



HOUSE OF REPRESENTATIVES
FEDERAL REPUBLIC OF NIGERIA
VOTES AND PROCEEDINGS

Tuesday, 14 November, 2006

1. The House met at 10.25 a.m. Mr Speaker read Prayers.
2. **Votes and Proceedings:**
Mr Speaker announced that he had examined and approved the Votes and Proceedings of Thursday, 9 November, 2006.

By unanimous consent, the Votes and Proceedings was adopted.

3. **Announcements:**
Conferment of Chieftaincy Title:
Mr Speaker read the following letter from Hon. Atai Aidoko Ali:



Hon. Ati Aidoko Atai
Chairman House Committee on Internal Security
House of Representatives
National Assembly, Three Arms Zone, Abuja

14th November, 2006.

Rt Hon. Speaker
House of Representatives
Sir,

CONFERMENT OF CHIEFTAINCY TITLE

I wish to inform Mr Speaker and this Honourable House that his Royal Majesty, the Attah of Igala has conferred on me the Chieftaincy Title of the "Ochai-Attah Igala" on the occasion of his Golden Jubilee on the throne, on 11 November, 2006. By this I am now the Ochai-attah Igala my greeting is "Kpaleko".

This is for the information of this Honourable House.

(Signed)
Hon. Atai Aidoka Ali
Ochai-attah Igala.

4. Presentation of Bills:

- (i) Downstream Gas Bill, 2006 (HB. 231) — *Read the First Time.*
- (ii) Legal Aid (Amendment) Bill, 2006 (HB. 275) — *Read the First Time.*
- (iii) Public Order (Amendment) Bill, 2006 (HB. 274) — *Read the First Time,*
- (iv) Prevention of Crimes (Amendment) **Bill**, 2006 (HB. 276) — *Read the First Time.*
- (v) Public Account Implementation Tribunal (Amendment) Bill, 2006 (HB. 277) — *Read the First Time.*
- (vi) National Water Resources Institute (Amendment) Bill, 2006 (HB. 278) — *Read the First Time.*
- vii) - National Broadcasting Commission (Amendment) Bill, 2006 (HB. 279) — *Read the First Time.*

5. Presentation of Report:

Special Ad-Hoc Committee on Plateau State House of Assembly Crisis:

Motion made and Question proposed, "That this House do receive the Report of the Special Ad - Hoc Committee on the crisis in Plateau State House of Assembly" (Hon. Alex Nwofe).

Question put and agreed to.

Report Laid.

6. Adoption of Conference Committee Report on the Civil Aviation Bill, 2006 (HB. 197):

Motion made and Question proposed, "That the House, on Wednesday, 1 November, 2006 passed the Civil Aviation Bill, 2006;

The Committee met in Conference on 2 November, 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 Civil Aviation Bill, 2006" (Hon. Lola Abiola-Edewor).

Question put and agreed to.

7. A Bill for an Act to Provide for the Amendment of the Nigerian Social Insurance Trust Fund Act and for Matters Connected Therewith, 2006 (HB- 241) — Second Reading:

Motion made and Question proposed, "That a Bill for an Act to Provide for the Amendment of the Nigerian Social Insurance Trust Fund Act and for Matters Connected Therewith, 2006 be now read a Second Time" (Hon. Abdul Ningi).

Debate:

Question that the Bill be now read a Second Time, put and agreed to.

Bill read a Second Time and referred to the Committee on Labour, Employment and Productivity.

8. Consideration of Report:

Joint Committee on Judiciary and Justice:

Motion made and Question proposed, "That this House do consider the Report of the Joint Committee on Judiciary and Justice on a Bill for an Act to Establish a Customary Court for the Federal Capital Territory, Abuja and to Prescribe the Mode of its Operation; and Supervision, 2004 (HB.172) and approve the Recommendations therein" (Hon. Bala Ibn Na'Allah).

Question put and agreed to.

Question that the House do resolve into the Committee of Whole to consider the Report, put and agreed to.

(HOUSE IN COMMITTEE)

(*Mr Deputy Speaker in the Chair*)

A BILL FOR ACT TO ESTABLISH THE FEDERAL CAPITAL TERRITORY CUSTOMARY COURTS; AND
FOR OTHER MATTERS CONNECTED THEREWITH

PART I — ESTABLISHMENT AND COMPOSITION OF CUSTOMARY COURT

Committee Recommendation:

Clause 1: Establishment of Customary court.

- (1) There is hereby established Grades of Customary Court for the Federal Capital Territory, Abuja as specified in the schedule to this Act.
- (2) The President may in consultation with the Chief Judge designate to each Customary Court established under this section such name as he may deem fit and shall issue a warrant under his hand in respect of every such Customary Court;
- (3) Every warrant establishing a Customary Court shall be operative and take effect from the date specified therein.
- (4) The President may at any time after consultation with the Chief Judge suspend, vary or cancel any warrant issued pursuant to this section.
- (5) The Judicial Service Committee shall cause to be published in the Federal Government Gazette —
 - (a) any warrant issued in respect of every Customary Court; and
 - (b) any order of suspension, variation or cancellation or a warrant in respect of such Customary Court (*Hon. Bala Ibn Na'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 2: Composition and quorum.

- (1) Every Customary Court shall be a Court of record with concurrent powers to that of the Magistrates/District Court.
- (2) A Customary Court shall consist of a Chairman and two other members who shall be referred customary court members, all of whom shall be appointed by the Judicial Service Committee.
- (3) For the purpose of hearing any case in the court, the three members shall be present at the hearing (*Hon. Bala Ibn Na'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 3: Proceedings of the Court.

In all causes and matters before the Court the opinion of the majority shall in the event of members dissent, be deemed and taken to be the decision of the Court (*Hon. Bala Ibn Na'Allah*) ~ *Agreed to.*

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

Committee Recommendation:

Clause 4: Qualification for appointment.

- (1) Subject to other provisions of this Act, a person shall not be qualified to be appointed as:
 - (a) a chairman of a Customary Court unless he is qualified to practice as a legal practitioner in Nigeria and has been so qualified for a period of not less than five years;

- (b) a member of a Customary Court unless—
 - (i) he is qualified to practice as Legal practitioner in Nigeria and
 - (ii) he is literate in English and any other Nigerian language and has wide knowledge of customary laws.
- (2) Without prejudice to the provisions of subsection (1) of this section no person shall be appointed a member of a Customary Court unless —
 - (a) he is a person of good character;
 - (b) he is not less than twenty-five (25) years and not more than fifty years(50) of age;
 - (c) he is not a member of any legislative body in Nigeria, or an elected official of a Local Government Council or an executive member of a public organization or a member of a political party;
 - (d) he has not been convicted by a Court in Nigeria or elsewhere of an offence involving fraud or dishonesty;
 - (e) he is of a sound mind and has not been adjudged to be a lunatic under any law;
 - (f) he has not been declared bankrupt (*Hon. Bala Ibn Na 'Allah*) —

Agreed to. Question that Clause 4 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 5: Appointment and tenure of office.

- (1) The power to appoint, promote, dismiss, suspend or otherwise exercise any disciplinary control over any member of a Customary Court shall vest in the Judicial Service Committee.
- (2) The Judicial Service Committee shall make rules or regulations providing for—
 - (a) the salaries and allowances; and
 - (b) the terms and conditions of service of members of the Customary Court (*Hon. Bala Ibn Na 'Allah*) — *Agreed to.*

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

Committee Recommendation;

Clause 6: Removal of Judge from office.

- (1) The Judicial Service Committee may remove from office a member of the Customary court who —
 - (a) is unable to perform the functions of his office due to physical or mental disabilities or for any other cause. (
 - (b) appears to the Judicial service Committee to be involved in any act in , breach of code of conduct of judges of inferior courts
 - (c) appears to the Judicial Service Committee to be unworthy of being a member of the Customary Court for any other cause considered sufficient by the Committee.
- (2) Notwithstanding any other provision of this Act, a member of a Customary Court shall automatically cease to be a member thereof if any circumstances arise or become known which disqualify him from being a member of the Court by virtue of the provision of Section 4 of this Act (*Hon. Bala Ibn Na 'Allah*) — *Agreed to.*

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

Committee Recommendation:**Clause 7: Oath of office by Chairman and members.**

- (1) No person who has been appointed as a Chairman or a member of a Customary Court shall sit or in any way act in that capacity until he has taken and subscribed to the oath of office prescribed by Section 290 of the Constitution of the Federal Republic of Nigeria, 1999.
- (2) The President of the Customary Court of Appeal, shall administer the oath on the Chairman and members of the Court (*Hon. Bala Ibn Na 'Allah*) — *Agreed to.*

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

Committee Recommendation:**Clause 8: Immunity from legal suits against members.**

No member of a customary Court or of the Customary Court of Appeal shall be liable to be sued in any Court of law for any thing done or purported or ordered to be done by him in exercise of jurisdiction or power conferred by this Act or power, if he at the time of doing the act or thing, believed in good faith that he had the jurisdiction or power to do or order to be done the act or thing in question (*Hon. Bala Ibn Na 'Allah*) — *Agreed to.*

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

PART II — OFFICERS OF CUSTOMARY COURTS

Committee Recommendation:**Clause 9: Officers of Court.**

- (1) Subject to the provisions of this Act, the Judicial Service Committee shall from time to time appoint in respect of each Customary Court an officer to be designated as the registrar who shall perform such duties in the execution of such powers and authorities of the Court as may be assigned to him under this Act or by rules of Court or by any special order of the Court and in particular, the registrar shall in relation to the Customary Court to which he is deployed —
 - (a) prepare for issue, all warrants and writs;
 - (b) to fill or cause to be filled summonses, conviction, recognizance, rulings or execution and other documents and submit same for the signature of the Chairman of the Court;
 - (c) register all orders and judgments of the Court;
 - (d) to make or cause to be made, copies of the proceedings that are required to be made by any member of the Court and to record the judgments, convictions and orders of the Court;
 - (e) to receive or cause to be received all fees, fines, penalties and all other monies paid or deposited in respect of the proceedings in the Court and to keep or cause to be kept an account of the same;
 - (f) to attend at such sittings of the Court as the Chairman of the Court may direct;
 - (g) to maintain an account showing all monies received or paid by the court;
 - (h) to supervise the staff under him as well as the clerks and other staff of the court under the territorial jurisdiction of the Court;
 - (i) to perform or cause to be performed such other duties as shall be connected with the court or as may be assigned to him by the Chairman of the Court;

- (2) The registrar shall be assisted in the discharge of his functions by such other support staff employed by the Customary Court of Appeal (*Hon. Bala Ibn Na'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 10: Registrar to be Commissioner for Oaths.

- (1) Every registrar shall be a Commissioner for Oaths with power to administer Oaths in accordance with the Oaths and Affirmations Act and to take affidavits and declaration, to receive documents produced for the purpose of any cause or matter, to examine and interrogate witnesses and to receive other evidence in respect of any proceeding before the court.
- (2) Any order of the court for the attendance and examination of a witness or production of any document before any such Commissioner for Oaths within the jurisdiction of the court shall be enforced in the same manner as an order on a witness to attend and be examined or to produce any document before the court.
- (3) Every act performed or order made by a Commissioner for oaths in want or excess of his powers shall be liable to be reversed, altered, amended or set aside by the court on application by an aggrieved party (*Hon. Bala Ibn Na'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 11: Bailiffs.

- (1) The Customary Court of Appeal shall appoint such number of fit and proper persons to be bailiffs
- (2) It shall be the duty of any person appointed under the provisions of sub-section (1) of this section —
 - (a) to effect the service and execution, of all writs and other processes which he may receive from the court to which he is deployed;
 - (b) to perform such other related duties as may from time to time be assigned to him by the registrar.
- (3) A Customary Court may authorise a member of the Police Force to perform all or any of the duties mentioned in subsection (2) of this section in so far as they relate to the jurisdiction of the court and any member of the Police Force who shall be in possession of any process issued by the court shall be presumed to be authorized to execute such process unless the contrary is proved.
- (4) Subject to the provision of subsection (3) of this section, no person other than a duly appointed bailiff or shall carry out attempt to carry out any of the duties mentioned in subsection (2) of this section (*Hon. Bala Ibn Na'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 12: Action against bailiff.

No officer of any Customary Court or other person bound to execute lawful warrants or orders issued or made in exercise of any jurisdiction conferred by this Act shall be personally liable on account of anything done by him in the execution of any warrant or order of the court if the person issuing same acted in exercise of lawful authority (*Hon. Bala Ibn Na 'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 13: Personal Liability of Bailiff.

If any officer of the court employed to execute an order wilfully or by neglect or omission loses the opportunity of executing it, then on complaint of the person aggrieved and proof of the fact alleged the Customary Court, may, if it deems fit, order the officer to pay the damages sustained by the person complaining or part thereof and the order shall be enforced as an order of the Customary Court directing payment of the money (*Hon. Bala Ibn Na'Allah*) — *Agreed to*.

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

PART III — JURISDICTION OF CUSTOMARY COURT

Committee Recommendation:

Clause 14: Persons subject to Court's jurisdiction.

- (1) A Customary Court shall have and exercise jurisdiction over all persons within the territorial limits of the Federal Capital Territory, Abuja who submit to the jurisdiction of the court.
- (2) A Customary-Court shall have and exercise jurisdiction over causes and matters set out in the Schedule to this Act (*Hon. Bala Ibn Na'Allah*) — *Agreed to*.

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

Committee Recommendation:

Clause 15: Court to promote reconciliation.

- (1) A Customary Court shall have power to issue prerogative orders of mandamus, certiorari and prohibition in cases or matters relating to customary law.
- (2) In civil cases or matters a customary court may promote reconciliation among the parties thereto and encourage and facilitate amicable settlement thereof (*Hon. Bala Ibn Na'Allah*) — *Agreed to*.

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

PART IV — LAW TO BE ADMINISTERED

Committee Recommendation:

Clause 16: Law to be administered.

- (1) Subject to the provisions of section 6(4) (a) and (5) (i) of the Constitution of the Federal Republic of Nigeria 1999 and the provisions of this Act, a customary court shall administer —
 - (a) the appropriate customary law specified in sections 17 and 18 of this Act in so far as it is not repugnant to natural justice, equity and good conscience nor incompatible either directly or by necessary implication with any written law for the time being in force;
 - (b) the provisions of any written law which the court may be authorized to enforce by an order made pursuant to the provisions of this Act;
 - (c) the provision of any enactment in respect of which jurisdiction is conferred on the court by that enactment;
 - *
 - (d) the provisions of all bye-laws and rules made by the appropriate area council, or having effect as if so made under the provisions of any enactment and in force in the Federal Capital Territory;
 - (e) the provision of any rule made or deemed made by a statutory corporation having authority in the Federal Capital Territory (*Hon. Bala Ibn Na 'Allah*) — *Agreed to*.

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

Committee Recommendation:**Clause 17: Appropriate Customary Law.**

- (1) In causes and matters arising from inheritance, the appropriate customary laws shall be the customary law that governed the deceased.
- (2) Subject to the provisions of sub-section (1) of this section —
 - (a) in civil causes or matters where —
 - (i) both parties are not natives of the area of jurisdiction of the court; or
 - (ii) the transaction the subject of the case or matter was not entered in the area of jurisdiction of the court, or
 - (iii) one of the parties is not a native of the area of jurisdiction of the court and the parties agreed or may be presumed to have agreed that their obligations shall be regulated wholly or partly by the customary law applicable to that party, the appropriate customary law shall be the customary law binding between the parties which appeared to have regulated the subject matter in dispute.
 - (b) in all other civil cases and matters the appropriate customary law to be administered shall be the customary law prevailing in the area of jurisdiction of the court (*Hon. Bala Ibn Na'Allah*) — Agreed to.

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

Committee Recommendation:**Clause 18: Applicable Customary Law.**

- (1) A customary law shall be deemed to be binding upon a person where that person—
 - (a) is an indigene of a place in Nigeria in which the customary law is in force;
 - (c) in cases of claim under a customary law of inheritance, makes a claim in respect of the property or estate of a deceased person and the deceased person was an indigene of the place in which the customary law was in force;
 - (d) agrees or is deemed to have agreed to be bound by the customary law,
- (2) In any matter relating to the guardianship of children, the interest and welfare of the child shall be the first and paramount consideration.
- (3) Whenever it appears to a customary court that an interim order made by such court in the interest of a child, be reviewed, the court may, of its own motion or upon the application of any interested person, vary or discharge such order.
- (4) Where there is a contravention of any customary law, a customary court may subject to the provision of this Act impose a penalty authorized by or consistent with the customary law;

PROVIDED that no such penalty shall involve mutilation, torture or other personal * violence or be inhuman or repugnant to natural justice (*Hon. Bala Ibn Na 'Allah*) — Agreed to.

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

Committee Recommendation:**Clause 19: Evidence.**

- (1) Evidence of a customary law shall be adduced in a customary court in all such case as may be provided in the rules made under this act.

- (2) No proceedings in a customary court and no summons, warrant, process, order or decree issued or made thereby shall be varied or declared void upon appeal solely by reason of any defect in procedure or want of form, but every court exercising powers of appeal under this Act shall decide all matters according to substantial justice without undue regard to technicalities (*Hon. Bala Ibn Na'Allah*) — *Agreed to.*

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

PART V — PRACTICE AND PROCEDURE IN CUSTOMARY COURT .

Committee Recommendation:

Clause 20: Practice and procedure.

Subject to the provisions of this Act and to such other rules as may be made under this Act, the practice and procedure of the customary courts shall be regulated in accordance with customary law (*Hon. Bala Ibn Na'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 21: Representation by Legal Practitioner.

All Legal Practitioners shall have the right of audience in a customary court (*Hon. Bala Ibn Na'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 22: Representation before Customary Court.

- (1) In any cause brought by or against a local government council or an area council, the council may be represented before a Customary Court at any stage of the proceedings by an employee of the Council.
- (2) A Customary Court may permit —
 - (a) the husband, wife, guardian, servant, master or inmate of the household of any party, who shall give satisfactory proof that he or she has authority in behalf; or
 - (b) a relative of person administering an estate subject to the jurisdiction of the court to appear for any party in a civil case or matter before the customary court (*Hon. Bala Ibn Na 'Allah*) ~ *Agreed to.*

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

Committee Recommendation:

Clause 23: Representation by government Department.

- (1) In any civil case or matter pending in a customary court any party to a cause or matter may conduct his own case or may be represented by a legal practitioner of his choice on his behalf; the court may however permit a person in custody of any animal or chattel in respect of which the case or matter is brought to court to appear and defend the case or matter in court.
- (2) In any case or matter where a Government Ministry or Department, Local * Government or Area Council, body corporate or a body whose existence is registered under any written law is a party, such Ministry or Department may be represented at any stage of the proceedings by a law officer in the Ministry of Justice or a Legal Practitioner duly authorised by a fiat from the Attorney-General of the Federation (*Hon. Bala Ibn Na'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 24: Proceedings to be in open Court.

- (1) The room or place in which a customary court sits to hear and determine any case or matter shall be an open court to which members of the public shall have access subject to their good behaviour and convenience of the court hall.
- (2) Provision may be made by the rules of court for the exclusion of the public from any customary court proceedings —
 - (a) in which persons under the age of seventeen years are involved;
 - (b) where the administration of justice would be rendered impracticable by the presence of the public (*Hon. Bala Ibn Na 'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 25: Adjournment.

- (1) A customary court may adjourn its sitting from day to day or any convenient date.
- (2) If the members of a customary court are not present at the place appointed for any sitting of the court, or if a quorum is not formed, any member present or an officer of the customary court or any other person authorized in that behalf by the Chairman of the court may adjourn the sitting until such time and to such place as may be announced to be convenient and all persons bound to be present at the sitting so adjourned shall be equally bound to be present at such time and place.
- (3) In the absence of any announcement to the contrary, all such persons shall be bound to be present at the next succeeding day appointed for the sitting in the same place (*Hon. Bala Ibn Na'Allah*) ~ *Agreed to.*

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

Committee Recommendation:

Clause 26: Session.

- (1) A customary court shall sit and hold sessions at such places and times as may be necessary for the convenient and speedy dispatch of the business of the court.
- (2) The permanent places of sitting and places of session of each customary court shall be indicated in the warrant establishing the court.
- (3) The President of the Customary Court of Appeal may, for convenience and dispatch of business, direct the holding of sessions at such other places as he may determine, provided that the general public shall be notified of such decisions fourteen days before the commencement of sitting or same may have been gazetted before commencement of sitting (*Hon. Bala Ibn Na'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 27: Evidence in writing.

- (1) A Customary court shall record the reasons for its decisions in every case or matter.
- (2) * Evidence tendered in proceedings before a customary court shall as far as practicable be recorded in writing by the Chairman of the Court (*Hon. Bala Ibn Na 'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 28: Transfer of cases and matters.

- (1) A customary court may at any time and at any stage before judgment, of its own motion, or on the application of any party, transfer any case or matter pending before it to any area court or customary court if it is of the view that on grounds of convenience and having regard to all the circumstances of the case it is desirable or expedient that the case or matter be so transferred.
- (2) A customary court shall have the power at any time and at any stage before judgment of its own motion or on the application of any party transfer any case or matter pending before it to any other Area Court or Magistrates Court within the Federal Capital Territory, if it is of the view that on grounds of jurisdiction, it is proper for the case or matter to be so transferred,
- (3) The President of the Customary Court of Appeal may at any time and at any stage before judgment, of his own motion or on the application of any party transfer any case or matter pending before a customary court to another customary court if he is of the view that on grounds of convenience and having regard to all the circumstances of the case, it is desirable that the case or matter be so transferred.
- (4) Where a case or matter is transferred pursuant to sub-sections (1), (2) or (3) of this section, the customary court to which it is transferred, shall commence the case or matter de-novo as if it has been instituted originally before the court.
- (5) The power of transfer conferred by sub-sections (1) (2) and (3) of this section, shall be exercised by means of an order under the hand of the President of the customary court of Appeal, or chairman of **customary** court or a member acting on his behalf, as the case may be, and may apply to pending case or matter either entirely, or in respect of any part thereof.
- (6) The supervision authority or the chairman of the Customary Court as the case may be, may at any time cancel, alter, add to or amend any order made under sub-section (5) of this section (*Hon. Bala Ibn Na'Allah*) ~ *Agreed to.*

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

Committee Recommendation;

Clause 29: Stay of proceedings.

Every order of transfer under this part shall operate as a stay of proceedings in the court to which it may be addressed in any case or matter to which the order extends or is applicable, and the process or proceedings in any such case or matter, and attested copy of all entries in the books of the court relative thereto shall be transmitted to the court to which the matter is transferred and thenceforth all proceedings in the case or matter shall be taken in such court as if the case or matter had been commenced therein (*Hon. Bala Ibn Na'Allah*) — *Agreed to.*

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

PART VII — ANCILLARY POWERS OF CUSTOMARY COURTS

Committee Recommendation:

Clause 30: Place of Imprisonment.

Every person sentenced by a customary court to imprisonment or taken in execution of the process of such court may be detained in a Nigerian Prison in the Federal Capital Territory
 - - or in the State nearest to the area of jurisdiction or sitting of the court (*Hon. Bala Ibn Na 'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 31: Recovery of fines.

- (1) A customary court may order that any fine which it may impose shall be paid at such time or times by such installments as it may think fit.

- (2) Where there is default in the payment of any fine or of any installment of the same when due the court may —
 - (a) order that the amount of fine or of the installment, as the case may be, shall be levied by the sale of any movable property of the person in default which is situate within the Federal Capital Territory; or
 - (b) order such person to be imprisoned.
- (3) A sentence of imprisonment passed upon a person in default of payment of a fine or the total of any sentence passed in default of the payment of installments of a fine, as the case may be, shall not exceed in the aggregate the maximum sentence of imprisonment which the court is empowered to impose.
- (4) Where a term of imprisonment is imposed together with a fine, such term together with either the sentence of imprisonment passed in default of the payment of the fine or the total of the sentences passed in default of the payment of installments thereof, as the case may be, shall not exceed in the aggregate the maximum sentence of imprisonment which the court is empowered to impose.
- (5) Where any person has been committed to prison by a customary court for non-payment of a fine and such person thereafter pays the whole or a part of the fine, his imprisonment shall be reduced by the number of days hearing as nearly as possible corresponding to the total number of days for which such person was committed and the sum paid bears to the amount of the fine for which such person is liable (*Hon. Bala Ibn Na 'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 32: Compensation of aggrieved persons.

In every case in which a person is convicted of an offence a customary court shall have power to award to any person injured or aggrieved reasonable compensation by the accused on condition that such injured person, if he shall accept the same shall not thereafter have or maintain any suit for the recovery of damages for the loss or injury sustained by him by reason of the act or omission in question (*Hon. Bala Ibn Na'Allah*) ~ *Agreed to.*

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

Committee Recommendation:

Clause 33: Power to summon witnesses.

Subject to the provision of any rules made under this Act, every customary court shall have power to summon before it for the purpose of giving evidence any person within the area of jurisdiction of the court or any person outside such area but within jurisdiction of the court or any person outside such area but within Nigeria (*Hon. Bala Ibn Na'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 34: Person present may be required to give evidence.

Any person present at a customary court whose evidence may be helpful to the court, whether a party or not to any case or matter before the court, may be required by the court to give evidence in the same manner as if he had been summoned to attend and give evidence (*Hon. Bala Ibn Na'Allah*) ~ *Agreed to.*

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

Committee Recommendation:

Clause 35: Execution of judgment.

Subject to the provisions of any rules made under this Act, any judgment or order given or made by a Customary Court in a civil case or matter may be enforced by seizure and sale of the movable property of the defendant or by such other methods of enforcing judgments and orders as may be prescribed by the rules (*Hon. Bala Ibn Na'Allah*) — *Agreed to.*

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

*Committee Recommendation:***Clause 36: Power to grant interim injunction or impound property.**

In any case before a customary court in which, pending final determinations thereof, it shall be shown to the satisfaction of the customary court that any property which is in dispute in the case is in danger of being wasted, damaged, alienated or otherwise injuriously dealt with, by any party to the case, the court may issue an injunction to such party commanding him to refrain from doing the particular act complained of or, may take and keep such property in custody pending the determination of such case **{Bon. Bala Ibn Na'Allah}** — *Agreed to.*

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

*Committee Recommendation:***Clause 37: Power to appoint Receiver and Manager.**

- (1) A customary court may, whenever it shall deem it necessary so to do for the preservation, proper custody or management of any property in dispute in a case, appoint any person as a receiver or manager to receive and to the charge of the property and to deal with it in such manner as may be directed by the customary court.
- (2) Any person or persons appointed as a receiver or manager, under subsection (1) of this section shall be responsible to the customary court for all things done as receiver or manager, and shall account for or pay to the customary court all money received in respect of any property referred to in sub-section (1) of this section.
- (3) A customary court may make such order as it shall deem fit but subject to the rules of the court or the direction of the President of the Customary Court of Appeal, as regard the remuneration of any person appointed as receiver and manager and shall pay to the party entitled thereto all moneys in its custody (*Hon. Bala Ibn Na 'Allah*) — *Agreed to.*

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

*Committee Recommendation:***Clause 38: Search warrant and effect thereof.**

- (1) The Chairman of a Customary Court may by warrant under his hand authorize —
 - (a) any premises to be searched for any property alleged to be stolen or wrongfully obtained; and
 - (b) the seizure of any such property by the Police or authorized court officers.
- (2) The information upon which an application for a search warrant is based shall be given in writing and upon oath.
- (3) Any property seized as a result of any search shall be taken before the court to be dealt with according to law.
- (4) A person residing in or being in charge of a premises ordered to be searched shall allow the person authorized to execute the warrant free entry thereto and shall afford all reasonable facilities for a search therein, and where entry cannot be so obtained it shall be lawful for the person holding the warrant to enter into such premises and in order to effect such entrance to break open any outer or inner door or window of such premises, if after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance (*Hon. Bala Ibn Na 'Allah*) — *Agreed to.*

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

*Committee Recommendation:***Clause 39: Power of Court to order inspection.**

In any case or matter it shall be lawful for a Customary Court, on the application of either party or of its own motion —

- (a) to make such order as the court may think fit for the inspection by the court of the parties or any witness, or any immovable or movable property the inspection of which may be material to the proper determination of the question in dispute; and
- (b) to give such direction as the court may think fit in regard to such inspection (*Hon. Bala Ibn Na 'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 40: Power to grant Bail.

A customary court may grant bail to any person charged with contempt which is triable by it on such terms and condition as the court may think fit (*Hon. Bala Ibn Na 'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 41: Execution order of other Courts.

A Customary Court shall carry into execution any decrees or orders of a Court of Law in Nigeria which may be lawfully directed to it and shall execute all warrants and serve all processes issued by such courts as aforesaid and directed to it for execution or service, and shall generally give such assistance to any of the Courts as may be required (*Hon. Bala Ibn Na 'Allah*) — *Agreed to.*

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

PART VII — SUPERVISION AND CONTROL OF CUSTOMARY COURTS

Committee Recommendation:

Clause 42: Supervising authority.

- (1) There is hereby established an Inspectorate division of the customary Courts which shall consist of —
 - (a) a Chief Inspector of customary Courts who shall be a Legal Practitioner of not less than seven years post-call experience.
 - (b) five or more other Inspectors of Customary Courts as the needs of the Court demand who shall be Legal Practitioners of not less than two years post-call experience.
- (2) The appointment of the Inspectors of Customary courts shall be made by the Judicial Service Committee on the recommendation of the Chief Registrar (*Hon. Bala Ibn Na 'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 43: Duties of Inspectors.

- (1) The functions of the Inspectorate Division of the Customary Courts shall include—
 - (a) to monitor the activities of members of Customary Court;
 - (b) to inspect the records of Customary Court including revenue;
 - (c) to report any irregularities or excess of members of Customary Courts to the President of the Customary Court of Appeal;
 - (d) to receive and look into any complaints brought by any party to any proceedings before a Customary Court.
- (2) Where in the exercise of its powers above the Inspectorate Division is of the opinion that any complaint received by it lacks merits it shall regard the matter as closed and inform the parties accordingly.

- (3) Where the Inspectorate Division finds that a complaint made to it has merit it shall report same to the President of the Customary Court of Appeal.
- (4) The President of the Customary Court of Appeal on receipt of a report from the Inspectorate division may —
 - (a) cause further investigations to be carried out; or
 - (b) take any action he may deem appropriate in the circumstances; or
 - (c) if satisfied that no useful purpose would be served by further investigations, discontinue the matter or
 - (d) file his report to the Judicial Service Committee for their appropriate action
(Hon. Bala Ibn Na'Allah) — Agreed to.

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

Committee Recommendation:

- Clause 44: Returns and report on cases to be submitted.
At such times and in such forms as may be prescribed by the President of the Customary Court of Appeal, every Customary court shall submit to the President —
- (a) a list of all cases and matters decided or disposed of by, or brought before the court during any prescribed period; and
 - (b) a report of any case or class of case tried by the Court (Hon. Bala Ibn Na 'Allah) — Agreed to.

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

Committee Recommendation:

- Clause 45: President, inspectorate not to impede the independence of Court.
The duties of the Inspectorate division and of the President of the Customary Court of Appeal pursuant to sections 42 - 44 of this Act shall be of the nature of general administrative control and supervision in accordance with this Act -
- PROVIDED that no such supervision or control shall interfere with the judicial independence of the customary court concerned (Hon. Bala Ibn Na 'Allah) — Agreed to.

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

PART IIX — TRANSFER OF CASES

Committee Recommendation:

- Clause 46: Transfer of cases.
- (1) On application by —
 - Any party to a case or matter, the President of the Customary Court of Appeal may at any stage of the proceedings before final judgment, by order stay the hearing of the case or matter on such terms as he may consider just, and upon such order being made, may in his discretion —
 - (0) If the cause or matter appears to be within the jurisdiction of any other
 - court, by the same or another order direct that the cause or matter be inquired into or tried or determined by such court as shall appear to have jurisdiction over the same;
 - (ii) direct in like manner that the same shall be inquired into tried or determined by another Customary Court or court notwithstanding that the court transferring same had jurisdiction over the case or matter.

- (2) The Customary Court to which the case is transferred shall be informed in writing of the reason for making the order of transfer and that court shall adjudicate and determine the case or matter (*Hon. Bala Ibn Na 'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 47: For charge for Transfer.

- (1) Notwithstanding the provisions of any written law or rule of court no fee shall be payable in respect of any transfer made under the provision of this Act.
- (2) Customary Court and the Customary court of Appeal shall have power to award costs in all civil proceedings before the court and subject to the provision of any other law and to rules of court, it shall be in the discretion of the court to determine by whom and to what extent the costs shall be paid (*Hon. Bala Ibn Na'Allah*) — *Agreed to.*

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

PART VIII — APPEALS

Committee Recommendation:

Clause 48: Right of Appeal.

- (1) Any party, in a, cause or matter, who is aggrieved by the decision or order of a Customary Court, may within thirty days from the date of such decision or order appeal to the Customary Court of Appeal.
- (2) The right of appeal to the Customary Court of Appeal shall be subject to the condition and in accordance with the provisions of any law or rules of court, if any, for the time being in force regulating the practice and procedure of that court with respect to appeals.
- (3) Leave to appeal out of time may, upon reasonable cause being shown, be granted by the appellate court upon such terms as it shall consider just (*Bon. Bala Ibn Na 'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 49: Power of Appellate Court in Civil Appeal.

The Customary Court of Appeal in exercise of its appellate jurisdiction in civil matters under this Act may —

- (a) whether after hearing the whole case or not, reverse, vary or confirm the decision of the lower court and may make any such order as the court of first instance could have made in such case or matter or as it considers that the justice of the case requires;
- (b) quash any proceedings and thereupon, where it is considered desirable, order any such case or matter to be retried before the court of first instance or any other court (*Hon. Bala Ibn Na 'Allah*) — *Agreed to.*

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

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Committee Recommendation:

Clause 50: Court may inspect records.

Where an appeal lies from an order or decision of a Customary Court, the Customary Court of appeal shall have power to inspect the records or books of such Customary Court relating to the appeal (*Hon. Bala Ibn Na'Allah*) ~ *Agreed to.*

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

PART X — ABUSE OF OFFICE

Committee Recommendation:**Clause 51: Adjudication without authority.**

- (1) Any person who—
 - (a) exercises or attempts to exercise judicial powers vested in a Customary Court, except in accordance with the provisions of any enactment or this Act; or
 - (b) sits as a member of such court without due authority,

shall be liable on conviction before the Magistrate Court to a fine of five thousand Naira or imprisonment for twelve months or both.
- (2) Any person other than a member of a Customary Court adjudicating as an arbitrator upon any civil matter in dispute (other than a petition for divorce) where the parties thereto have agreed to submit the dispute to his decision shall not be regarded as exercising judicial powers for the purposes of paragraph (a) of subsection (1) of this section.
- (3) No prosecution under this section shall be instituted without the consent in writing of the Attorney-General of the Federation (*Hon. Bala Ibn Na 'Allah*) — *Agreed to.*

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

Committee Recommendation:**Clause 52: Penalty for obstructing persons executing Court order**

- (1) Any person who —
 - (a) assault, obstructs, molests or resists; or
 - (b) aids or incites any other person to assaults, obstruct, molest or resist any person acting or proceeding to act in the execution of his duties under the provisions of this Act shall be guilty of an offence and shall be liable on conviction to a fine of one thousand Naira or to imprisonment for six months or to both fine and imprisonment (*Hon. Bala Ibn Na'Allah*) — *Agreed to.*

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

Committee Recommendation:**Clause 53: Exaction of fees or fines in excess of those authorized.**

- (1) No fees or fines in excess of those authorized by or pursuant to this Act or any other written law shall be demanded or exacted from any person in respect of any case or matter in a Customary Court.
- (2) Any member, officer or servant of a Customary Court who contravenes the provisions of subsection (1) of this section shall be guilty of an offence and shall be liable on conviction to a fine of one thousand Naira or to imprisonment for six months or to both.
- (3) The Court may order any amount exacted in excess to be refunded to the person **entitled** thereto.
- *
 - (4) If default shall be made by any person against whom an order to refund has been made under subsection (3) of this section, the amount ordered to be refunded may be levied by distress and, in default of sufficient distress, the person defaulting may be committed to prison for any term not exceeding six months in addition to any sentence imposed under the provisions of subsection (2) of this section (*Hon. Bala Ibn Na'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 54: Refusal to produce documents etc.

Any person who —

- (a) refuses to produce or deliver up a document on the lawful order of a Customary Court; or
- (p) refuses to answer any question lawfully asked by a Customary Court; or
- (c) intentionally interrupts the proceedings of a Customary Court at any stage; shall be liable on conviction to a fine of five thousand naira or to imprisonment for two months (*Hon. Bala Ibn Na 'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 55: Failure to obey summons.

Any person who, without reasonable cause or excuse, fails to obey any valid summons issued under the provisions of this Act or any other law shall be arrested and brought before the Customary Court issuing such summons or before such other Court as may have jurisdiction over such person and shall be liable on conviction to a fine of one thousand naira or in default of payment of such fine to imprisonment for seven days (*Hon. Bala Ibn Na 'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 56: Refusal to give evidence.

- (1) Any compellable witness who without reasonable cause or excuse refuses to give evidence on being required so to do by a Customary Court under the provisions of this Act or any other law shall be liable to a fine of five hundred Naira or imprisonment for fourteen days. .
- (2) Any person who in any proceedings before a Customary Court gives evidence, whether on oath or otherwise, which he knows to be false or believes to be false or does not believe to be true shall be liable on conviction to a fine of five thousand Naira or to imprisonment for a period of two years or to both such fine and imprisonment (*Hon. Bala Ibn Na 'Allah*) ~ *Agreed to.*

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

Committee Recommendation:

Clause 57: Pervasion of course of justice.

Any person who, with intent to defeat, obstruct or pervert the course of justice in any case or matter in a Customary Court —

- (a) causes any person to delay in giving or to refrain from giving evidence before the court; or
- (b) attempts wrongfully to interfere with or influences a witness whether before or after that witness has given evidence in connection with such evidence; or
- (c) prevents any person from giving evidence before the court, shall be guilty of an offence and shall be liable on conviction to a fine of two thousand Naira or to imprisonment for six months or to both (*Hon. Bala Ibn Na 'Allah*) — *Agreed to.*

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

Committee Recommendation:

Clause 58: Rendering false returns.

Any Clerk or member of a Customary Court who knowingly renders a false returns of the cases tried or the penalties imposed by such court shall be guilty of an offence and shall be liable on conviction to a fine of two thousand Naira or to imprisonment of six months or to both (*Hon. Bala Ibn Na 'Allah*) — *Agreed to.*

Question that Clause 58 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 59: Falsification of records of proceedings.

Any person being charged in accordance with this Act or rules made under this Act with the duty of recording the proceedings of a Customary Court who knowingly makes a false record of the proceedings of the court shall be guilty of an offence and shall be liable on conviction to a fine of two thousand Naira or to imprisonment for six months or to both (*Hon. Bala Ibn Na'Allah*) — *Agreed to.*

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

PART XI — FINANCIAL PROVISIONS

Committee Recommendation:

Clause 60: Collection and custody of revenue.

- (1) All monies paid to and received by a Customary Court in the course of discharging its functions under this Act shall be paid into and form part of the Consolidated Revenue Fund of the Federal Republic of Nigeria.
- (2) The premises inclusive of buildings, properties and other structures used by a Customary Court shall be provided and maintained by and shall be the property of the Federal Government of Nigeria.
- (3) In all matters of revenue collection and disbursement, the Customary Court shall be guided by the provisions of the Financial Regulations and any such similar enactments for the time being in force (*Hon. Bala Ibn Na'Allah*) — *Agreed to.*

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

PART XII — RULES OF COURT

Committee Recommendation:

Clause 61: Power to make rules.

Subject to the provisions of this Act, the President of the Customary Court of Appeal shall make rules providing for any or all of the following matters —

- (a) the regulation of the practice and procedure of the Customary Court;
- (b) the recording of the proceedings of Customary Courts;
- (c) the powers of the Customary Court to issue process for the institution of cases and matters and to compel the attendance of defendants before the court.
- (d) the exclusion of the public from a Customary Court in accordance with the provision of this Act or any other law;
- (e) the regulation of the issue of summons to witnesses;
- (f) the carrying into execution of the orders or decrees of Customary Courts, whether such Customary Courts are established under this Act or under any other written law;
- (g) the execution of the decrees, orders, warrants or other processes of Customary Courts and the service of the processes of such courts where such decrees or orders * are made or such warrants or processes are issued in respect of persons or property not within the area of jurisdiction of the Customary Court making or issuing the same;
- (h) the courts or authority by which the decrees, orders, warrants or processes mentioned in paragraphs (f) and (g) of this subsection shall be carried into execution, executed or served;
- (k) regulating any matter relating to the costs of proceedings in Customary Courts; (l) the maximum fees which may be charged —

Committee Recommendation:

Clause 59: Falsification of records of proceedings.
 Any person being charged in accordance with this Act or rules made under this Act with the duty of recording the proceedings of a "Customary Court who knowingly makes a false record of the proceedings of the court shall be guilty of an offence and shall be liable on conviction to a fine of two thousand Naira or to imprisonment for six months or to both (*Hon. Bala Ibn Na'Allah*) — *Agreed to.*

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

PART XI — FINANCIAL PROVISIONS

Committee Recommendation:

Clause 60: Collection and custody of revenue.

- (1) All monies paid to and received by a Customary Court in the course of discharging its functions under this Act shall be paid into and form part of the Consolidated Revenue Fund of the Federal Republic of Nigeria.
- (2) The premises inclusive of buildings, properties and other structures used by a Customary Court shall be provided and maintained by and shall be the property of the Federal Government of Nigeria.
- (3) In all matters of revenue collection and disbursement, the Customary Court shall be guided by the provisions of the Financial Regulations and any such similar enactments for the time being in force (*Hon. Bala Ibn Na'Allah*) — *Agreed to.*

Question that Clause 60 stand pan of the Bill, put and agreed to.

PART XII — RULES OF COURT

Committee Recommendation:

Clause 61: Power to make rules.
 Subject to the provisions of this Act, the President of the Customary Court of Appeal shall make rules providing for any or all of the following matters —

- (a) the regulation of the practice and procedure of the Customary Court;
- (b) the recording of the proceedings of Customary Courts;
- (c) the powers of the Customary Court to issue process for the institution of cases and matters and to compel the attendance of defendants before the court.
- (d) the exclusion of the public from a Customary Court in accordance with the provision of this Act or any other law;
- (e) the regulation of the issue of summons to witnesses;
- (f) the carrying into execution of the orders or decrees of Customary Courts, whether such Customary Courts are established under this Act or under any other written law;
- (g) the execution of the decrees, orders, warrants or other processes of Customary Courts and the service of the processes of such courts where such decrees or orders * are made or such warrants or processes are issued in respect of persons or property not within the area of jurisdiction of the Customary Court making or issuing the same;
- (h) the courts or authority by which the decrees, orders, warrants or processes mentioned in paragraphs (f) and (g) of this subsection shall be carried into execution, executed or served;
- (k) regulating any matter relating to the costs of proceedings in Customary Courts; (l) the maximum fees which may be charged —

- (0) in Customary Courts;
- (ii) for appeals from Customary Courts to the Customary Court of Appeal.

- (m) the reduction of prescribed maximum fees in respect of all or any Customary Courts or proceedings; the application of such maximum or reduced fees to such Customary Courts or proceedings and manner in which and the persons by whom such reduction and application may be made;
- (0) defining the duties of any officer of the Customary Court;
- (p) the time within which any act, matter or thing shall be carried out or performed for the purposes of this Act;
- (r) generally for the carrying into effect of the provisions of this Act (*Hon. Bala Ibn Na 'Allah*) ~ Agreed to.

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

PART XIII — TRANSITIONAL AND MISCELLANEOUS PROVISIONS

Committee Recommendation:

Clause 62: Transitional provisions.

Where immediately before the commencement of this Act any proceeding has been instituted in any court other than in a Customary Court in respect of any cause or matter over which a Customary Court is conferred with jurisdiction under this Act, such proceeding shall, except in cases where judgment only is left to be delivered, be transferred to and be commenced de novo by the Customary Court exercising jurisdiction in the case or matter (*Hon. Bala Ibn Na 'Allah*) — Agreed to.

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

Committee Recommendation:

Clause 63: Hearing of Existing Cases.

Nothing in this Act shall preclude any Magistrate or Judge of an Area Court from proceeding with or concluding any issue, causes or matters which, upon the coming into force of this Act or pending in his court, whether or not jurisdiction to adjudicate on such causes or matters has been transferred to the Customary Court by this Act (*Hon. Bala Ibn Na 'Allah*) — Agreed to.

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

Committee Recommendation:

Clause 64: Repeal of certain sections of Area Court Act.

- (1) Section 20 and 21 of the Area Courts Act Cap. 477, Laws of the Federation of Nigeria (Abuja) 1990 are hereby repealed (*Hon. Bala Ibn Na 'Allah*) ~ Agreed to.

Question that Clause 64 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 65: Application of Evidence Act.

The Customary Court and Customary Court of Appeal, in Judicial Proceedings shall be bound by the provisions of Sections 14, 15, 59, 76, 77, 78, 92, 93, 135, 136, 155, 177 and 227 of the Evidence Act (*Hon. Bala Ibn Na 'Allah*) ~ Agreed to.

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

Committee Recommendation:

Clause 66: Interpretation.

In this Act unless where the context otherwise requires —

"action" means a civil proceedings instituted in a Customary Court in accordance with this Act or Rules made thereunder (*Hon. Bala Ibn Na'Allah*).

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

"Area Court" means a court established for the FCT by Decree No. 12 of 1984 (*Hon. Bala Ibn Na'Allah*).

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

"cause" includes any action, suit or other original proceedings between a plaintiff and defendant, and any criminal proceeding (*Hon. Bala Ibn Na'Allah*).

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

"Chief Judge" means the Chief Judge of the High Court Federal Capital Territory, Abuja and chairman of Federal Capital Territory Judicial Service Committee (*Hon. Bala Ibn Na 'Allah*).

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

"Chief Registrar" means the Chief Registrar of the Customary Court of Appeal (*Hon. Bala Ibn Na'Allah*).

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

"Committee" means the Federal Capital Territory Judicial Service Committee established under Section 304 of the Constitution of the Federal Republic of Nigeria, 1999 (*Hon. Bala Ibn Na'Allah*). ■

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

"Customary Court" means the Customary Court or Court" established under this Act (*Hon. Bala Ibn Na'Allah*).

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

" Customary Court of Appeal" means the Customary Court of Appeal of the Federal Capital Territory established by under the provision of Section 265 of the Constitution of the Federal Republic of Nigeria, 1999 (*Hon. Bala Ibn Na'Allah*).

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

"Customary Law" means a rule or body of customary rules regulating rights and imposing correlative duties being customary rules or body of customary rules which obtains and is fortified by established usage and which is appropriate and applicable to any particular cause, matter, dispute, issue or question (*Hon. Bala Ibn Na'Allah*).

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

"decision" a judicial determination after consideration of the facts and the law and includes a ruling order or judgment pronounced by the Court when considering or disposing a case (*Hon. Bala Ibn Na'Allah*).

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

"defendant" includes every person served with any writ of summons or process or with notice of, or entitled to attend any proceedings in a civil cause crime or offence (*Hon. Bala Ibn Na'Allah*).

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

"executive creditor" includes every person having title to enforce a judgment or order of court by process of execution (*Hon. Bala Ibn Na'Allah*).

Question that the meaning of the words "executive creditor" be as defined in the interpretation to this Act, put and agreed to,

"High Court" means the High Court of the Federal Capital Territory, Abuja (*Hon. Bala Ibn Na'Allah*).

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

"Judge" includes the chief Judge of the Federal Capital Territory, Abuja, the President of the Customary Court of Appeal Abuja or a Judge of the High Court or of the Customary Court of Appeal Abuja (*Hon. Bala Ibn Na'Allah*).

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

"Judgment" includes a decree or order or ruling of the Court (*Hon. Bala Ibn Na'Allah*).

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

"Judgment debtor" includes every person ordered by a judgment or order in a civil cause or matter to pay money or to do or abstain from doing any act (*Hon. Bala Ibn Na'Allah*).

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

'Judicial Service Committee' means the Federal Capital territory, Judicial service Committee (*Hon. Bala Ibn Na'Allah*).

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

"Land Cause" or "Land matter" means a cause or matter relating to the ownership, occupation or possession of land (*Hon. Bala Ibn Na 'Allah*).

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

"Legal Practitioner" means a person admitted and enrolled to practice as a Barrister or Solicitor in the Supreme Court of Nigeria pursuant to the Legal Practitioners Act 1975 (*Hon. Bala Ibn Na'Allah*).

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

"matter" includes any proceeding in a Court not in a cause (*Hon. Bala Ibn Na'Allah*).

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

"member" means a member of the Customary Court and includes the Chairman (*Hon. Bala Ibn Na'Allah*).

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

"native" in relation to the area of jurisdiction of Customary court means a person who is a member of a community and resident in an area in the FCT, Abuja indigenous to; any part of Nigeria including Federal Capital Territory, Abuja (*Hon. Bala Ibn Na'Allah*).

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

"oath" includes solemn affirmation and statutory declaration (*Hon. Bala Ibn Na'Allah*).

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

"order" means a written direction or command delivered by the court or judge (*Hon. Bala Ibn Na'Allah*).

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

"party" includes any person served with notice of or attending any proceeding although not named on the records (*Hon. Bala Ibn Na'Allah*).

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

"plaintiff" includes every person seeking any relief (otherwise than by way of counterclaim as a defendant) against any person by any form or proceeding by action, suit, petition, motion, summons or otherwise (*Hon. Bala Ibn Na'Allah*).

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

"pleading" includes any petition, summons, writing and also the statement in writing of the claim or demand of the plaintiff and of the defence of any defendant thereto, and of the reply of the plaintiff to any counterclaim of the defendant (*Hon. Bala Ibn Na 'Allah*).

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

"President" means the President of the Customary Court of Appeal (*Hon. Bala Ibn Na'Allah*).

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

"public service" means the public service of the Federal Republic of Nigeria (*Hon. Bala Ibn Na'Allah*).

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

"rules of court" means rules of practice and procedure made pursuant to this Act and includes court forms (*Hon. Bala Ibn Na'Allah*).

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

"supervising authority" in relation to a Customary Court means the person empowered in accordance with this Act or any other law to supervise that Court (*Hon. Bala Ibn Na'Allah*).

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

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

Committee Recommendation:
Clause 67; Short **Title.**
 This Act may be cited as the Federal Capital Territory Customary Courts Bill, 2006 (*Hon. Bala Ibn Na'Allah*) — *Agreed to.*

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

SCHEDULE

Section 16

PART I — CIVIL CASES

LIMIT OF JURISDICTION AND POWER

Types of Causes		Grade of Courts		Grade B	Grade C
1.	Grade A	Matrimonial causes and matters between persons married under customary law or arising from or connected with a union contracted under customary law order than those arising from or connected with a Christian or a marriage under Islamic law as defined in section 1 of the Criminal Code Act chapter 42 of 1959 Laws of the Federation			
2.	Suits relating to the custody of children and guardianship of Unlimited children under customary law		Unlimited	Unlimited	
3.	Civil causes and matters including bye-laws where the debt, demand including dowry, bride price or damages do not exceed the amounts specified in the respective columns hereof.		Unlimited	200,000	100,000
4.	Causes and matters relating to succession to property and 100,000 administration of estate under customary law where the value of the property does not exceed the amounts specified in the respective columns hereof.		Unlimited	Unlimited	
5.	Civil causes and matters under any law (other than customary law) including bye-laws where the amount of debt, demand or damages does not exceed the amount indicated in the column hereof.				

PART II — CRIMINAL CASES

TYPE OF OFFENCES

- (1) The sentence imposed should not exceed 7 years imprisonment or N5,000.00 fine.
- (2) Where criminal jurisdiction is confer red on the court by this Act.
- (3) Statutory offences as may be provided in other laws or bye-laws, where jurisdiction is specifically conferred on the Court.

Question that the provisions of the Schedule 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 Judiciary and Justice on a Bill for an Act to Establish a Customary Court for the Federal Capital Territory, Abuja and to Prescribe the Mode of its Operation; and Supervision, 2006. It approved Clauses 1 - 67 and the Schedule to the Bill without amendment.

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

9. Adjournment:

That this House do now adjourn till "Wednesday, 15 November, 2006 at 2.00 p.m. (*Hon. Abdul Ningi*).

Adjourned accordingly at 11,30 a.m.

Aminu Bello Masari
Speaker