 26, 2005.

Thus, the event will take place at the Hotel Presidential Port Harcourt at 11.00 am on Saturday, November 26, 2005 under the distinguished co- chairmanship of Senator Ibrahim Mantu, Deputy

*Senate President; and Justice (Chief) Adolphus Karibi-Whyte, retired Justice of the Supreme Court.*

*President Olusegun Obasanjo (GCFR) has accepted to be the Special Guest of Honour, while His Excellency, Sir (Dr.) Peter Odili, Executive Governor of Rivers State is the Chief Host. Senator Ken Nnamani, Senate President, and Governor Adamu Muazu, of Bauchi State are Guests of Honour. His Royal Majesty King T. J. T. Princewill, (Amachree XI) the Amanyano of Kalahari is the Royal Father of the day.*

*Formal invitation cards will be placed in your pigeon holes next week.*

*I should be most obliged if you would graciously squeeze time out of your busy schedule to grace the occasion of my 60th birthday with your esteemed presence.*

*Infirm belief that I can always count on your support, please accept the assurance of my continued respect and benevolence.*

*Yours Sincerely,*

*Signed:*

*SENATOR I. S. MARTYNS-YELLOWE  
(Rivers West)*

**4. Presentation of Bills:**

- (i) Supplementary Appropriation Bill 2005 (SB.257) — Read the First Time.*
- (ii) Nigeria Hajj Commission Bill 2005 (SB. 258 ) — Read the First Time.*
- (iii) National Council for Management Development (Amendment) Bill 2005 (SB.256) — Read the First Time.*
- (iv) Sheriffs Enforcement of Court Judgements and the Protection of Judicial Officers Bill 2005 (SB. 251 ) — Read the First Time.*

**5. Committee on Aviation**

*Report on Oversight Tours of Federal Ministry of Aviation and its Parastatals:*

*Motion made and Question Proposed: That the Senate do receive the Report of the Committee on Aviation on its Oversight Tours to the Ministry of Aviation and its Parastatals (Senator Muhammad Ibrahim).*

*Question put and agreed to.*

**6. Conference Committee:**

*Trafficking in Persons (Prohibition) Law and Administration Act (Amendment) Bill 2005 (SB. 109):*

*Motion made and Question Proposed: That the Senate do adopt the Report of the Conference Committee on the Harmonization of the Trafficking in Persons (Prohibition) Law and Administration Act (Amendment) Bill 2005 (SB. 109) (Senator Lawal Shuaibu).*

*Question put and agreed to.*

*Report Adopted.*

**7. Committees on Judiciary, Human Rights and Legal Matters and Employment, Labour and Productivity:**

*Report on National Industrial Court Bill 2005 (SB. 164):*

*Motion made and Question Proposed: That the Senate do receive and consider the Report of the Committees on Judiciary, Human Rights and Legal Matters and Employment, Labour and Productivity on the National Industrial Court Bill 2005 (SB. 164)(Senator O. A. Osunbor and others).*

*Question put and agreed to.*

*Report presented and Laid.*

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

*Question put and agreed to.*

**(SENATE IN THE COMMITTEE OF THE WHOLE)**

**A BILL FOR AN ACT TO PROVIDE FOR THE RE-ESTABLISHMENT OF THE NATIONAL INDUSTRIAL COURT AS A SUPERIOR COURT OF RECORD AND TO PRESCRIBE ITS JURISDICTION ON LABOUR AND ORGANISATIONAL DISPUTES AND FOR MATTERS CONNECTED THEREWITH**

**PART I - THE CONSTITUTION OF THE NATIONAL INDUSTRIAL COURT**

(1)

**Clause 1:**

There is hereby established a court to be known as the National Industrial Court (in this

(2) Act referred to as "the Court").

The Court shall consist of -

(a) the President of the Court who shall have overall control and supervision of the administration of the Court; and

(b) not less than twelve Judges;

Provided that in appointing Judges for the court, one-third of the Judges so appointed shall satisfy the requirements of the provisions of subsection (4) (b) of section 2 of this Act

(3) The Court shall -

(a) be a superior court of record; and

(b) except as may be otherwise provided by any enactment or law, have all the powers of a High Court.

*Committee's Recommendation:*

That the provision in Clause 1 be retained (*Senator Oserheimen Osunbor*) —*Agreed to.*

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

**Clause 2:**

(1) The President of the Court shall be appointed by the President, on the recommendation of the National Judicial Council, subject to confirmation by the Senate.

(2) The appointment of a person to the office of a Judge of the Court shall be made by the President on the recommendation of the National Judicial Council.

(3) A person shall not be eligible to hold office of the President of the Court or a Judge of the Court unless -

(a) he is qualified to practice as a legal practitioner in Nigeria and has been so qualified for a period of not less than twelve years; and

(b) in the opinion of the National Judicial Council, he has considerable knowledge and experience in the law and practice of industrial relations and employment conditions in Nigeria.

*Committee's Recommendation:*

*Leave out* the provisions in sub-clauses 2(3) (a) and (b) and insert new sub-clause 2(3) as follows:

“(3) A person shall not be eligible to hold office of the President of the Court unless the

so qualified for a period of not less than ten years and has considerable knowledge and experience in the law and practice of industrial relations and employment conditions in Nigeria" (*Senator Oserheimen Osunbor*) — *Agreed to.*

- (4) If the office of the President of the Court is vacant, or if the person holding the office is for any reason unable to perform the functions of that office, then until a person has been appointed to and assumed the functions of that office or until the person holding the office has resumed those functions, the President shall appoint the most senior Judge of the Court to perform those functions.

*Committee's Recommendation:*

*Leave out* the provision in sub-clause 2(4) and *insert* a new sub-clause 2(4) (a) and (b) as follows:

"(4) A person shall not be eligible to hold the office of a Judge of the court unless

- (a) **the** person is a legal practitioner in Nigeria and has been so qualified for a period of not less than ten years and has considerable knowledge and experience in the law and practice of industrial relations and employment conditions in Nigeria; or
- (b) the person is a graduate of a recognised university of not less than ten years standing and has considerable knowledge and experience in the law and practice of industrial relations and employment conditions in Nigeria" (*Senator Oserheimen Osunbor*) — *Agreed to.*

- (5) Notwithstanding the provisions of subsections (1), (2) and (3) of this section, any person holding the office of the President or member of the Court immediately before the commencement of this Act shall continue to so hold the office in accordance with the instrument of his appointment:

Provided that where he possesses the requisite qualification under subsection (3) of this section, he shall be deemed to have been appointed under this section and shall continue to hold the office under this Act.

*Committee's Recommendation:*

*Leave out* the provision in sub-clause 2(5) and *insert* a new sub-clause 2(5) as follows: "

(5) If the office of the President of the Court is vacant, or if the person holding the office is for any reason unable to perform the functions of the office, then until a person has been appointed to and assumed the functions of that office or until the person holding the office has resumed those functions, the President shall appoint the most senior Judge of the Court having the qualification to be appointed as President of the Court as provided under subsection (3) of this section to perform those functions" (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Committee's Recommendation:*

*Insert* new sub-clauses 2(6) and (7) as follows:

" (6) Except on the recommendation of the National Judicial Council, an appointment pursuant to the provisions of subsection (5) of this section shall cease to have effect after the expiration of three months from the date of such appointment and the President shall not re-appoint a person whose appointment has lapsed.

- (7) Notwithstanding the provisions of subsections (1), (2), (3) and (4) of this section, any person holding the office of the President or ordinary member of the Court immediately before the commencement of this Act shall be deemed to have been appointed under this Act" (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 2 as recommended stand part of the Bill, put and agreed to.*

Clause 3:

The provisions in the Constitution of the Federal Republic of Nigeria 1999 relating to the tenure, removal, gratuity and pension of any person holding or appointed to act in the

office of the Chief Judge or Judge of the Federal High Court, shall respectively apply to any person holding or appointed to act in the office of the President of the Court or as a Judge of the Court.

*Committee's Recommendation:*

That the provision in Clause 3 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 3 stand part of the Bill, put and agreed to.*

- Clause 4:
- (1) The President of the Court shall take precedence over the other Judges of the Court, and the other Judges shall take precedence after the President of the Court in order of seniority
  - (2) The President of the Court shall rank equal with the Chief Judge of the Federal High Court, the Chief Judge of a State or the Chief Judge of the High Court of the Federal Capital Territory, Abuja in precedence and the Judges of the Court shall, in like manner, rank with the Judges of the Federal High Court, the High Court of a State or of the Federal Capital Territory, Abuja.

*Committee's Recommendation:*

*Leave out* the provision in sub-clause 4(2) and *insert* a new sub-clause 4(2) as follows: "

(2) The President of the Court shall rank equal with the Chief Judge of the Federal High Court or the Chief Judge of the High Court of the Federal Capital Territory, Abuja in precedence and the Judges of the Court shall, in like manner, rank with the Judges of the Federal High Court or High Court of the Federal Capital Territory, Abuja" (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 4 as recommended stand part of the Bill, put and agreed to.*

- Clause 5:
- There shall be paid to -
- (1)
    - (a) the President of the Court, such salaries, emoluments and allowances as are payable to the Chief Judge of the Federal High Court, High Court of a State or of the Federal Capital Territory, Abuja; and
    - (b) a Judge of the Court, such salaries, emoluments and allowances as are payable to a Judge of the Federal High Court, the High Court of a State or of the Federal Capital Territory, Abuja.

*Committee's Recommendation:*

*Leave out* the provision in sub-clause 5(1 )(a) and (b) and *insert* new sub-clauses 5(1)(a) and (b) as follows:

- "(1) There shall be paid to -
- (a) the President of the Court, such salaries, emoluments and allowances as are payable to the Chief Judge of the Federal High Court or of the High Court of the Federal Capital Territory, Abuja; and
  - (b) a Judge of the Court, such salaries, emoluments and allowances as are payable to a Judge of the Federal High Court or of the High Court of the Federal Capital Territory, Abuja" (*Senator Oserheimen Osunbor*) — *Agreed to.*
- (2) Any amounts payable under this section shall be charged and paid out of the Consolidated Revenue Fund of the Federation in accordance with section 81(3) of the Constitution of the Federal Republic of Nigeria 1999.

*Question that Clause 5 as recommended stand part of the Bill, put and agreed to.*

- Clause 6:
- (1) The Court shall have and may use a seal bearing a device or impression approved by the President of the Court with the inscription "The National Industrial Court" .....

- (2) The seal of the Court shall be kept by the President of the Court and a duplicate thereof shall be kept by each of the other Judges and the President of the Court and other Judges may entrust the seal or the duplicate to such officers of the Court as they may think fit.
- (3) The seal shall be a seal of the Court for all purposes for which it may be required under the provisions of any enactment or Rule of Court.

*Committee's Recommendation:*

That the provision in Clause 6 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 6 stand part of the Bill, put and agreed to. PART*

## II - JURISDICTION AND LAW

- Clause 7:
- (1) The Court shall have and exercise exclusive jurisdiction in civil causes and matters -*(a)* relating to -
    - (i)* employment,
    - (ii)* labour,
    - (iii)* trade unions,
    - (iv)* industrial relations,
    - (v)* conditions, health, safety and welfare of employees, and matters incidental thereto;

*Committee's Recommendation:*

*Leave out* the provision in sub-clause 1(1)(a) *(i) - (iv)* and *insert* a new sub-clause 7(1)(a)(i) - *(ii)* as follows:

- "(1) The Court shall have and exercise exclusive jurisdiction in civil causes and matters -
- (a)* relating to -
    - (i)* labour, including trade unions and industrial relations; and
    - (ii)* environment and conditions of work,, health, safety and welfare of labour, and matters incidental thereto; and"
  - (b)* - relating to the grant of any order to restrain any person or body from taking part in any strike, lock-out or any industrial action, or any conduct in contemplation or in furtherance of a strike, lock-out or any industrial action;
  - (c)* in respect of any alleged or threatened violation of any fundamental right entrenched in the Constitution of the Federal Republic of Nigeria 1999 but arising from employment, labour or industrial relations;
  - (d)* any dispute over the constitutionality of any executive or administrative act or conduct by government in its capacity as an employer; and

*Committee's Recommendation:*

*Leave out* the provisions in sub-clauses 7(1){c} and (d) and renumber existing sub-clauses subsequently (*Senator Oserheimen Osunbor*) — *Agreed to.*

- (c)* relating to the determination of any question as to the interpretation of
  - (i)* any collective agreement,

- (ii) any award made by an arbitral tribunal in respect of a labour dispute or an organisational dispute,
  - (Hi) the terms of settlement of any labour dispute, organisational dispute, or employment dispute as may be recorded in any memorandum of settlement,
  - (iv) any trade union constitution, and
  - (v) any award or judgment of the Court (*Senator Oserheimen Osunbor*).
- (2) The National Assembly may by an Act confer such additional jurisdiction on the Court in respect of such other causes or matters incidental, supplementary or related to those set out in subsection (1) of this section.
- (3) Notwithstanding anything to the contrary in this Act or any other enactment or law, the National Assembly may by an Act prescribe that a matter to which the Court has exclusive jurisdiction under subsection (1) of this section may go through the process of conciliation or arbitration before such matter is heard by the Court.

*Committee's Recommendation:*

Leave out the provision in sub-clause 7(3) and insert a new sub-clause 7(3) as follows:  
 "(3) Notwithstanding anything to the contrary in this Act or any other enactment or law, the National Assembly may by an Act prescribe that any matter under subsection (1)(a) of this section may go through the process of conciliation or arbitration before such matter is heard by the Court" (*Senator Oserheimen Osunbor*) — Agreed to.

- (4) The Court shall, in exercising its jurisdiction or any of the powers conferred upon it by this Act or any other enactment or law, have due regard to good or international best practice in labour or industrial relations and what amounts to good or international best practice in labour or industrial relations shall be a question of fact.

*Committee's Recommendation:*

Leave out the provision in sub-clause 7(4) and insert a new sub-clause 7(4) as follows:  
 "(4) An appeal shall lie from the decisions of an arbitral tribunal to the Court as of right in matters of disputes specified in subsection (1)(a) of this section" (*Senator Oserheimen Osunbor*) — Agreed to.

*Committee's Recommendation:*

Insert new sub-clauses 7(5) and (6) as follows:

- "(5) For the purposes of subsection (4) of this section, a party to an arbitral award shall be entitled to obtain a copy of the records of the arbitral proceedings and the award from the arbitral tribunal.
- (6) The Court shall, in exercising its jurisdiction or any of the powers conferred upon it by this Act or any other enactment or law, have due regard to good or international best practice in labour or industrial relations and what amounts to good or international best practice in labour or industrial relations shall be a question of fact" (*Senator Oserheimen Osunbor*) — Agreed to.

*Question that Clause 7 as recommended stand part of the Bill, put and agreed to.*

**Clause 8:**

- (1) The Court shall have review or appellate jurisdiction to hear and determine appeals from -  
 (a) the decision or award of an arbitral tribunal or commission, administrative panel or board of inquiry in respect of any matter on which the Court has jurisdiction under this Act or any other enactment or law: or

(b) the decision of any other body established by or under any other enactment or law in respect of any matter on which the Court has jurisdiction under this Act or any other enactment or law.

- (2) Notwithstanding subsection (1) of this section, the National Assembly may, by an Act, provide that every arbitral award shall be final and binding on the parties subject however to the power of the Court to undertake judicial review of such an award at the instance of an aggrieved person.

*Committee's Recommendation:*

*Leave out the provision in Clause 8 and renumber existing Clauses subsequently (Senator Oserheimen Osunbor) — Agreed to.*

*Question that Clause 8 as recommended stand part of the Bill, put and agreed to.*

**Clause 8:** The Court may, upon hearing an appeal under section 8 of this Act, draw any inference of fact and -

*Committee's Recommendation:*

*Leave out the words "section 8" in line 1 and insert the words "subsection (4) of section 7" instead thereof (Senator Oserheimen Osunbor) — Agreed to.*

- (a) confirm, vary or set aside the judgment, award or order of the court, tribunal or body mentioned therein; or
- (b) order a rehearing and determination on such terms as the Court may think just; or
- (c) order judgment to be entered for any party; or
- (d) make a final or other order on such terms as the Court may think fit to ensure the determination on the merits of the matter in dispute between the parties

*Committee's Recommendation:*

*That the provision in Clause 8 be retained (Senator Oserheimen Osunbor) — Agreed to.*

*Question that Clause 8 stand part of the Bill, put and agreed to.*

**Clause 9:** (1) Subject to the provisions of the Constitution of the Federal Republic of Nigeria 1999 and subsection (2) of this section, no appeal shall lie from the decisions of the Court to the Court of Appeal or any other court except as may be prescribed by this Act or any other Act of the National Assembly.

(2) An appeal from the decision of the Court shall lie as of right to the Court of Appeal in respect of -

*Committee's Recommendation:*

*Leave out all the words after "lie" in line 1 and insert the words "only as of right to the Court of Appeal only on questions of fundamental rights as contained in Chapter IV of the Constitution of the Federal Republic of Nigeria 1999" instead thereof (Senator Oserheimen Osunbor) — Agreed to.*

- (a) any matter in respect of any alleged or threatened violation of any fundamental right entrenched in the Constitution of the Federal Republic of Nigeria 1999 but arising from employment, labour or industrial relations;
- (b) any dispute over the constitutionality of any executive or administrative act or conduct by government in its capacity as an employer; and

- (c) disputes on matters for which the court is a court of first instance and such matter shall include:
  - (i) freedom of association of an employee,
  - (ii) matters relating to forced labour of an employee
  - (Hi) child labour including the worst forms of child labour,
  - (iv) discrimination in employment and occupation,
  - (v) sexual harassment of an employee, and
  - (vi) such other matters as may be prescribed by an Act of the National Assembly.

*Committee's Recommendation:*

*Leave out the provisions in sub-clauses 9(2)(a) to (c) (Senator Oserheimen Osunbor) — Agreed to.*

- (3) The decision of the Court of Appeal, in the exercise of its appellate jurisdiction, on matters specified in sub-section (2) of this section shall be final and binding.
- (4) Notwithstanding the provisions of subsection (2) of this section, no appeal shall lie from the decision of the Court in respect of -
  - (a) any interim or interlocutory application; and
  - (b) any finding as to what is good or international best practice in labour or industrial relations, and any such decision of the Court shall remain final and binding.

*Committee's Recommendation:*

*Leave out all the provisions in sub-clauses 9(3) and (4) (Senator Oserheimen Osunbor) — Agreed to.*

*Question that Clause 9 as recommended stand part of the Bill, put and agreed to.*

**Clause 10:** The Court shall have the power to enforce its judgment and accordingly, may commit for contempt any person or a representative of a trade union or employers' organisation who commits any act or an omission which in the opinion of the Court constitutes a contempt of the Court.

*Committee's Recommendation:*

*That the provision in Clause 10 be retained (Senator Oserheimen Osunbor) — Agreed to.*

*Question that Clause 10 stand part of the Bill, put and agreed to.*

**Clause 11:** (1) **In** so far as jurisdiction is conferred upon the Court in respect of the causes or matters mentioned in the foregoing provisions of this Part of this Act, the Federal High Court, the High Court of a State, the High Court of the Federal Capital Territory, Abuja or any other court shall, to the extent that exclusive jurisdiction is so conferred upon the Court, cease to have jurisdiction in relation to such causes and matters.

(2) Nothing in subsection (1) of this section shall affect the jurisdiction and powers of the Federal High Court, the High Court of a State or of the Federal Capital Territory, Abuja to continue to hear and determine causes and matters which are part-heard before the commencement of this Act and any proceedings in any such causes or matters, not determined or concluded at the expiration of one year after the commencement of this Act, shall abate.

*Committee's Recommendation:*

That the provision in Clause 11 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 11 stand part of the Bill, put and agreed to.*

- Clause 12:
- (1) The jurisdiction vested in the Court shall, so far as practice and procedure are concerned, be exercised in the manner provided by this Act or any other enactment or by such rules and orders of court as may be made pursuant to this Act or, in the absence of any such provisions, in substantial conformity with the practice and procedure of the Court existing immediately before the commencement of this Act.
  - (2) Subject to this Act and any rules made thereunder, the Court -
    - (a) may regulate its procedure and proceedings as it thinks fit; and
    - (b) shall not be bound by any rules of evidence, but may inform itself on any matter in such manner as it thinks just,

*Committee's Recommendation:*

*Leave out* the provision in sub-clause 12(2)(b) and *insert* a new sub-clause 12(2)(b) as follows:

"(b) shall be bound by the Evidence Act but may depart from it in the interest of justice" (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 12 as recommended stand part of the Bill, put and agreed to.*

- Clause 13: Subject to this Act, in every civil cause or matter commenced in the Court, law and equity shall be administered by the Court concurrently.

*Committee's Recommendation:*

That the provision in Clause 13 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 13 stand part of the Bill, put and agreed to.*

- Clause 14: The Court shall, in the exercise of the jurisdiction vested in it by or under this Act in every cause or matter, have power to grant, either absolutely or on such terms and conditions as the Court thinks just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any legal or equitable claim properly brought forward by the Court so that, as far as possible, all matters in dispute between the parties may be completely and finally determined and all multiplicity of legal proceedings concerning any of those matters avoided.

*Committee's Recommendation:*

That the provision in Clause 14 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 14 stand part of the Bill, put and agreed to.*

- Clause 15: Subject to the express provisions of any other enactment, and in all matters not particularly mentioned in this Act in which there was formerly or there is any conflict or variance between the rules of equity and the rules of common law with reference to the same matter, the rules of equity shall prevail in the Court so far as the matters to which those rules relate are cognisable by the Court.

*Committee's Recommendation:*

That the provision in Clause 15 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 15 stand part of the Bill, put and agreed to.*

- Clause 16: (1) . The Court may grant an injunction in all cases in which it appears to the Court to be just or convenient so to do.

- (2) Any such order may be made either unconditionally or on such terms and conditions as the Court thinks just.
- (3) The power conferred by this section upon the Court to grant an injunction may be exercised notwithstanding that the same is granted against an officer or authority of the Federal, State or local government as such.

*Committee's Recommendation:*

*Leave out the provision in sub-clause 16(3) (Senator Oserheimen Osunbor) —Agreed to.*

*Question that Clause 16 as recommended stand part of the Bill, put and agreed to.*

- Clause 17:
- (1) The Court shall have the power to make an order of mandamus requiring any act to be done or an order of prohibition prohibiting any proceedings, cause or matter, or an order of certiorari removing any proceedings, cause or matter into the Court for any purpose.
  - (2) The power conferred on the Court by this section to make an order of mandamus, prohibition or certiorari may be exercised notwithstanding that the order is made against an officer or authority of the Federal, State or local government as such.
  - (3) Subject to the foregoing provisions of this section, the references in any written law or to any writ of mandamus, prohibition or certiorari shall be construed as references to an order corresponding thereto and the references to the issue or award of any such order shall in like manner be so construed.

*Committee's Recommendation:*

*Leave out the provision in sub-clause 17(3) (Senator Oserheimen Osunbor) —Agreed to.*

*Question that Clause 17 as recommended stand part of the Bill, put and agreed to.*

- Clause 18:
- In any case where any person acts in an office in which he is not entitled to act, the Court may grant an injunction restraining him from so acting and may (if the case so requires) declare the office to be vacant.

*Committee's Recommendation:*

*That the provision in Clause 18 be retained (Senator Oserheimen Osunbor) — Agreed to.*

*Question that Clause 18 stand part of the Bill, put and agreed to.*

- Clause 19:
- The Court may in all other cases and where necessary make any appropriate order, including -
- (a) the grant of urgent interim reliefs;
  - (b) a declaratory order;
  - (c) the appointment of a public trustee for the management of the affairs and finances of a trade union or employers' organisation involved in any organisational dispute;
  - (d) an award of compensation or damages in any circumstance contemplated by this Act or any Act of the National Assembly dealing with any matter that the Court has jurisdiction to hear; and
  - (e) order compliance with any provision of any Act of the National Assembly dealing with any matter that the Court has jurisdiction to hear.

*Committee's Recommendation:*

*Leave out the word "order" in sub-clause 19(e) and insert the words "an order of" instead thereof (Senator Oserheimen Osunbor) — Agreed to.*

*Question that Clause 19 as recommended stand part of the Bill, put and agreed to.*

Clause 20: In any proceedings in the Court, the Court may promote reconciliation among the parties thereto and encourage and facilitate the amicable settlement thereof.

*Committee's Recommendation:*

That the provision in Clause 20 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 20 stand part of the Bill, put and agreed to.*

### **PART III — SITTING AND DISTRIBUTION OF BUSINESS.**

Clause 21: (1) The Court shall have and exercise jurisdiction throughout the Federation, and for that purpose the whole area of the Federation shall be divided by the President of the Court into such number of Judicial Divisions, as he may, from time to time, by Instrument published in the Federal Gazette, designate any such Judicial Division or part thereof by such name as he thinks fit.

*Committee's Recommendation:*

*Leave out* all the words after "Divisions" in line 3 and *insert* the words "as the President may, from time to time, by Instrument published in the Federal Gazette decide, and may, designate any such Judicial Division or part thereof by such name as he thinks fit" instead thereof (*Senator Oserheimen Osunbor*) — *Agreed to.*

(2) The Court may sit in any Judicial Division as the President of the Court may direct, and he may also direct a number of Judges to sit in any Judicial Division or in several Judicial Divisions, as the case may be.

*Committee's Recommendation:*

*Leave out* all the words after "Division" in line 2 (*Senator Oserheimen Osunbor*) — *Agreed to.*

(3) The President of the Court shall determine the distribution of the business before the Court amongst the Judges thereof and may assign any judicial function to any Judge or Judges or in respect of a particular cause or matter in a Judicial Division

(4) Subject to this Act, the Rules of Court made pursuant to section 36 of this Act and the directions of the President of the Court, the Court shall be constituted of not less than three Judges.

*Committee's Recommendation:*

*Insert* a proviso after sub-clause 21(4) as follows:

"Provided that the Presiding Judge shall be a Judge appointed under subsection (3) or (4) (a) of section 2 of this Act " (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Committee's Recommendation:*

*Insert* a new sub-clause 21(5) as follows:

"(5) Notwithstanding subsection (4) of this section, the President of the Court may assign a single Judge of the Court to sit and hear interlocutory applications or a preliminary matter in any proceedings brought before or pending in the Court:

Provided that such Judge shall be a Judge appointed under subsection (3) or (4) (a) of section 2 of this Act " (*Senator Oserheimen Osunbor*) ~ *Agreed to.*

*Question that Clause 21 as recommended stand part of the Bill, put and agreed to.*

Clause 22: (1) Subject to the Rules of Court and to any provisions pertaining to vacations as may be prescribed by the President of the Court, the Court shall open throughout the year for the transaction of any pending general legal business.

.... .. (2) Provisions shall be made in the Rules of Court for the hearing of all such applications as may be required to be expeditiously or urgently heard.

*Committee's Recommendation:*

That the provision in Clause 22 be retained (*Senator Oserheimen Osunbor*) *Agreed to.*

*Question that Clause 22 stand part of the Bill, put and agreed to.*

- Clause 23: Where the Court is unable to form a quorum and no arrangement can be made to ensure that a quorum is formed, the Court shall stand adjourned for lack of quorum day-to-day until a quorum is formed for the purpose of hearing the case, or until the Court shall be adjourned or dosed by order under the hand of the Presiding Judge.

*Committee's Recommendation:*

That the provision in Clause 23 be retained (*Senator Oserheimen Osunbor*) *- Agreed to.*

*Question that Clause 23 stand part of the Bill, put and agreed to.*

- Clause 24:
- (1) A panel of Judges constituted to hear a case may, at any time or at any stage of the proceedings in any cause or matter before final judgment, either with or without application from any of the parties thereto, transfer such cause or matter before the court to any other panel of Judges.
  - (2) No cause or matter shall be struck out by the Court merely on the ground that such cause or matter was taken in the Court instead of the Federal High Court or the High Court of a State or of the Federal Capital Territory, Abuja in which it ought to have been brought, and the Court before whom such cause or matter is brought may cause such cause or matter to be transferred to the appropriate Federal High Court or the High Court of a State or of the Federal Capital Territory, Abuja in accordance with Rules of Court to be made under section 36 of this Act.
  - (3) Notwithstanding anything to the contrary in any enactment or law, no cause or matter shall be struck out by the Federal High Court or the High Court of a State of the Federal Capital Territory, Abuja in which it ought to have been brought, and the Court before whom such cause or matter is brought may cause such cause or matter to be transferred to the appropriate Judicial Division of the Court in accordance with such rules of court as may be in force in that High Court or made under any enactment or law empowering the making of rules of court generally which enactment or law shall by virtue of this subsection be deemed also to include the power to make rules of court for the purposes of this subsection.

*Committee's Recommendation:*

*Leave out* the provision in sub-clause 24(3) and *inserts* new sub-clause 24(3) as follows:  
 "(3) Notwithstanding anything to the contrary in any enactment or law, no cause or matter shall be struck out by the Federal High Court or the High Court of a State or of the Federal Capital Territory, Abuja on the ground that such cause or matter was not brought in the appropriate Court in which it ought to have been brought, and the Court before whom such cause or matter is brought may cause such cause or matter to be transferred to the appropriate Judicial Division of the Court in accordance with such rules of court as may be in force in that High Court or made under any enactment or law empowering the making of rules of court generally which enactment or law shall by virtue of this subsection be deemed also to include the power to make rules of court for the purposes of this subsection" (*Senator Oserheimen Osunbor*) — *Agreed to.*

- (4) Every order of transfer made pursuant to subsections (2) and (3) of this section shall operate as a stay of proceedings before the court before which such proceedings are brought or instituted and shall not be subject to appeal.
- (5) Where the court to which any cause or matter has been transferred, pursuant to subsection (2) or (3) of this section, is of the opinion that the cause or matter ought in law to be dealt with by the court which transferred the cause or matter,

the first mentioned court shall, after hearing counsel on behalf of the parties, state a case on a point of law for the opinion of the Court of Appeal.

- (6) Where any case on a point of law is stated for the opinion of the Court of Appeal, the Court of Appeal shall, in accordance with rules applicable in that court, give its decision upon the case and the court which stated the case shall dispose of the cause or matter accordingly.

*Question that Clause 24 as recommended stand part of the Bill, put and agreed to.*

- Clause 25:** Every proceeding in the Court and all business arising therefrom shall, so far as practicable and convenient and subject to the provisions of any enactment or law and the Rules of Court made pursuant to section 36 of this Act, be heard and disposed of by a panel consisting of not less than three Judges as the President of the Court may direct, all proceedings in an action subsequent to the hearing or trial, down to and including the final judgment or order, shall, so far as is practicable and convenient, be taken before the panel of Judges before whom the trial or hearing took place.

*Committee's Recommendation:*

That the provision in Clause 25 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 25 stand part of the Bill, put and agreed to.*

- Clause 26:** A panel of Judges to whom a case is assigned may, subject to Rules of Court, exercise in court or in chambers all or any part of the jurisdiction vested in the Court in all such causes and matters and in all such proceedings in any cause or matter as may be heard conveniently in court or in chambers respectively.

*Committee's Recommendation:*

That the provision in Clause 26 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 26 stand part of the Bill, put and agreed to.*

- Clause 27:** Subject to the provisions of this Act and the Rules of Court made pursuant thereto, every order made by a panel of Judges in chambers, except orders as to costs only, may upon notice be set aside or discharged by the panel of Judges sitting in Court.

*Committee's Recommendation:*

That the provision in Clause 27 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 27 stand part of the Bill, put and agreed to. PART*

#### **IV — GENERAL PROVISIONS AS TO TRIAL AND PROCEDURE**

*Committee's Recommendation:*

*Insert a new Clause 28 as follows:*

- "Clause 28:**
- (1) Every decision of the Court shall be in writing.
  - (2) Every decision of the Court shall be taken, in the event of a difference between the Judges dealing with the case, by the votes of a majority of the Judges.
  - (3) For the purpose of delivering its decision, judgment or ruling, the Court shall be deemed to have been duly constituted if at least one Judge of the panel sits for that purpose."(*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 28 stand part of the Bill, put and agreed to.*

- Clause 29:**
- (1) In any civil cause or matter, the Court may, if it thinks it expedient so to do or in a manner prescribed under any enactment, law, or Rules of Court, call in the aid of one or more assessors specially qualified and try and hear the cause or matter wholly or partially with the assistance of such assessors.

- (2) The remuneration, if any, to be paid to an assessor shall be determined by the Court on the direction of the President of the Court or as may be otherwise prescribed pursuant to this Act or any other enactment or law or any Regulations made pursuant thereto.

*Committee's Recommendation:*

That the provision in Clause 29 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 29 stand part of the Bill, put and agreed to.*

Clause 30:

- (1) Subject to the Rules of Court, the Court may refer to an official or special referee for inquiry or report any question arising in any cause or matter.
- (2) The Report of an official or special referee may be adopted wholly or partially by the Court and if so adopted, may be endorsed as a judgment or order to the same effect.

*Committee's Recommendation:*

That the provision in Clause 30 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 30 stand part of the Bill, put and agreed to.*

Clause 31:

In any cause or matter -

- (a) if all the parties interested, who are not under disability, consent; or
- (b) if the cause or matter requires any prolonged examination of documents or any scientific or local investigation which cannot, in the opinion of the Court, conveniently be conducted by the Court through its ordinary officers; or
- (c) if the matter in dispute consists wholly or in part of accounts,

The Court may at any time order the whole cause or matter, or any question or issue of fact arising therein, to be tried before a special referee, an official referee, officer of the Court or Arbitrator respectively agreed on by the parties.

*Committee's Recommendation:*

That the provision in Clause 31 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 31 stand part of the Bill, put and agreed to.*

Clause 32:

- (1) In all cases of reference to an official or special referee or arbitrator, official or special referee or arbitrator shall be deemed to be an officer of the Court and, subject to Rules of Court, shall have such authority, and conduct the reference in such manner, as the Court may direct.
- (2) The report of an official or special referee on any reference shall, if adopted and not set aside by the Court, be equivalent to a finding of the Court.
- (3) An award of an arbitrator on any reference, shall unless set aside, be binding on the Court and equivalent to its finding.
- (4) The remuneration to be paid to a special referee or arbitrator to whom any matter is referred under an order of the Court shall be determined by the Court on the direction of the President of the Court.

*Committee's Recommendation:*

That the provision in Clause 32 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 32 stand part of the Bill, put and agreed to.*

**Clause 33:** A referee or arbitrator may at any stage of the proceedings under a reference, and shall, if so directed by the Court, state in the form of a special case for the opinion of the Court any question of law arising in the course of the reference.

*Committee's Recommendation:*

That the provision in Clause 33 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 33 stand part of the Bill, put and agreed to.*

**Clause 34:** An order made under the provisions of this Act relating to inquiries and trials by referees may be made on such terms as to costs or otherwise as the Court thinks fit.

*Committee's Recommendation:*

That the provision in Clause 34 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 34 stand part of the Bill, put and agreed to.*

**Clause 35:** In the provisions of this Act relating to inquiries and trials by referees, unless the context otherwise requires, the expression "reference" relates to a reference under an order made by the Court under the said provisions.

*Committee's Recommendation:*

That the provision in Clause 35 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 35 stand part of the Bill, put and agreed to.*

#### **PART V — RULES OF COURT**

**Clause 36:**

- (1) The President of the Court may make Rules of Court for carrying into effect the provisions of this Act, and in particular -
  - (a) regulating the practice and procedure of the Court, including all matters connected with the forms to be used and the fees to be paid;
  - (b) prescribing the practice and procedure upon an appeal or an application to the Court where provision is made in any enactment or law for such an appeal or such an application;
  - (c) regulating the practice and procedure in cases where an order of mandamus, prohibition or certiorari is sought or proceedings are taken for an injunction or declaratory order;
  - (d) regulating, subject to the provisions of this Act, -trials by the Court with assessors;
  - (e) regulating -
    - (i) the fees to be paid; and
    - (ii) the taxation and recovery of fees and disbursements;
 defining, so far as may be conveniently defined by general rules, the duties of the several officers of Court;
  - (8) regulating, subject to the provisions of this Act, the sittings of the Court and of the Judges thereof whether sitting in Court or chambers, the business and hours of the Court and of the offices connected therewith, and the conduct of the business of the Court during vacation;
  - (h) prescribing what part of the business which may be transacted and of the jurisdiction which may be exercised by Judges of the Court in chambers or may be transacted or exercised by registrars or other officers of the Court;

- (i) regulating any matters relating to the costs of proceedings in the Court;
  - (j) regulating the means by which any judgment or decree of any court outside Nigeria or of the Supreme Court of Nigeria (or the former Federal Supreme Court), Court of Appeal, High Court or other superior court established or to be established elsewhere in Nigeria which it is necessary to prove or lawful to enforce shall be proved or enforced;
  - (k) regulating the procedure for the detention and trial of any person charged for contempt before the Court;
  - (l) regulating the payment of allowances and traveling expenses of witnesses;
  - (m) imposing penalties on any person who fails to take any action required by a Rule of Court or who disobeys any Rule of Court;
  - (n) for requiring and regulating the filing of accounts;
  - (o) for regulating the procedure in respect of any matter in which the Court has and may exercise original or appellate jurisdiction under this Act and for fixing the fees payable or providing that no fees be paid or that certain fees need not be paid;
  - (p) for ascertaining the value of anything that requires to be ascertained;
  - (q) for regulating and prescribing the duties and procedure for assessors, referees and arbitrators;
  - (r) for regulating the means by which particular facts may be proved, and the mode in which evidence thereof may be given in any proceedings or on any application in connection with or at any stage of any proceedings;
  - (s) for providing for the service or execution of any writ, warrant, order or other process issuing out of the Court, the payment of mileage allowance before or after service or execution, the conditions precedent before any such process or process of certain classes will be served or executed and the procedure to be followed after the service or execution of such process;
- 
- (t) for providing for the taking of notes whether manually or by electronic device of evidence and proceedings in the Court and for the payment of fees for the taking of notes out of public funds, and for fixing the charges for the making and supply of transcripts of the notes, and for the payment of such charges either by the parties to the proceedings or out of public funds;
  - (u) prescribing the procedure for the transfer of proceedings from the Court to the Federal High Court, the High Court of a State or of the Federal Capital Territory; and
  - (v) for prescribing vacations.
- (2) Rules of Court made under this section shall apply to all proceedings by or against the Government of the Federation or of a State or a local government.

*Committee's Recommendation:*

That the provision in Clause 36 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 36 stand part of the Bill, put and agreed to.*

## PART VI — MISCELLANEOUS

- Clause 37:**
- (1) The Federal Judicial Service Commission may, from time to time, appoint a fit and proper person to be the Chief Registrar of the Court who shall perform such duties in execution of the powers and authorities of the Court as may, from time to time, be assigned to him by Rules of Court and, subject thereto, by any special order of the President of the Court.
  - (2) The Federal Judicial Service Commission may, from time to time, appoint registrars, deputy registrars and such other officers as may be deemed necessary who shall perform such duties with respect to business before the Court as may be directed by Rules of Court and any order of the President of Court
  - (3) The Chief Registrar, registrars and deputy registrars shall have power to administer oaths and perform such other duties with respect to any proceedings in the Court as may be prescribed by the Rules of Court or by any special order of the President of the Court.
  - (4) Any person holding the office of Chief Registrar, registrar, deputy registrar or any other office in the Court immediately before the commencement of this Act shall be deemed to have been appointed under this Act and shall continue to hold such office under such terms and conditions not less favourable than those obtaining immediately before the commencement of this Act.

*Committee's Recommendation:*

That the provision in Clause 37 be retained (*Senator Oserheimen Osunbor*) *Agreed to.*

*Question that Clause 37 stand part of the Bill, put and agreed to.*

If an officer of the Court, employed to execute an order, willfully or by neglect or omission loses the opportunity of executing it, then on complaint of the person aggrieved, and proof of the act alleged, the Court may, if it thinks fit, order the officer to pay the damages sustained by the person complaining, or part thereof, and the order shall be enforced as an order directing payment of **money**.

*Committee's Recommendation:*

*Leave out* the provision in Clause 38 and *insert* a new Clause 38 as follows

**Clause 38:** **If** an officer of the Court, employed to execute an order, willfully or by neglect loses the opportunity of executing it, then on complaint of the person aggrieved, and proof of the act alleged, the Court may, if it thinks fit order **the** officer to pay the damages sustained by the person complaining, or part thereof, and the order shall be enforced as an order directing payment of money" (*Senator Oserheimen Osunbor*)  
— *Agreed to.*

*Question that Clause 38 as recommended stand part of the Bill, put and agreed to.*

**Clause 39:** No person in permanent employment as an officer of the Court shall or may directly or indirectly or by the intervention of a trustee or otherwise purchase any property sold at execution, and in the event of any such person purchasing or being interested in the purchase of any property at an execution sale, such purchase shall be entirely void:

Provided that nothing in this section shall prevent any such person from purchasing by leave of the Court at an execution sale any property which it may be necessary for him to purchase in order to protect the interest of himself, his wife or child.

*Committee's Recommendation:*

That the provision in Clause 39 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

**Clause 40:** Subject to the provisions of this Act or any other enactment, Rules of Court or law, the costs of and incidental to all proceedings in the Court shall be in the discretion of the Court and the Court shall have full power to determine by whom and to what extent the costs are to be paid.

*Committee's Recommendation:*

That the provision in Clause 40 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 40 stand part of the Bill, put and agreed to.*

**Clause 41:** (1) The Court may, in any matter, order and allow to all persons required to attend, or examined as witnesses, such sum or sums of money as may be specified by Rules of Court as well as for defraying the reasonable expenses of such witnesses as for allowing them a reasonable compensation for their trouble and **loss** of time.

*Committee's Recommendation:*

Leave **out the provision in sub-clause 41(1)** and insert a new sub-clause 41(1) as follows: "(1) The Court may, in any matter, order and allow to all persons required to attend, or to be examined as witnesses, such sum or sums of money as may be specified by Rules of Court for defraying the reasonable expenses of such witnesses for allowing them a reasonable compensation for their trouble and loss of time" (*Senator Oserheimen Osunbor*) — *Agreed to.*

(2) No person may refuse to attend as a witness, or to give evidence when so required by process of the Court, on the ground that his expenses have not been first paid or provided for.

*Question that Clause 41 as recommended stand part of the Bill, put and agreed to.*

**Clause 42:** All sums of money so allowed shall be paid in civil proceedings by the party on whose behalf the witness is called and shall be recoverable as ordinary costs of suit if the Court shall so order.

*Committee's Recommendation:*

That the provision in Clause 42 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 42 stand part of the Bill put and agreed to.*

**Clause 43;** Any person present in Court, whether a party or not in a cause or matter, maybe compelled by the Court to give evidence or produce any document in his possession or \_\_\_\_\_ in his power in the same manner and subject to the same rules as if he had been summoned to attend and give evidence or produce such document and may be punished for any refusal to obey the order of the Court.

*Committee's Recommendation:*

That the provision in Clause 43 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 43 stand part of the Bill, put and agreed to.*

**Clause 44:** The Court may issue a summons for bringing up any person under civil process to be examined as a witness in any cause or matter pending or to be inquired of in the Court.

*Committee's Recommendation:*

Leave out the word "of" in line 2 and insert the word "into" instead thereof (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 44 as recommended stand part of the Bill, put and agreed to.*

**Clause 45:** In any civil cause or matter in which the Government of the Federation or any public officer in his official capacity is a party or in any civil cause or matter affecting the activities of the Government of the Federation, that Government or that officer may be

represented by a law officer, State Counsel, or any legal practitioner or other person duly authorised in that behalf by or on behalf of the Attorney-General of the Federation.

*Committee's Recommendation:*

That the provision in Clause 45 be retained (*Senator Oserheimen Osunbor*) *Agreed to.*

*Question that Clause 45 stand part of the Bill, put and agreed to.*

Clause 46: All persons admitted as legal practitioners to practise in Nigeria shall, subject to the provisions of **the** Constitution of the Federal Republic of Nigeria 1999 and the Legal Practitioners Act, have the right to practise in the Court:

Provided that a party to a dispute before the Court may be represented by the organisation to which he belongs.

*Committee's Recommendation:*

*Leave out* all the words after "may" in line 1 of the proviso and *insert* the words "represent himself or herself or be represented by the organisation to which he or she belongs" (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 46 as recommended stand part of the Bill, put and agreed to.*

Clause 47: Where permitted by this Act or any other Act of the National Assembly, an appeal to the Court of Appeal from the decision of the Court shall not operate as a stay of execution but the Court may order a stay of execution either unconditionally or upon the performance of such conditions as may be imposed in accordance with Rules of Court.

*Committee's Recommendation:*

That the provision in Clause 47 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 47 stand part of the Bill, put and agreed to.*

Clause 48: (1) In every cause or matter the Court shall take down in writing the substance of all oral evidence given before the Court and minutes of the proceedings, and shall sign the same at any adjournment of the case and at the conclusion thereof:

Provided that the Court may cause the whole or any part of the proceedings to be recorded either manually or by electronic devices by an official employed for that purpose except that the transcript of such recording shall be transcribed and duly authenticated by the signature of the presiding Judge in a manner prescribed by Rules of Court.

(2) No person shall be entitled, as of right, to the inspection of or to a copy of the records so kept pursuant to subsection (1) of this section, except as may be imposed by Rules of Court.

(3) The record so kept pursuant to subsection (1) of this section, or a copy thereof purporting to be signed and certified by the registrar as a true copy shall at all times without further proof, be admitted as evidence of such proceedings and of statements made by the witnesses.

*Committee's Recommendation:*

*Leave out* the words "purported to be" in line 2 (*Senator Oserheimen Osunbor*) ■ *Agreed to.*

*Question that Clause 48 as recommended stand part of the Bill, put and agreed to.*

Clause 49: In any case the Court may on the application of either party, or of its own motion, make such order for the inspection by the Court, the parties or witnesses of any movable or immovable property, the inspection of which may be material to the proper determination

of the question in dispute, and give such direction respecting such inspection as to the Court may seem fit.

*Committee's Recommendation:*

That the provision in Clause 49 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 49 stand part of the Bill, put and agreed to.*

- Clause 50: The President of the Court may appoint under his hand and seal of the Court, from time to time, such and so many persons as may be requisite to be commissioners for taking affidavits and declarations and receiving production of documents, or for taking the examination of witnesses on interrogatories or otherwise which may be necessary to be taken in respect of any proceedings in the Court, and any order of the Court for the attendance and examination of witnesses or production of documents before any such commissioner shall be enforced in the same manner as an order to attend and be examined or produce documents before the Court.

*Committee's Recommendation:*

That the provision in Clause 50 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 50 stand part of the Bill, put and agreed to.*

- Clause 51: No action shall be brought against any commissioner in respect of any act or order performed bona fide or made by him in the execution, or supposed execution of the powers or jurisdiction vested in him, but every such act or order if in excess of such powers and jurisdiction shall be liable to be revised, altered, amended or set aside upon summary application to the Court.

*Committee's Recommendation:*

*Leave out* the words "bona fide or made" in line 2 and *insert* the words "or made bona fide" instead thereof (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 51 stand part of the Bill, put and agreed to.*

- Clause 52: (1) No Judge or other person acting judicially shall be liable to be sued in any court for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction.
- (2) No officer of the Court or other person bound to execute the lawful orders of any such Judge or other person acting judicially shall be liable to be sued in any court, for the execution of any warrant or order which he would be bound to execute.

*Committee's Recommendation:*

That the provision in Clause 52 be retained (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 52 stand part of the Bill, put and agreed to.*

*Committee's Recommendation: Insert*  
a new Clause 53 as follows

- "Clause 53: (1) Part II of the Trade Disputes Act is hereby repealed.
- (2) Without prejudice to the provisions of subsection (1) of this section, the other provisions of the Trade Disputes Act shall be construed with such modifications as may be necessary to bring it into conformity with the provisions of this Act.
- (3) If any provision of the Trade Disputes Act is inconsistent with the provision of this Act the provisions of this Act shall prevail" (*Senator Oserheimen Osunbor*) — *Agreed to.*

*Question that Clause 53 as recommended stand part of the Bill, put and agreed to.*

## INTERPRETATION

- Clause 54: (1) In this Act, unless the context otherwise requires -  
"action" means a civil proceeding commenced by writ or in such other manner as may be prescribed by Rules of Court but does not include a criminal proceeding;

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

"cause" includes any action, suit or other original proceeding between a claimant and a defendant and any contempt proceeding;

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

"child" means any person under the age of 15 years;

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

"claimant" includes every person asking any relief (otherwise than by way of counter-claim as a defendant) against any other person by any form of proceeding, whether the proceeding is by action, suit, petition, motion, summons or otherwise;

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

"collective agreement" means any agreement in writing regarding working conditions and terms of employment concluded between -

- (a) an organisation of employers or an organisation representing employers (or an association of such organisations), of the one part, and
- (b) an organisation of employees or an organisation representing employees (or an association of such organisations) of the other part;

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

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

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

"Court" means the National Industrial Court and includes the Judges of the National Industrial Court sitting together or separately;

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

"Court of Appeal" means the Court of Appeal as established by the Constitution of the Federal Republic of Nigeria 1999;

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

"defendant" includes every person served with any writ of summons or process, or served with notice of, or entitled to attend as a person to be affected by the decision in, any civil proceedings, and also every person charged under any process of the Court with a contempt charge;

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

"discrimination" means any distinction, exclusion or preference which has the aim or the direct or indirect effect of nullifying or impairing the quality of opportunity or treatment in employment or occupation;

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

"employee" means a person employed by another under oral or written contract of employment whether on a continuous, part-time, temporary or casual basis and includes a domestic servant who is not a member of the family of the employer;

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

"employer" means any individual or body corporate or unincorporate who has entered into a contract of employment to employ any other person as an employee or apprentice

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

"enactment" means any Act of the National Assembly (including this Act) or law having effect with respect to the Federation or applicable or having effect as Federal law;

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

"Inter-union dispute" means dispute between trade unions or employers' associations;

*Question, That the meaning of the words "Inter-union dispute" be as defined in the Interpretation to this Act, put and agreed to.*

"intra-union dispute" means dispute within a trade union or an employers' association;

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

"forced labour" has the same meaning as in section 34 of the Constitution of the Federal Republic of Nigeria 1999;

*Question, That the meaning of the words "forced labour" as defined in the Interpretation to this Act be deleted, put and agreed to.*

"former Supreme Court" means the Federal Supreme Court established under the Supreme Court Act;

*Question, That the meaning of the words "former Supreme Court" be as defined in the Interpretation to this Act, put and agreed to.*

"Judge" except where the reference is to the Judge of the Federal high Court or of a High Court of a State or the Capital Territory, Abuja, means the President or other Judge of the National Industrial Court;

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

"judgment" includes a decision, decree or order of a court of record;

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

"labour dispute" means any dispute between employers and employees, including disputes between their respective organisations and federations which is connected with -

- (a) the employment or non-employment of any person,
- (b) terms of employment and physical conditions of work of any person,
- (c) the conclusion or variation of a collective agreement, and
- (d) an alleged dispute;

*Question, That the meaning of the words "Labour dispute" as defined in the Interpretation to this Act be deleted, put and agreed to.*

"matter" includes every proceeding in court or order in a cause;

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

"National Industrial Court" means the National Industrial Court established under section 1 of this Act;

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

"National Industrial Court" means the National Industrial Court reconstituted under section 1 of this Act;

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

"organisation" includes a trade union or an employers' association;

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

—party<sup>1</sup>- includes every person served with notice of, or attending, any proceeding, who, although not named on the record of the proceeding, has the like interest in the subject matter of the proceeding as a person named on the record of the proceedings;

*Question, That the meaning of the word "party" 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.*

"President of the Court" means the President of the National Industrial Court appointed under section 2 of this Act;

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

"registrar" includes the Chief Registrar and all other registrars of the Court;

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

"sexual harassment" means any unwelcome sexual advance, conduct or request made by an employer, manager, supervisor or a co-employee to an employee, whether the employee is a man or woman and includes any conduct of a sexual nature which creates an intimidating, hostile, degrading or offensive environment;

*Question, That the meaning of the words "sexual harassment" as defined in the Interpretation to this Act be deleted, put and agreed to.*

"suit" includes action;

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

"worst forms of child labour" includes -

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict,
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances,
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs, and
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children;

*Question, That the meaning of the words "worst forms of child labour" as defined in the Interpretation to this Act be deleted, put and agreed to.*

"trade dispute" means any dispute between employers and employees, including disputes between their respective organisations and federations which is connected with -

- (a) the employment or non-employment of any person,
- (b) terms of employment and physical conditions of work of any person,
- (c) the conclusion or variation of a collective agreement, and
- (d) an alleged dispute;

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

- (2) For enabling full effect to be given to the provisions of this Act -
  - (a) any reference (whether express or by necessary implication) in any enactment (other than the Constitution of the Federal Republic of Nigeria 1999) to "the Federal High Court" "High Court of the Federal Capital Territory, Abuja" "High Court", "court of law" or a "court of record" -
    - (i) in so far as the reference relates to or is connected with the jurisdiction, powers, practice and procedure of a High Court, and
    - (ii) except in so far as it is inconsistent with the provisions of this Act, shall include a reference to the Court established by this Act: and

- (b) all references (whether express or by necessary implication) in any enactment (other than the Constitution of the Federal Republic of Nigeria) to the High Court of a State in so far as the enactment -
- (i) is of general application throughout the Federation, and
- (ii) relates to a matter as respects which jurisdiction is conferred upon the Court by or under this Act, shall be construed as references to the Court, notwithstanding that in an appropriate case, the enactment is, or has become, by operation of law, a law of a State.
- (3) The powers conferred upon the Attorney-General of the Federation and exercisable by him or the Attorney-General of a State under the Constitution or anything made thereunder shall, to the extent that jurisdiction is conferred upon the Court, the Federal High Court, or the High Court of a State, or of the Federal Capital Territory, Abuja by or pursuant to this Act, be exercisable subject as in this Act otherwise provided, and that section and any other enactment in law pertaining thereto shall be so construed.
- (4) For the avoidance of doubt, the following enactments -
- (a) the Regional Courts (Federal Jurisdiction) Act,
- (b) section 31 of the Interpretation Act;
- (c) Trade Disputes Act; and
- (d) such other Federal enactment as the President may by order specify, shall be construed with such modifications as may be necessary to bring them into conformity with the provisions of this Act.

*Question that Clause 53 Stand part of the Bill put and agreed to.*

Clause 54: This Act may be cited as the National Industrial Court Act 2005.

*Committee's Recommendation:*

That the provision in Clause 54 be retained (*Senator Oserheimen Osunbor*) ~ Agreed to.

*Question that Clause 54 stand part of the Bill put and agreed to.*

### EXPLANATORY MEMORANDUM

The Bill seeks to re-establish die National Industrial Court as a superior court of record and to confer jurisdiction on the Court with respect to labour and industrial relations matters.

Chairman to Report progress.

### (SENATE IN PLENARY)

The Deputy Senate President reported that the Senate in the Committee of the Whole considered the Report of the Committees on Judiciary, Human Rights and Legal Matters and Employment, Labour and Productivity on National Industrial Court Bill 2005 and approved as follows:

|          |       |                |
|----------|-------|----------------|
| Clause 1 | —     | As recommended |
| Clause 2 | —     | As recommended |
| Clause 3 | —     | As recommended |
| Clause 4 | —, .. | As recommended |
| Clause 5 | —     | As recommended |

|        |       |                        |
|--------|-------|------------------------|
| Clause | 6     | As recommended         |
| Clause | 7     | As recommended         |
| Clause | 8     | As recommended         |
| Clause | 9     | As recommended         |
| Clause | 10    | As recommended         |
| Clause | 11    | As recommended         |
| Clause | 12    | As recommended         |
| Clause | 13    | As recommended         |
| Clause | 14    | As recommended         |
| Clause | 15    | As recommended         |
| Clause | 16    | As recommended         |
| Clause | 17    | As recommended         |
| Clause | 18    | As recommended         |
| Clause | 19    | As recommended         |
| Clause | 20    | As recommended         |
| Clause | 21    | As recommended         |
| Clause | 22    | As recommended         |
| Clause | 23    | As recommended         |
| Clause | 24    | As recommended         |
| Clause | 25    | As recommended         |
| Clause | 26 _. | As recommended         |
| Clause | 27    | <u>A</u> s recommended |
| Clause | 28    | As recommended         |
| Clause | 29    | As recommended         |
| Clause | 30    | As recommended         |
| Clause | 31    | As recommended         |
| Clause | 32    | As recommended         |
| Clause | 33    | As recommended         |
| Clause | 34    | As recommended         |
| Clause | 35    | As recommended         |
| Clause | 36    | As recommended         |
| Clause | 37    | As recommended         |

|           |                |
|-----------|----------------|
| Clause 38 | As recommended |
| Clause 39 | As recommended |
| Clause 40 | As recommended |
| Clause 41 | As recommended |
| Clause 42 | As recommended |
| Clause 43 | As recommended |
| Clause 44 | As recommended |
| Clause 45 | As recommended |
| Clause 46 | As recommended |
| Clause 47 | As recommended |
| Clause 48 | As recommended |
| Clause 49 | As recommended |
| Clause 50 | As recommended |
| Clause 51 | As recommended |
| Clause 52 | As recommended |
| Clause 53 | As recommended |
| Title     | As recommended |

*Question*, That the Senate do approve the Report of the Committee of the Whole— *resolved in the Affirmative*.

*Motion made and Question Proposed*: That the National Industrial Court Bill 2005 be read the Third Time (*Acting Senate Leader*).

*Question put and agreed to*.

*Bill accordingly read the Third Time and passed*.

**National Development Bank of Nigeria Bill, 2005 (SB. 252):**

*Motion made and Question Proposed*: That the National Development Bank of Nigeria Bill 2005 be read the Second Time (*Senator Mamman B. All*).

*Debate*:

*Question put and agreed to*.

*Bill accordingly read the Second Time and referred to the Committee on Banking, Insurance and Other Financial Institutions to report within four (4) weeks*.

9.

**Adjournment:**

*Motion made and Question Proposed*: That the Senate do adjourn till Tuesday, 15th November, 2005 at 10.00 a.m.

*Adjourned accordingly at 12. 20 p.m.*

**Ibrahim N. Mantu**  
*Deputy Senate President*