



HOUSE OF REPRESENTATIVES FEDERAL REPUBLIC OF NIGERIA

VOTES AND PROCEEDINGS

Wednesday, 31 May, 2006

1. The House met at 2.45 p.m. Mr Speaker read Prayers.
2. Votes and Proceedings:
Mr Speaker announced that he had examined and approved the Votes and Proceedings of Thursday, 25 May, 2006.

By unanimous consent, the Votes and Proceedings was adopted.

3. Announcement:
Obituary:
Mr Speaker read the following communication from Hon. Mao Ohuabunwa:



Hon. (Chief) Mao Ohuabunwa (FNIST)

Chairman Committee on Inter Tarty Relations

HOUSE OF REPRESENTATIVES

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OBITUARY ANNOUNCEMENT

It is with gratitude to God Almighty that I announce the passing unto eternity of Hon. Chief Oke Ukpo Oke, former NPP member of the House of Representatives (1979 - 1983). He represented Ohafia Federal Constituency.

Born 69 years ago in Akanu Ohafia, Ohafia Local Government Area of Abia State, Hon. Oke was a member of various House Committees including the Foreign Affairs Committee. During his tenure, he made various efforts to draw the attention of the Shagari administration to the dilapidated state of infrastructural facilities in the old Imo State and in Arochukwu/Ohafia Federal Constituency. Hon. O. U. Oke will be remembered for his loyalty to the Mbakwe Democratic admimsimtion of Nigeria and his determination to devote the independence of the legislature, etc.

Hon. (Chief) Mao Ohuabunwa

4. **Adoption of the Conference Committee Report 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, 2006:**

Motion made and Question proposed,

The House on 17 May, 2006 passed the Electoral Bill, 2006;

The Conference Committee met on Thursday, 25 May, 2006, Friday, 26 May and Saturday, 27 May, 2006 respectively, resolved the differences arising therefrom and accepted a harmonized version of the Bill;

Resolves to adopt the Conference Report on the Electoral Bill, 2006 (*Hon. Hamisu Shira*).

Question put and agreed to.

Consequent upon the adoption of the Conference Report, and in view of the vital importance of the Bill to the electoral process, the Chairmen, Committees on Finance and Electoral Matters accordingly, ordered to liaise with the Federal Ministry of Finance and obtain from the Ministry details of releases made to the Independent National Electoral Commission pursuant to the 2006 Appropriation Act and report to the House on Wednesday, 7 June, 2006.

5. **Presentation and Adoption of the Conference Committee Report on a Bill for an Act to Create Offences Pertaining to Advance Fee Fraud and Other Related Offences to Provide for the Arrest and Trial of Persons who Commit such Offences and for Matters Connected Thereto, 2006:**

Motion made and Question proposed,

The House on 26 April, 2006 passed the Advance Fee Fraud and Other Related Offences Bill, 2006;

The Conference Committee met on Tuesday, 2 May, 2006 and Tuesday, 9 May, 2006 respectively, resolved the differences arising therefrom and accepted a harmonized version of the **Bill**;

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

Resolves to receive and adopt the Conference Report on the Advance Fee Fraud and Other Related Offences Bill, 2006 (*Hon. Tsegba Terngu*).

Question put and agreed to.

6. **Consideration of Reports:**

(i) *Committee on Solid Minerals:*

Motion made and Question proposed, "That this House do consider the Report of the House Committee on Solid Minerals on a Bill for an Act to Repeal the Minerals and Mining Act, No. 34 of 1999 and Re-Enact the Minerals and Mining Act for the Purposes of Regulating all Aspect of the Exploration of solid Minerals in Nigeria and for Connected Purposes, 2005" (Hon. Ogbuefi Ozombgachi).

Question put and agreed to.

Consideration deferred to the next Legislative Day.

(ii) *Joint Committee on Finance and Justice:*

Motion made and Question proposed, "That this House do resume consideration of the Report of the Joint Committee on Finance and Justice on a Bill for an Act to Provide for the Establishment of the Federal Inland Revenue Service, Charged with Powers for Collection of Revenue Accruable to the Government of the Federation; and for Matters Connected Therewith, 2005" (Hon. Abdullahi Idris Umar).

Question that the House do resolve into the 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 PROVIDE FOR THE ESTABLISHMENT OF THE FEDERAL INLAND REVENUE
SERVICE CHARGED WITH POWERS FOR COLLECTION OF REVENUES ACCRUABLE TO THE
GOVERNMENT OF THE FEDERATION AND FOR MATTERS CONNECTED THEREWITH

Committee Recommendation:

Clause 29: Power to access lands, buildings, books and documents.

- (1) Notwithstanding anything to the contrary in any other enactment or law, an authorised officer of the Service shall at all reasonable times have free access to all lands, buildings and places, and to all books and documents, whether in the custody or under the control of a public officer, institution or any other person whatsoever, for the purpose of inspecting any books or documents including those stored or maintained on computers, or on digital, magnetic, optical, or electronic media, and any property, process or matter which the officer considers necessary or relevant for the purpose of collecting any tax under any of the relevant enactments or laws or for the purpose of carrying out any other functions lawfully conferred on the Service, or considered likely to provide any information otherwise required for the purposes of any of those enactments or any of those functions and may, without fee or reward, make any extracts from or copies of any such books or documents.
- (2) Where the hard copies of any of the books or documents mentioned in subsection (1) of this section are not immediately available because they are stored on a computer, or on digital, magnetic, optical or electronic media, the Service can take immediate possession of such removable media and the related removable equipment or computer used to access the stored documents on the aforementioned media in order to prevent the accidental or intentional destruction, removal or alteration of the records and documents, especially where such could be needed as potential evidence in the investigation or criminal proceedings.
- (3) Where the Service is able to obtain in place of taking physical possession of such equipment, computer or storage media under subsection (2) of this section, and the Service possesses the ability, equipment and computer software to make exact duplicate copies of all information stored on the computer hard drive and preserve all the information exactly as it is on the original computer, the Service shall make such a copy and use it as digital evidence during such investigation or criminal proceedings.
- (4) The occupier of a land or building or place that is entered or proposed to be entered by an authorised officer, shall —
 - (a) provide the officer with all reasonable facilities and assistance for the effective exercise of powers under this section; and
 - {b} answer questions relating to the effective exercise of the powers under this section, orally, or if required by the officer, in writing, or by statutory declaration.
- (5) The authorised officer may, where he considers it necessary for the effective exercise of his powers under this section, ask any person to accompany him to any place.
- (6) Notwithstanding subsection (1) of this Section, the authorized officer shall not enter any private dwelling except with the consent of an occupier or pursuant to an authorization issued under subsection (7) of this Section
- (7) A judicial officer upon an application by an officer of the Service may authorize the officer by warrant to enter into any premises
- (8) Every authorisation issued under subsection (7) of this section —

- (a) shall be in the form prescribed in the Third Schedule of this Act; and
- (b) shall be directed to a named officer of the Service; and
- (c) shall be valid for a period of 3 months from the date of its issue or such lesser period as the judicial officer considers appropriate; and
- (d) shall state its period of validity, or the date on which it expires; and
- (e) shall notwithstanding (c) and (d) above, be renewable by the judicial officer on application,

(9) Every officer exercising the power of entry conferred by an authorisation issued under subsection (7) of this section shall produce the written authorisation and evidence of identity —

- (a) on first entering the private dwelling; and
- (b) whenever subsequently reasonably required to do so (*Hon. Abdullahi Idris Umar*).

Amendment Proposed:

Leave out the provision in subclause (5) (Hon. Abdullahi Idris Umar).

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

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

Committee Recommendation:

Clause 30: Power to remove books and documents.

- (1) An officer of the Service authorised by the Executive Chairman, may remove books or documents accessed under section 29 to make copies.
- (2) Any copies of the books or documents removed must be made and the books or documents returned as soon as practicable.
- (3) A copy of a book or document or digital evidence certified by or on behalf of the Executive Chairman is admissible in evidence in court as if it were the original.
- (4) The owner of a book or document that is removed under this section is entitled to inspect and obtain a copy of the book or document, at the owner's own expense, at the premises to which the book or document is moved to —
 - (a) at the time the book or document is moved to the premises; and
 - (b) at reasonable times subsequently (*Hon. Abdullahi Idris Umar*)—*Agreed to.*

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

Committee Recommendation:

Clause 31: Power of substitution.

- (1) The Service may by notice in writing appoint any person to be the agent of a taxable person if the circumstances provided in sub-section 2 of this section makes it expedient to do so.
- (2) The agent appointed under subsection (1) of this Section may be required to pay any tax payable by the taxable person from any money which may be held by the agent of the taxable person.
- (3) Where the agent referred to in subsection (2) of this section defaults, the tax shall be recoverable from him.

- (4) For the purposes of this section, the Service may require any person to give information as to any money, fund or other asset which may be held by him for, or of any money due from him to any person.
- (5) The provisions of this Act with respect to objections and appeals shall apply to any notice given under this section as though that notice were an assessment (*Hon. Abdullahi Idris Umar*)—*Agreed to*.

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

Committee Recommendation;

Clause 32: Addition for nonpayment of tax and enforcement of payment.

- (1) Subject to the provisions of subsection (3) of this section, if any tax is not paid within the periods prescribed —
 - (a) a sum equal to 10 per cent of the amount of the tax payable shall be added thereto, and the provisions of the Act relating to the collection and recovery of tax shall apply to the collection and recovery of such sum;
 - (b) in the case of Naira currency remittances, the tax due shall carry interest at the prevailing minimum rediscount rate of the CBN, plus spread to be determined by the Minister from the date when the tax becomes payable until it is paid, and the provisions of the Act relating to collection and recovery of tax shall apply to collection and recovery of the interest;
 - (c) in the case of foreign currency remittances, the tax due shall incur interest at the prevailing London Inter Bank Offered Rate or the prevailing minimum rediscount rate of CBN whichever is higher, plus spread to be determined by the Minister from the date when the tax becomes payable until it is paid, and the provisions of the Act relating to collection and recovery of tax shall apply to collection and recovery of the interest;
 - (d) the Service shall serve a demand note upon the company or person in whose name a tax is chargeable and if payment is not made within one month from the date of the service of such demand note, the Service may proceed to enforce payment under this Act;
 - (e) an addition imposed under this subsection shall not be deemed to be part of the tax paid for the purpose of claiming relief under any of the provisions of this Act.
- (2) Any person who without lawful justification or excuse fails to pay a tax within a period of one month prescribed in paragraph (d) of subsection (1) of this section commits an offence under this Act.
- (3) The Board may, for any good cause shown, remit the whole or any part of the addition due under subsection (1) of this section (*Hon. Abdullahi Idris Umar*)—*Agreed to*.

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

Committee Recommendation;

Clause 33: Power to distrain for non-payment of tax.

- (1) Without prejudice to any other power conferred on the Board for the enforcement of payment of tax due from a company, where an assessment has become final and conclusive and a demand note has, in accordance with the provisions of the relevant tax laws in the First Schedule to this Act, been served upon the taxable person or upon the person in whose name the taxable person is chargeable, then, if payment of the tax is not made within the time limited by the demand note, the Board may in the prescribed form, for the purpose of enforcing payment of the tax due—

- (a) distraint the taxpayer by his goods or other chattels, bonds or other securities;
 - (b) distraint upon any land, premises, or place in respect of which the taxpayer is the owner and, subject to the following provisions of this section, recover the amount of tax due by sale of anything so distrained.
- (2) The authority to distraint under this section shall be in the form contained in the Fourth Schedule to this Act, and such authority shall be sufficient warrant and authority to levy by distress the amount of tax due.
 - (3) For the purposes of levying any distress under this section, any officer authorised in writing by the Board may execute any warrant of distress and if necessary break open any building or place in the day time for the purpose of levying such distress, and he may call to his assistance any police officer and it shall be the duty of that police officer when so required to aid and assist in the execution of any warrant of distress and in levying the distress.
 - (4) Things distrained under this section may, at the cost of the taxpayer, be kept for fourteen days and at the end of that time if the amount due in respect of the tax and the cost and charges of and incidental to the distress are not paid, they may, subject to subsection (6) of this section, be sold at any time thereafter.
 - (5) Out of the proceeds of any such sale there shall, in the first place, be paid the cost or charges of and incidental to the (sale and keeping of the) distress, and disposal thereunder and in the next place the amount due in respect of the tax; and the balance (if any) shall be payable to the taxpayer upon demand being made by him or on his behalf within one year of the date of the sale.
 - (6) Nothing in this section shall be construed so as to authorise the sale of any immovable property without an order of a High Court, made on application in such form as may be prescribed by rules of court.
 - (7) In exercise of the powers of distress conferred by this Section, the person to whom the authority is granted under sub-section (3) of this Section may distraint upon all goods, chattels and effects belonging to the debtor wherever the same may be found in Nigeria
 - (8) Nothing in this Section shall be construed as authorizing the sale of any immovable property without an order of a Court of competent jurisdiction (*Hon. Abdullahi Idris Umar*)—*Agreed to*.

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

Committee Recommendation:

Clause 34: Recovery of tax.

- (1) Without prejudice to any other provision of this Act or any other laws listed in the First Schedule to this Act, any amount due by way of tax shall constitute a debt due to the Service and may be recovered by a civil action brought by the Service.
- (2) Where any tax has been under-assessed or erroneously repaid, the person who should have paid the amount under-assessed or to whom the repayment has erroneously been made shall on demand by the proper officer, pay the amount under-assessed or erroneously repaid, as the case may be, and any such amount may be recovered" as if it were tax to which a person to whom the amount was so under-assessed or erroneously repaid were liable:

Provided that the appropriate officer shall not make any such demand after 5 years from the date of such under-assessment or erroneous repayment unless such under-assessment or erroneous repayment was caused by the production of a document or the making of a statement which was untrue in any material particular (*Hon. Abdullahi Idris Umar*)—*Agreed to*.

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

*Committee Recommendation:***Clause 35: Tax Investigations.**

- (1) The Service shall have power to employ special purpose tax officers to assist the Service and other law enforcement agencies in the investigation of any offence under this Act.
- (2) Notwithstanding anything to the contrary in any other enactment or law, the Service shall have the power to investigate or cause investigation to be conducted to ascertain any violation of any tax law, whether or not such violation has been reported to the Service.
- (3) In conducting any investigation under subsection (2) of this Section, the Service may cause investigation to be conducted into the properties of any person if it appears to the Service that the lifestyle of that person and to the extent that his properties are not justified by his source of income.
- (4) Where any investigation under this Section reveals the commission of any offence or an attempt to commit any offence, the Service shall pursuant to Section (*Hon. Abdullahi Idris Umar*).

Amendment Proposed:

In subclause (3), line 3, after the word "Service" *leave out* the words "that the lifestyle of that person and to the extent that his properties are not justified by his source of income" and *insert* the words "that the tax paid was not in consonance with the volume of the person's property and in come" instead thereof (*Hon. Tengu Tsegba*).

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

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

*Committee Recommendation;***Clause 36: Enforcement of powers,**

- (1) The Service may co-opt the assistance and cooperation of any of the law enforcement agencies in the discharge of its duties under this Act.
- (2) The law enforcement officers shall aid and assist an authorised officer in the execution of any warrant of distress and the levying of distress.
- (3) Any tax officer armed with a warrant issued by a Judicial Officer and accompanied by a number of law enforcement officers as may be determined by the Executive Chairman-
 - fa) enter any premises covered by such warrant and search for, seize and take possession of any book, document or other article used or suspected to have been used in the commission of an offence;
 - (b) inspect, make copies of, or take extracts including digital copies from any book, record, document or computer, regardless of the medium used for their storage or maintenance;
 - (c) search any person who is in or on such premises;
 - (d) open, examine and search any article, container or receptacle;
 - (e) open any outer or inner door or window of any premises and enter thereto or otherwise forcibly enter the premises and every part thereof;
 - (f) remove by reasonable force any obstruction to such entry, search, seizure or removal as he is empowered to effect.
- (4) No person shall be bodily searched under this section except by a person who is of the same gender as the person to be bodily searched (*Hon. Abdullahi Idris Umar*)—*Agreed to.*

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

Committee Recommendation:

Clause 37: Power to pay reward.

- (1) The Service may, with the approval of the Board, pay any reward to any person, not being a person employed in the Service, in respect of any information that may be of assistance to the Service in the performance of its duties under this Act upon meeting such conditions as may be determined by the Board and the quantum of such reward shall also be at the discretion of the Board.
- (2) The identity of the person who gave information to the Service shall be kept confidential and any current or former member of the Service or Board that discloses the identity of such person shall be dealt with in accordance with the provisions of Section 39 of this Act with, regard to confidential information (*Hon. Abdullahi Idris Umar*).

Amendment Proposed:

In subclause (1), line 5, immediately after the word "Board" *insert* the words "provided that such rewards if in monetary form shall not exceed ten percent (10%) of the total amount collected as a result of such information" (*Hon. C. Macebuh*).

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

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

Committee Recommendation:

Clause 38: Immunity from action, etc.

An officer of the Service shall be entitled to protection under the Public Officers (Protection) Act (*Hon. Abdullahi Idris Umar*)—*Agreed to.*

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

Committee Recommendation:

Clause 39: Information and documents to be confidential.

- (1) Without prejudice to the provisions of any other Act concerning official secrets, all information and documents supplied or produced in pursuance of any requirement of this Act or the laws in the First Schedule to this Act shall be treated as confidential.
- (2) Except as otherwise provided under this Act or as otherwise authorized by the Minister, any member or former member of the Board or any employee or former employee of the Service or Ministry who communicates or attempts to communicate any confidential information or the content of any such document to any person, commits an offence and shall be liable on conviction to a fine of N200,000.00 or to imprisonment for a term of not more than 3 years or to both such fine and imprisonment (*Hon. Abdullahi Idris Umar*)—*Agreed to.*

Question that Clause 39 stand part of the Bill, put and agreed to.

PART VI—OFFENCES AND PENALTIES

Committee Recommendation:

Clause 40: Failure to deduct or remit tax.

Any person who being obliged to deduct any tax under this Act or the laws in the First Schedule, but fails to deduct or having deducted fails to pay to the Service within thirty days from the date the amount was deducted or the time the duty to deduct arose, shall be guilty of an offence and shall upon conviction Be liable to pay the tax withheld or not remitted" in addition to a penalty of 10 per cent of the tax withheld or not remitted per annum and interest at the prevailing Central Bank of Nigeria minimum re-discount rate and imprisonment for a period of not more than three years (*Hon. Abdullahi Idris Umar*).

Amendment Proposed:

Retain the provision in the Principal Bill (*Hon. Tengu Tsegba*).

Question that the amendment be made, put and negatived.

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

Committee Recommendation:

Clause 41: Obstruction, etc.
Any person who—

- (a) obstructs, hinders, molests or assaults any person or authorised officer in the performance of any function or the exercise of any power under this Act; or
- (b) does anything which impedes or is intended to impede the carrying out of any search, seizure, removal or distress; or
- (c) rescues, damages or destroys anything so liable to seizure, removal or distress or does anything intended to prevent the procuring or giving of evidence as to whether or not anything is liable to seizure, removal or distress; or
- (d) prevents the arrest of any person by a person duly engaged or acting as aforesaid or rescues any person so arrested,

commits an offence and shall be liable on conviction to a fine not exceeding N200,000 or imprisonment for a term not exceeding 3 years or to both such fine and imprisonment (*Hon. Abdullahi Idris Umar*)—Agreed to.

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

Committee Recommendation:

Clause 42: Untrue declarations.

(1) If any person—

- (a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Service or any officer of the Service, any declaration, notice, certificate or other document whatsoever; or
- (b) makes any statement in answer to any question or enquiry put to him by an officer which he is required to answer by or under this Act or any other enactment or law,

being a document or statement produced or made for any purpose of tax, which is untrue in any material particular, commits an offence under this section.

- (2) Where by reason of any such document or statement required to be produced under Subsection (1) of this section the full amount of any tax payable is not paid or any overpayment is made in respect of any repayment of tax, the amount of tax unpaid or the overpayment shall be recoverable as a debt due to the Service.
- (3) Any person who commits an offence under this Section shall be liable on conviction to a fine of N200,000.00 in addition to payment of the amount of tax unpaid or overpayment made in respect of any repayment or to imprisonment for a term not more than 3 years or to both such fine and imprisonment (*Hon. Abdullahi Idris Umar*)—Agreed to.

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

Committee Recommendation:

Clause 45: Counterfeiting documents, etc.

Any person who—

- (a) counterfeits or falsifies any document which is required by or for the transaction of any business under this Act or any law listed in the First Schedule to this Act; or
- (b) knowingly accepts, receives or uses any document so counterfeited or falsified; or
- (c) alters any such document after it is officially issued; or

- (d) counterfeits any seal, signature, initial or other mark of, or used by, any officer for the verification of such a purpose relating to tax;
- (e) being an employee of the Service, conspires, connives or participates in the commission of any of the offences in paragraphs (a) to (d) of this Section,

commits an offence and shall be liable on conviction to a fine of N200,000.00 **or** to imprisonment for not more than 3 years or both such fine and imprisonment (Hon. Abdullahi Idris Umar)—Agreed to.

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

Committee Recommendation:

Clause 44: Penalties for offences by authorised and un-authorised persons.

Any person who is appointed for the due administration of this Act or employed in connection with *the* assessment and collection of a tax who—

- (a) demands from any company an amount in excess of the authorised assessment of the tax; or
- (b) withholds for his own use or otherwise any portion of the amount of tax collected; or
- (c) renders a false return, whether orally or in writing, of the amount of tax collected or received by him; or
- (d) defrauds any person, embezzles any money, or otherwise uses his position to deal wrongfully with the Service; or
- (e) steals or misuses service documents; or
- (f) compromises the assessment or collection of any taxes,

commits an offence and shall be liable on conviction to a fine equivalent to 200 per cent of the sum in question or to imprisonment for not more than 3 years or to both such fine and imprisonment (Hon. Abdullahi Idris Umar)—Agreed to.

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

Committee Recommendation:

Clause 45: Penalty where offenders are armed.

- (1) Any person who in the commission of any offence under this Act is armed with any offensive weapon commits an offence and shall be liable on conviction to imprisonment for a term of not more than 5 years
- (2) Any person who, while armed with an offensive weapon causes injury to any officer or authorized officer of the Service in the performance of any function or duties under this Act commits an offence and shall be liable on conviction to imprisonment for a term not more than 10 years (Hon. Abdullahi Idris Umar)—Agreed to.

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

Clause 46: Unlawful assembly to contravene any provision of this Act.

Any person who assembles with one or more persons for the purpose of contravening any of the provisions of this Act commits an offence and shall be liable on conviction to imprisonment for a term of one year.

Committee Recommendation:

Leave out the provision in the Clause (Hon. Abdullahi Idris Umar) — Agreed to.

Committee Recommendation:

Clause 47: Unlawful assumption of character of an authorised officer.
If for the purpose of obtaining admission to any building or other place or of doing or procuring to be done any act which he would not be entitled to do or procure to be done of his own authority, or for any other unlawful purpose, any person, not being an authorized officer, assumes the name, designation or impersonates the character of an authorized officer, he shall be liable on conviction to a fine of N200,000.00 or to imprisonment for a term of not more than 3 years (*Hon. Abdullahi Idris Umar*)—*Agreed to*.

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

Committee Recommendation:

Clause 48: Prosecution.
The Service shall have powers to employ its own legal officers who shall have powers to prosecute any of the offences under this Act subject to the powers of the Attorney-General of the Federation (*Hon. Abdullahi Idris Umar*)—*Agreed to*.

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

Committee Recommendation:

Clause 49: Power to compound offences.
(1) The Service may, with the approval of the Attorney-General of the Federation, compound any offence under this Act by accepting a sum of money not exceeding the maximum fine specified for the offence.
(2) The Service shall issue an Official receipt for any money received under subsection (1) of this Section (*Hon. Abdullahi Idris Umar*)—*Agreed to*.

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

Committee Recommendation:

Clause 50: General penalty.
(1) Any person who contravenes any provision of this Act for which no specific penalty was provided, commits an offence and shall be liable on conviction to a fine of N50,000.00 or imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.
(2) Where an offence under this Act is committed by a body corporate or firm or other association of individuals—
(a) every director, manager, secretary or other similar officer of the body corporate; or
(b) every partner or officer of the firm; or
(c) every person concerned in the management of the affairs of the association; or
(d) every person who was purporting to act in any capacity as aforesaid,
commits an offence and shall be liable to be proceeded against and punished for the offence in like manner as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without his knowledge consent or connivance (*Hon. Abdullahi Idris Umar*)—*Agreed to*.

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

PART VII—GENERAL PROVISIONS

*Miscellaneous**Committee Recommendation:*

Clause 51: Official secrecy and confidentiality.

- (1) Every person having any official duty or being employed in the administration of this Act shall regard and deal with all documents, information, returns, assessment list and copies of such list relating to the profits or items of profits of any Company, as secret and confidential.
- (2) Every person having possession of or control over any documents, information, returns of assessment list or copies of such list relating to the income or profits or losses of any person, who at any time communicates or attempts to communicate such information or anything contained in such documents, returns, list or copies to any other person—
 - (a) other than a person to whom he is authorised by the Service to communicate it; or
 - (b) otherwise than for the purpose of this Act or of any enactment in Nigeria imposing tax on the income of persons,
 commits an offence under this Act.
- (3) No person appointed or employed under this Act shall be required to produce any return, document or assessment, or to divulge or communicate any information that comes into his possession in the performance of his duties except as may be necessary in order to institute a prosecution, or in the course of a prosecution for any offence committed in relation to any tax in Nigeria.
- (4) Where under any law in force in respect of any double taxation Treaty with any country, provision is made for the allowance of relief from income tax in respect of the payment of income tax in Nigeria, the obligation as to secrecy imposed by this section shall not prevent the disclosure to the authorised officers of the Government in that country of such facts as may be necessary to enable the proper relief to be given in cases where relief is claimed from the tax in Nigeria or from income tax in that country.
- (5) Where any agreement or arrangement with any other country with respect to relief for double taxation of income or profits includes provisions for the exchange of information with that country for the purpose of implementing that relief or preventing avoidance of tax, the obligation as to secrecy imposed by this section shall not prevent the disclosure of such information to the authorised officers of the Government of such country (*Hon. Abdullahi Idris Umar*)—*Agreed to.*

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

Committee Recommendation:

Clause 52: Board to be subject to general direction of the Minister.

- (1) In the exercise of the powers and duties conferred upon the Board by this Act, the Board shall be subject to the general direction of the Minister and any written direction, order or instruction given by him after consultation with the Executive Chairman shall be carried out by the Board:

Provided that the Minister shall not give any directives, order or instruction in respect of any particular person which would have the effect of requiring the Board to increase or decrease any assessment of tax made or to be made or any relief given or to be given or to defer the collection of any tax or judgement debt due, or which would have the effect of initiating, forbidding the initiation of, withdrawing or altering the normal course of any proceedings whether civil or criminal relating either to the recovery of any tax or to any offence under any of the laws in the First Schedule.

- (2) **In** any proceedings whether civil or criminal under this Act or any of the laws in the First Schedule, any act, matter or thing done by the Service or the Board in pursuance of the said laws shall not be subject to challenge on the ground that such act, matter or thing was not or was not proved to be in accordance with any directive, order or instruction given by the Minister (*Hon. Abdullahi Idris Umar*)—*Agreed to.*

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

Committee Recommendation:

Clause 53: Delegation of powers of the Board.

- (1) Any power conferred and any duty imposed upon the Board may be exercised or performed by the Board or by an officer authorised generally or specifically in that behalf by the Board.

First Schedule.

- (2) Notwithstanding the provisions of Subsection (1) of this section, the Board may, at any time and at its discretion, reverse or otherwise modify any decision of any officer, affecting any tax or taxable income, whether or not the discretion to make the decision was conferred on the officer by any law specified in the First Schedule or whether or not the officer was authorised by the Service to make the decision, and the reversal or modification of the decision by the Board shall have effect as if it were the original decision made in respect of the matter concerned.
- (3) An order, ruling or directive made or given by an approved committee of the Board pursuant to this section shall not be treated as an order, ruling or directive of the Board, until the order ruling or directive has been ratified by the Board pursuant to the powers vested on the Board under this Act (*Hon. Abdullahi Idris Umar*)—*Agreed to.*

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

Committee Recommendation:

Clause 54: Signification.

Anything done or required to be done by the Service in pursuance of any of its powers or duties under this Act or the laws listed in the First Schedule may be signified under the hand of the Executive Chairman or of an officer who has been authorised by the Board for the purpose of this section (*Hon. Abdullahi Idris Umar*)—*Agreed to.*

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

Committee Recommendation:

Clause 55: Imposition of surcharge.

- (1) If the Service is satisfied that any person who is or was in its employment—
- (a) is or was responsible for any improper payment of moneys from the fund of the Service or for any payment of such money which is not duly documented;
 - (b) is or was responsible for any deficiency in, or for the destruction of, any moneys, securities, stores or other property of the Service;
 - (c) being or having been an officer, fails or has failed to keep proper accounts or records; or
 - (d) has failed to make any payment, or is responsible for any delay in the payment of moneys for the Service to any person to whom such payment is due under any contract, agreement or arrangement entered into between that person and the Service,

and if a satisfactory explanation is not furnished to the Service within a period specified by the Board, with regard to the failure to collect, improper payment, payment not duly documented, deficiency or destruction, or failure to keep proper accounts or records, or failure to make payment, or delay in making payment, the Service may surcharge the said person such sum as it may think fit.

- (2) Any action taken under Subsection (1) of this section shall be subject to the approval of the Board and when such approval is obtained the Executive Chairman shall notify the person surcharged under this section.
- (3) The Board may at any time withdraw any surcharge in respect of which a satisfactory explanation has been received from the person concerned or if it otherwise appears that no surcharge should have been made, the Board shall at once inform the Executive Chairman of such withdrawal.
- (4) The amount of any surcharge imposed under Subsection (1) of this section and not withdrawn under Subsection (3) of this section shall be a debt due to the Service from the person against whom the surcharge is imposed and may be sued for and recovered in any court in any suit initiated by the Service for its recovery and may also be recovered by deduction from the salary of the person surcharged if the Board so directs {Hon. Abdullahi Idris Umar}~Agreed to.

Question that Clause 55 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 56: Limitation of suits against the Service, etc. Cap. P41 LPN.

- (1) Subject to the provisions of this Act, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against any member, officer or employee of the Service.
- (2) Notwithstanding anything contained in any other law or enactment, no suit against a member of the Board, the Executive Chairman or any other officer or employee of the Service for any act done in pursuance or execution of this Act or any other law or enactment, or of any public duties or authority or in respect of any alleged neglect or default in the execution of this Act or any other law or enactment, duties or authority, shall be instituted in any court unless it is commenced—
 - (a) within three months next after the act, neglect or default complained of; or
 - (b) in the case of a continuation of damage or injury, within six months next after the ceasing thereof.
- (3) No suit shall be commenced against the Executive Chairman, a member of the Board, or any other officer or employee of the Service in the exercise of his function under this Act before the expiration of a period of one month after written notice of the intention to commence the suit shall have been served on the Service by the intending plaintiff or his agent.
- (4) The notice referred to in Subsection (3) of this section shall clearly and explicitly state—
 - (a) the cause of action;
 - (b) the particulars of the claim;
 - (c) the name and place of abode of the intending plaintiff; and
 - (d) the relief which he claims (Hon. Abdullahi Idris Umar)—Agreed to.

Question that Clause 56 stand part of the Bill, put and agreed to?.

Committee Recommendation:

Clause 57: Service of documents.

A notice, summons or other document required or authorised to be served on the Service under the provisions of this Act or any other law or enactment may be served by delivering it to the Executive Chairman or by sending it by registered post addressed to the Executive Chairman at the principal office of the Service (Hon. Abdullahi Idris Umar)—Agreed to.

Question that Clause 57 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 58: Restriction on execution against property of the Service.

- (1) In any action or suit against the Service, no execution or attachment of process in the nature thereof shall be issued against the Service unless not less than three months notice of the intention to execute or attach has been given to the Service,
- (2) Any sum of money which by the judgment of any court has been awarded against the Service shall, subject to any direction given by the court, where no notice of appeal against the judgment has been given, be paid from the fund of the Service (*Hon. Abdullahi Idris Umar*)—Agreed to.

Question that Clause 56 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 59: Indemnity.

The Executive Chairman, a member of the Board, or any officer or employee of the Service shall be indemnified out of the assets of the Service against any liability incurred by him in defending any proceeding, whether civil or criminal, if the proceeding is brought against him in his capacity as a member of the Board, officer or other employee of the Service (*Hon. Abdullahi Idris Umar*)—Agreed to.

Question that Clause 59 stand part of the Bill, put and agreed to.

Committee Recommendation:

New Clause 60: Establishment of a Tax Appeal Tribunal

- (1) A Tax Appeal Tribunal is hereby established as provided for in the 5th Schedule.
- (2) The Tribunal shall have powers to adjudicate on disputes arising from the operations of this Act and under the First Schedule (*Hon. Abdullahi Idris Umar*).

Amendment Proposed:

Insubclause (2), line 1, leave out the words "adjudicate on" and insert the word "settle" instead thereof (*Hon. Abdullahi Idris Umar*).

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

Question that New Clause 60 as amended, stand part of the Bill, put and agreed to.

PART VIII—MISCELLANEOUS PROVISIONS

Committee Recommendation:

New Clause 61: Directives by the Minister, etc.

The Minister may give to the Service or the Executive Chairman such directives of a general nature or relating generally to matters of policy with regards to the exercise of its or his functions as he may consider necessary and it shall be the duty of the Service or the Executive Chairman to comply with the directives or cause them to be complied with (*Hon. Abdullahi Idris Umar*)—Agreed to.

Question that New Clause 61 stand part of the Bill, put and agreed to.

Committee Recommendation:

New Clause 62: Power to make Regulations.

The Board may, with the approval of the Minister, make rules and regulations as in its opinion are necessary or expedient for giving full effect to the provisions of this Act and for the due administration of its provisions and may in particular, make regulations

- (a) prescribing the forms for returns and other information required under this Act or any other enactment or law;
- (b) prescribing the procedure for obtaining any information required under this Act or any other enactment or law (*Hon. Abdullahi Idris Umar*)—Agreed to.

Question that New Clause 62 stand part of the Bill, on and agreed to.

- *Committee Recommendation:* New Clause 63: Repeal of Part I of the Cap. C21 LFN.

- (1) Part I of the Companies Income Tax Act (in this Act referred to as "the repealed enactment") is hereby repealed.
- (2) Accordingly, the Federal Board of Inland Revenue established pursuant to the repealed enactment is hereby dissolved.
- (3) The repeal of the enactment specified in Subsection (1) of this section shall not affect anything done or purported to have been done under the repealed enactment (*Hon. Abdullahi Idris Umar*)~*Agreed to.*

Question that New Clause 63 stand part of the Bill, put and agreed to.

Committee Recommendation:

New Clause 64: Savings and transitional provisions relating to staff or employees.

- (1) Notwithstanding anything to the contrary in this Act, any director, employee, staff or officer who immediately before the commencement of this Act held office in the Federal Board of Inland Revenue (including the Federal Inland Revenue Service) (hereinafter referred to as "the former Board") existing immediately before the commencement of this Act and who has been made an offer of employment by the Service shall be deemed to have been transferred to the Service established under this Act on terms and conditions not less favourable than those obtaining immediately before the commencement of this Act and service or employment in the former Board shall be deemed to be service or employment in the Service established under this Act for purposes of pension.
- (2) Every director, employee, staff or officer transferred into the Service by virtue of Subsection (1) of this section shall notify the Service established under this Act in writing within 60 days after the commencement of this Act or after he receives an offer of appointment from the Board (which ever is later) of his acceptance and any director, employee, staff or officer who fails to notify the Service shall be deemed to have rejected the offer.
- (3) Any director, employee, staff or officer referred to in Subsection (2) is deemed to be an employee of the Service established under this Act, beginning on the day that this Act comes into force and ending on the expiry of the period of grace under Subsection (2) or on the day of his written refusal and the Service established under this Act is deemed to be his employer for all purposes during that period.
- (4) An employee who is not transferred or who refuses the transfer or a job offer made by the Board established under this Act, as specified in Subsections (1) of this section, shall be transferred to the Office of the Head of the Civil Service of the Federation for redeployment in the Civil Service of the Federation within the time specified in Subsection (2) of this section (*Hon. Abdullahi Idris Umar*)—*Agreed to.*

Question that New Clause 65 stand part of the Bill, put and agreed to.

Committee Recommendation:

New Clause 65: Other savings and transitional provisions.

- (1) There shall be vested in the Service established under this Act and without further assurance, all assets, funds, resources and other immovable property which immediately before the commencement of this Act were vested in the former Board existing immediately before the commencement of this Act.
- (2) All rights, interests, obligations and liabilities of the former Board existing immediately before the commencement of this Act under any contract or instrument, or in law or in equity apart from any contract or instrument, shall by virtue of this Act be assigned to and vested in the Service established under this Act.

- (3) Any contract or instrument referred to in Subsection (2) of this section shall be of the same force and effect against or in favour of the Service established under this Act and shall be enforceable as fully and effectively as if, instead of the former Board existing immediately before the commencement of this Act, the Service established under this Act had been named therein or had been a party thereto.
- (4) The Service established under this Act shall be subject to all obligations and liabilities to which the former Board existing immediately before the commencement of this Act was subject immediately before the commencement of this Act, and all other persons shall as from the commencement of this Act have the same rights, powers and remedies against the Service as they had against the former Board existing immediately before the commencement of this Act.
- (5) Any proceeding or cause of action pending or existing immediately before the commencement of this Act by or against the former Board existing immediately before the commencement of this Act in respect of any rights, interests, obligation or liability of the former Board may be continued, or as the case may require, be commenced and the determination of a court of law, tribunal or other authority or person may be enforced by or against the Service to the same extent that such cause of action or determination might have been continued, or enforced by or against the former Board as if this Act had not been made.
- (6) Any regulations, orders, bye-laws or notices made or issued or deemed to be made or issued by or for the purposes of the former Board existing immediately before the commencement of this Act shall be deemed to have been made or issued by or for the purposes of the Service and shall continue in force until revoked or as amended, subject to such modifications as may be applicable to the Service established under this Act (*Hon. Abdullahi Idris Umar*)—*Agreed to*.

Question that New Clause 65 stand part of the Bill, put and agreed to.

Committee Recommendation:

New Clause 66: Continuation of Board members.

Subject to the provisions of this Act, the Executive Chairman of the Federal Board of Inland Revenue shall be deemed to have been transferred to the Service established under this Act in the same capacity (*Hon. Abdullahi Idris Umar*)—*Agreed to*.

Question that New Clause 66 stand part of the Bill, put and agreed to.

Committee Recommendation:

New Clause 67: Continuation and completion of disciplinary proceedings.

- (1) As from the commencement of this Act, any disciplinary proceeding pending or existing against any employee of the Government who has opted into the service of the former Board, shall be continued and completed by the Board established under this Act.
- (2) An appeal or grievance already filed but which has not been finally disposed of on the coming into force of this Act shall be dealt with and disposed of in accordance with the Public Service Rules as if this Act had not come into force (*Hon. Abdullahi Idris Umar*)—*Agreed to*.

Question that New Clause 67 stand part of the Bill, put and agreed to.

Committee Recommendation:

New Clause 68: Rights and obligations transferred⁵.

- (1) The administration and control of all rights obligations and liabilities that were under the administration and control of the former Board are hereby transferred to the Service established under this Act.
- (2) The administration of any real property that were immediately before the coming into force of this section under the administration or administrative responsibility of the former Board or its agencies or bodies for the purposes of that former Board are hereby transferred to the Service established under this Act.

- (3) All orders, rules, regulations, decisions, directions, licenses, authorisations, certificates, consents, approvals, declarations, designations, permits registrations, rates or other documents that are in force before the coming into force of this Act and that are made or issued by the Minister, Chairman of the former Board or any person under their control shall continue in force as if they were made, or issued by the Minister, the Board established under this Act, the Executive Chairman or an employee of the Service as the case may be, until they expire or are repealed, replaced, rescinded or altered.
- (4) Every reference to the Federal Board of Inland Revenue, the Minister, Chairman or any person under their control in a document issued in the name of the former Board, Minister, Chairman or employee of the former Board is to be read, unless the context otherwise requires, as a reference to the Service, the Minister, Board, Executive Chairman, or an employee of the Service established under this Act, as the case may be.
- (5) Every affidavit sworn or document duly certified by an officer in the service of the Federal Board of Inland Revenue before the coming into force of this Act has the same probative value as if it were sworn or certified by an employee of the Service on or after that day (*Hon. Abdullahi Idris Umar*)—*Agreed to*.

Question that New Clause 68 stand part of the Bill, put and agreed to.

Committee Recommendation:

New Clause 69: Relevance of other laws. First Schedule.

- (1) Notwithstanding the provisions of this Act, the relevant provisions of all existing enactments including, but not limited to, the laws in the First Schedule shall be read with such modifications as to bring them into conformity with the provisions of this Act.
- (2) If the provisions of any other law, including the enactments in the First Schedule are inconsistent with the provisions of this Act, the provisions of this Act shall prevail and the provisions of that other law shall to the extent of the inconsistency be void (*Hon. Abdullahi Idris Umar*)—*Agreed to*.

Question that New Clause 69 stand part of the Bill, put and agreed to.

Committee Recommendation:

New Clause 70: Interpretation.

In this Act, unless the context otherwise requires—

"authorised officer" means any person employed in the Service or, for the time being, performing duties in relation to tax who has been specifically authorised by the Board or the Executive Chairman to perform or carry out specific functions under this Act (*Hon. Abdullahi Idris Umar*).

Question that the meaning of the words "authorised officer" be as defined in the interpretation to this Act, put and agreed to.

"Board" means the Management Board of the Service appointed under Section 3 of this Act (*Hon. Abdullahi Idris Umar*).

Question that the meaning of the word "Board" be as defined in the interpretation to this Act, put and agreed to.

"book" includes any register, document or other records of information and any account or accounting record however compiled, recorded or stored, whether in written or printed form or micro-film, digital, magnetic or electronic form or otherwise (*Hon. Abdullahi Idris Umar*).

Question that the meaning of the word "book" be as defined in the interpretation to this Act, put and agreed to.

"Chairman" means the Chairman of the Board appointed pursuant to Section 3 of this Act (*Hon. Abdullahi Idris Umar*).

Question that the meaning of the word "Chairman" be as defined in the interpretation to this Act, put and agreed to.

"consultants" include accountants, legal practitioners or any other recognized professionals that have been certified by their relevant professional bodies (*Hon. Abdullahi Idris Umar*).

Question that the meaning of the word "consultants" be as defined in the interpretation to this Act, put and agreed to.

"document" includes any records of information supporting accounts and accounting records, including reports or correspondence or memorandum or minutes of meetings, however compiled, recorded or stored, whether in written or printed form or micro-film, digital, magnetic, electronic or optical form or otherwise and all types of information stored on computers and any other similar equipment (*Hon. Abdullahi Idris Umar*).

Question that the meaning of the word "document" be as defined in the interpretation to this Act, put and agreed to.

"Executive Chairman" means the Executive Chairman of the Service appointed under Section 11 of this Act (*Hon. Abdullahi Idris Umar*).

Question that the meaning of the words "Executive Chairman " be as defined in the interpretation to this Act, put and agreed to.

"Government" means the Government of the Federation and shall include the Federal Capital Territory or, as the case may be, a Government of a State (*Hon. Abdullahi Idris Umar*).

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

"gross misconduct" refers to in section 5(g) has the meaning ascribed to it in the Public Service Rules (*Hon. Abdullahi Idris Umar*).

Question that the meaning of the words "gross misconduct" be as defined in the interpretation to this Act, put and agreed to.

"member" means a member of the Board appointed under Section 3 of this Act and includes the Chairman (*Hon. Abdullahi Idris Umar*).

Question that the meaning of the word "member" be as defined in the interpretation to this Act, put and agreed to.

"Minister" means the Minister charged with responsibility for matters relating to finance and "Ministry" shall be construed accordingly (*Hon. Abdullahi Idris Umar*).

Question that the meaning of the word "Minister" be as defined in the interpretation to this Act, put and agreed to.

"non-oil revenue collected" shall be construed to refer to all revenues collected other than revenue derivable from petroleum profit tax (*Hon. Abdullahi Idris Umar*).

Question that the meaning of the words "non-oil revenue collected" be as defined in the interpretation to this Act, put and agreed to.

"officer" means any person employed in the Service (*Hon. Abdullahi Idris Umar*).

Question that the meaning of the word "officer" be as defined in the interpretation to this Act, put and agreed to.

"person" includes a company or body corporate and any unincorporated body of persons (*Hon. Abdullahi Idris Umar*).

Question that the meaning of the word "person " be as defined in the interpretation to this Act, put and agreed to.

"President" means the President of the Federal Republic of Nigeria (*Hon. Abdullahi Idris Umar*).

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

"private dwelling" means any building or part of a building occupied as residential accommodation (including any garage, shed and other building used in connection therewith) (*Hon. Abdullahi Idris Umar*).

Question that the meaning of the words "private dwelling" be as defined in the interpretation to this Act, put and agreed to.

"Service" means the Federal Inland Revenue Service established under Section 1 of this Act (*Hon. Abdullahi Idris Umar*).

Question that the meaning of the word "Service" be as defined in the interpretation to this Act, put and agreed to.

"tax" includes any duty, levy or revenue accruable to the Government in full or in part under this Act, the laws listed in the First Schedule to this Act or any other enactment or law (*Hon. Abdullahi Idris Umar*).

Question that the meaning of the word "tax" be as defined in the interpretation to this Act, put and agreed to.

"taxable person" includes an individual or body of individuals, family, corporations sole, trustee or executor or a person who carries out in a place an economic activity, a person exploiting tangible or intangible property for the purpose of obtaining income therefrom by way of trade or business or person or agency of government acting in that capacity (*Hon. Abdullahi Idris Umar*).

Question that the meaning of the words "taxable person" be as defined in the interpretation to this Act, put and agreed to.

Question that New Clause 70 stand part of the Bill, put and agreed to.

Committee Recommendation:

New Clause 71: Short Title.

This Act may be cited as the Federal Inland Revenue Service (Establishment, etc.) Bill, 2006 (*Hon. Abdullahi Idris Umar*)—Agreed to.

Question that New Clause 71 stand part of the Bill, put and agreed to.

FIRST SCHEDULE

Sections 2, 25 and 68

LEGISLATION ADMINISTERED BY THE SERVICE

1. Companies Income Tax Act, Cap. C21 LFN.
2. Petroleum Profits Tax Act, Cap. P13 LPN.
3. Personal Income Tax Act, Cap. P8 LFN.
4. Capital Gains Tax Act, Cap. CI LFN.
5. Value Added Tax Act, Cap. VI LFN.
6. Stamp Duty Act, Cap. 58 LFN.
7. Taxes and Levies (Approved List of Collection) Act, Cap. T2 LFN.
8. All regulations, proclamation government notices or rules issued in terms of this legislation.

9. Any **other** laws for the assessment, collection and accounting of revenue accruable to the government of the Federation as may, from time to time, be made by the National Assembly or regulations incidental to those laws, conferring any powers, duties and obligations on the Service.
10. Legislations/laws imposing Taxes and levies within the Federal Capital Territory
11. Legislations/laws imposing collection of taxes, fees and levies hitherto collected by other Government agencies and Companies including Signature Bonus, pipeline fees, penalty for gas flared, depot levies and licences, fees for Oil Exploration License (OEL), Oil Mining License (OML), Oil Production License (OPL), Royalties, Rents (productive and non-productive), fees for licences to operate drilling rigs, fees for oil pipeline licences, Ullage fees and all such fees prevalent in the oil industry but not limited to the above listed (*Hon. Abdullahi Idris Umar*)—*Agreed to*.

Question that the provisions of the First Schedule stand part of the Bill, put and agreed to.

SECOND SCHEDULE

Section 3 (5)

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD

Proceedings of the Board

Cap. 123 LFN.

1. Subject to this Act and section 27 of the Interpretation Act, the Board shall have power to regulate its proceedings and may make standing orders with respect to the holding of its meetings, and those of its committees, notices to be given, the keeping of minutes of its proceedings, the custody and production for inspection of such minutes and such other matters as the Board may, from time to time, determine.
2. (1) There shall be at least four ordinary meetings of the Board in every calendar year and subject thereto, the Board shall meet whenever it is convened by the Chairman, and if the Chairman is requested to do so by notice given to him by not less than 4 other members, he shall convene a meeting of the Board to be held within 14 days from the date on which the notice was given.

(2) Every meeting of the Board shall be presided over by the Chairman and if the Chairman is unable to attend a particular meeting, the members present at the meeting shall elect one of the Deputy Chairmen of the Service to preside or in the absence of all the Deputy Chairmen, the members present at the meeting shall elect one of their number to preside at the meeting.
3. The quorum of any meeting of the Board shall consist of the Chairman (or in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 of this Schedule) and four other members, except that any quorum must include at least 2 members outside the Service.
4. The Board shall meet for the conduct of its business at such places and on such days as the Chairman may appoint.
5. A question put before the Board at a meeting shall be decided by consensus and where this is not possible, by a majority of the votes of the members present and voting.
6. The Chairman shall, in the case of an equality of votes, have a casting vote in addition to his deliberative vote.
7. Where the Board seeks the advice of any person on a particular matter, the Board may invite that person to attend for such period as it thinks fit, but a person who is invited by virtue of this paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards the quorum.

Committees

8. The Board may appoint one or more committees to carry out on behalf of the Board such of its functions as the Board may determine and report on any matter with which the Board is concerned.

9. A committee appointed under paragraph 8 of this Schedule shall be presided over by a member of the Board and consist of such number of persons (not necessarily all members of the Board) as may be determined by the Board, and a person other than a member of the Board shall hold office on the committee in accordance with the terms of his appointment.
10. A decision of a committee of the Board shall be of no effect until it is confirmed by the Board.

Miscellaneous

11. The fixing of the seal of the Service shall be authenticated by the signature of the Executive Chairman and the Secretary to the Board or the Executive Chairman and such other person authorised by the Board to act for that purpose.
12. A contract or an instrument which, if made or executed by any person not being a body corporate, would not be required to be under seal, may be made or executed on behalf of the Service by the Executive Chairman or by any person generally or specifically authorised to act for that purpose by the Board.
13. A document purporting to be a contract, an instrument or other document signed or sealed on behalf of the Service shall be received in evidence and, unless the contrary is proved, be presumed without further proof, to have been properly signed or sealed.
14. The validity of any proceedings of the Board or its committees shall not be affected by —
 - (a) any vacancy in the membership of the Board or its committees; or
 - (b) reason that a person not entitled to do so took part in the proceedings; or
 - (c) any defect in the appointment of a member.
15. Any member of the Board or committee thereof who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Board or any committee thereof —
 - (a) shall forthwith disclose his interest to the Board or committee; and
 - (b) shall not vote on any question relating to the contract or arrangement (*Hon. Abdullahi Idris Umar*)—*Agreed to.*

Question that the provisions of the Second Schedule stand part of the Bill, put and agreed to.

THIRD SCHEDULE

Section 29 (8) (a)

FORM OF AUTHORISATION TO ACCESS LANDS, BUILDINGS, BOOKS AND DOCUMENTS

To.....

The Federal Inland Revenue Service, by virtue of the powers vested in it by section 30 of the Federal Inland Revenue Services Act, 2006, hereby authorises you to enter the premises, office, place of management or residence of any person, the principal officer, agent, factor or representative or any person who has been suspected by the Service of fraud, evasion, wilful default, etc. in connection with a tax due to government; and whose premises, office, place of management or residence of the principal officer, agent, factor or representative is atand for carrying out your assignment thereof further authorise that you, with the aid of any police officer (if necessary), which assistance he is hereby required to give, search and remove (if necessary) such records, books and documents wherever they may be found either in possession of any person in respect of who the tax remains unpaid.

And for the purpose of this assignment you are hereby authorised, if necessary, with such assistance as aforesaid to break open any building or place in the daytime.

SIGNED and issued under the hand of the Executive Chairman at
at..... this..... day of..... 20

*Executive Chairman {Hon. Abdullahi
 Idris Umar)—Agreed to.*

Question that the provisions of the Third Schedule stand part of the Bill, put and agreed to.

FOURTH SCHEDULE

Section 33(2)

WARRANT AND AUTHORITY TO LEVY DISTRESS

To (a).....

Name of Company.....

Amount of tax to be levied by distress (b).....

The Federal Inland Revenue Service, in exercise of powers vested in it by Section 33 of the Federal Inland Revenue Service Act 2006 hereby authorises you to collect and recover the sum of (c) , being arrears of tax due for the years of assessment hereinafter mentioned from the above named company whose place of business is at (d) ; and for the recovery thereof the said Service further authorise that you, with the aid(if necessary) of your assistants and calling to your assistance any police officer(if necessary) which assistance he is by law required to give, do forthwith levy by distress, the said sum together with the costs and charges of and incidental to the taking and keeping of such distress, on goods, chattels, land, premises, or other distrainable things of the said company wherever the same may be found and on all goods which you may find in any premises or on any lands in the use to possession of the said company or any other person on its behalf or in trust for the company.

And for the purpose of levying such distress you are hereby authorised, if necessary, with such assistance as aforesaid to break open any building or place in the daytime.

2. The particulars of the said arrears of tax are as follows —

<i>Year of assessment</i>	<i>No. of Notice of assessment</i>	<i>Amount of tax due N: k</i>
---------------------------	------------------------------------	-------------------------------

(0.....

SIGNED and issued under the hand of the Judge of the Federal High Court
 at at
 this day of..... 20

*Judge (Hon. Abdullahi Idris
 Umar)—Agreed to.*

Question that the provisions of the Fourth Schedule stand part of the Bill, put and agreed to.

FIRTH SCHEDULE ESTABLISHMENT, JURISDICTION,

AUTHORITY AND PROCEDURE OF THE TAX APPEAL TRIBUNAL

1. Establishment of Tax Appeal Tribunals,
 - (1) Pursuant to section 60 (1) of this Act there shall be established Tax Appeal Tribunals (hereinafter referred to as "the Tribunal" to exercise the jurisdiction, powers and authority conferred on it by or under this Part.
 - (2) The Minister may by notice in the Federal Gazette specify the number of zones, matters and places in relation to which the Tribunals may exercise jurisdiction.
2. Composition of the Tribunal.
 - (1) A Tribunal shall consist of five (5) members (hereinafter referred to as 'Tax Appeal Commissioners') to be appointed by the Minister.
 - (2) A Chairman for each zone shall be a legal practitioner who has been so qualified to practice for a period of not less than fifteen (15) years with cognate experience in tax legislation and tax matters.
 - (3) A Chairman shall preside at every sitting of the Tribunal and in his absence the members shall appoint one of their members to be the Chairman.
 - (4) The quorum at any sitting of the Tribunal shall be three (3) members (*Hon Abdullahi Idris Umar*).

Amendment Proposed:

In subparagraph (2), line 1, after the word "zone", *leave out* the words "shall be a legal practitioner who has been so qualified to practice for a period of not less than fifteen (15) years with cognate experience in tax legislation and tax matters" and *insert* the words "shall be a person with cognate experience in tax matters" (*Hon. Mao Ohuabunwa*).

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

3. Qualifications for appointment as a Tax Appeal Commissioner.
A person shall not be qualified for appointment as a Tax Appeal Commissioner unless he is knowledgeable about the laws, regulations, norms, practices and operations of taxation in Nigeria as well as persons that have shown capacity in the Management of trade or business or retired public servant in tax administration.
4. Term of Office.
A Tax Appeal Commissioner shall hold office for a term of three (3) years - renewable for another term of three years only and no more, from the date on which he assumes his office or until he attains the age of seventy (70) years, whichever is earlier.
5. Resignation and Removal.
 - (1) A Tax Appeal Commissioner may, by notice in writing under his hand addressed to the Minister resign his office. Provided that the Tax Appeal Commissioner shall unless he is permitted by the Minister to relinquish his office sooner, continue to hold office until the expiry of three (3) months from the date of receipt of such notice or until a person duly appointed as his successor assumes his office or until the expiry of his term of office, whichever is the earlier.
 - (2) A Tax Appeal Commissioner may be removed from office by the Minister on the grounds of gross misconduct or incapacity after due inquiry has been made and the Tax Appeal Commissioner concerned has been informed of the reasons for his removal and given an opportunity of being heard in respect of the reasons.
6. Salary, Allowances and Conditions of Service of Tax Appeal Commissioners.
The salary and allowances payable to and the terms and conditions of service of the Tax Appeal Commissioners shall be determined by the Minister and be prescribed in their Letters of Appointment. Provided that neither the salary and allowances nor the other terms and conditions of service of a Tax Appeal Commissioner shall be varied to his disadvantage after appointment.

7. **Filling Up of Vacancies.**
If for reason other than temporary absence, any vacancy occurs in the office of a Tax Appeal Commissioner, then the Minister shall appoint another person in accordance with the provisions of this Act to fill the vacancy.
8. **Order Constituting a Tribunal to be Final.**
The question as to the validity of the appointment of any person as a Tax Appeal Commissioner shall not be the cause of any litigation in any Court or Tribunal and no act or proceedings before the Tribunal shall be called into question in any manner on the ground merely of any defect in the constitution of the Tribunal.
9. **Secretary to the Tribunal.**
(1) The Minister shall appoint for each place or Zone where the Tribunal is to exercise jurisdiction a Secretary who shall—
(a) subject to the general control of the Tax Appeal Commissioners, be responsible for keeping records of the proceedings of the Tribunal;
(b) be the head of the secretariat and responsible for—
(i) the day-to-day administration;
(ii) the direction and control of all other employees, of the Tribunal.
(2) The official address of the Secretary appointed for each Zone shall be published in the Federal Gazette.
10. **Other Staff of the Tribunal, etc.**
(1) The Minister shall appoint such other employees as it may deem necessary for the efficient performance of the functions of the Tribunal and shall have power to determine the remuneration of persons so employed.
(2) It is hereby declared that employment in the Tribunal shall be subject to the provisions of the Pension Reform Act and accordingly, officers and employees of the Service shall be entitled to pensions and other retirement benefits as are prescribed under the Pension Reform Act.
11. **Jurisdiction of the Tribunal, etc.**
(1) The Tribunal shall have power to adjudicate on disputes, and controversies arising from the following tax laws (hereinafter referred to as "the tax laws")—
(i) Companies Income Tax Act, Cap. C21 LFN;
(ii) Personal Income Tax Act, Cap. P8 LFN;
(iii) Petroleum Profits Tax Act, Cap. P13 LFN;
(iv) Value Added Tax Act, Cap. VI LFN;
(v) Capital Gains Tax Act; and
(vi) any other legislations contained in or specified in the First Schedule to this Act or other laws made or to be made from time to time by the National Assembly.

section as may be applicable in the determination or resolution of any dispute or controversy before it.
12. **Criminal Prosecution.**
Where in the course of its adjudication, the Tribunal discovers evidence of possible criminality, the Tribunal shall be obliged to pass such information to the appropriate criminal prosecuting authorities, such as the Office of the Attorney-General of the Federation or the Attorney General of any State of the Federation or any relevant law enforcement agency (*Hon Abdullahi Idris Umar*).

Amendment Proposed:

In line 1, *leave out* the word "adjudication" and *insert* the words "settling disputes*" instead thereof — *consequential amendment*.

13. Appeals from Decisions of the Service.
 - (1) A person who being aggrieved by an assessment or demand notice made upon him by the Service or aggrieved by any action or decision of the Service under the provisions of the tax laws referred to in paragraph 11 above, may appeal against such decision/assessment or demand notice within the period stipulated under this Schedule, to the Tribunal.
 - (2) An appeal under this Part shall be filed within a period of thirty (30) days from the date on which a copy of the order or decision which is being appealed against is made, or deemed to have been made by the Service and it shall be in such form and be accompanied by such fee as may be prescribed. Provided that the Tribunal may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for the delay.
 - (3) Where a notice of appeal is not given by the appellant as required under subparagraph (1) of this paragraph within the period specified, the assessment, or demand notices shall become final and conclusive and the Service may charge interests and penalties in addition to recovering the outstanding tax liabilities which remain unpaid from any person through proceedings at the Tribunal.
14. Appeals by the Service.

The Service, if aggrieved by the non-compliance by a person in respect of any provision of the tax laws, may appeal to the Tribunal where the person is resident giving notice in writing through the Secretary to the appropriate Zone of the Tribunal.
15. Procedure before Tax Appeal Tribunal.
 - (1) As often as may be necessary, Tax Appeal Commissioners shall meet to hear appeals in the jurisdiction or Zone assigned to that Tribunal.
 - (2) Where a Tax Appeal Commissioner has a direct or indirect financial interest in any appeal pending before the Tribunal or where the taxpayer is or was a client of that Tax Appeal Commissioner in his professional capacity, he should declare such interest to the other Commissioners and refrain from sitting in any meeting for the hearing of that Appeal.
 - (3) The Secretary to the Tribunal shall give seven (7) clear days notice to the Service and to the appellant of the date and place fixed for the hearing of each Appeal except in respect of any adjourned hearing for which the Tax Appeal Commissioners have fixed a date at their previous hearing.
 - (4) All notices, documents, other than decisions of the Tax Appeal Tribunal, may be signified under the hand of the Secretary.
 - (5) All appeals before the Tax Appeal Commissioners shall be held in camera.
 - (6) The onus of proving that the assessment complained of is excessive shall be on the appellant.
 - (7) At the hearing of any appeal, if the representative of the Service proves to the satisfaction of the Tribunal hearing the appeal in the first instance that—
 - (a) the appellant has for the year of assessment concerned, failed to prepare and deliver to the Service returns enquired to be furnished under the relevant provision of the tax laws mentioned in paragraph 11 above;
 - (b) the appeal is frivolous or vexatious or is an abuse of the appeal process; or

- (c) it is expedient to require the appellant to pay an amount as security for prosecuting the appeal, the Tribunal, may adjourn the hearing of the appeal to any subsequent day and order the appellant to deposit with the Service, before the day of the adjourned hearing, an amount, on account of the tax charged by the assessment under appeal, equal to the tax charged upon the appellant for the preceding year of assessment or one half of the tax charged by the assessment under appeal, whichever is the lesser plus a sum equal to ten (10) per cent of the said deposit, and if the appellant fails to comply with the order, the assessment against which he has appealed shall be confirmed and the appellant shall have no further right of appeal whatsoever with respect to that assessment.
- (8) The Tribunal may after giving the parties an opportunity of being heard confirm, reduce, increase or annul the assessment or make any such order thereon as it deems fit.
- (9) Every decision of the Tribunal shall be recorded in writing by the Chairman and subject to the provisions of paragraph 16, a certified copy of such decision shall be supplied to the appellant or the Service by the Secretary, upon a request made within thirty (30) days of such decision.
- (10) Where, upon the hearing of an appeal-
- (a) no accounts, books or records relating to profits were produced by or on behalf of the appellant; or
- (b) such accounts, books or records were so produced but rejected by the Tax Appeal Tribunal on the ground that it had been shown to its satisfaction that they were incomplete or unsatisfactory; or
- (c) the appellant or his representative, at the hearing of the appeal, has neglected or refused to comply with a notice delivered or sent to him by the Secretary to the Tribunal, without showing any reasonable cause; or
- (d) the appellant or any person employed, whether confidentially or otherwise, by the appellant or his agent (other than his legal practitioner or accountant acting for him in connection with his ability to tax) has refused to answer any question put to him by the Tribunal, without showing any reasonable cause, the Chairman of the Tribunal shall record particulars of the same in his written decision.
16. **Procedure following decision of the Tribunal.**
- (1) Notice of the amount of the tax chargeable under the assessment as determined by the Tribunal shall be served by the Service upon the taxpayer or upon the person in whose name such taxpayer is chargeable.
- (2) An award or judgement of the Tribunal shall be enforced as if it were a judgement of the Federal High Court upon registration of a copy of such award or judgment with the Chief Registrar of the Federal High Court by the party seeking to enforce the award or judgment.
- (3) Notwithstanding that an appeal is pending, tax shall be paid in accordance with the decision of the Tax Appeal Tribunal within one month of notification of the amount of the tax payable in pursuance of subparagraph (1) of this paragraph.
17. **Appeal to the Federal High Court.**
- (1) Any person dissatisfied with a decision of the Tribunal constituted under this Part may appeal against such decision on a point of law to the Federal High Court upon giving notice in writing to the Secretary to the Tribunal within thirty days after the date on which such decision was given.
- (2) A notice of appeal filed pursuant to subsection (1) of this section shall set out all the grounds of law on which the appellant's case is based.
- (3) If the Service is dissatisfied with the decision of the Tribunal, it may appeal against such decision to the Federal High Court on points of law by giving notice in writing as specified in subsection (1) of this section to the Secretary within thirty days after the date on which such decision was given.

- (4) Upon receipt of a notice of appeal under subsections (1) or (2) of this Section, the Secretary to the Tribunal shall cause the notice to be given to the Chief Registrar of the Federal High Court along with all the exhibits tendered at the hearing before the Tribunal.
 - (5) The Chief Judge of the Federal High Court may make rules providing for the procedure in respect of appeals made under this Act and until such rules are made, the Federal High Court rules-relating to hearing of appeals shall apply to the hearing of an appeal under this Act.
18. **Right to Legal Representation.**
- (1) A complainant or appellant, as the case may be, may either appear in person or authorize one or more legal practitioners or any of its officers to represent him or its case before the Tribunal.
 - (2) Every individual or company in a case before the Tribunal shall be entitled to be represented at the hearing of an appeal by a solicitor or chartered accountant or adviser. Provided that, if the person appointed by the taxpayer to be its representative in any matter before the Tribunal is unable for good cause to attend hearing thereof, the Tribunal may adjourn the hearing for such reasonable time as it thinks fit, or admit the appeal to be made by some other person or by way of a written address.
19. **Application of Statute of Limitation.**
The provisions of any statute of limitation shall not apply to any appeal brought before the Tribunal.
20. **Powers and procedures of the Tribunal.**
- (1) The Tribunal may make rules regulating its procedures
 - (2) The Tribunal shall, for the purposes of discharging its functions under this part, have power to—
 - (i) summon and enforce the attendance of any person and examine him on oath;
 - (ii) require the discovery and production of documents;
 - (ii) receive evidence on affidavits;
 - (iv) call for the examination of witnesses or documents;
 - (v) review its decisions;
 - (vi) dismiss an application for default or deciding matters *ex-parte*;
 - (vii) set aside play order or dismissal of any application for default or any order passed by it *ex-parte*; and
 - (viii) do anything which in the opinion of the Tribunal is incidental or ancillary to its functions under this Part.
 - (3) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding and the Tribunal shall be deemed to be a civil court of all purposes.
21. **Minister to make Rules and Regulations.**
The Minister may make rules prescribing the procedure to be followed in the conduct of appeals before the Tax Appeal Tribunal.
22. **Costs.**
Each party to an appeal shall bear its own cost.
23. **Further Appeals.**
An appeal against the decision of the Federal High Court at the instance of either party shall lie to the Court of Appeal (*Hon. Abdullahi Idris Umar*)— *Agreed to*.

Question that the provisions of the Fifth Schedule as amended, stand part of the Bill, put and agreed to.

Chairman to report Bill:

(HOUSE IN PLENARY)

Mr Deputy Speaker in the Chair, reported that the House in the Committee of Whole considered the Report of the Joint Committee on Finance and Justice on a Bill for an Act to provide for the Establishment of the Federal Inland Revenue Service, Charged with Powers for Collection of Revenue Accruable to the Government of the Federation; and for Matters Connected Therewith, 2005. It approved Clauses 29, 30, 31, 32, 33 and 34, amended Clause 35, approved Clauses 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58 and 59, amended New Clause 60, approved New Clauses 61, 62, 63, 64, 65, 66, 67, 68, 69, 70 and 71, approved the First, Second, Third, Fourth Schedules and amended the New Fifth Schedule.

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

7. Adjournment:

That this House do now adjourn till Thursday, 1 June, 2006 at 10.00 a.m. {*Hon. Bawa Bwari*}.

Adjourned accordingly at 4.50 p.m.

Aminu Bello Masari

Speaker

CORRIGENDUM

In the Votes and Proceedings of Tuesday, 30 May, 2006:

On page 924, *leave out* all the words in Item 8 and *insert* the following instead thereof:

Presentation of the Conference Committee Report 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, 2006:

Motion made and Question proposed,

"That this House do receive the Conference Report 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, 2006" (*Hon. Hamisu Shira*)

Question put and agreed to.