



HOUSE OF REPRESENTATIVES FEDERAL REPUBLIC OF NIGERIA

VOTES AND PROCEEDINGS

Wednesday, 3 May, 2006

1. The House met at 11.12 a.m. Mr Deputy Speaker read Prayers.
2. **Votes and Proceedings:**
Mr Deputy Speaker announced that he had examined and approved the Votes and Proceedings of Tuesday, 2 May, 2006.

By unanimous consent, the Votes and Proceedings was adopted.

3. **Announcements:**
 - (i) *Conference Committee:*
Mr Deputy Speaker named the Conferees on a Bill for an Act to Re-Establish the National Industrial Court, 2006:
Hon. Alex Nwofe
Hon. Musa Mamoud
Hon. Aliyu Sarki
Hon. J. M. Owoh
Hon. BalalbnNa¹ Allah
 - (ii) *Re: Breach of Legislative Privilege:*
Mr Deputy Speaker read the following communication from the Inspector General of Police:
Telegraphic Address

NIGPOL ABUJA
Telephone No. 09-2340422
09-2340633
In reply please quote

THE INSPECTOR-GENERAL OF POLICE
THE NIGERIA POLICE
FORCE HEADQUARTERS
LOUIS EDET HOUSE
SHEHU SHAGARI WAY
CENTRAL AREA ABUJA

Ref CB.7200/1GP.SEC/ABJ/VOL. 1/21

2nd May, 2006

*The Honourable Speaker,
Federal House of Representatives,
Three Arms Zone,
Abuja.*

RE: BREACH OF LEGISLATIVE PRIVILEGE
SUMMONS NO. 1/2006

I refer to your letter No. NASS/CHR/020/Vol.1/1 dated 26th April, 2006 on the above underlined subject inviting me to appear before the Honourable House members today 2nd May,

2006. I am also in receipt of your letter No. NASS/CHR/020/Vol.I/15 dated 2nd May, 2006 postponing the date to Wednesday, 3rd May, 2006.

2. I however regret my inability to honour this new date as I would be at Benin Republic to hand over vehicles donated by the Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria, Chief Olusegun Obasanjo, GCFR for border patrol to the Beninese Government.

3. It would be highly appreciated if this invitation is fixed for Thursday, 4th May, 2006 at 1330 hours (1.30 p.m.). I am sorry for the inconvenience this might cause our Honourable Representatives.

4. Please accept the assurances of my high regards.

(Signed)

SUNDAY EHINDERO CFR, NPM, fwc
INSPECTOR-GENERAL OF POLICE

4. **Petitions:**

Four petitions were received and referred to the House Committee on Public Petitions:

(i) Hon. Andrew Uchendu, from Elder Johnbull Amashibo and two (2) others on behalf of Obioku and Ibidi Communities, praying the House to prevail on Delattre Benzons Nigeria Limited to respect the Memorandum of Understanding signed with the two Communities and pay off all the outstanding settlement due to the two Communities from 2000-2001;

(ii) Hon. Andrew Uchendu, from Chief Johnbull Amasabo and three (3) others on behalf of the Ogbosuomo (NAMBE-BASSAMBIRI) Fishing Society, praying the House to prevail on Nigeria Agip Oil Company (NAOC) to pay compensation (fishing settlement) to each individual person listed in the petition;

(iii) Hon. Andrew Uchendu, from Chief Tan Obalo and five (5) others of the families of EMINAMA **OBAKILOLO AND AKAIKIRU**, praying the House to investigate the oil spillage of June 27, 2005 and July 5, 2005 respectively caused by the activities of Nigeria Agip Oil Company (NAOC) and grant all other reliefs sought in the **petition**;

(iv) Hon. Andrew Uchendu, from Chief Taylor Amakiri and fifteen (15) others on behalf of Azuzuama Community, praying the House to prevail on Nigeria Agip Oil Company Limited (NAOC) to pay them compensation for the oil spillage which damaged and caused loss of lives as well as grant all other reliefs sought in the petition.

5. **Adoption of the Conference Committee Report on a Bill for an Act to Amend the Boarder Communities Development Agency Act 2003 and for Matters Connected Therewith, 2005:**

Motion made and Question proposed:

The House on Tuesday, 2 August, 2005 passed the Border Communities Development Agency Bill, 2003;

The Joint Committee met in Conference on Wednesday, 5 March, 2006, resolved the differences arising therefrom and accepted a harmonized version of the Bill;

A clean copy of the Conference Report is ready for presentation and adoption;

Resolves to adopt the Conference Report on the Border Communities Development Agency Bill, 2005 (**Hon. George Sekibo**).

Question put and agreed to.

6. **Consideration of Report:**

Joint Committee on Electoral Matters and Justice:

Motion made and Question proposed, "That this House do resume consideration of the Report of the Joint Committee on Electoral Matters and Justice on a Bill for an Act to Regulate the Conduct of Federal, State and Local Government Elections and to Repeal the Electoral Act, 2001; and for Connected Purposes" (**Hon. Hamisu Shira**).

Question put and agreed to.

Question that the House do resolve into Committee of the Whole to resume consideration of the Report, agreed to.

HOUSE IN COMMITTEE)

(Mr Deputy Speaker in the Chair)

A BILL FOR AN ACT TO REGULATE THE CONDUCT OF ELECTIONS IN THE FEDERAL, STATE, AND LOCAL GOVERNMENTS, AND THE REGISTRATION OF VOTERS AND MATTERS CONNECTED THEREWITH

Committee Recommendation:

Clause 103: Conduct at political parties, and processions, etc.

(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 tear-gas, acid, and any inflammable substance capable of injuring a person (*Hon. Alex Nwofe*).

Consideration of Clause 103 (4) deferred to enable the Joint Committee on Electoral Matters and Justice report on the reconciliation of the subclause with the provision in the interpretation clause

Committee Recommendation;

Clause 104: Prohibition of certain conducts, etc. at Political Campaigns.

- (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 emotions shall not be employed or used in political campaigns.
- (3) Places designated for religious worship, police station, and public offices, 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.
- (5) No political party or member of a political party shall retain, organize, train or equip any person or group of persons for the purpose of enabling them to be employed for the use or display of physical force or coercion in promoting any political objective or interests, or in such manner as to arouse reasonable apprehension that they are organized, trained or equipped for that purpose.
- (6) No political party, person or candidate shall keep or use private security organization, vanguard or any other group or individual by whatever name called for the purpose 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.
- (8) 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 a fine of N100,000 or imprisonment for the term of 2 years and disqualification for that election.

- (b) in the case of a political party to a fine of N500,000 in the first instance and N 1,000,000 for any subsequent offence (**Hon. Alex Nwofe**).

Consideration deferred.

Committee Recommendation:

Clause 105: Prohibition of corrupt practice.

- (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 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.
- (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—
 - (a) in the case of an individual, to a fine of N100,000 or imprisonment for a term of one year; and
 - (b) in the case of political party, to a fine of N250,000 in the first instance and N500,000 for any subsequent offence (**Hon. Alex Nwofe**).

Amendment Proposed:

Leave out the provisions in subclauses (1), (2) and (4) (Hon. Olaka Nwogu and Hon. Wunrni Bewaji).

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

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

Committee Recommendation:

Clause 106: Prohibition of use of force or violence during political campaign.

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 (**Hon. Alex Nwofe**).

Amendments Proposed:

- (i) *Leave out the entire provision in the Clause (Hon. Ifedayo Abegunde).*

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

- (ii) *Transfer the Marginal Title "Prohibition of use of force or violence during political campaign" to Clause 105 as amended as New Marginal Title; consequentially, delete the Marginal Title "Prohibition of corrupt practice" in Clause 105 (Hon. Alex Nwofe).*

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

Committee Recommendation:

Clause 107: Conformity with the Law,

All Political Parties, candidates, agents and supporters of political parties shall conform with the provisions of this Act, guidelines on political campaigns and all party activities (*Hon. Alex Nwofe*).

Amendment Proposed:

Leave out the provision in the clause (Hon. Wunmi Bewaji).

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

Committee Recommendation:

Clause 108: Effect on elected officer where political party ceases to exist.

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 (*Hon. Alex Nwofe*).

Amendments Proposed:

(i) *Leave out the provision in the clause (Hon. Wunmi Bewaji).*

Question that the amendment be made, put and negated.

(ii) In line 1, after the word "with" *leave out* the words "any provisions of this Act" and *insert* the words "the Constitution and this Act" instead thereof (*Hon. Celestine Ughanze and Hon. Abubakar Momoh*).

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

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

Committee Recommendation:

Clause 109: Existing political parties.

Any Political Party registered by the Commission in accordance with the provisions of any law in force immediately before the coming into force of the 1999 Constitution shall be deemed to have been duly registered under this Act (*Hon. Alex Nwofe*) — *Agreed to.*

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

Committee Recommendation:

Clause 110: Limitation on political broadcast and campaign by political parties.

- (1) For the purpose 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 24 hours before polling day-
 - fa) advertises on the facilities of any broadcasting undertaking; or
 - (b) procures for publication or acquiesces in the publication of an advertisement in a Newspaper, for the purpose of promoting or opposing a particular candidate, is guilty of an offence under this Act and upon conviction shall be liable to a fine of N500,000 (*Hon. Alex Nwofe*).

Amendments Proposed:

(0) **In** subclause (1), line 2, *leave out* the figure "45" and *insert* the figure "60" instead thereof (*Hon. Oyeyemi Adediji*).

Question that the amendment be made, put and negated.

(ii) In subclause (1), line 2, *leave out* the figure "45" and *insert* the figure "**180**" instead thereof (*Hon. Victor Lar*).

Question that the amendment be made, put. and negated.

- (iii) In subclause (1), line 2, *leave out* the figure "45" and *insert* the figure "90" instead thereof (*Hon. Umar El-Yakub*).

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

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

Committee Recommendation:

Clause 111: Limitation on Political Broadcast and Campaign by Candidate.

A candidate who directly or through any person acting on his behalf—

- (a) during 24 hours 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 or to imprisonment for six months.

Committee Recommendation:

Leave out the entire provisions in the Clause (Hon. Alex Nwofe) — Agreed to.

Committee Recommendation:

Clause 112: Limitation on Political Broadcast and Campaign by any other person.

- (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 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 material 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 24 hours immediately preceding or on polling day is guilty of an offence and liable on conviction to a fine of N50,000 or imprisonment for six (6) months or to both (*Hon. Alex Nwofe*) — *Agreed to.*

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

Committee Recommendation:

Clause 113: Campaign for election.

- (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 disadvantage 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 air-time shall be allotted to all political parties during prime time at similar hours each day, subject to the payment of appropriate fees.
- (5) At any public print 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 offence and on conviction be liable to a fine of N500,000 in the first instance and to a fine of N1,000,000 for subsequent conviction (*Hon. Alex Nwofe*) — *Agreed to.*

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

Committee Recommendation;

Clause 114: Prohibition of Broadcast, etc 24 hours preceding or on polling day.

- (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 media 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 any person is convicted of an offence under this section he shall be liable—
 - (a) in the case of a body corporate to a fine of N500,000 and
 - (b) in the case of an individual to a fine of N100,000 or to imprisonment for 3 years (*Hon. Alex Nwofe*) — *Agreed to.*

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

Committee Recommendation;

Clause 115: Campaign based on religion, tribe, etc.

Any candidate, person or association who engages 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 fine of N100,000 or imprisonment for twelve months or to both (*Hon. Alex Nwofe*) — *Agreed to.*

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

PART IV — PROCEDURE FOR ELECTION TO LOCAL GOVERNMENT

Committee Recommendation;

Clause 116: Power of the Commission.

- (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 shall be under the direction and supervision of the Commission in accordance with the provisions of this Act.
- (2) The Register of Voters compiled and the polling units established by the Commission and any other regulations, guidelines, rules or manuals issued or made by the Commission shall be used for elections into the Area Council or recall of a member (*Hon. Alex Nwofe*) — *Agreed to.*

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

Committee Recommendation;

Clause 117: Election to offices of Chairman, Vice-Chairman and Councillors.

- (1) There shall be elected for each Area Council in the Federal Capital Territory a Chairman and a Vice-Chairman.
- (2) There shall be elected a Councillor for each electoral ward in an Area Council of the Federal Capital Territory (*Hon. Alex Nwofe*) — *Agreed to.*

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

Committee Recommendation;

Clause 118: Division of Local Government Area and Area Council into Registration Area.

- (1) Subject to the provision of this section, the Commission *shall* divide each Area Council into "Electoral Wards" 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 Electoral Ward is as nearly equal to the population quota of the Electoral Ward as is reasonably practicable.
- (3) The Commission shall review the division of every Area Council into wards at intervals of not less than 10 years and may alter such Electoral Ward in accordance with the provisions of subsection (1) of this Section to such extent as it may consider desirable in the light of the review.
- (4) Notwithstanding the provisions of subsection (3) of this section, the Commission may, at any time, carry out such a review and alter the Electoral Ward **in** accordance with the provisions of this section to such extent as it considers necessary in consequence of any amendment to section 3 of the Constitution or any provision replacing that provision or by reason of the holding of a National Population Census or pursuant to an Act of the National Assembly (*Hon. Alex Nwofe*) — *Agreed to.*

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

Committee Recommendation:

Clause 119: Qualification.

A person shall be qualified for election under this part of this Act if he—

- (a) is a citizen of Nigeria;
- (b) is registered as a voter;
- (c) has attained the age of 30 years for Chairman and 25 years for Councillor;
- (d) is educated up to at least the School Certificate level or its equivalent;
- (e) is a member of a political party and is sponsored by that party (*Hon. Alex Nwofe*).

Amendment Proposed:

In paragraph (c), *leave out* the figure "30" and *insert* the figure "25" instead thereof (*Hon. Abdul Ningi*).

Question that the amendment be made, put and negatived. Question

that Clause 119 stand part of the Bill, put and agreed to.

Committee Recommendation: Clause

120: Disqualification.

- (1) A person shall not be qualified to contest an Area Council election under this Act. if—
 - (a) subject to the provisions 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) he is adjudged to be lunatic or otherwise declared to be of unsound mind under any law **in** force in any part of Nigeria;
 - (c) he is under a sentence of death imposed on him by any competent court of law or tribunal in Nigeria or a 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 ten years before the date of an election to the Area Council, he has been convicted and sentenced for an offence involving dishonesty or he has been found guilty of a 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 Administrative Panel of Inquiry or a Tribunal set up under the Tribunals of Inquiry Act, a Tribunal of Inquiry Law or any other Law by the Federal or State Government which indictment has been accepted by the Federal or State Government, as the case may be;
 - (7) he has within the preceding period of 10 years presented a forged certificate to the Commission;
 - (/) he has been dismissed from the public service of the Federation, State, Local Government, or Area Council; 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 a lunatic;
 - (b) declared to be of unsound mind;
 - (c) sentenced to death or imprisonment; or
 - (d) adjudged or declared bankrupt,
- any appeal against the decision 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 (*Hon. Alex Nwofe*) ~ *Agreed to.*

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

Committee Recommendation:

Clause 121: Date of Area Council Elections and method of voting.

- (1) Election to all the Area Councils 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 less than 3 months before the day on which the Area Council stand dissolved there shall be no by-election to fill the vacancy.

- (5) Where a vacancy occurs more than three months before the day the Area Council stands 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 Recommendation:

Leave out the provision in Subclause (5) (*Hon. Alex Nwofe*) — *Agreed to.*

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

Committee Recommendation:

Clause 122: Procedure for Area Council Elections.

The procedure for filing nominations and the casting and counting of votes for Area Council elections shall be the same as is applicable to other elections under this Act (*Hon. Alex Nwofe*) — *Agreed to.*

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

Committee Recommendation:

Clause 123: Procedure for Nomination, etc.

- (1) If after the expiration of time for the delivery of nomination papers and the withdrawal of candidates for election of Councillors 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 Councillors under this section more than one candidate duly 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 the disqualification, withdrawal, incapacitating, 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 remains validly nominated there shall be no **further** extension (*Hon. Alex Nwofe*) — *Agreed to.*

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

Committee Recommendation:

Clause 124: Election of Area Council Chairman.

- (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 at least two-thirds of all the wards in the Area Council.

PROVIDED that where the only candidate fails to be elected **in** accordance with this subsection then there shall be fresh nomination.
- (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 the votes cast at the election in each of at 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 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 the foregoing subsections, the Commission shall within 7 days of the result of the election held under the said subsections arrange for 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 cast 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 all 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 if he scores a simple majority of votes cast at the election (**Hon. Alex Nwofe**) — *Agreed to.*

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

Committee Recommendation:

Clause 125: Death of Chairman before Oath of office.

- (1) If a person duly elected as Chairman dies before taking and subscribing the Oath of Allegiance and Oath of Office, the person elected with him as Vice-chairman shall be sworn in as Chairman and he shall nominate, and with the approval of a majority of the members of the Area Legislative Council appoint a new Vice-Chairman.
- (2) Where the Vice-Chairman is appointed from among the Councillors 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 (*Hon. Alex Nwofe*) — *Agreed to.*

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

Committee Recommendation:

Clause 126: Dissolution of Area Council.

An Area Council shall stand dissolved at the expiration of a period of two 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 (*Hon. Alex Nwofe*).

Amendment Proposed:

In line 1, *leave out* the word "two"¹ and *insert* the word "three" instead thereof (*Hon. Mao Ohuabunwa*).

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

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

Committee Recommendation:

Clause 127: Vacation of seat of members.

- (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 takes up full time paid employment at any level of the government or in the private sector; 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 Councillor 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 the Speaker shall first present evidence satisfactory to the Area Council that any of the provisions of that subsection has become applicable in respect of that member (*Hon. Alex Nwofe*).

Amendment Proposed:

In subclause (1) (e), line 1, *leave out* the word "Speaker" and wherever it occurs subsequently and *insert* the word "Leader" instead thereof accordingly (*Hon. Abdullahi Shuaibu*).

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

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

*Committee Recommendation:***Clause 128: Removal of Chairman or Vice-Chair man.**

- (1) The Chairman or Vice-Chairman may be removed from office in accordance with the provisions 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 of 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 Leader of the Area Legislative Council.
- (3) The Leader 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 Legislative Council that the allegation be investigated shall not be declared as having been passed unless it is supported by the votes of not less than 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 Leader 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 powers and exercise its functions 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 reports to the Area Legislative Council that the allegation has not been proved 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 proved, then within 14 days of the receipt of the report, the Area Legislative Council shall consider the report 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 (*Hon. Alex Nwofe*) ~ *Agreed to*.

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

Committee Recommendation:**Clause 129: Recall.**

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 by the Commission within 90 days of 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 (*Hon. Alex Nwofe*) — *Agreed to.*

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

PART VII — PROCEDURE FOR LOCAL GOVERNMENT COUNCIL ELECTIONS

Committee Recommendation:**Clause 130: Voting by Open secret ballot.**

Voting in Local Government Council Elections shall be by open-secret ballot (*Hon. Alex Nwofe*) — *Agreed to.*

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

Committee Recommendation:**Clause 131: Procedure for Local Government Elections.**

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 (*Hon. Alex Nwofe*) — *Agreed to.*

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

Committee Recommendation:**Clause 132: Procedure for Nomination, etc.**

- (1) If after the expiration of time for the delivery of Nomination Papers and the withdrawal of candidates for election of Councillors 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 Councillors under this section more than one candidate duly 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 the extension only one candidate remains validly nominated there shall be no further extension (*Hon. Alex Nwofe*) — *Agreed to.*

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

Committee Recommendation:**Clause 133: Election of Chairman.**

- (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 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—
 - (a) he has a majority of the 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 the wards in the Local Government Council, as the case may be.
- (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 an election shall be deemed to have been duly elected to the office of a Chairman of Local Government if he has—
 - (a) a majority of the votes cast 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 all 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 last 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 (*Hon. Alex Nwofe*) — *Agreed to.*

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

PART V — ELECTORAL OFFENCES

Committee Recommendation:

Clause 134: Offences in relation to registration, etc.

(1) 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 what 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 officer 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 fine of N100,000 or to 3 years imprisonment or to both.

(2) Any person who commits an offence under this section is liable on conviction to a fine of N100,000 or 3 years imprisonment or to both (*Hon. Alex Nwofe*) — *Agreed to.*

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

Committee Recommendation:

Clause 135: Offences in respect of nomination, etc.

(1) A person commits an offence if he—

- (a) forges any nomination paper;
- (b) wilfully 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;

- (J) wilfully 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) wilfully places in any ballot box any unauthorized paper;
 - (i) wilfully 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) of this Section is liable on conviction to a fine of N200,000 or to imprisonment for 5 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 imported into Nigeria, supplies to 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 fine of N5,000,000 or imprisonment for 5 years or to both.
- (5) An attempt to commit any offence under this section shall be punishable in the same manner as the offence itself (**Hon. Alex Nwofe**) — *Agreed to*.

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

Committee Recommendation:

Clause 136: Disorderly behaviour at political meetings.

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 fine of N100,000 or imprisonment for 3 years or both (**Hon. Alex Nwofe**) — *Agreed to*.

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

*Committee Recommendation: Clause 137:***Improper use of voters cards.** Any person who:

- (a) being entitled to a voters card, gives it to some other person for use at an election other than an officer appointed and acting in the course of his duty under this Act; or
- (b) any person being an officer acting in the course of his duty under this Act receives any voters' card in the name of some other person or persons for use at an election uses it fraudulently; or
- (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 be liable on conviction to a fine of N100,000 or imprisonment for 12 months or both.
- (e) Any person who acts in breach of any of the provisions of this section commits an offence and is liable on conviction to a fine of N100,000 or imprisonment for 3 years or to both (*Hon. Alex Nwofe*) — *Agreed to.*

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

*Committee Recommendation:*Clause 138: **Improper** use of vehicles.

- (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 shall be guilty of an offence and liable on conviction to a fine of N50,000 or to imprisonment for six months or to both (*Hon. Alex Nwofe*) ~ *Agreed to.*

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

*Committee Recommendation:***Clause 139: Impersonation and voting when not required.**

- (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 other person is not qualified to vote at the election, commits an offence and is liable on conviction to a fine of N100,000 or 3 years 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 fine of N 100,000 or imprisonment for 3 years or both (*Hon. Alex Nwofe*) — *Agreed to*.

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

Committee Recommendation: Clause

140: Dereliction of duty.

- (1) Any officer appointed for the purposes of this Act, who without lawful excuse commits any act or omission in breach of his official duty shall be guilty of an offence and shall be liable on conviction to a fine of N100,000 or to imprisonment for 3 years or both.
- (2) Any Polling Officer who fails to report promptly at his polling station on an election day without lawful excuse shall be guilty of dereliction of duty and on conviction shall be liable to a fine of N100,000 or 3 years imprisonment or both.
- (3) Any Polling Officer who fails to discharge his lawful duties at his polling station without lawful excuse shall be guilty of dereliction of duties and on conviction shall be liable to a fine of N100,000 or 3 years 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 or return shall be guilty of an offence and on conviction is liable to 3 years imprisonment.
- (5) Any Returning Officer or Collation Officer who delivers or causes to be delivered a false certificate or return knowing same to be false to the Commission or a State Independent Electoral Commission, commits an offence and on conviction is liable to 3 years imprisonment.
- (6) Any person who delivers or causes to be delivered a false Certificate or Return knowing same to be false to any news media shall commits an offence and on conviction is liable to 3 years (*Hon. Alex Nwofe*) — *Agreed to*.

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

Chairman to report progress.

(HOUSE IN PLENARY)

Mr Deputy Speaker in the Chair reported that the House in the Committee of Whole resumed consideration of the Report of the Committee on Electoral Matters on a Bill for an Act to Regulate the Conduct of Federal, State and Local Government Elections and to Repeal the Electoral Act, 2001; and for Connected Purposes. It deferred consideration of Clause 103 (4) and Clause 104, amended Clause 105, deleted Clause 106 and 107, amended Clause 108, adopted Clause 109, amended Clause 110, deleted Clause 111, adopted Clauses 112, 113, 114, 115, 116, 117, 118, amended Clause 119, adopted Clauses 120, 121, 122, 123, 124, 125 and 126, amended Clauses 127 and 128, adopted Clauses 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139 and 140. *He asked leave to sit again.*

Question that the House do adopt the Report of the Committee of Whole, put and agreed to.

7. Adjournment:

That this House do adjourn till Thursday, 4 May, 2006 at 10.00 a.m.

Adjourned accordingly at 2.00 p.m.

Austin Opara
Deputy Speaker