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**Tuesday
30th June, 2009**



NATIONAL ASSEMBLY DEBATES

**FOURTH REPUBLIC
THIRD ASSEMBLY
(SIXTH SENATE)**

SECOND SESSION

SENATE OFFICIAL REPORT

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SENATE OF THE FEDERAL

REPUBLIC OF NIGERIA

Tuesday, 30th June, 2009

The Senate met at 10:15am

PRAYERS

(The President in the Chair)

VOTES AND PROCEEDINGS

The President: Distinguished Senators, the Senate is called to order. We have the Votes and Proceedings of Thursday, 25th June, 2009 before us for approval: Page 13, 14, 15 and 16.

Senator Nicholas Yahaya Ugbané (Kogi East): Mr. President, I move that the Votes and Proceedings of Thursday, 25th June, 2009 be approved.

Senator Satty Davis Gogwim (Plateau Central): Mr. President, I rise to second the Motion that the Votes and Proceedings of Thursday 25th June, 2009 be approved.

Question put and agreed to.

Resolved: That the Votes and Proceedings of Thursday, 25th June 2009 be approved.

ANNOUNCEMENTS

Notification of Change of Political Party from Action Congress to People's Democratic Party

The President: I have a letter here from Senator Satty Davis Gogwim, the Vice Chairman of the Senate Committee on National Identity Card and Population from Plateau Central Senatorial District. The letter reads:

His Excellency,

The Senate President,

Notice of Change of Political Party from Action Congress (AC) to People's Democratic Party (PDP)

I write to inform you of my formal withdrawal from the Action Congress Party (AC), the Party under which I contested the 2007 General Elections and the re-run election in 2008 to the People's Democratic Party (PDP) the greatest Party in black Africa.

This action was taken by me and thousands of my supporters in Plateau State, including some Ex-co members and Elders of the Party at all levels as a result of the crisis and division bedeviling the Party in the State. With this notification, Your Excellency, I hereby request that you take the necessary steps to integrate me among my Colleagues as a member of the People's Democratic Party in the National Assembly.

Thank you and please accept the assurance of my highest regards.

(Signed)

Senator Satty Davis Gogwim

Senator Adeleke Olorunnimbe Mamowora (Lagos East): Point of Order, Mr. President!

The President: Point of Order, distinguished Senator Mamowora

Senator Mamowora: Mr. President, my Point of Order is Constitutional Order under Section 68.

The President: Read please.

Senator Mamowora: Section 68(1) (g) says: A member of the Senate or of the House of Representatives shall vacate his seat in the House of which he is a member if – (g) being a person whose election to the House was sponsored by a political party, he becomes a member of another political party before the expiration of the period for which that House was elected. (Interruptions) Mr. President, please, I need your protection.

The President: You are protected Mamowora, just read it please.

Senator Mamowora: Provided that his membership of the latter political party is not as a result of a division in the political party of which he was previously a member or of a merger of two or more political parties or factions by one of which he was previously sponsored.

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Subsection (2) says: *The President of the Senate or the Speaker of the House of Representatives, as the case may be, shall give effect to the provisions of subsection (1) of this section, so however, that the President of the Senate or the Speaker of the House of Representatives or a Member shall first present evidence satisfactory to the House concerned that any of the provisions of that subsection has become applicable in respect of that member.*

I also want to refer your good self and this distinguished Senate to the Seventh Schedule of the Constitution dealing with the Oath of a Member of the National Assembly or of a House of Assembly. The Oath which we all took at the inauguration of this distinguished Senate part of it says: *I will preserve, protect and defend the Constitution of the Federal Republic of Nigeria.* Permit me to submit that my Friend, my Brother and he is dear to me to that extent. I hasten to say that as much as Senator Satty is dear to me, truth is dearer still to me. I also want to submit that this is a situation of moral crisis.

This is a situation that we have the Constitution there. I also want to quote a writer who said that: *Truth is not only violated by falsehood but it is equally outraged by silence.* So, it will be improper for me, by the grace of God, a ranking Senator and also the Leader of the Action Congress in the National Assembly to keep quite and pretend that nothing has happened.

The truth is that, while I am not saying that a Colleague cannot cross the isle, cannot cross-carpet, cannot jump the ship, I am saying that in the Constitution as we have it now, the conditions precedent for that have not been complied with. I am saying that, while the Constitution is silent on the cross-carpeting or the jumping of ship by Governors, it is not silent on that of Members of the National Assembly or Members of the States Houses of Assembly.

Let me remind your goodself that in the same Plateau State in the last dispensation, fourteen (14) Members of one party decamped and they lost their seats in that State House of Assembly. They lost their seats because the Constitution is clear. Fourteen Members of PDP left the Party and they lost their seats. It is self-fulfilling because it gives conditions under which a Member can cross-carpet and become a member of another party.

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But in the case of Members of the Assembly, either at the State or at the Federal level, the conditions are prescribed by the Constitution and what the Constitution says is: *shall vacate*. It does not say: *may vacate*. I also want to say that there is no division in Action Congress. There is no division. We all know that there is no division in Action Congress.

So, we, as Senators who are privileged to be operating from what I call *Legislative Olympian Height*, have obligations and duties, not just to ourselves but to this country to ensure that we protect the Constitution that we have all sworn to uphold at all times. It is in that regard that I submit that this proposed cross-carpeting is not and cannot stand because it is a violation of the provision of the Constitution as stated under Section 68 (1) (g). I so submit.

The President: Senator Mamowora, I am going to rule on your Point of Order, I need some level of clarification. You said this is moral crisis for whom?

Senator Mamowora: The moral crisis first to us as Senators and the Senate as an institution because the provision of the constitution is there.

The President: Secondly, you read Schedule Seven which says that we all swore to uphold the Constitution and that is what all of us do here. So, everything we do here is being in accordance with that Oath of Office which we took. But that really is not even the issue here now.

For you to say that there is no crisis in Action Congress, you are speaking as a Senator, but certainly not as an official of the Party.

Senator Mamowora: Mr. President, with all due respect, I think I am ranking enough in the Party to know the happenings within the Party. I am saying that there is no division in Action Congress and that is the truth that is the position.

The President: So, Senator Satty Gogwim is the one who is taking the risk, not you. That is because when you read Section 68(1)(g) of the Constitution to the end, so if he has taken the risk, then you leave him to his fate. I do not see what your Point of Order is going to do here. You are not a Party official. You are a member of the Party; just like he is. If he has decided to take the risk, what would be your Point of Order now? Is it that I should rule that he should not take the risk?

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Senator Mamowora: Mr. President, maybe, I need to make myself clear once again. Section 68(2) says: *The President of the Senate or the Speaker of the House of Representatives as the case may be, shall give effect to the provisions of subsection (1) of this section, so however that the President of the Senate or the Speaker of the House of Representatives or a member (which I am in this instance) shall first present evidence satisfactory to the House concerned that any of the provisions of that subsection has become applicable in respect of that member.*

I am saying that what you have (*Interruptions*)

The President: The *Member* referred to there is the Member who is taking the risk, not you. In any case Senator Satty Gogwim is the one taking the risk. That is the first point. Secondly, he has a letter showing that they have division in Action Congress. That is all I can do now. If you feel otherwise, the right place to challenge that decision is not on the Floor here. This has legal remedy. I cannot stop him from decamping, can I? You cannot stop him either.

Senator Mamowora: Can I get you right. Did you say he has presented a letter indicating a division in Action Congress?

The President: Yes. Senator Mamowora, you know why I am taking this length of time to go with you and see if truly your Point of Order can be sustained. I have given you all the time. If Senator Satty Gogwim has a letter, is that your problem? It is not your problem. The fact of the matter is that at the end of the day he is the one taking the risk, not you. So your Point of Order cannot really be sustained. I, therefore, rule you out of Order.

(*Senator Satty Gogwim was taken out of his Seat within the AC Members to a Seat within the PDP Members*)

Senator Mahmud Kanti Bello (Katsina North): Mr. President, I want to report that I have delivered distinguished Senator Satty Gogwim and we are very grateful that you really defended Section 40 of the Nigerian Constitution which states: *Every person shall be entitled to assemble freely and associate with other persons, and in particular he may form or belong to any political party, trade union or any other association for the protection of his interests.* So, the interest of the distinguished Senator is being protected by this Chamber.

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The President: In accordance with our Standing Order 11, Senator Satty Gogwim is hereby allocated the seat that he has now.

Visit of Uni Models Schools, New Karu, Nasarawa State to the Senate

I wish to acknowledge the presence of Staff and Students of Uni Model Schools, New Karu, Nasarawa State who are in the Gallery to observe Senate proceedings. (*The Staff and Students of Uni Model School, New Karu rose accordingly for recognition.*)

We wish them fruitful observation of our proceedings to day. Good morning and sit down, please.

Senator Mamowora: Point of Order!

The President: Point of Order, Senator Mamowora.

Senator Mamowora: Order 43 on Personal Explanation. It reads: *By the indulgence of the Senate, and the leave of the President of the Senate a Senator may make a Personal Explanation although there be no question before the Senate; but no controversial matter may be brought forward nor any debate arise upon the Explanation. The terms of the proposed statement shall be submitted in details to the President of the Senate when his leave to make it is sought.*

The President: You have not submitted the terms to me yet. (*Laughter*) I think this is a condition precedent. So, when you submit the terms to me, then, I will allow you on the Personal Explanation. I will not rule but I will wait until you submit the terms to me, then, I will allow the Personal Explanation.

ORDERS OF THE DAY

CONSIDERATION OF A BILL

Constitution (Second Amendment) Bill, 2009

A Bill for an Act to Alter the Provisions of the Constitution of the Federal Republic of Nigeria 1999 and for other Matters Connected thereto, 2009 (SB. 277) (*Adjourned Debate on Question, 25th June, 2009*)(*Third Allotted Day*)

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Senator Teslim Folarin (Oyo Central): Mr. President, the first Order of the day is the resumed debate on the Constitution (Second Amendment) Bill, 2009. I move that this Senate do resume the debate on this Bill.

Senator Maina Ma'aji Lawan (Borno North): Mr. President, I rise to second the Motion that the Senate do resume debate on the Second Reading of a Bill for an Act to Alter the Provisions of the Constitution of the Federal Republic of Nigeria 1999 and for Other Matters Connected Therewith.

I second this Motion with a heavy heart because it has to do with Electoral Reform and I hope that by the time we are through with it, the kind of episode that we have seen will not happen.

Question put and agreed to.

(Motion Made, and Question Again Proposed that the Bill be Read a Second Time)

Senator Kaka Mallam Yale (Borno Central): Mr. President, the Constitution is a human face; it is, therefore, bound to be deficient. It is not, and can never be perfect as long as it is not from God hence, the necessity to amend the Constitution from time to time depending on the circumstances and the situation. In this country, if we amend the Constitution a hundred times, it will not make any difference because the problem is with the operators rather than with the Constitution. I, therefore, see the exercise as a waste of time, energy and resources. We better concentrate on other important national issues.

Senator Nkechi Nwaogu (Abia Central): Mr. President, the importance of this very Bill cannot be over-emphasised, having seen that this Bill has been given time for Senators to make input concerning the amendment of our 1999 Constitution.

The Bill contains the introduction of independent candidacy. Independent candidate is something that actually shows maturity and development in democracy and this has been absent before 1999. The introduction of independent candidacy is a welcome introduction in our Constitution. A lot has already been canvassed on this issue. I am a supporter; I welcome this new introduction. It will ensure that good and quality citizens of this country are not denied the opportunity to make their contributions in any elective positions in particular. Therefore, I support the amendment of the relevant Clauses in the

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1999 Constitution that will usher in independent candidacy.

The provision for first line charge for INEC is also a welcome situation because as we have it today, it is said that *he who pays the piper dictates the tune*. If your payer wakes up on the wrong mode on a particular day and it falls on the day you are supposed to be paid, you may not be paid that day, if he or she is the one that will make the payment. Therefore, a first line charge for INEC is a welcome situation.

Much as we agree for INEC, I am also asking for the same treatment to be given to the other arms of government. Of the three arms of government, the Executive takes its own when they want; the Judiciary has been provided with first line charge, therefore, the Legislature should be given a first line charge, too. It makes for total independence in the case of National Assembly. It gives us financial autonomy, therefore, it will remove any iota of being afraid of being victimised on issues of principle. First line charge for INEC should also be extended to the National Assembly and all the State Houses of Assembly nationwide.

On the issue of cross-carpeting, people have canvassed for it but I believe that cross-carpeting should not be prohibited because it infringes on human right. There must be a reason why somebody would decide to leave a particular conduit through which he sought electoral fortune. We should tread with caution the request for prohibition on cross-carpeting. Cross-carpeting should be left exclusively to the conscience of the people. If you insist that somebody must not cross-carpet when a party loses its focus or vision, especially at the time you joined that vehicle it no longer works on the very principles and ideas on which you joined them, you should be allowed to take that decision and your conscience should dictate your action. Therefore, I do not support the prohibition of cross-carpeting.

People have canvassed that people should wait until they have served out their tenures, I do not agree to that myself because if you allow yourself to wait until you serve out your term, that means there would be a miss-march. By the time you served out, there would not be opportunity availed to you to seek elective position. Who knows, maybe, you have something extremely important to contribute to the nation's development and Nigeria would lose that opportunity. I do not, therefore, support prohibition of cross-carpeting. It should be left to individuals and

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the Clause in the 1999 Constitution should not be amended. It should be allowed to stay as it is.

Using Administrative Panels to witch-hunt Nigerians; I was a victim. I never worked for my state government in any form, yet I was told that my name was in a White Paper. If not for the supremacy of the judiciary system that said that the White Paper should not be used to disqualify candidates. I wholly support that Section 182 of the 1999 Constitution should be amended. There should not be a White Paper on any Administrative Panel which might be utilised to witch-hunt qualified candidates.

My opinion on funding of political parties is that there should be certain criteria that would be used to qualify political parties that would be qualified for funding. Right now, we have 50 political parties on paper. The names of some of them are not even known to many people yet they have become a drain on the nation. There should be criteria on the funding of political parties. In amending the Constitution the section that deals with allowing proliferation of parties should be amended and at the end of the day, there should be criteria for parties to exist and not just on seat cases.

If we are talking about Independent National Electoral Commission, I also ask why the State Independent Electoral Commission was not included in this constitutional amendment. This has been one of the set-backs on local political development. The issue of State Independent Electoral Commission has trivialised the local government administration. It is my opinion that INEC should be strengthened enough to take care of local government elections. We do not need a parallel electoral commission called State Independent Electoral Commission.

I urge this Senate and the Executive to include SIEC as part of INEC functions. We do not need State Independent Electoral Commission. With these suggestions, I urge my Colleagues to ensure that we pass speedily the amendment of 1999 Constitution.

There are other issues, if we must wait for the Executive alone to bring Bills before we discuss them, there are other issues of commonality where Nigerians have expressed interest; that is the issue of state creation. We cannot white wash it and we cannot leave it to the Executive alone.

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I urge that we include in our constitutional amendment issue like the state creation. A situation where all the geo-political zones; the 36 states and, indeed, Nigerians are asking for more states we should look at it and consider it. It should be part of our constitutional amendment.

The President: Distinguished Colleagues, we should be brief please because as you can see, there are many more Senators wishing to speak and we should conclude this today. It would not go beyond today.

Senator Suleiman Adokwe (Nasarawa South): Mr. President, I rise to support this Bill which seeks to bring principal changes to the INEC and the electoral process in this country. Some of the highlights of the Bill as espoused in the lead debate, to my mind, are agreeable to most of us in spite of some fundamental differences that we may have in the details.

I also like to state that the Bill as proposed does not contain too many controversial issues. Therefore, it is an opportunity for us to test Section 9 of the Constitution which provides for the alteration of the Constitution.

I believe that the amendment of the Constitution should be a continuous process and we have never had opportunity to test that provision at all. All efforts by the previous Senate to do so were scuttled because so many controversial issues were taken to the Table. I believe that this Bill, having provided for so many items that are not very controversial, is an opportunity for us to test for once, that provision of Section 9 of the Constitution.

I want to subscribe to the proposal in the Bill which enables INEC to have first charge on their funding as well as providing for independent candidature. I believe that the provision of independent candidature will make political parties to sit up to ensure that they keep their membership in tact and not create environment that would enable them to move out of the party and stand independently.

However, I am a little bit uncomfortable about the provision that seeks not to admit administrative panel of inquiry on individuals. I am aware that there are so many White Papers that have been spewed in the Public Service which, in one way or the other, curtailed the level of corruption. I believe that if there

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is any administrative panel of inquiry that has indicted any person and he is not satisfied with that process, he can go to court and seek for the quashing of that Administrative White Paper. Such precedences have occurred and one of the most outstanding is that of the Students of the University of Maiduguri verses University of Maiduguri where administrative enquiry was not satisfactory and the students went to court; up to the Supreme Court and it was squashed. If you think that any White Paper has indicted you and you are not satisfied, you should be able to go to court and seek for a review of such administrative inquiry; but to put a blanket ban on admission of administrative inquiry as a measure for preventing someone to stand for an election would be encouraging corruption and criminality at the lowest level. That provision should be looked at very critically.

With these few comments, I say that the Bill is very good; it is not very controversial and it is an opportunity for us to test the provision of Section 9 of the 1999 Constitution.

Senator Mamowora: Mr. President, in line with some of the submissions of our Colleagues, I have always said that there is no perfect Constitution anywhere in the world. However, I am not unaware of some of the ambiguities that exist in the Constitution that we operate. In spite of the imperfections in our Constitution, I believe very strongly that the role of practitioners in the political theater is critical to moving this country forward. I am saying that the practitioners as well need to uphold the principles and the practice of democracy itself for it to work in our situation.

We do not need to belabour the issue of independent candidature. It is a welcome development and I believe it would help greatly to sanitise the polity.

On the issue of cross-carpeting for which I thank President Yar'Adua for considering it necessary to bring it before this National Assembly, particularly, as it affects the political office holders like the President, the Vice President, and the Governors and their Deputies. As it is now, we have a provision in the Constitution that has taken care of the legislators either at the State or at the Federal level. In this dispensation we have seen a situation where one or two Governors have had cause to abandon, as it were, the platform by which they got into position, only to move to another party. It is a moral issue as I said.

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Again, we cannot allow it to go like that. Therefore, I am for the issue of prohibition of cross-carpeting while the tenure is on. We need to underline that. We are not saying that people should not cross-carpet; but as long as you are still carrying the mandate of the particular party that brought you into the office, it is only fair and proper and morally good to take it through before you decide to cross-carpet. If you want to jump ship midstream, you should vacate that position and go back to seek fresh mandate from the people. That is the point we are making and it is clear.

Next is the issue of political parties. There is no doubt that the number of political parties we have as at this point in time is unwieldy. It is not such that could really grow our democracy. I have always said that if only the example of the SDP and NRC was anything to go by, it would have settled the matter. This is because that was the situation where we had the best election in this country in terms of fairness, credibility and integrity. I am saying that we need to prune down, one way or the other, the number of political parties operating within the system.

One of the advantages again is the fact that fewer political parties, particularly two or three, will be such that would tend to reduce, if not completely eliminate, the things that divide us like North and South dichotomy, ethnic dichotomy and other primordial sentiments that we tend to express. Fewer political parties would tend to put this under check. That is why I consider that there is need for us to reduce the number that we have at present. Of course, I believe that Government has no business funding political parties particularly the ones that cannot give a reasonable participation at the National Assembly. It is important for us to look at that.

On the issue of administrative panel, you will recall that a number of elections that were rescheduled after 2007 were as a result of the unfair use of administrative panels because they became instrument of political vendetta. I remember the case against the former Vice President, Alhaji Atiku Abubakar and it was just a few days to the election that Supreme Court ruled that administrative panel in itself without a court pronouncement was not enough to disqualify candidates from contesting election. So many people were disqualified such as would-be Governors, Senators and others who were not allowed to contest election because, of course, the EFCC was used as an instrument of political vendetta and a lot of

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people were disqualified without any court pronouncement. So, it is important that administrative panel should not be allowed as instrument to disqualify people for election except where court pronouncements have been made.

Most importantly, I want to appeal to our Colleagues that because we do not have time, I suggest that as much as possible, we should prioritise issues. We cannot attempt to do a wholesale amendment, but let us look at issues that are critical to the growth of our democracy and focus on them so that within the short time left for us, we would get through with this exercise.

Senator Uche Chukwumerije (Abia North): Mr. President, I want to talk briefly on the character of the Bill not on its self-serving legalisms. This Bill is the second in the series of Bills on Electoral Reforms coming to us from the Presidency. As I went through the Bill and surveyed its main features, two Clauses struck me. The first is the Clause on first line charge; and the second is the Clause on membership renewal. Why did these Clauses strike me? How do these Clauses define the character of the Bill?

On studying these two Clauses closely, I found them self-counseling and contradictory. One Clause gives the impression of moving the nation forward positively through a measure of financial independence to INEC. The other Clause by the very next step takes us backwards to a position of total dependence of INEC on the Executive.

The general picture that appears in my mind therefore, not only in this Bill but in the preceding Bill, is a picture of a lot of motion without movement, that is why I used the word self-serving legalism, that at the end of the day, we are going to find ourselves back to square one.

When you talk about the independence of INEC, you have to take into consideration all the ramifications that make that independence solid and effective and there are two main factors. First is the financial aspect, the second is the professional integrity of the personnel. What the Bill has done is to guarantee the financial aspect of independence that is all right; and we all like that very much. But the Bill is silent about the source of appointment of Board Members. When Board Members are professionally not confident of themselves and when they have to play to the proverb that *he who pays the pipe dictates*

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the tune, it would simply mean that the Bill guarantees independence with one hand and takes it back with the other hand.

On the independence of INEC in addition to the first line charge, which I entirely agree, when it comes to the appointment of Board Members of INEC, I would humbly suggest as follows:

That the issue of appointment of members of INEC should be a collegiate responsibility given to political parties. All the parties in a given state should unanimously nominate a shortlist of three (3) members. This shortlist of three would be sent to Mr. President. It would be the prerogative of Mr. President to make a choice. The important thing is that the shortlist would be an unanimous choice of the political parties in the states. When he makes the choice and recommend to the Senate, all the confirmed members would meet and elect the Chairman of INEC. I repeat; the appointment of members of INEC should be a collegiate responsibility of the political parties. The final selection from them after confirmation by the Senate, would be left to Mr. President. All the confirmed members of INEC would thereafter meet to elect the Chairman of INEC. If we take this procedure, we are going to gain the following things -

- (a) The President is still satisfied that he does the appointment of members of INEC.
- (b) The responsibility of choosing the right candidates is now transferred back to the people via the political parties.
- (c) The Chairman of INEC would now be seen as accountable to the members of the Board and the Electorate and not to any other factor.

I am also suggesting that this formula should *mutatis mutandis* be applied to the states. After the independence of INEC is thereby reinforced, the second issue we require about the elections is to create the right environment and atmosphere of transparency and this can be done in the following ways.

We shall take a second look at Section 22 of the 1999 Constitution on Mass Media and reinforce it with the immediate passage of Freedom of Information Bill. I repeat, Freedom of Information Bill. Where you do not have this kind of transparency

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and freedom, you are creating room for the kind of darkness in which election rigging and irregularities take place. I believe that if we have this kind of transparency, what we are going to have is a situation in which any temptation towards irregularities, would be minimised.

I made up my mind to limit myself to only INEC, because of the two Bills so far given to us, it is only this Bill that principally dealt with INEC and INEC is at the central point of electoral crisis in the country. Therefore, if we get the structure and the professional integrity of INEC correct, half of the problems would be solved. All the other things dealt with in the Bill, like the independent candidature, cross-carpeting and administrative inquiry, I agree with what the majority is saying. My point is on the issue of INEC.

Why the two Clauses define the character of the Bill is simply this, if the regime is solely concerned with legalisms, finding clever ways of crossing the ts and doting the is of what exists and taking us back to square one, what shall we end up with? We are going to lose and we are going to side track all the central moral truths which have been bedeviling INEC, Electoral Reforms and elections in Nigeria since Independence.

Senator Adamu M. Bello (Kano Central): Mr. President, as one of my Colleagues had said, every document is imperfect except that of God. I absolutely agree with that. It is of paramount importance to actually amend each document particularly, our Constitution.

The issue of financial independence or first line charge for INEC is very important because it would begin to give INEC some kind of independence. What happened during the last elections was an eyesore. There were certain states where X number of voters were registered, but during elections nobody died or refused to go for the election, the entire registered voters voted. We all know that this is practically impossible. These are some of the ways to stop rigging elections.

What normally derails democracy is rigging, particularly trying by all means to take over. When people vote for a particular person they want to see the person representing them. They do not want to see a paper substituting a representative. In most cases, they do not even know the person who is imposed to represent them because they did not vote for him. The

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only way to sustain democracy is by ensuring that everything is done properly and legally.

On the issue of disqualification, we have seen that happening. It is also responsible in most cases for derailing democracy. We have seen a situation whereby Nuhu Ribadu was running all over the country with over a thousand names, disqualifying people left, right and centre and calling contractors and forcing them to agree to something they have not done. At the end of day, that cost us so much in terms of even resources because people went to courts to challenge these decisions and the courts made their decisions. There are still certain cases going on up till now. For example, is the case of Senator Albashir of Yobe which is still in court, and so much has been spent on that.

The issue of independent candidature is also very important. At least, it will stop the likes of my Colleagues and neighbours from moving to another place.

The issue of control of INEC by the Executive also applies to the states. In some of the states the ruling political party did not lose a single Council election. They won the entire seats. There has never been anywhere this kind of thing is possible in the entire world. It only happens where results are pre-decided. This happened with all the political parties in the country. You cannot say it is attributable to only one particular political party. But the truth is that this is dangerous to democracy and we are all here to uphold democratic system.

The issue of cross-carpeting as I said earlier on, maybe, independent candidature would reduce that. Ordinarily, I do not think it will be possible to stop that. Whenever you control government in your state, or at the federal level, you try as much as possible to take as many people as possible to your own side and reduce the strength of the opposition. Since we have realised this, with the support of this Bill, I am sure we will be able in the next election, to take control of the entire system in the country that is the opposition itself. We would not allow the PDP to be snatching people from us anymore.

The President: Sorry, I did not get that beat, did you support decamping to another political party?

Adamu Mohammed Bello: I do not support it.

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Senator Bode Olajumoke (Ondo North): Mr. President, before I start on the key issues, I believe that there is a need for us to talk of other amendments to the Nigerian before we talk of amendment of the Constitution. Well, it is categorised as re-branding in another term. I think it is important we do amendment to the Nigerian, his values, attitudes, life style and orientation. We need to re-brand the individual Nigerian before we can talk of amending the Constitution. The values in our homes, educational institutions, and political parties have deteriorated over the decades, that to my mind, the emphasis should be amending our values, attitudes and lifestyles.

Does it not surprise or worry you that you have a construction site, and you have Nigerian and Ghanaian masons, and the Ghanaian masons comparatively perform better than the Nigerian masons and you ask yourself what is the rational? Honestly, I believe there is a need to check ourselves first before we start amending the Constitution. In my school days there was this Latin adage that says: *mens sana in corpore sano* meaning a sound mind in a sound body. Except we have in our homes and institutions properly re-branded Nigerians, then no matter how you amend the Constitution, we cannot make progress.

I heard a Colleague stating earlier on that, there is nothing wrong with the Nigerian Constitution; I want to bet that if we operate this Constitution in another climate it will be manageable in spite of the ambiguities in the Constitution. So, foremost we must re-brand ourselves, change our attitude to life, our lifestyles and that is imperative.

I have said that civic subject taught in the primary school in the time past should be reintroduced. The subject civic teaches how to show courtesy for good turns; how to apologise for wrong deeds and how to use the word, *I am sorry*. We never say that in this country any more.

Having said that, let me look at the major issues that are being canvassed in this Bill. The concept of independent candidacy, is very laudable. Presently, our political parties lack internal democracy. In fact, there is none of the political parties, about fifty in number, that can boast and claim that there is a true practice of democracy in it. Primaries are dominated by despots and godfathers. People are imposed at will, and so, it is important that individuals are allowed to be able to express themselves once they find their

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concept of what should be a political party is not being properly practiced in the political party of their first choice.

After all, for you to be an independent candidate, it does not come cheap. You have to go to every ward and collect signatures, 10 per ward, and at least establish yourself. So, it does not come cheap. You do not just say I want to be an independent candidate, you must establish your seriousness, and of course, there is mandatory deposit of payment that you have to meet, in addition to the criteria to be a candidate itself. Therefore, the independent candidate must have to pass through a process. So, I absolutely support that. Having independent candidate will imply that the era of despotism and godfatherism would be minimised.

I support the concept of INEC being placed on first line charge. It will grant autonomy to INEC. This should be extended to the States INEC. I absolutely agree with some of my Colleagues here, who have stated that INEC should be centralized. The concept of SIEC should be expunged from our Constitution because of the wanton abuse by the various State Governments.

Let me touch on the issue of cross-carpeting. This concept should be retained in the Constitution. I was quite excited to see my distinguished brother, Senator Satty Gogwim coming over here, because he is a man with whom I share so many ideals.

If a Politician, a Senator or a Member of the House of Representatives finds out that the manifesto on which he supported a political party are being deviated from, he should be free to move. Why frustrate him and ask him to remain in that political party when the basic fundamentals on which he agreed to be part of that political party have been eroded?

My distinguished Colleague, Senator Heineken Lokpobiri made reference to the recent cross-carpeting in the American Senate. All that the gentleman lost was seniority at the Committee level. I should be free to move once I find out that my original political party has deviated from the original principles that I agreed to be part of that party. If its manifesto is not being pursued seriously, it would be very frustrating for me to remain in that political party. Also it would be undemocratic to restrain such an individual from cross-carpeting.

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Of course, I agree that there is the element of opportunism in this environment but then we are practicing democracy, and there is no reason why a true democrat should be frustrated and asked to remain in a political party that has deviated from the basic principles.

I disagree on the issue of corrupt individuals who have been indicted by Administrative Panels not to be disqualified as candidates for an election. Why should a corrupt individual not be disqualified? The proviso we should emphasize on is that the law court is there for that individual to go and challenge to vacate that indictment. He should be able to go to the law court and challenge the indictment by the Administrative Panel. I believe that any corrupt politician should not be allowed to contest election. If he is quite sure of himself let him go to court and let the court vacate that indictment.

Finally, I want to re-emphasize where I started that it is good to amend our Constitution but the amendment of the Nigerian is the primary thing. Amending our life style, our attitude and our orientation is imperative and except we do that we would have a very sad situation whereby in spite of this constitutional amendment, nothing basically would change. I thank you for the audience.

Senator Joseph Iorshagheer Akaagerger (Benue North-East): Mr. President, in lending my voice to this Bill that seeks to introduce radical changes to our political system, I would like to start with Section 228 of the Constitution. The reason being that I have looked at the lead debate, looked at the Sections that have been amended and this particular one which is very key has not been amended. If I may read, Section 228 of the Constitution which says:

(228) The National Assembly may by law provide

(c) For an annual grant to the Independent National Electoral Commission for disbursement to political parties on a fair and equitable basis to assist them in the discharge of their functions.

I have started this discourse by seeking your permission to read Section 228(c) which grants powers to the National Assembly to make disbursement to INEC for further disbursement to political parties, and here we find a situation where independent candidature has been introduced. The

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lead debate does not reflected Section 228(c) which in effect, means that only political parties would be beneficiaries to the moneys appropriated by the National Assembly for that purpose. I believe that looking at the economic meltdown and the position of the independent candidate; I am tempted to say that it would be necessary for them to also benefit from such disbursement. But, I have a constraint here. My constraint is that knowing ourselves, it may introduce a negative interplay of forces, where everybody conceivable would become an independent candidate to get money in the process. Consequently, I am of the opinion that there must be a provision for independent candidates to deposit sufficient sum of money, if not equivalent to political parties, to some extent, near thereto; so as to discourage people who are meddlesome and may not have much to offer.

I must also reflect the other side that providing only for the political parties to the exclusion of independent candidates, appears discriminatory as was pointed out this morning.

As for the independent candidates, while this is very innovative, it has failed to disclose or provide for other issues that are very critical.

1. Supposing an independent candidate now chooses to also cross-carpet or go into a political party whose ideologies he finds very useful; such situation has not been provided for. There would be need for a provision in that respect.
2. As for cross-carpeting, which I call political locomotion, everybody is free to move to where he wants to at any time. The reasons given in the Constitution are already sufficient. If they exist, people should move to where they want to, but let us also look at what benefits we have got in the process.

Finally, is the issue of fictitious nomination. The provision is if an independent candidate is being presented on political party platform will also receive nomination from registered voters, but the law does not provide for those who may decide to nominate more than one person. Perhaps, an independent candidate and also a candidate on a party platform. I suggest that there should be punishment or a penalty created for those who decide to confuse politics in that regard.

Senator John Nanzip Shagaya (Plateau South): Mr. President, I rise to lend my voice of support to the

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Bill being discussed. The said Bill is coming at a very right time especially, when you read daily newspapers or you listen to radio commentaries where Nigerians are asking government to implement the Report of Justice Uwais Committee. The mood of the nation, therefore, is right and it is supportive of the discussions that are going on in this very hallowed Chamber.

The Bill being discussed is taking a look at the complete terms of reference that was given to the Uwais Committee and as published in our National Assembly Journal of 8th May, No. 15. I support the contents and the recommendations being proposed here and, of course, the tampering with the Constitution of the Federal Republic of Nigeria.

Inasmuch as I endorse most of the recommendations that are being discussed, I have one worry and that worry has to do with the supremacy of the Party, supremacy in the sense that experiences of the last few years have shown that those in bigger or better positions be they in political party headquarters, Executive Governors and all the men of timber and caliber in our political system will always want to have their ways.

As we discuss the electoral punishment, we have not taken care of events leading to elections itself and so I believe that should be a consideration that should be looked at on the Floor of the Senate. That activities leading to elections that would tend to undermine elections should also constitute electoral offences.

Secondly, I am worried about the independent candidacy. That is discussed in the Uwais Report on Page 249, 811.4. It seems not to leave us with any correct landing as nothing has been discussed in the event of too many candidates coming up from one Constituency and seeking for one office. The electoral law is discussing only the publication on ballot papers of logos not of individuals. So that aspect of the INEC Laws may also have to be amended to accommodate those many individuals that may have to spring up as independent candidates.

The difficulty also there is that since independent candidates do not belong to a political party, they may not have ways and means to go through primaries for one of them to emerge. That poses some difficulties and I plead that my Colleagues in discussing that particular portion of the independent candidacy should examine it more seriously.

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On the appointment of the Chairman of INEC and the Chairmen of the other subsidiary Commissions that may spring up if this Bill is approved, I believe that that should be the absolute responsibility of Mr. President of the Federal Republic of Nigeria and such recommendations should be ratified by the National Assembly bearing in mind that all Members of the National Assembly are representing, in the case of the Senate, 109 Constituencies in our federation and in the case of the House of Representatives, the over 360 Constituencies.

I support this Bill and I commend it for the support of my Colleagues.

Senator Mujitaba Mallam Mohammed (Gombe Central): I want to thank Mr. President for given me the opportunity to contribute to this very important debate that has to do with the creation of an enabling environment for a sustainable democratic development.

First of all, I want to express my support to the aspect of the Bill that seeks to provide the Independent National Electoral Commission with the financial independence by funding INEC from the first line charge on the Consolidated Revenue Fund. This will go a long way in ensuring its independence and it will insulate the body from interference from certain quarters. Along this line, I also support the effort of Mr. President through this very important Bill, to depoliticise the appointment of INEC Resident Electoral Commissioners because it will also go a long way in making the electoral management body to be non-partisan.

However, a lot has been said on the desirability or otherwise of Mr. President appointing the INEC Chairman. The final authority to appoint INEC Chairman should rest with Mr. President. This is because it is not who appoints the INEC Chairman that matters but rather the entire democratic culture of Nigerians. How do we imbibe proper democratic culture in line with what is being obtained in other liberal democracies in the world?

I took time and looked at the electoral laws of some countries in Africa particularly Ghana and South Africa who have no doubt, excelled in the conduct of elections and I stumbled on a section particularly, in South Africa Act 51 of 1996 and the Electoral Commission (Amendment) Act 14 of 2004

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vest the President of that country with the final responsibility of appointing their electoral management body Chairman. So, also in Ghana Chapter 2, Section 6(1) of the Electoral Act of 1993 and the Amendment of 2004 Article 46, Section 2 also vest on the President of that country the final authority to appoint the electoral body management Chairman. I am not saying that we should copy these counties *in toto* but I am rather making a point that appointment of INEC Chairman by the President of a particular country will not damage the credibility of the election conducted by those bodies as it was demonstrated in Ghana and South Africa.

On the issue of cross-carpeting, I do not support the idea that we should prohibit it. This is because we are practising liberal democracy and Western political thinkers have de-emphasised ethical consideration in partisan politics. It meltdown to the issue of self-interest. Moreso, to borrow from my senior Colleague, distinguished Senator Uche Chukwumerije when he was delivering a lecture at Manbaya House in Kano on the need for political parties to imbibe ideology. Nigerian political parties unfortunately, lack clearly defined ideology. So, in a situation whereby cross over as a result of intimidation by party leaders, in fact, such decamping should be encouraged. You cannot continue to remain in a particular political party where you are being maltreated and denied your rights. So, I vehemently oppose the idea of prohibiting cross-carpeting.

On the issue of independent candidate, if we look at the Uwais Report on one hand it recommended for drastic reduction of our existing political parties; but on the other hand, it is recommending the adoption of independent candidacy. We cannot balance these two arguments. While you are trying to reduce the number of political parties, you are again calling for independent candidacy. If we look at the history of independent candidacy in the country, in the First Republic from 1960 to 1966, independent candidates that won elections like Ade Afolabi, Richard Akinjide and Isa Ikwo, they all won in their respective Constituencies. In Nigeria the issue of independent candidacy is just an elite's agenda to appeal to the ethnic sentiment of the candidate's immediate Constituency. While in America independent candidacy is issue oriented and such candidate never won election in their immediate Constituencies.

We have to be very careful about this Clause, otherwise we might end up having multitude of independent candidates in a country with over 30

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ethnic groups. So, I do not support this particular Clause in the Bill.

To round up, I want to say that whatever reform we put in place, we must consider three things otherwise the reform will not work. First and foremost, we must ensure constitutionalism and rule of law in our democratic system. Secondly, we must ensure good governance. Of course, we must imbibe proper democratic culture. It is my appeal that we should give this important Bill an accelerated hearing and a very good consideration.

Finally, I want to give a food for thought by quoting an unnamed Western diplomat here in Abuja. The comment appeared in *Great Times* of 31st March, 2009. I quote:

The political season begins at the end of this year; if there is going to be any reform for 2011 it has to start now. To be realistic we may have to wait until 2015 election.

The second quotation says: *It will be very difficult to organise an election and implement electoral reform at the same time. It creates legal limbos and all sorts of uncertainties.*

I conclude my submission with this food for thought for all of us.

The President: Distinguished Colleagues, our brothers and sister in ANPP are going to see their party headquarter officials this afternoon. They want to see how many more people would leave the boat before it sinks. I want to give them time to speak.

Senator Mohammed A. Mohammed (Bauchi Central): Mr. President, I must commend this Bill coming from the President of the Federal Republic of Nigeria based on the Justice Uwais Report. Really, before we can start amending the Constitution, we have to make up our minds if we are really interested in doing the right things at the right time at the right moment? This is because without the genuine interest in doing the right things, no matter the number of laws we have in the statute books, it will be a waste of time. We have to be determined. If our neighbours such as Ghana and South Africa have been quoted to have done the right things in their own country; we Nigerians should start to think in that direction, too.

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The lead debate by the Senate Leader is quite clear on the independent candidate. When you are talking of freedom of association, if people do not see any political party that suit their own conscience, we should allow them to stand election on their own. I know there are number of huddles for the independent candidates to cross, but we should make provision for it in the Constitution. It is up to the individual to see if he is able to attain the stringent conditions that will be laid down for independent candidate. As we have seen, there could be quite a number of injustices within the political parties, especially during the primaries where candidates that are popular were not allowed to contest. I support wholeheartedly the provision of independent candidature, but we should detail the conditions properly.

The issue of carpet-crossing, to say the least, is immoral. This is because if people in your Constituency decide to vote for you on the platform of a political party and midstream, you decide to leave that party, the most honourable thing to do would be to vacate the seat and let there be an election so that if you are still popular, they would elect you. Let the people again decide. Those who elected you in the first place are still there, if they still like your face, they will elect you. That is what we are going to do somewhere in my state.

The word *INEC* will send fear to many people. The mere mention of *INEC* will make people to start running. For goodness sake, we changed from NEC (National Electoral Commission) then we prefixed it with I to make it independent, which is only in name. We should find a better name when we amend this Constitution. Let us not use *INEC* because to many people *INEC* is not a nice word. Let us either change to National Election Authority or some other interesting name. I agree that the funding of the electoral body should be independent. I quite agree to that provision.

On the funding of political parties, the Electoral Law is clear that the political parties will produce their books and raise donations but we have seen in this country where political parties coalesce quoted companies to raise money for political purposes. This is immoral and unconstitutional. We should make a stringent provision for political party contribution.

In the United States, President Obama did not ask Mobil or Shell Petroleum Company to give him money. It is the \$2, \$5 or \$20 contributions from the ordinary citizens that gave him the strength to fight

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his election. We should make stringent regulation on political party funding and raising of funds.

With these few remarks, I support the Bill. I pray that there will be enough time for it to go through all the processes for amending the Constitution.

Senator Sahabi Ya'u (Zamfara North): Mr. President, I want to commend the Executive for sending this Bill for consideration. I equally associate myself with my distinguished Colleagues for supporting this Bill.

Much has been said about the various Sections slated for consideration, however, from personal experience, I will speak on two of the Sections. One of them has to do with the use of the White Paper to ban potential candidates. I was a Civil Servant with an unblemished career of over 30 years. There was never a time I was issued with a query let alone facing an Administrative Panel of Inquiry or a Judiciary Panel, but surprisingly I found my name printed in the papers amongst people indicted for one thing or the other and consequently banned from contesting election. I am yet to know the grounds of my offence and the reason for that action.

The President: Is it the newspaper from Abia State that published your name?

Senator Ya'u: It was the EFCC. A provision of this nature being used to intimidate, harass and embarrass people should not be allowed to remain as part of our Constitution.

The other issue I want to talk about is the appointment of Board Members of INEC. I wholeheartedly agree with what Senator Uche Chukwumerije has said but with a little deviation. The deviation is that we should not politicise the appointment of the Board Members. By the time we involve political parties in choosing these members they would think of nothing but the political parties that brought them into the system. Therefore, I would rather suggest that we allow the due process as suggested by the Uwais Commission to be adopted in appointing the Board Members. He suggested that a Judicial Commission should appoint Board Members of INEC. For us to think of inviting political parties to bring candidates that would likely take positions in the Board of INEC would not be for the good of our democracy.

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With these few remarks, I would want to associate myself with this Bill and commend my distinguished Colleagues to please, support the Bill in its entirety.

Senator Patricia Naomi Akwashiki (Nasarawa North): Your Excellency, I want to commend Mr. President, Commander-in-Chief for this all important Bill. If we want to sustain this democracy we must find a way of making it stronger by looking at the provisions of our Laws that are not working for us. The registration and regulation of political parties is so important because we have seen proliferation of parties and we have seen that they are really not effective. INEC has not properly exercised its absolute powers because after an election INEC is supposed to deregister parties that do not win any seat from the local council level up to the national level. What we discovered is that they have not really used their powers to deregister parties. Hence, we still have these 50 parties that have not achieved much. Maybe, we have not more than four parties that are really strong in this country. If we make those stronger, it would be good for our democracy.

I am totally against funding of political parties because some people just group themselves, get the money and there is nothing to show for it, not even a single council seat. Why are we funding political parties at this stage? Political parties should be funded by the members themselves. Government should have nothing to do with political parties' funding.

I also totally agree that we should give INEC independence. We can make INEC independent by making their funds available through first line charge from the Federation Account. I agree totally with it and that should be accompanied by the appointment of the Chairman of the INEC by another body. It should not be the prerogative of Mr. President. You can make INEC very powerful. If we allow the Judiciary to pick somebody on merit; a person who has no party affiliation, it would be better for us in the long run.

I totally agree to the submissions of most of our Colleagues on the issue of States INEC. State INEC should not exist. When you closely study the activities of States INEC then you will realise that the National INEC is really working. A little bit of what we saw during the local government elections would not solidify our democracy; instead it is pushing us back. So, I agree that the INEC should organise local

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government elections, maybe, together with the States INEC.

Talking about cross-carpeting, I would say, it is a moral issue. I would like our Colleagues to understand that sometimes what exists in a State or in a Constituency might be different from what you experience in your State. So, it is difficult to criticise somebody for cross-carpeting until you know the really facts. A whole party structure in your State may decide they want to cross over, what would you do? If the whole machinery of a party in a State wants to cross over, would you tell them not to do so? It is a moral issue but we should place more emphasis on Governors and President. This is because once a Governor crosses he is crossing and turning the whole State into crisis. It is worse than when a legislator crosses over, yet the Constitution is silent about the cross-carpeting of Governors. God forbid, if a President cross-carpet, you can image the crisis it would generate in the country. We should place more emphasis on the cross-carpeting of President and Governors.

People have talked on the use of Administrative Panels of Inquiry to disqualify candidates, the decision of any Panel of Inquiry can be challenged in the court of law. If somebody uses an Administrative Panel of Inquiry to stop you from contesting for an election, you have the right to challenge it in the court of law. It is morally wrong and it was used in the last election, we should not allow it to continue.

In conclusion, I would like to say that at this point in our democracy, these amendments would make our democracy stronger. We should also, therefore, support the Bill.

Senator Bala Abdulkadir Mohamed (Bauchi South): Mr. President, this debate has been well exhausted, but suffice it to say, whatever would be said has been said but I want to lay emphasis on about two or three issues.

Firstly, is the issue of the composition of INEC and the general controversy and the expectations of Nigerians and how they perceived the whole thing and the issue of the Presidency abdicating its executive responsibility as recommended by the Uwais Panel.

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As I said earlier in one of the foray, this is not an abdication of executive functions. The President is the omnibus power from where all organs of government draw authority. So, it would not amount to abdication of responsibility, if an interested person which is the Presidency or the National Assembly delegates that responsibility to a body who is drawing its powers from the Presidency to make recommendations. It would be neater and more transparent for this to be done and it would not preclude the Presidency from giving an assent after the passage of the recommendation from the Senate.

On the State Electoral Commissions, we do not have to over bug it. As we have said, this body is an appendix of INEC. INEC is represented in every nook and cranny of this country, in the local governments, wards and state capitals. It would amount to duplication and giving the State Governments, irrespective of the party; unnecessary latitude and leverage to rig election in their own favour. From each side you look at it, it is wasteful and Nigerians have been complaining. We should live up to their expectations and ensure we merge them with the general body that is conducting elections so that they would have responsibilities and duties to perform throughout the period.

On the tenure, one of my distinguished Senators said that their tenure has to be looked at from various angles. Are we going to leave their tenure for four years, renewable for two years for the Executive or are we going to stagger their tenure within a period of five years? How are we going to make elections transparent and make INEC to tailor all its energy towards a particular election, either of the Executive or the Legislature at a particular time? In which case we must provide a period of report for INEC to consolidate and conduct election for one of the arms of government so that we can provide it with the necessary independence, energy and resources. By so doing, we would either take a five years non-renewable or five years renewable? But they would stagger it by giving it two years in advance, either for the Executive or the Legislature, so that there would be a period where, for example, the Senate or the National Assembly, would be helping INEC to supervise elections. They would not be interested parties. It is happening in America. We should not allow such to take a natural course through the Judiciary by staggering elections for us.

I am not saying that the legislators should take two years first, it depends on how our Committee on

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Constitution Review views it. It is either the Executive or this side of the divide.

One of the issues we have always canvass is the role of traditional rulers in elections in Nigeria cannot be de-emphasised. This is because we have always been known as politicians, we have met and consulted them because they are the opinion leaders. They are the most credible institutions in this country. But today we have left them out. We have left them to play merely advisory roles while giving them resources and time only on courtesy basis.

It is time for us to recognise the institution that has been there from time immemorial and providing duties and responsibilities on areas of choice, land reform and even on elections. It is better and neater for us to recognise the traditional institutions and make them part and parcel of INEC so that the credibility of the traditional institutions would give some solitary effect on INEC.

The cross-carpeting of politicians, is a particular situation. It is based on fundamental human right. I believe each Constituency as explained by my distinguished Colleague, Senator Patricia Akwashiki, has its own peculiarities. Of course, we as politicians should excuse selfishness, because if we abrogate the mandate given to us by the people on a particular platform irrespective of the manifesto or the philosophy, the people are bound to be our judge. We must be careful not to be playing politics in a manner of do or die affair; trying to safeguard only our seats not recognising the aspirations of the people who brought us.

With these few remarks, I support this Bill and hope that you would use your good offices to ensure that this is taking to a logical conclusion.

Senator Kabiru Ibrahim Gaya (Kano South):
Mr. President, I have gone through the Justice Uwais Report and would like to commend the Committee headed by Justice Uwais for a job well done. They received 1,466 memoranda and over 1,000 presentations across the country which shows that Justice Uwais and his team went round the federation and received the views of Nigerians. That is why at our last sitting when we were discussing the PPR Commission, we requested for the Justice Uwais' Report.

On pages 63, 64 and 65 of the Report it is clearly stated the appointment of INEC Commissioners and

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the Chairman. Many people gave it a different interpretation that the Judiciary would be usurping the powers of the Executive. That is not true. It is very clear in the Report. It says that for clarity, for accountability, for transparency the Judicial Council would advertise the positions and anybody interested and who acquires those qualifications should apply. It also states that the Judicial Council is only going to scrutinise the applicants and make recommendation for three names for each of the positions, the Chairman and members to the Council of State. Who are the Council of State? Mr. President is always the Chairman of the Council of State. This is a transparent thing and this is what we should support. It also states that the Council of State will deliberate on the three names, decide on one name and submit to the Senate for confirmation. This is the most transparent way and for us as Senators and Members of high Chamber like this, we should support the Justice Uwais' recommendation instead of allowing just Mr. President to nominate. We will be going back to square one if we follow any other system.

So, I sincerely agree with the Justice Uwais' Report and recommendation. Their recommendation is based on the tour of going round the states and receiving submissions. That is my view on the issue of appointment of any member of a Commission that has to do with electoral reform.

I would also like to discuss the issue of independent candidature. We should be free to allow independent candidates. Distinguished Senator Osakwe is a product of independent candidature. I would say my reason. (*Interruptions*)

The President: Distinguished Senator Kabiru Gaya, Senator Osakwe is from Accord Party and I had an opportunity to meet with the Accord National Chairman and all their elected Members.

Senator Kabiru Gaya: Senator Osakwe was denied a ticket by another party and if there was an opportunity for independent candidate, he would have resorted to that but because that is not provided for in the Constitution. So, I am saying that it is good to allow independent candidate in such a way that anybody interested could be and we would have politicians that are more credible in the system.

Thirdly, on the issue of cross-carpeting, many of my Colleagues have spoken that, at least, it is immoral for anybody to ride on the back of a party and the party supported him to be elected and for him

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to dump that party midstream is very unfair. Anybody that is leaving his party should surrender that position and if he is popular on his own, he can run for re-election under any other platform again. We would amend the Constitution to give sanity to democracy in Nigeria.

Fourthly, is on the issue of duration of petitions. I am suggesting that we are going to review the Constitution that 60 days should be amended to read 120 days after the election so that tribunal cases could be completed before any party that wins election is sworn into office. I could remember in 2003, there were over 574 petitions while in 2007, there were over 1,475 petitions, only 96 succeeded. So, for us to have speedy trials, we should reduce the number of Judges in a tribunal from five to three as recommended by the Justice Uwais' Commission.

With these few remarks, I would suggest that we accept the Bill presented by Mr. President but in relation with the Justice Uwais' Report. We should combine the two and give Nigerians something good for a better democratic Nigeria.

The President: I thought you are also going to appreciate the fact that we have allowed all the ANPP brothers to express their views before you go to your caucus meeting.

Senator Bassey Ewa-Henshaw (Cross River South): Mr. President, let me predicate my comments on this introduction that the whole point of this exercise is to ensure that we create a transparent and credible electoral process and also deepen our democratic culture as well as strengthening its institutions. Bearing that in mind, I would like to say that the people that I represent in Calabar and Cross River State would like to see a number of areas in the Constitution beyond those listed by the lead debate of the Senate Leader.

One of the most important Sections is Section 12 on the implementation of treaties. It has been argued in the process of surrendering Bakassi that some laws outside Nigeria are superior to the Nigerian Constitution. My people believe that that should not be so. The Nigerian Constitution must be the most important and the most superior document that this country has. It is the document that should determine the sovereignty of our nation, therefore, no other law internally or externally should have the power to be equated with the Nigerian Constitution. In that regard, we must review Section 12 to ensure that never again

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must an individual or a group of individuals, with impunity, dash away Nigeria's territory against the people's wish.

The other issue is the Immunity Clause. I believe that the blanket coverage that is giving to the Executive should be removed and when people indulge in criminal act when they are in office, they should be prosecuted. They may be protected like the rest of us against civil proceedings but they should have no protection against criminal behaviour.

I support independent candidacy but I believe that people should be allowed on point of principle to move from one party to the other or to even become independent or change their status as independent members and belong to a political party of their choice. It is a matter of conviction and principle.

We are aware of many instances where people in the backbenches of the British Parliament broke away from their parties to vote against certain positions that their parties hold. They were not penalised because of that. It is a matter of conviction, therefore, people should be able to change when they feel convinced to do so.

I support the first line charge for INEC. It should also be extended to the National Assembly. The National Assembly should have first line charge. The State Houses of Assembly within their own States should also have first line charge in their budgets to try and build in independence for them.

On the issue of the process of nominating members of INEC, I believe there is some kind of misunderstanding. I do not believe that the intension is to deprive Mr. President of the Federal Republic from appointing the members of INEC. I believe what is being argued is that the Judicial Council should participate in the process of identifying possible candidates from which the President can appoint. The appointment still resides with Mr. President but the Judicial Council can participate to the extent of identifying three people or whatever number and submitting those to Mr. President who will then appoint and forward the names to the Senate for confirmation.

Let me also say that one way I believe we can use to eliminate proliferation of parties is to stop funding parties. Indeed, I believe that if people are serious enough to set up political parties, they should be asked to make deposits with INEC to show that they

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are serious, perhaps, a minimum of N25 million. So, that you know what you are doing and you are serious about what you want to do before you begin the process of setting up a political party.

Let me also say that those states that have been granted the derivation of 13 *per cent* of revenue derived from the resources in their states, have paid lip service to this for so long. That section says a minimum of 13 *per cent*. But I believe that it is clear that certain powers do not wish to allow sufficient resources for the development of these areas and for the tackling of environmental problems in these areas. This figure should be increased to a minimum of 25 *per cent*.

I want to conclude by saying that I support the positions that have been outlined in the lead debate of the Senate Leader. But in addition to those, these areas that have been outlined by me be considered to be extremely important and should also be examined during the process of the entire review.

Senator Umar Abubakar Argungu (Kebbi North): Mr. President, the Bill for an Act to amend the provisions of the 1999 Constitution of the Federal Republic of Nigeria is highly expedient particularly in view of the perceived task ahead of the Joint Committee on Constitution Review. Not only that, the present Constitution that was hurriedly put in place by transitional programme that ushered Nigeria into the Fourth Republic, is fraught with many inadequacies in terms of meeting the yearnings and aspirations of our people.

One of the items in the Bill is about the independence of INEC. For INEC to be truly independent it is supposed to be placed on first line charge. However, that will not be very meaningful until the States Electoral Commission are also placed on first line charge if it is possible Constitutionally. The section of the Constitution that provides for the States to create States Electoral Commission needs to be repealed.

The issue of independent candidature is a very good idea because it will give room to streamline the number of political parties in the country. What we have now needs to be regulated.

On the issue of first line charge, there is need for all the Legislative Houses at both Federal and States, to be on first line charge. There is also the need for traditional institutions to have a constitutional role.

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Our agricultural policy needs to be reviewed also.

There is an area that needs to be looked into and that is the area of high rate unemployment in the country. The greater percentage of Nigerian population today is dominated by the youths and a number of our youths are daily roaming the streets looking for jobs that are nowhere to be found. The youths are facing challenges of poverty, hunger and frustration. Something needs to be done. It can be done through amending the provision on social security. What we have now in the Constitution is very ambiguous. It needs to be looked into so as to take care of our unemployed youths.

Senator Jibril Aminu (Adamawa Central): Mr. President, I like to congratulate the Senate for the debate. I have learned quite a lot and I will not repeat what people have said, but I will like to comment on what I think have not been mentioned.

First of all, I will like to congratulate Justice Uwais for the hard work they had done in the preparation of their Report. I am worried that they were unduly influenced by populist demands of the Opposition and it showed quite a lot. But really, people should do things for the country and not for populist demand whereby we die and leave the problem to posterity when the problems surfaced.

I also hope that the Committee reviewing the Constitution will take due note that this Senate has debated these provisions and that they will accept them. It is not something they will bring back again for another debate depending on the position we take.

I will like to appeal to Mr. President to rule on the matter of Members speaking on any aspect of the Constitution. We are here to talk about amending the Constitution in areas of electoral reforms. It is not fair on Senators who stuck to the rule for some other Senators to come and speak on things, which are outside.

On INEC, let me say that we have had different types of Electoral Commissions with different names, such as FEDECO, NEC, NECON. We have had Chairmen appointed by the President; it just depends on the circumstances; the basic problem is Nigerians do not want to lose. If they lose, they find a scapegoat. It happened in Iran, it is all over the world. If people lose, they look for a scapegoat. The President elected by all the people is surely superior

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to National Judicial Council that is supposed to deal with the behaviour of lawyers and judges. When people say court of law, you think it is always because they want justice, it is also because they want more power. I do not support this. The President of Nigeria should appoint the Chairman and members of the Electoral Commission. I know that this country will not elect somebody who will not be sensible to elect people.

We have had Late Justice Akpata, Chief Michael Ani and Nwosu who disagreed with the Military President. You cannot help people who can do it. The manner of appointment is less important than the sort of person you have.

So long as the State Governments and the State Houses of Assembly have control over local governments, you will never have free and fair elections in the local governments. Take my State, for instance, where the Constituency of the member of the House of Assembly and that of the Chairman of a local government is identical but the House of Assembly insist that they have power over the Chairmen and they cut down their term from the usual two and half or three years to one year. Or when the State government maintains a joint account which only the Governor has access to in this country. All these things are wrong. We cannot get a free and fair election as long as we do not amend some of these glaring irregularities.

States Independent Electoral Commission, should go but I can tell you the state governments and the State Houses of Assembly will not allow them to go, so we may just be wasting our time because they will not allow that.

One thing that is wrong with INEC is that they tolerate lack of internal democracy in the parties. I am sure INEC has the power to force parties to ensure that their primaries are free and fair. They have the power but they have not used it and that is why we should talk to them because I believe internal democracy is very important.

I completely support the first line charge but what is good for the goose is good for the gander. If INEC should have a first line charge, the National Assembly should also have it.

We ought to also look at the provision of re-call. Re-call is used to control Legislatures. Really, it has become an instrument in the hands of the state

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governments to harass and intimidate the Legislature. I suffered that, therefore, I know what I am talking about. When we come to do it, we should ensure that Members of the National Assembly do their job and we get free and fair election; we should remove the re-call clause and find some other ways of dealing with errant Members.

I also, of course, support the two terms for the Members of the Commission.

On carpet-crossing, we have to address the real issue. All the things I have been hearing about morality is not the problem. The problem is Section 68, which gives them a loophole. Even if they go to court, they will win, otherwise they would not have done it. No Governor will be so crazy as to go out and declare he has moved or Senator Gogwim would not move if he knows that if he goes to a court of law he will lose. If he knows that if Senator Mamowora takes him to court they will ask him to leave the Senate, he will not do it. But he has Section 68, which talks about a division in the party and they were doing it even in the Second Republic. So, it is a way of avoiding the Constitutional provision. So, what we need to do is to spell out what constitutes a faction. This has not been done. We have to spell out what constitutes a faction in a party, what makes you feel that PDP or AC is fractioned into two. These should be spelt out in the Constitution and this is what we need to do if we want to control carpet-crossing. All these moral argument is not going to change anything.

On administrative panel, how else can you deal with an erring person as if every person has to go to Judicial Inquiry or a court of law? Normally, a State or Federal Executive Council expects a level of probity and sense of responsibility whereby if they find somebody guilty, he is guilty. Unfortunately, I am the first to admit it does not happen in our country and it is very sad. We cannot really use the wonderful facility that administrative panel will provide us for cleansing the system. Therefore, I am on the side of those people who think that we cannot rely on them.

On independent candidate, you cannot say they should control parties and allow for independent candidates. The independent candidate is a one-man party. He cannot contest unless he has got everything that a party has to win without calling it a party. If you allow an independent candidate, you should allow as many parties as possible. Do not worry, the political market forces will deal with parties. As you see me now, I am a godfather of a party to which I do

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not belong. Whatever they want to do, they come to ask me. It is not my party and they know that I do not belong to them, but that does not matter.

So, do not worry about the number of parties. I supported the two party system at one time, but it restricts choice and brings about violence. If you allow people to belong to any party they want, the market forces will deal with them. So, I support the independent candidate and I support that we get as many parties as possible.

The only thing you should realise about independent candidate is, it increases run-off elections. It reduces the chance of an outright win. The problem is that it is costly and it takes time but it is all right. It is one of the things we have to pay as we gradually develop; as people will say, water will find its own level.

I have to object with regard to election about judicial legislation. I congratulate those who have had their terms extended. But this means that a Judge stands along and change the Constitution of the country from four years to five years. One man was told; you have won and you have to wait for four years before you become Governor until another man finishes. That is frivolous. I cannot imagine how we can tolerate this. Therefore, this Senate should condemn judicial legislation and allow the provisions of the Constitution as they are and the spirit and the letter must be maintained. That is what we want.

I look round and Senator Chris Anyanwu is not here. Age gives you experience and experience is a performance enhancing attribute. It also helps you to know how to mobilise those resources, which will enhance performance. So, nobody should complain about age. I wish the young people well if they want to take over from us but they should not be in a hurry to send us away. Age should not be regarded as a factor because we can show what we can do at anytime.

Finally, I was very glad when a distinguished Senator mentioned here that basically, all these are not our problems. Our problem is that we must stay by democratic institute in this country and learn to obey and to live with rules which we do not like and to live with outcomes that we do not like and to stop blaming other people for our failures. One of the most important things in this institute of democracy and this Senate should do everything to encourage political education and for our people to learn to

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accept situations which are not very palatable to them. That is what is needed, otherwise our children and their children will be amending the Constitution without finding the answer.

Senator Victor Ndoma-Egba (Cross River Central): Mr. President, let me start by saying that, at least, one is now reassured that we are going to the kernel of our electoral reforms. You will recall that not too long ago, this Senate had cause to debate a Bill from the Executive on the Registration of Political Parties. That Bill was negated because it was thought and rightfully so by this Senate that that did not go to the heart of what we needed to do to reform our electoral process. I believe that now we are discussing the real issues as they concern the reform of our electoral process.

Let me make an observation. In our 95 years as a country, since the amalgamation in 1914, we have had, at least, seven effective Constitutions; two were written but they did not take effect. The implication of this is that the average life of each Constitution in this country has only been 13 years and 13 years is not long enough for us to see and appreciate the proper workings and functioning of a Constitution.

We have older democracies; America to the best of my knowledge, has had only one Constitution that has been amended a number of times. I do not know of any other country in the world that has had as high a turnover in terms of Constitutions as Nigeria has had. What is the significance of this? The significance of this, in my view, is not that our Constitutions have failed, because 13 years is not long enough for us to appreciate the true worth of a Constitution. What it means is that we as a people have been impatient with our Constitutions. We have not given our Constitutions long enough time for them to mature and be subjected to proper judicial interpretation so that we can have the full benefit of those Constitutions.

The further implication of this is that inasmuch as we might require the best constitutional infrastructure for governance, we will, at the same time, require an appropriate mindset, mentality, attitude, orientation and disposition for our Constitutions to have full effect. So, if we have the best Constitution with the wrong mindset, wrong attitude and wrong disposition, we would still not derive the full benefits of the Constitution.

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Having said so, let me address some specific issues that have been raised in the proposed Amendment. The first is Independent National Electoral Commission (INEC); I agree that INEC should be on a first line charge. I agree that as much independence should be accorded INEC as it is possible. I agree that INEC should be freed as much as possible from any external or undue influence. But what I do not agree is that the Judiciary should have any role at all with the appointment of the Chairman and Commissioners of INEC for two reasons.

First, if we look at the so-called insulation of INEC from external influence, therefore, we shift it to the Judiciary, let us look at Schedule III to the 1999 Constitution. The National Judicial Council itself is made up of people who were appointed by the President or other Chief Executives of States. These are, themselves appointees of the same person we want to insulate them from. I think that it is a bit hypocritical.

Second, let us also contemplate a situation where Senator Olorunnimbe Mamowora, for instance, is recommended by NJC for appointment as Chairman of INEC and his appointment becomes subject of litigation. We now ask the same recommending or appointing body to sit in judgement over a dispute created by its own act. The Judiciary must be totally insulated from politics. If our problem is that the powers of the President to appoint the Chairman of INEC are unfettered, then we must find a way of fettering those powers. But that way is not to bring a body that is contemplated by our Constitution to be an independent arbiter to be a party to a likely political dispute. We must find some other ways, maybe, we can bring in the Council of State or the Political Parties; I do not have a direct answer, but certainly not the Judiciary, that at the end of the day, if there is a dispute would be the arbiter.

The recommendation regarding age, I would beg to differ from my most revered headmaster, that age is a performance enhancing attribute. When we talk of experience, what do we mean by experience? Experience simply means previous opportunity given to do something and what is our experience of experience in this country? People have experience of doing some things the wrong way. So, when you say those people have experienced, it means that they have been doing the wrong things the wrong way for a long time. That is experience. We must have people

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who have not had the opportunity of doing things the wrong way, to see if they can do things the right way from the start. That is why I totally object to any age limit in our public office. This is because if we have age limit, President Barack Obama would not qualify to be INEC Chairman in Nigeria, but today he is the President of the most powerful country in the world. I believe that our young men and women must also be given the opportunity to contribute. Who knows, they might at the first instance do the correct things and do them differently from what we have done.

On the reports of Administrative Panels of Inquiry, what the proposed Amendment has sought to do is simple. It is simply to bring the Constitution in line with Supreme Court pronouncement on the issue. The Supreme Court which is the highest court in this land has made a pronouncement that for you to be stigmatised to the point that you are disqualified from contesting an election, only the court of law can do that. Stigmatisation to the point where you would say that I am disqualified should only be left with the court of law, where every side would have been heard and every process would have been exhausted. To use Civil Servants or politicians to stigmatise a person would be very unfair. I agree that removing the outcomes of Administrative Panels of Inquiry as an act of disqualification would merely be brining in line with what the Supreme Court has pronounced on.

On the number of political parties, permit me to take us down history lane a bit. In 1999 the onset of this democracy, if we recall, we had five political parties. Between 2001 and 2002, there was this popular clamour for the liberalisation of political space. Every Nigerian was calling for the liberalisation of the political space and let INEC register as many political parties as possible. What was the objective at the time? People believed that the PDP had become very strong and overbearing and the calculation then was that if more political parties were registered, PDP would be weakened in the process; but the reverse happened. The other political parties got weaker and the PDP got stronger.

If we had gotten wiser, let us admit that we are today wiser. I do not think we should put a limit to the number of political parties that we should have. We should rather have entry and exit conditions. Let political parties bloom; but whether or not they blossom should depend on how they perform in the field. I do not think that INEC should continue to register political parties. INEC should rather regulate political parties. Let people associate as freely as they

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want to. But, if they do not record a certain level of performance in an election, let them be shown the way out. The regulation should clearly provide that you are out. But, I want to believe that we must encourage freedom of association whether for political or other purposes.

Lastly, one or two of my distinguished Colleagues have made reference to State Electoral Commissions and suggested that they should be done away with. My thinking is that, in spite of the seeming failings of State Electoral Commissions, their existence is consistent with federalism. That is what makes us a federation. If we say that we are practicing federalism we cannot begin to go down to the level of Councilors to conduct elections using national institutions. Let us rather see how these institutions can get as efficient as possible.

Even the national institutions we are talking about are also guilty of the same inefficiency and partisanship that the state institutions are being accused of. So, our challenge as we proceed with this exercise - the Constitutional review, is one to create strong institutions that will serve their Constitutional purposes without fear or favour and without partisanship.

Thank you, for this opportunity.

Senator Ehigie Edobor Uzamere (Edo South):
Mr. President, I want to lend my support to this important Bill. First, I would like to speak on the formation of INEC Committee headed by the Chairman. I believe that the post of the Chairmanship of INEC should be advertised to avoid one man recommending another to Mr. President and that same man will go to the INEC Chairman to say *I brought you*. So, if it is advertised and NJC is asked to recommend three persons to Mr. President, Mr. President will now send one name to the Senate for confirmation. That would be more democratic rather than one man sitting down to say *I recommended you last week to Mr. President, so, I am your boss*. It has happened. We have seen some boasting that they brought the Chairman of INEC.

Again, INEC needs to be overhauled. Today in Nigeria, you contest an election and in that election, there are three types, the first is the pre-election, where you campaigned; the second one is the election proper and there is post election. That post election is as important as the election proper. In the post election, we see how INEC or some persons will

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invalidate the votes of candidates. In the process the case will go to the Tribunal and it is what is tendered as evidence that the Tribunal will pass judgment on. I am a living witness and a victim. My votes were reduced from 348 to 48. They invalidated my votes and I said that those who invalidated my votes God will invalidate their lives because that is criminal. Yes! God will invalidate them.

In your own election, Mr. President, we heard how they went into the INEC and removed some vital documents. That is the post election and it is very important. Until we have a proper INEC that is truly independent, we are going to fall victim.

First is that after the post election all votes and materials should either be deposited at the State Security Service (SSS) or at the Central Bank.

Second is the internal democracy. Internal democracy is what we just experienced this morning. If the Plateau State has allowed distinguished Senator Satty Gogwim to contest the election because he was most popular, he would not have even gone to AC without cooperation. He would have remained in PDP but the lack of internal democracy forced him to go to a different party and that resulted to where we are today - cross carpeting which is morally wrong. I will not leave PDP for another party. I will remain in PDP. But you cannot blame someone like distinguished Senator Satty Gogwim. You cannot also blame someone like distinguished Senator Patrick Osakwe. All this boils down to lack of internal democracy.

I agree with my distinguished Colleagues on the first line charge for INEC. INEC must have access to funds so that the Executive does not delay their allocations.

Finally, I lend my support to this important Bill and I pray that the Senate will give it speedy passage.

Senator Ahmed Mohammed Makarfi (Kaduna North): Mr. President, a lot has been said, therefore, I would not want to be repetitive. However, the issue of first line charge that has been said by most Speakers, it is not sufficient to say that the Legislature, the Judiciary and the INEC should have first line charge in order for their independence to be assured. It raises a question of how do we get to that? The only way you can get to that is also the issue of separation of the Accountant General of the Federation and Accountant General for the Federal Government so that the Accountant General of the Federation is

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responsible and reporting to the National Assembly. He takes charge of all those basic issues while the Accountant General for the Federal Government is in charge of the finances of the Federal Government itself. You may have a provision of first line charge, yet somebody will determine how much is that first line charge and whether it is applied or not applied. So as we take this, we need to seriously look at the issue of having the Accountant General of the Federation and the Accountant General for the Federal Government. The Accountant General of the Federation's appointment would, of course, be subject to the approval of the Senate, whereas the Accountant General for the Federal Government would be like any other Chief Executive Officer at the Federal level that may be appointed by Mr. President.

On the issue of the number of political parties, arguments have been made that we should have free for all, only the conditions to register and to deregister. If we do not create an environment that we go into elections with a reasonable number of parties, then the sanity we seek for in conducting elections will not be there. If we still go into election with 50 parties and it is only after elections that you deregistered, we would still have a very messy arrangement. The issue is that before we go into election, what kind of system should we have? We should have only viable parties going in to contest elections. Of course, the independent candidates would cover for the other people that may not want to be in any political party.

On cross-carpeting, I do not see why we should restrict it. You can choose to belong to any political party at any particular point in time. There is no party here that is based on any ideology. The more we restrict, the more we make it fertile for those who seek to promote lack of internal democracy in parties. But the more you open up, you make it so relaxed, the more the parties would be forced to imbibe the spirit of internal democracy, because they would know that if they do not, they are likely going to lose materials who can contest independently on any other platform. They would not want that to happen. We should avoid over restriction, particularly in our Constitution. Maybe, restriction in legislation can be amended very easily. But when you come into Constitution and over restrict, you create a bottle neck that in future we may regret

On Judicial or Administrative Panels, in my opinion, it does not mean that indictment does not stand. When you are indicted, you need to be

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prosecuted and convicted by a proper court of law for that indictment to stand. Election is such that once it passes, you have no remedy and the strategy of people using it purely for the purpose of the election must be discouraged. Even, if it is the Judicial Commission of Inquiry. We recently saw where a Judicial Commission came up with some kind of White Paper banning this for this year, and that for that year and I am sure if that was to be contested before a court of law, most of what they came up with would have been quashed. Some Judicial Commissions are composed of one Judge and Civil Servants. So, it is not really a properly constituted judicial body that could hear both sides and adjudicate on whether somebody is guilty of an offence or not.

It may establish probable cause and this probable cause or indictment, needs to be proved beyond reasonable doubt before a proper court of law. I would want to expand that it is not just the Administrative Panel, for purposes of disqualifying someone to stand for election, that even Judicial Panels, should not disqualify somebody for standing for election, only a conviction by a court of law.

If you are indicted, prosecuted and convicted, you lose your seat. There would be no argument about. Coupled with all that have been said, I believe this is a very good beginning. We should give expedited hearing to the process of amending the Constitution particularly as they relate to the electoral reform.

The President: Is there anybody who wants to say something that has not been said?

Several distinguished Senators: Yes.

Senator George Thompson Sekibo (Rivers East): Mr. President, before I comment on the Bill itself, the way and manner the amendment of the Constitution is coming to us in piecemeal, is raising some anxiety. There is a proverb in my place that: A tortoise was jailed for 100 years, it stayed for 99 years, just one year left for the tortoise to be released from the prison and he was duly informed; it then perceived that the environment was stinking.

We have a Committee in place inaugurated by you for the amendment of the Constitution. Despite the differences that were experienced between the Senate and the House of Representatives, it was resolved that our Committee should go ahead with our meetings and deliberate on areas where amendments

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should be made in the Constitution. We are now being given the amendments piecemeal to alter the Constitution to enable us get very strong electoral process. Although that is very important, there are other fundamental issues. So, our Constituents are asking, is that the only area you are going to amend in the Constitution?

If we extend our debate to other areas, the Committee that this would be referred to, may not necessarily capture those areas we talk about because it is not made part of what we are discussing. Therefore, I want to suggest that our Committee be encouraged to quicken their job so that we can make input in the generality of the amendment of the Constitution.

In spite of this, I want to support this Bill in its totality starting from the independent candidacy. The reason we have many mushroom political parties, is because there are no opportunities for certain individuals to try it on their own without trying it through the platform of a political party. For instance, distinguished Senator Patrick Osakwe and distinguished Senator Uche Chukwumerije they defected from the greatest party in Africa because they were denied opportunity by people who did not want them to go through. They moved to other political parties and still won the heart of the people. It means if there were provision for independent candidacy, such persons who are really grassroots politicians can on their own without problem contest election and still win to represent their people.

The advantage of independent candidacy is that if you are an independent candidate, you do not report to a political party, you report to the people directly. If you are an independent candidate, you have the opportunity of looking for programmes not for the Chairman of your political party or the Sectary, but to the people. So, it is a very important innovation for us to encourage. I believe there are Nigerians who would not want to support certain candidates in certain political parties and agree with independent candidate and go on with him.

On the issue of Independent National Electoral Commission (INEC), much have been said about it but what caused problems in previous elections since 1952 till now is the lack of strength of the electoral agencies.

INEC stays in office for three years without doing so much and then in the fourth year they have

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so much to do. They sometimes even pass through the Committees in the National Assembly to get their subvention to work with. It is true that if they are on the first line charge and whatever is due to them is remitted to them appropriately in every year, then they can have a work programme for each year. So, I support that INEC be given the financial independence it requires.

Again, the States Independent Electoral Commissions should also be given financial independence. It is the lack of financial independence that a state like Lagos State that is controlling so many local government areas, will in one swoop, wins all the Council Chairmen. This could happen due to lack of financial independence. They local councils are under the control of the man that is funding them.

The President: Senator George Thompson Sekibo, is there any State where the Governor does not control the State INEC?

Senator George Sekibo: Not as in the case with Lagos State.

The President: All right. That is a valid point. *(Laughter)*

Senator George Sekibo: So, SIEC should also be made independent. But there is no way we can separate the President of the country or the Governor of a State from appointing the leadership of either INEC or SIEC. If you pass through the Nigerian Judicial Council, who appoints the members of NJC itself? It is the President that appoints them. If the NJC is recommending somebody to Mr. President for appointment to IEC it is the same process. It is the same President that is appointing them.

What makes them weak is not the person that appoints the Chairman and members of the Commission but the fact that they are not given free hand to regulate their own programmes. So we should encourage them.

The issue of cross-carpeting by politicians is a moral issue. We should strongly and sincerely condemn it. How can you be sponsored by a political party, it takes you round the whole country, campaign for you, you win election and come to a particular position, maybe, as a Senator or a Member of the House of Representatives or State House of Assembly and suddenly you dump the people that patronised you and gave you the mandate to stand for them.

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If we are contesting election based on our names even in the party is a different but the contest of the election is in the name of the party. So, how can you take the flag of the party to other political party? It is sincerely a moral crisis. We should accept that those who are elected and who are serving their terms and have not completed their tenures should not be allowed to shift from their parties to other ones.

Nigerians need a very strong electoral process and so I sincerely want to commend Justice Mohammed Uwais Commission for the Report they sent to us, which were made available to us. I also want to recommend strongly the President of this country, who as a serving President, accepted to push situations that might pose stringent measure for to win another election. It means that Mr. President really needs strong electoral reforms.

On this basis, I want to say that although it is not part of this Bill the issue of 25 *per cent* derivation is very important for those of us who are from the Niger Delta Region.

Again, the Immunity Clause for Governors and President should be expunged from the Constitution.

Finally, serving Lawmakers should be given the first refusal in successive elections. That is a way to strengthen democracy especially legislative.

Senator Iyabo Olusola Obasanjo-Bello (Ogun Central): Mr. President, first, I want to congratulate His Excellency, the President of the nation for this Bill he brought to us. Compared to the previous Bills, this is a big improvement which actually deals with the issues of electoral reform. The last Bill on party registration has nothing to do with electoral reform.

I support some of the positions that have been canvassed here. I am just going to go over them briefly.

In terms of cross-carpeting, I do believe that it is the right of every person to cross-carpet and here behind me is one of the beneficiaries of cross-carpeting to our great party. If we prohibit it we will no longer enjoy that privilege. It behooves us as the greatest party in Nigeria to support cross-carpeting. So, honestly, I do not see why this should be stopped. Precedents have been laid not only this time around but in previous Senates. I do not support that it should be prohibited, therefore, it should be expunged from the Bill.

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Financial independence for INEC, no body can controvert that because it is necessary and significant that we accord them that. However, we must also add financial independence of both Federal and State Legislatures as well as for States Independent Electoral Commissions. We must go all the way to do that.

The age of the Chairman of INEC, of course, I beg to differ with Senator Jibril Aminu and the Leader of Senate. I am representing the younger generation here. What is statistically relevant is that Nigeria has more people under 25 years than those over 25 years. I am not saying that we should now allow people under 25 years of age to be either the Chairman or Commissioners of INEC. But it is important that we recognise that the youths are important part of our system and they are more in number, so I urge that the age limit be expunged from the Bill. People should be given responsibilities based on their experience and know-how and that should not be limited by age. We are not driving the old people away. We just want space to show what we can do.

Senator Teslim Folarin: Point of Order, Mr. President!

The President: Leader of the Senate, your Point of Order, please.

Senator Teslim Folarin: Mr. President, pursuant to our Order 13, I move that this Senate do sit beyond 2.00 p.m.

Senator Mamowora: Mr. President, I rise to second the Motion as ably moved by the Leader that this Senate do sit beyond 2.00 p.m.

Question put and agreed to.

Resolved: That the Senate do sit beyond 2.p.m.

Senator Iyabo Obasanjo-Bello: The most important part of my presentation, is the Section dealing with the Exco of parties where it says that each Exco should have 20 *per cent* women. This is a small modification. We should put it, at least, 20 *per cent* women. Laws should be made to last for ever. This country would eventually get to a point where parties would voluntarily do at 50-50. If we say they must have 20 *per cent* women, they are limiting the party. It should say, at least, 20 *per cent* women, so that in future, if the party wants its Exco to be 80 *per*

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cent women then that party has the right to do because as we all know, more women than men vote on any election. That would be a very fundamental amendment in this constitutional reform if it is accepted.

Allowing parties to keep funds sent to them from outside Nigeria, might seem good idea and it is in the Constitution. We are assuming that since the Cold War is over there will no longer be external influence during elections. We do not know what the future holds. The world may still be polarized in future, therefore, money from external donors can be used to influence elections in a way. Political parties should be made not to accept money from external interests. However, Nigerian citizens living abroad can send money to any political party of their choice.

I have reservation about independent candidature. Though it sounds good for our democracy, I tend to agree with my distinguished Colleague, Senator Mujitaba that we might have a Legislature filled with ethno-centric candidates. That is just my fear. We have Senatorial Districts that are carved out of ethnic groups. If you are very popular within your ethnic group, they will continue to vote for you. Therefore, we might have independent candidates who are ethnic-based. The whole point of political parties is for us to be together from every section of the country, argue our points within the party and forge ahead. I like the fundamental issue of independent candidature but it might actually be against the spirit of the Constitution if it goes on ethnic basis which might undermine national integration which is one of the fundamentals of the Constitution.

Concerning the use of White Paper produced from the report of an Administrative Panel to ban certain candidates to an election, I do not even want to mention that because I was a victim. I am glad that somebody thought it wise to remove it from the Constitution so that next time nobody will be a victim. Somebody should not wake up one day to find his name on a White Paper in a state he has never visited and does not know anything about. So, I am very glad about that.

Concerning the minimum conditions for participation in an election, as Senator Ndoma-Egba said, any party or association can register with INEC, but to qualify to participate in an election, the party should, at least, win a Councilor seat somewhere in

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one of the 774 local governments in the country. If your party cannot win a Councilor seat anywhere in the country, the party should no longer be allowed to participate in the next national elections. So, my suggestion is that if a party does not win a Councilor seat anywhere in the country it should not be allowed to participate in the next national election but it can participate in the local government council election. Once it can win a Councilor seat anywhere in the country, that then qualifies it to participate in the next national election. If you cannot get a Councilor elected anywhere in the country, you have no business participating in a national election.

Mr. President, I thank you for the opportunity to speak.

Senator Munirudeen Adekunle Muse (Lagos Central): Mr. President, I am going to overlook all the points that have been discussed to mention something about local government, which is very important. It appears that we are overlooking some of the appointments being made by States Governments on Local Governments. As far back as 2002, there had been appointments of Executive Secretaries whereas Section 7 of the Constitution says that: *The system of local government by democratically elected local government councils is under this Constitution guaranteed.*

In order words, members of the local government councils must be elected. But, we noticed some State Governments disbanded their local councils and appointed Executive Secretaries and Supervisors contrary to the Constitution. If it is not properly captured in the Constitution now, we must ensure that it is well entrenched in the Constitution.

Also, Section 1(3) of the 1999 Constitution says that: *If any other law is inconsistent with the provision of this Constitution, this Constitution shall prevail, and that other law shall, to the extent of the inconsistency, be void.* This is what I want to emphasise.

Concerning the tenure of local governments, it is not all the states of the federation that have the same tenure of office. In some states, we have three years; in some others two years. I heard Senator Jibril Aminu mentioned one year. This cannot augur well for proper local government administration. If people are referring to Section 8, it is Section 7 that gave birth to Section 8, which is their reason for appointing Executive Secretaries. I believe that is not right.

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On the whole, I support all that have been said in respect of this Bill. I support it wholeheartedly. This is my contribution, Mr. President.

Senator Lee Ledogo Maeba (Rivers South-East): Mr. President, I rise to support the amendment of the Constitution as it stands in this Bill.

First of all, I will like to state that it is very disappointing that the Constitution of Nigeria is used mostly for administrative convenience. When people do not find an aspect of the Constitution to support their administrative convenience, they call for amendment. This Constitution has not been implemented up to 20 *per cent*. For example, if Sections 14, 15, 16 and 17 of the Constitution have been fully implemented, this country would be the best in the world.

Section 17 provides that there shall be free University Education, Free Adult Literacy Education. Why are our teachers on strike? Students of poor people cannot pay their school fees in a nation whose Fundamental Principles include the provision of free education for all; adequate wages, social welfare and adequate compensation for old age. Old people are dying in their homes. Veterans of wars who lost their children whilst they were in the war are now allowed to die in their misery. It is neighbours that discover them when they are decomposing. The Constitution provides that such people before they die should be sent to social homes where they would be taken care of as old people. This is not done. Why are we then hammering on constitutional amendment when provisions of the Constitution are being ignored? If the Constitution says mandatorily that the State shall provide for free university education, why then are the schools closing? A State that cannot provide for the education of the children of the people is a state that - *(Interruptions)*.

Senator Joseph Akaagerger: Point of Order!

The President: Point of Order, Senator Joseph Akaagerger.

Senator Joseph Akaagerger: Mr. President, I am coming under Order 53(4) and with your permission, I read: *A Senator must confine his observations to the subjects under discussion and may not introduce matter irrelevant thereto.* We are discussing Constitutional Amendments with respect to Electoral Reforms and not the general overview of the Constitutional Amendment.

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The President: Your Point of Order is sustained. Senator Lee Maeba, it is all right; come back to where we are on the Constitutional Amendments please.

Senator Lee Ledogo Maeba: I did not know that we are discussing Electoral Reform I thought we are discussing Amendment of the 1999 Constitution. We have a Senate Committee that is supposed to bring issues to be amended in the Constitution. I thought that we are talking on the general principles of amendment. If you are discussing Electoral Reform, I do not have any contribution.

You uphold his Point of Order that we are discussing Electoral Reforms; if it is about Electoral Reforms, I beg to sit down. I thought we are discussing Constitutional Amendments.

The President: Senator Lee, there is a Bill for an Act to Alter the Provisions of the Constitution of the Federal Republic of Nigeria (1999) and for Other Matters Connected Thereto. The matters connected thereto are listed. There is a Bill on that. Do you not have a copy of the Bill?

Senator Lee Maeba: I do not have, Sir.

The President: You do not have any point to make on what is listed here?

Senator Lee Maeba: I heard Senator Ndoma-Egba when he said a lot of things and he was not called to Order. Since I have been called to Order, let me fall into order.

Let me just take that as preamble on the issue of amendment and not executing the existing provisions that would make for the well-being of Nigerians. Constitutional Amendment should be about the welfare of the people and not amending for administrative convenience.

On the independent candidate, I believe that that has just been introduced in this Bill without any detail. If you take a look at Sections 221 and 222 of the Constitution they provide for campaigns for elective offices as a party and how a political party should operate. It also states how funds should be raised by candidates for a political party. The amendment we have in the Bill is scanty. It fails to state how an independent candidate would raise fund and the limit of his funds. Of course, it is his business on how he raises his fund. If the law stops a political

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party from accepting money from abroad, is an independent candidate qualify to accept money from above?

All these things shall be written in the Constitution, so that independent candidate does not just go round and collect money from anywhere for the purpose of making sure that he wins an election.

Sections 221 and 222 talks about associations and non-political parties being banned from campaigning for elections. How does an independent candidate campaign for election? What of if there is an association or his town union that is campaigning for him? Are they not qualified to campaign for an independent candidate because he has no party? These are issues that need to be redressed in the Constitution so that the independent candidate is not misused by moneybags or over ambitious politicians who have left their parties just to create trouble.

The provision about the independent candidate, as I see in this amendment Bill, is quite scanty. We should define which association would campaign for an independent candidate so that the word; *association* as defined in Section 229 should be clearly stated that this is an association that can campaign for an independent candidate. An independent candidate cannot run all over the place himself. People are going to campaign for an independent candidate. How do they campaign for him? These are very serious issues of how an independent candidate would operate not like a political party.

Section 228(a) and (c) talk about giving money to a political party. It should be discouraged. The State funds should not be used to form political parties unless the money should equally be passed to independent candidates. This is because you cannot give money to a political party for campaign at the expense of an independent candidate. You cannot give money to all the independent candidates and the parties. So, I believe that it is also very relevant to amend Section 228(c) so that the issue of funding political parties and independent candidates shall be discouraged.

Also, talking about the State Independent Electoral Commissions, I believe that the mistake of the ineffectiveness of State Independent Electoral Commissions have been caused by the Constitution. Once you make the final approving authority of an

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electoral body to fall into an Executive hand we would make a mistake. In the States, the Governors appoint them and dictate to them what they should do and so when the elections end the final arbiter becomes the courts. These appointed officers of the State Independent Electoral Commissions are not independent.

I have a proof where municipal elections are conducted by Municipal Electoral bodies but the National Electoral body gives them powers as delegated powers. If INEC appoints the Executives of the State Electoral Commissions and gives them powers to conduct elections and issue them guidelines for the conduct of those elections, if there is controversy arising from the conduct of those elections the National Independent Electoral Commission becomes the arbiter. That arrangement takes them away from the State Governors. The arrangement should be like the Inspector General of Police and the State Commissioners of Police. Of course, the Constitution says that the Governor is the Chief Security Officer of the State but he works hand in hand with the Commissioner of Police but if there are any security issue, the Inspector General of Police commands what the Commissioner of Police should do in the national interest.

I believe that if the same happens in the case of the State Independent Electoral Commissions where the National Chairman of INEC or the National body controls the State Independent Electoral Commissions, it will take us away from the fears a lot of people have expressed in the control of these bodies.

I was trying to talk about amending the Constitution in a way that it would bring about welfare for Nigerians. I also support what a Colleague said here that our own Committee should now go to work and map out areas of amendments we will decide to amend. It seems that what the Executive brings is what is going to constitute the amendment of the constitution so envisaged which is not correct. Therefore, I would suggest that as we take on this Bill, our Committee should articulate Sections of the Constitution that we intend to amend as a Senate. That should be done quickly so that the public does not misconstrue what we are doing as if we are debating only an Executive submission.

With these remarks, I would wait to talk more on the issues about the welfare of Nigerians in the

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amendment when our Committee brings its own proposed amendments.

Senator Odion M. Ugbesia (Edo Central): Mr. President, the Bill as presented to us, to me, has the good, the bad and the ugly and unless we are careful in navigating through this Bill, separating the good from the bad and the ugly, we might run into the same problem that the Third Term Bill ran into. There are too many items we are being asked to review here. It would have been better to take this Bill item by item. It looks to me that we are in a hurry to amend this Constitution which should not be. For instance, if we take the provision for independent candidate, which to me is the most beautiful component of this Bill and deal with that one; that will be the beauty of the debate.

We have really lost the vibrancy and the robustness of the debate of this Bill because we are dealing with too many items at a time. If we have the first amendment we take one item. It looks to me that we think we must do this thing before 2010, 2011 or 2012. Ten, 15 or 20 years in the life of a nation, to me, is very small. So, if we take them item by item, we will get to a point where we will say, yes, we have dealt with this item; it is good and the public can appreciate it.

Having said that, let me go to the independent candidate. I said that it is the most beautiful component in this Bill that is sent to us. This is because for the first time it will curb the excesses and the tyranny of political leadership in this country. When somebody will seat down in Abuja and determine who becomes a Senator in Calabar or in Sokoto; at least, internal democracy should be encouraged and enhanced.

But take that again, against the obnoxious provision for the prohibition of carpet-crossing. To me, it is hypocrisy to think that because you have been elected, we now lose our right to free choice as enshrined in our Constitution. If you are elected you still retain your fundamental human right to choose whom you associate with, where you go to and what you do with your life. Carpet-crossing to me is a function of individual's judgmental discrimination. If you want to cross-carpet, you are free to because you have the right as enshrined in the Constitution to do so.

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Having said this, I still believe that we should think of a better way to deal with this constitutional amendment. I do not think we should carry all the items that we are carrying at the same time.

Senator Enyinnaya H. Abaribe (Abia South): Mr. President, let me just make a general comment on this Bill. Since the Bill has come from the deliberations of the Uwais Committee, my real feeling is that it was the Uwais Committee Report which has led to this. It is something that has come out of those who are not practical politicians and have never contested an election before because most of these provisions that I see here, will be very impracticable.

Firstly, independent candidacy sounds as very good idea but in my Senatorial Zone I have over 530 polling boots. I do not know how as an independent candidate, I will put agents in those boots and pay them if I am not a drug pusher or a 419 person. In other words, the independent candidacy may lead to our having undesirable people in Nigeria who have made money very wrongly to come and populate our distinguished Chambers.

Secondly, is the question of cross-carpeting; there is confusion here in terms of cross carpeting between a parliamentary system and a presidential system. It is only in parliamentary system you talk of crossing the carpet. In a presidential system no such thing happens. What you really have is that you decide which particular party you can belong to at any time in your career and you would go back and face your electorate who decide whether you will still come back or not.

In my own case as a person I did that you term cross-carpeting in 2003 when I wanted to run election against the incumbent Governor and I was the Deputy Governor. What I did was to resign my position and live to go to another party and run against him. The question of cross-carpeting is not something that is new. There is mindset of confusion that is in it.

On the question of Administrative Panel and so forth, we are also seeing things that are being brought out that have already been taken care of. As Senator Victor Ndoma-Egba told us, the question of Administrative Panel has been settled by the Supreme Court which means that even if we leave it in the Constitution it will never affect anybody again because at any point that you talk about somebody being indicted the Supreme Court held very clearly

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that an indictment is merely an allegation and must be proved by a court of law. So, it has been settled.

Even the question of cross-carpeting has been settled by the Supreme Court. I know that the former President of Nigeria went to court to declare the seat of his Vice President vacant and the Supreme Court held that once you have been elected into a position you cannot see yourself as being only for that party but for the whole country which was why they did not declare the Vice President's office vacant. In other words, once you have been elected into a position, you are free to be anything you want to be. It has been settled by the Supreme Court and bringing it up here does not help us in any way.

I support that the President appoints the INEC Chairman and the Members. I do not think that appointment is the problem. The problem is the integrity of the person who is appointed. It does not matter who appoints him, at the end of the day, any man who has a name to protect will do the right thing when he is sitting on a particular seat. Therefore, we should make sure that the Presidency is encouraged when making the appointments, to choose persons that Nigerians will actually have confidence and thrust in.

I am against age limit. We do not have to put age, 40 or 50 for appointment. This is because when I was 25 years old, I was already a man of my own having a wife and taken care of myself, therefore, I do not think that anybody can look at me at that time and say I did not qualify to head an institution. Setting age limit is probably not so good.

On the question of political parties, I feel that if we are in a democracy and we have a Constitution that says you have a right for association, we cannot circumscribe that right by reducing the number of political parties. But I support that we must put an end to funding of political parties. Parties should fund themselves. The party members should contribute money.

I also feel that there is a bit of confusion here in what we are saying. If we say that we will set a limit for a party, for example, that the party must win in a local government election to get a Councillor, at the same time, we are also talking about the States Electoral Commissions (SIEC) being under the control of State Governors and Lagos State having all Councillors from AC. I do not know how we can tell

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a party to go and look for a Councillor which they cannot get because they do not have the State Governor. We would have a problem there, in fact, a contradiction of a sort. We should let parties be. They should be like they are today; they do not mean anything; we do not know about them; if they call for meetings they should come but do not fund them. Once you do not fund them they will die on their own.

On the issue of what to do with State Independent Electoral Commissions, I also think that whatever we give the goose we should also give to the gander. So, whichever type of insulation we want to give the INEC at the centre, we should also extend same to the State INECs.

Finally, I do not support that parties should be funded by elements outside Nigeria who are not Nigerians. Nigerians outside this country should be able to fund parties if they want but then, let no foreign elements try to fund our parties so that they do not introduce problems into our system.

With these few words, I support that we go ahead and amend this Constitution along the lines that have been suggested.

Senator Umar A. Gada (Sokoto East): Mr. President, I rise to make my modest contribution on this very important Reform Bill. Suffice it to say that all that need to be said have been said by my distinguished Colleagues and they have been said eloquently. Mine is just to paraphrase some and add very few observations.

The issue of the independence of INEC which has been exhaustively discussed is very important. I want to align my position with that of distinguished Senator Makarfi, that it is not about making financial autonomy to be an independent Clause in this Amendment. It is about making sure that all other relevant insertions are carried out in order to strengthen the financial autonomy as intended in this Electoral Reform. That is to say, presently we have an Accountant General of the Federation who doubles as the Accountant General for the Federal Government.

In addition to creating the Office of the Accountant General for the Federal Government, there should also be an Auditor General for the Federal Government different from the Auditor General for the Federation so that the necessary checks and balances of protecting the integrity of the system, of our finances and internal control measures

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to reduce abuses and the tendencies of corrupt practices is assured. That is very important. To create the Office of the Auditor General for the Federal Government is as much critical as it is to create the Office of the Accountant General for the Federal Government.

On the issue of independent candidate, permit me to disagree with my distinguished Colleague, Senator Abaribe. He argued against independent candidate that it would bring about the possibility of having corrupt individuals with questionable sources of recourses coming to manipulate a particular electoral constituency. Inasmuch as that could be a possibility, it is equally the same in terms of possibility and tendency to have a corrupt individual with corrupt source of finances coming to manipulate the entire political platform. It is like somebody coming to buy the leadership of a political platform that is equally vulnerable in terms of the issue of integrity and reliability.

So, we have to ensure that those individuals that are likely to create integrity crisis in our system are tracked, traced and dealt with before they participate in the political arrangement. With that, you can come into any political party and still become a disaster.

In fact, in my opinion, the reverse is the case. This is because if you are an independent candidate, it is only popularity that would enable you to reach the whole of your constituency, be it a Senatorial, Presidential, whatever. It is the goodwill and the massive resistance that you are likely to enjoy from the victimisation you would have suffered in the political party where you were hitherto. It is, in fact, a good way of making sure that we check the excesses and abuses of the political parties so that those popular candidates that may want to participate in the political process of this great nation are really allowed to do that.

On the issue of Administrative Panel, it is also very important to set aside constitutionally, even without recourse to the judicial pronouncements of our courts of competent jurisdiction like the Supreme Court that the issue of disqualification from administration panels *ab initio* is not part of our Electoral Laws. This is because we have seen times without number where a Governor will constitute a kangaroo panel just to try political opponents and come with a kangaroo White Paper simply to compromise or to deny or to create destructive consequences on what he perceived as real political

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enemy. That is very important because everybody is vulnerable. You may have a good relationship today with those who have the privilege to perpetrate such abuses but tomorrow, it may be a different case altogether. Nobody should stand disqualified simply by whatever you call White Paper or Administrative Panel. Only courts of competent jurisdiction shall try people to determine whether they are competent or otherwise to stand election to political offices.

Senator Clement Annie Okonkwo (Anambra Central): Mr. President, I want to first of all say big congratulations to Mr. President of Federal Republic of Nigeria for coming up with this very important Bill. The whole country is looking forward to this Electoral Reform Bill.

I also want to seize this opportunity to talk to my Colleagues. It is important that we amend this Constitution especially as it relates to electoral reform. We may not start going into the nitty-gritty of the Constitution or bringing issues that can derail the total amendment of this Constitution. But I believe that if we can succeed in amending the Constitution as it relates to the electoral reform, we would have brought in good governance, transparency and quality leadership to this country. Having said that, I want to start with what I feel that is good to be amended in the electoral reform. I would start with the issue of independent candidacy.

Of course, everybody is talking about strengthening of internal democracy, it is important that political parties maintain internal democracy. We saw what happened in the United States of America, especially during the Democratic Party primaries. It was true life issue of internal democracy where two candidates of the same political party contested for the ticket of the party at the primary election. They obeyed the rules of the party and when a candidate emerged, we saw that the candidates embraced themselves. Bill Clinton embraced Barack Obama because they observed that there was no fault in the primaries.

In this country, we are in the learning process, but we should be able to take from the democracy of countries that are practising true democracy with lots of experience in it. I support fully the independent candidature, because it will strengthen political parties. Once we start having that, the political parties would start obeying the rules by ensuring that they follow their Constitution. Of course, each political party has its own Constitution, but sometimes they

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find it difficult to maintain. That is why when a popular candidate wins election somehow, the person who comes last emerges as the candidate. That is injustice. It is corruption.

As we are embarking on this exercise, we must look into the aspect of the Constitution dealing with political parties to see how we can strengthen it. We must also ensure that INEC is encouraged. Part of INEC's responsibility is to look after political parties. They should also be involved despite that it is internal party affairs. Once a party submits their Constitution to INEC, INEC should adhere strictly to the provisions of that Party's Constitution to ensure their compliance in the process. I want to sincerely support the idea of independent candidacy so that if a person is denied ticket by the political parties he can go into the election as an independent candidate.

I also support the idea of restricting the number of political parties. We have heard a lot of problems in the past. Presently, a candidate campaigns to contest election but because there are about 50 political parties, his name is left out from the Logo. Such is a logistic problem. As a result of this an aggrieved candidate goes to court to nullify the election that has already been conducted. That is a very big problem. We must device a way so that such will no longer occur.

If more political parties are allowed to be registered, INEC may not be able to capture all of them and that would be a problem. So, I would strongly recommend that we restrict the number of political parties. Some people have suggested two political parties. We definitely need to have an opposition party. We should not think of having one party system. I support that we should have, at least, two party system with independent candidates. In that way, we will, definitely, be strengthening our democracy. We do not wish to start something in which we may later fail. Every one of us is bound to support anything that will encourage democracy.

I support that INEC should be funded very well. We observed during the preparation of the last general elections when they waited till six months to the election, before they started preparations. That is wrong. We must device a means so that immediately after an election, INEC start preparing for the next one. We must empower INEC; we must have a vibrant INEC that could meet with the standard of the best practices all over the world.

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We cannot send somebody to the war without giving him tools. We have had series of issues, even in this election, whereby 24 hours to the election there were no ballot papers, and candidates of political parties were not ascertained. INEC took 24 hours to bring in ballot papers and put logistics in place. We must avoid such circumstances. How do we do that? We must ensure that INEC is prepared for election. Therefore, adequate funding of INEC is very key.

As regards the appointment of INEC Chairman, that is not the issue. The issue is electoral reform, what are the prescribed penalties for irregularities in an election? We observed that a lot of irregularities that took place during elections perpetrators were not penalised. We must have penalties against those who perpetrate irregularities during elections. If the laws are strict on these issues, it does not matter who is the Chairman. The person must follow the due process and rule of law. It is important for us to ensure that the rules of the game are obeyed and strict penalties are levied on the offenders.

On the issue of cross-carpeting, to be sincere, I did not support it. We must allow opposition to stay. We must encourage that. People should not come in through a political party only to dump it midstream and move to another party. We must encourage people to stay in their political platforms and follow the ideology of their parties. It is very important. But if you must cross-carpet, you should be bold enough to resign like the distinguished Senator Enyinnaya Abaribe resigned his position as the Deputy Governor in order to move to another party. We should not support cross-carpeting, if we do, it will definitely weaken democracy in this country. Therefore, I do not support cross-carpeting.

In conclusion, most of my Colleagues have mentioned so many points which the Committee will look into when finally fine tuning this Bill. If we do not amend the Constitution, but this Electoral Reform Bill is passed, we would have achieved a lot for this country.

Senator James Manager (Delta South): Mr. President, I have enjoyed listening to so many of my Colleagues talked on this issue of constitutional amendment in respect to the areas that have been presented to us by the Executive.

In Nigeria's 45 years of existence as a nation, as was pointed out by Senator Victor Ndoma-Egba (SAN) has had about seven failed Constitutions and

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even now as we are talking, we do not seem to be getting it right. It is a very big problem. What is there that is wrong, that Nigerians are not getting right? It is not about the Constitutions that we have had, it is about our inability to operate the Constitutions all these years. That is exactly what Senator Lee Maeba was tempted to be talking about when he mentioned social welfare, free education and all other things that are there in the Constitution and which are not being implemented.

Since many of my Colleagues have talked on all the issues, and I support the amendment, perhaps, one of those things I want to say is that just last week, I was somewhere very far from the continent of Africa, I met the Chief Electoral Officer of Ghana, Dr. Afori. After introducing myself I congratulated him for all his achievements. The success story of elections in Ghana cannot be told without mentioning the name of the Chief Electoral Officer of the country.

I asked him what they have that we do not have that are helping them to get it right. The man simply replied that his appointment as the Chief Electoral Officer of Ghana is for life. He retires with it at the age of 70 years. This is very important. It is not something that should be subject to renewal after five years. In a country with executive powers, anybody who is appointed into position, including even the elected people, by the time you are elected and you are in the office, you are already thinking about the next election, therefore, you compromise so many things.

When the man told me that his appointment is for life until he retires at the age of 70 years, we must try to learn from those who are succeeding. Ghana is a West African country. They are very black just like Nigerians. Their environment is almost the same with Nigeria and we have had almost the same history of military interventions. They gained independence not so long before we also gained ours but they seem to be getting it right while we are getting it wrong. So, what is there in them that is not in us, that is making us to fail all the time.

I want to propose that the appointment of the Chief Electoral Officer must not be subject to renewal for another term, just like the appointment of Judges. Let there be a measure of independence. By the time the man is appointed, and he is to retire at a particular age, subject to removal giving certain conditions as is stated in Section 157(1) of the Constitution, there

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would be measure of independence and I am sure they would get it right.

He also added that not only himself, the Regional Electoral Officers, which in our own case are the State Electoral Commissioners, who also have vital roles to play, their appointment must be for life, for 70 years. He said that the party of the man who appointed him failed in the election. President Jerry Rawlings appointed him, and his party failed in the election he conducted later and for eight years a different party was in control. Now another party is in control. We must try to learn from those who are succeeding.

I am also tempted to talk about the issue of independent candidate, I think it is the best that can happen to Nigeria, because more often than none, you find yourself in a political crisis situation, when loyalty to your party is viewed different from loyalty to the people. So, if somebody succeeds in becoming an elected person, like a Senator and is an independent candidate, and he succeeded with it, his loyalty would be to his people and not to the party.

In this country, there are a lot of crises in all the political parties. Something must be wrong with Nigerians. It is either that in our very nature, democracy is not good for us or we are not getting it right at all. Even internal democracy is zero in all the political parties including opposition political parties. It is just a matter of somebody saying you are the candidate and that is all. There is no democracy at all. Therefore, the opportunity of this provision would make it possible for people who have been disappointed by political parties to float organisations that would see them through the electoral process. Their loyalty would not be to any political party but to the people directly.

I agree that this is one step forward. We must also find a way of reconciling what is happening now and the Committee under the headship of the Deputy Senate President, so that possibly, by the grace of God, let us be seen to be doing something before the end of 2010. We must get it right, because the greatest test to our democracy is the wrangling where people do not see political parties or an elected office holder that as a democrat. We must behave like the typical democrats. That is what is lacking in Nigerian situation. When you say, good people, great nation, let everything be good and the nation great.

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Senator Joel Danlami Ikenya (Taraba South):
Mr. President, I thank you very much for allowing me to add my voice to this very important Bill to alter the Constitution of the Federal Republic of Nigeria.

The procedure for nominating independent candidate can be easily abused. Unfortunately, most of these Executive Bills that are coming have lots of watery provisions. The Executive needs to straighten the Legal Unit that is saddled with the responsibility of drafting their Bills. In the course of the Public Hearing on these Bills we would be able to hear more from Nigerians.

I support the provision for independent candidate. A lot of things have been said about that already. One of our Senior Advocates of Nigeria has spoken. Some Professors here have also spoken so also other experienced people here. Those who are than I am have also spoken. I concur with all that they have said.

I am of the opinion, too, that funding of political parties by the Government should stop. Some so-called political parties are corner shop and laptop parties. They know that subvention comes from the Government and that is why few individuals can organise and claim to have formed a political party.
(Interruptions)

The President: I am sorry Senator Danlami, I do not want to stop anybody, but if we are going over what everybody has said just for the benefit, no, I am not stopping you, you can go through it, I would sit down as patiently as you want, but just to add one's voice, going over what everybody said and summarize it, I do not think it is the best thing for us to sit down and do now but you are free to do that, this is democracy.

Senator Joel Danlami Ikenya: I strongly believe that, first line charge is not the only problem of INEC. Funding is not the only problem that INEC is grappling with. We understand that INEC officials are not among those who snatch ballot boxes all over the polling units. They do not encourage political violence. But if you are talking of political reform, something has to be done very clearly, so that at the end of the day, we would have been seen to have done political reform. Those saddled with political education in this country should be encouraged to perform so that our electorate are well educated. They should understand that voting is a matter of choice and not manipulation. That is very important.

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I heard people spoke about the independence of INEC and SIEC at the State level. When the head is sick, the whole body is sick. The entire system will not be functioning well. There is no difference between the polling units. It is the same polling unit for both national and grassroots elections. Grassroots democracy is more important than what we are talking about at the national level. If we reform the Independent National Electoral Commission and leaving the State Electoral Commissions, it would not do us any good. We will definitely come back to square one at the end of the day and the entire process would have been a waste of resources and time.

On the Administrative Panels, a lot of people have made comments on that and I thank God that the majority view is that it should be removed straightaway from the Constitution. I support it and I throw my weight behind it.

On the issue of cross-carpeting it has moral questions behind it. As a PDP man I represent my party and I told my Constituents what my party wanted to do if elected. But if I move to another party, well, I do not know actually. *(Interruptions)* The Constitution talks about members of the Legislature while not mentioning the Executive branch. But now I believe the law has taken care of members of both arms of government.

I want to add quickly that alteration of the Constitution should not have been done in piecemeal but for some fundamental areas such as those dealing with electoral reforms and the welfare of the people and education. These areas are very dear to our people. Therefore, I support the process. I believe also that during the Public Hearing, more ideas would come up which would enable us give to our people great opportunity to truly vote and be voted for. Therefore, I support the proposed Amendments.

I want to say that subsequent Bills to be sent to us should be more explicit than what we have now. Some the Bills already received are so watery. Such should not be the case. The Ministry of Justice is supposed to do a better work than what they have done. I am saying this because we have a drafting unit in the National Assembly that has been perfectly drafting the Private Members Bills that have been introduced in this Senate. I urge the drafters in the Executive to be more alive in their responsibility of drafting Bills. The Bills compared to the Justice Uwais Report are entirely different. I make particular

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reference to the Political Parties Registration Commission which was thrown out here and that was the right thing to have done. That is what we would continue to do so as to give our country a good Constitution.

The issues on states and local government creation are key to me. Even if we cannot create local governments, at least, we should set guidelines on how the States could do that.

My people said I should add one thing, and that is that we should save the third tier of government through direct funding and process of election. Everybody here knows too well that the third tier of government is dead. It is dead because funds are not being released to them. Some have not been paid for the past two or three months. Our local governments are like mere consulting clinics. We should strengthen them now through this amendment. That is my contribution.

The President: Is there anybody who feels very strongly that he must speak? *(Interruptions)* Since many of you want to speak, I have you in this order: Distinguished Senator Ucha, distinguished Senator Abdulaziz, distinguished Senator Wilson Ake, distinguished Senator Dantong, distinguished Senator Satty Gogwim, distinguished Senator Garba Talba and distinguished Senator Simeon Oduoye.

Senator Julius Ucha (Ebonyi Central): Mr. President, I sincerely wish to commend Mr. President of the Federal Republic of Nigeria and our great Party, the PDP for this noble initiative. I say noble in the sense that some critical issues have been raised on the intended amendment to the 1999 Constitution, mostly, as it concerned independent candidature.

One cardinal thing that we have to address our minds to is that most of the issues raised are actually captured excepting some few like the independent candidature, in the 1999 Constitution.

I agree entirely with the fact that there is need for us to have an independent candidate in our Constitution. I also agree that the political parties should be allowed to evolve, but I do not agree that when political parties evolve as political associations they would be scraped because of their inability to win elections. An association can contest elections this year and fail, next year that association can contest and win. If we say that because an association

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is unable to win a particular election such association would be scrapped, will the same thing go for the independent candidate who contests and fails? If an independent candidate tries and fails, he continues to try. The same thing is supposed to happen to political associations.

The most vibrant thing that would sustain our democracy is the first line charge for the Legislature. The Legislature is the basic foundation of every democracy, therefore, funding is very fundamental for the Legislature to be able to continue to sustain our democracy. Our democracy is hinged only on the Legislature. We have always had the Executive whether in the Military or in the Civil Regime. In the Military, the functions of the Legislature are circumscribed into that of the Executive but what epitomizes true democracy is the Legislature. Unfortunately in our polity, the Legislature is various vilified and treated as underdog instead of being treated as the first arm of government. This is the opportunity for us to assert the independence and autonomy of the Legislature and give it the enabling teeth to stabilise our democracy.

I also do not agree with a holistic or comprehensive review of the 1999 Constitution. What we have, as presented, is much more than enough. Let us start from somewhere to address the issue of amendment. If we are going to add any other provision we may add Section 315(2), 4(a)(i) and (ii) which gives the Executive the authority to alter certain provisions of the law as made by the Legislature. That provision gives the Executive unfettered power to alter laws made by the Legislature and it is not in tandem with true democracy. With your kind permission, I will read Section 315. Am I permitted to read?

The President: Just go on with your debate.

Senator Julius Ucha: That provision as I said, gives unfettered authority to the Executive, (the President and the Governors) to alter Acts made by the National Assembly and Laws made by the State Legislatures respectively. It is not in tandem with true democracy.

On the issue of cross-carpeting by elected persons, I am totally in support with that arrangement because it is in tandem with freedom of association. The Constitution has qualified it but that qualification has to be amended to say that one is free at any level to move to any political party. I do not see it as an

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arrangement that should generate crisis. Instead it stabilizes our democracy when people are allowed freedom of association as provided in the 1999 Constitution.

One area we need to venture into as a departure from what previous Legislatures in this country could not do is state creation. State creation appears to have been left in the domain of the military. Nigerians generally believe that it is only the military that has the courage to create states and local governments in this country. We will be breaking that jinx if this hallowed Chamber ventures into that arrangement and create states for the people of Nigeria. This will also address the inequality prevalent in the state structure in this country.

Senator Abdulaziz Usman (Jigawa North-East): Mr. President, let me start by commending the sponsor of the Bill, Mr. President and the mover of the Bill, the contents of which we are deliberating now and so much had already been said. I will only touch on few of the items.

The aim of the Bill as stated by our Senate Leader in his lead debate, is the strengthening of the institutional framework of our electoral system. The introduction of independent candidature in our electoral system is a welcome development. Independent candidature has being in practice world over. Even in countries that are less advanced than Nigeria. So much has been said about advantages and shortcomings of independent candidature.

The criteria for the nomination of independent candidate have been said to be cumbersome. This has been stated by all who had talked about it since last week. However, to me those criteria are less cumbersome. If you have the strength, and the guts to stand as an independent candidate, that criteria are not cumbersome. The condition states that 30 persons are required to indorse the nomination of a candidate for the Senate, 40 for the House of Representatives member, 50 for the Governors, 20 for the Councilors and 10 for the candidate for President. That is not much. If you cannot get this number across your Constituency, then you are not worthy to stand for an election. If you cannot get this number to sign for you, then you are not capable to stand for an election.

The next is on the independence of INEC, as at now INEC is not independent. I support the suggestion that INEC's funding should be a first line charge. Section 84 of the Constitution should include

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the National Assembly because the Legislature should also be independent.

The issue of the number of political parties has been stated in Section 17. If we are to reduce the number, it means we are to amend Section 17 since we have introduced independent candidature. I suggest that we reduce the number of political parties by amending Section 17 or else abolish funding of political parties by government so that they fund themselves. In the 60s members of political parties fund their parties.

The President: I appreciate the way we are going but those who will speak later, please get prepared because it might be just you and me that would be left by the time you finish. Those who have spoken have left. Those who are speaking later are carrying on as if we are just starting. That is not fair. I appreciate the fact that every Senator would like to add his voice to the debate but we are just repeating ourselves. I am not stopping you but to remind you so that whoever that will speak last should be conscious of the fact that it may be just two of us that would be left in the Chamber by the time you finish.

Senator Abdulaziz: On the appointment of the INEC Chairman, the majority said it should be by Mr. President and that is the practice all over the world. The ratio of women to men, for appointment yes, but for election I will oppose it. For elective positions, if women want equality with men, they should go for the election but to allocate percentage to them would be undemocratic. They should go for the primaries and bye elections whatever figure they get that is their luck. That is my contribution.

Senator Wilson Asinobi Ake (Rivers West): Mr. President, I am very cautious of the time and the near emptiness of the Chamber. I am also cautious of the fact that so many things have been said in support and against. I only want to come in at the point of the election seen to be credible not necessarily not being credible. There are certain situations that we know happened at the election days and I believe that this first line charge for INEC is a very good innovation that will assist them. However, that only will not be enough, they should be well funded.

I have discovered that INEC has problem of logistics. Most times on election days, instead of coming at 8 or 9 o'clock they usually promise, INEC comes very late when tempers have risen and people

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are already exhausted and ready to fight. So, INEC should be helped to improve on their logistics.

The issue of independent candidature, I believe it is good but it should be taken with a pinch of salt because these are the angles that certain individuals will use to come in and create some problems.

I am also in support that Mr. President should appoint the Chairman of INEC. The problem of our election is not even at that level, it is at the grassroots where the elections are conducted; where people run away with ballot boxes and where people carry guns and charms. That is where the problems are. Results are always collated at the Ward level and taken to the Local Government level. The result that leaves the Local Government level goes to the State level. So, we as the electorate should really look at ourselves and believe that we can make the electoral processes work. No matter how much of the Laws we make, as individuals, if we are not ready to respect each other at the smallest level, we will still continue to have these problems.

On that note, I want to lend my voice to the Bill and to commend Mr. President. This has shown that he is desirous to make some very serious changes in our electoral processes. It is also a credit to the PDP that in spite of their control they still want to liberalise all the processes for everybody to participate fully.

Senator Gyang Dalyop Dantong (Plateau North): Mr. President, first of all I do not intend to repeat all that has been said. They have debated on this exhaustively. I just wish to say one or two things.

I will like to commend this Chamber. Truly speaking, we have shown commitment and we want to ensure that this amendment is done and in good time. The fact that we are staying well beyond our sitting time, calls for commendation. The relevant Committee that this Bill will go to must make sure that this is done in good time and they should also show commitment. It is very important that we finish this Bill because we are time bound.

This Bill provides for independent candidature which I am very much in support of. This is a good idea and it will strengthen our political parties because it will make them to fashion out good ideologies and manifestos. If political parties are weak at manifesto or ideology, definitely, we will have a lot of independent candidates. If we are not to

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have many independent candidates then political parties must have good ideologies.

On the issue of exclusion of reports from Administrative Panel of Inquiries, I agree to that. However, I will like us to think about some salient issues on this Administrative Reports. There are lots and lots of reports that are started but would never get to logical conclusions. Administrators would keep these reports and bring them out only when they need them. I will like us to really think twice about this and if possible make it a point of duty that ones a Panel is set up, it must reach a definitive conclusion. Their conclusions must go to the courts so that courts would make pronouncements on them. They should not just leave them on the shelves until the right time for personal or selfish use. I expect that these reports must come to definitive conclusions so that the courts could make pronouncements on them for proper use.

One other issue that really disturbs me is the Electoral Tribunals. It is a shame that after more than half of the tenure, we are still talking of electoral cases in the Tribunals. This will lead to making democracy very weak. We can make Laws that will give Electoral Tribunals time within which to dispose election cases before them so that nobody is sworn in unless his case is dealt with completely.

We should also time the conduct of our elections in such a way that after elections all the electoral cases are done with and winners sworn in, in good time. If we do this, it will go a long way to give Nigerians the best of electoral processes.

Finally, we have talked about cross-carpeting and a lot of people have referred to my good brother and friend from Plateau State. I want to say that it is important to note that his case is not cross-carpeting rather a case of coming back home. When he was in PDP and moved to AC we did not complain; now that he is coming back home people are complaining. I do not know why they should complain. On a serious note, we should think positively about the issue of cross-carpeting. It gives people freedom of association and also strengthens our political parties.

With this few remarks, I support this amendment and I plead that we should take it serious and do it within the little time we have.

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Senator Adamu Garba Talba (Yobe South): Mr. President, I want to talk on one important issue, that is, the Independent National Electoral Commission. The issue at stake is that our people are wallowing in poverty at the grassroots level. The local governments are funded from the federal allocation but that money received on behalf of them by the State Governors does not reach the grassroots that is why Nigerians at the grassroots are wallowing in abject poverty. If nothing is done, this trend will continue to the detriment of our people and God Almighty will definitely not be happy with us as leaders.

The issue of Joint Account between the State and the Local Governments is a monster. The State Governors do not want to dislodge the Joint Account. So, I call on my Colleagues to support the expunging of Joint Account from the Constitution. If this is done it will benefit our people at the grassroots.

Senator Simeon Olasunkanmi Oduoye (Osun Central): Mr. President, I want to thank you for giving me this opportunity to contribute to this debate on the amendment of the Constitution of the Federal Republic of Nigeria.

I want to approach this issue from three angles, the pre-election, the process of election and the post election. The Electoral Act is expected to take care of all these three stages of election. We have been trying as much as possible to throw away the cankerworm called *election rigging*. The fact of the people complaining about the existing electoral process or post election results are because someone somewhere is being suspected to have rigged or enhanced his victory.

Before we jump to the question of election proper, you will agree with me that you cannot put aside the role of census. We should refer to Section 213 of the Constitution and take a critical look at the opposition to the National Population Census figures. It is imperative that we have acceptable census figures in this country. That will help settle the issue of lopsided representation. If we do that everybody will be happy with his or her representation in the Legislature.

Yes, INEC should be independent because he who pays the piper dictates the tune. Presently, funding of INEC is most inappropriate. The present

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system delays the purchase of electoral materials on time and the building of polling boots. So, if INEC is funded by first line charge from the Consolidated Revenue Fund most of the problems would be taken care of. It would also make for their independence.

We should not forget the ad-hoc staff that used during elections. They need to be properly remunerated. So, at the time we will be looking at the Act proper, the role of the ad-hoc staff should critically be examined to make it impossible for them to assist one party to the detriment of others.

The multiple party system we have at the moment is in order. However, in the next Electoral Act we should make provisions to guide the INEC as to the qualifications of an association before it can be registered as a political party.

On the issue of the independent candidate, I support the idea. After elections all the parties would be assessed. All those that are not worth to be called political parties should be de-registered. In like manner, people who took part as independent candidates would only enjoy the advantage once.

I consider cross-carpeting as political exploitation which should not be encouraged. In the field, some candidates are not even known, people only vote for the party, while in some areas, candidates are known but parties are strange. We should advise politicians to ensure they join parties that they have respect for their ideologies before they go to the electorate to seek for mandate. After voting them in and they want to cross-carpet, they should surrender the mandate to the people, perhaps, re-contest on another platform. In actual fact, I am not supporting cross-carpeting. We should be very stable.

Senator Mohammed Kabir Jibrin (Kaduna Central): Mr. President, thank you for your patience and understanding on these matters. Of course, issues of constitution amendment go to the heart of each and every one of us. I will be very brief. I will not touch on the issues that have been discussed. However, I would like to make a special observation.

Election has few fundamentals without which the citizens will not feel comfortable. One of them is the opportunity to complain. The way we have structured our electoral complaint system, that is the Tribunal, has always been on ad-hoc basis. Election Tribunals are fundamental baselines of the success of every election. INEC has been battered by the Press as

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badly as the courts or the Election Tribunals that try our election declarations.

I feel it is high time that we stop putting ad-hoc arrangements to decide on election complaints. Now that we have hope that democracy has come to stay in the country, it is time we begin to think of establishing permanent tribunals for election matters. This becomes more pressing if we consider the judicial system in place. The Judiciary has for long time, been overstretched in its effort to handle ordinary cases that come before it other than election matters. We have series of problems ranging from lack of adequate courtrooms to lack of qualified Judges.

After elections substantial number of Judges are taken away from normal courts to Election Tribunals. This adds a lot of problem to the Judiciary. The ordinary cases in courts continue to suffer unnecessary adjournments because of this dire situation. So, it is necessary that we take advantage of this particular circumstance of this Bill to propose the establishment of permanent Electoral Tribunals that would be dedicated solely for the purposes of deciding cases on election matters. This will give a lot of succor to the Judiciary.

Tied to the above is the independence of the Judiciary as well. So far, there is no autonomy for the Judiciary in our democratic system. It is necessary that we also consider this in line with the arguments proposed for the independence of the Independent National Electoral Commission. The Judiciary which is also a very important organ in a democratic government and an instrument for deciding election matters should as much as possible be autonomous so that the blames and the accusations being leveled against it would, perhaps, be cured by its independence since nobody will be seen to be unduly influencing the courts.

I will also lend my voice to the demand made during the debate today that the Legislature should as well be considered to be placed on the first line charge to ensure the independence of all arms of the government equally.

Senator John Nicholas Yahaya Ugbane (Kogi East): Mr. President, I thank you for giving me opportunity to have a say in this debate. I was opportune to be in South Africa on the invitation of African Union to monitor the elections in that

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country. What I saw could be informative to this debate.

As late as 7:00 p.m., we had queues of about two kilometres long. Both whites and coloured were on one queue to elect their President. The election started at 7:00 a.m. and people waited patiently to cast their votes.

The President: Just like we are waiting patiently today to discuss how to make sure that we have proper elections in future.

Senator Nicholas Yahaya Ugbane: They say Ghana, South Africa and now Nigeria, what is the difference? The difference is the credibility of those who conduct elections in these countries. That is the difference. For credibility to be established there should be attitudinal reform in our electoral system. We start election by 7.00 a.m. and before 2.00 p.m. they say election is ended. People would be on the queue but there will be no ballot boxes and other things. All these things must stop. Until that is done, all that we are saying would just be rigmarole.

We want to move this country forward. People who are not popular are imposed on the electorate. People who do not deserve to win elections are imposed on the electorate. In this country promising politicians are laden with frivolities. Enormous debts are imposed on them. All kinds of allegations that cannot be proved or justified are leveled against them. All these are done in a bid to destroy people's political career. Such things would not lead us anywhere. We must be able to be tolerant and play the game according to the rules. Must we win all the states in this country? Where a party has won a state, let it be. That is the reform we are talking about.

I agree that INEC funding should be first line charge but apart from that, we require the occupant of that seat to have integrity, transparency and the fear of Almighty God. That is the only way it can work. *(Interruptions)*

The President: Senator Ugbane, can you give an example in the South West where PDP won and they were not allowed to.

Senator Nicholas Yahaya: Mr. President, I was not thinking of any part of Nigeria. Senator Ucha made reference to Section 8 of the 1999 Constitution as it relates to creation of states to show that yes, we,

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as legislators can create states and not leave that to the military alone. We need to look into that.

There were native authorities in those days such as Igala Native Authority and Kano Native Authority. As at today, former Kano Native Authority has become two states of Kano and Jigawa States. Igala Native Authority is still what it is. It should have become a state, too. Even if we cannot create states because of time limitation, we should outline the process for these things to be done so that those coming after us can continue.

In conclusion, I want to say that this Bill is timely but we Nigerians must be ready to change our attitude so that the reforms can be meaningful.

The President: Thank you very much, distinguished Colleagues. We have spent a lot of time on this Bill. This time has been allowed because it has to do with constitutional amendment. It is proper that every Senator is giving an opportunity to speak on the Bill particularly those who have been here since morning. I believe that if we operate even the existing Constitution with all sincerity we would not be clamouring for the sort of amendments we are asking for now. It does not matter what amendments we make if we are not prepared to implement them, we would just be going round and round. So, there is need for sincerity in what we are doing.

INEC itself may not be thoroughly inefficient, not the way we may want to have it painted. But we have got more problems with SIEC, which obviously is not likely to be amended because the State Houses of Assembly are certainly not going to yield to that. Whether SIEC should exist or not, again, it is a matter of our attitude to every thing that we do. There are more questions to be answered on the Constitution itself than over-emphasis on the amendment of the Constitution. I believe that we should try and implement the Constitution we have. If we make any amendments at all, those amendments will be subject to implementation and that is what is important. So, is it in our Constitution that the problem is or in ourselves? Is the fault in our stars or in ourselves? That is what we should look at.

I agree that we should insulate the Judiciary completely from politics. To bring them in to have hands in anything political is going to make them another arm of the political division and that will make it difficult for them to be neutral when they are dealing with us, politicians.

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Age versus experience, either way, it is neither here nor there. There are lots of young men who have had the opportunity and who have blown it. There are lots of old men who have the experience and they have done well. So, there are no statistics to show but I think the important thing is that as Nigerians whether you are old or young, once you have the opportunity, you must make sure that you utilise it to the benefit of this country. I personally do not think that it is a matter of age rather it is a matter of individuals involved

I thank you distinguished Colleagues for your contributions. There will be more opportunity for you to contribute again during the Public Hearing when this is referred to the Committee. I please, urge you to go and make contributions. Do not restrict your contributions to what you have done on the Floor here.

With these few remarks, may I now put the Question on the Second Reading of the Bill?

Question put and agreed to.

The Bill is referred to our Standing Committee on Constitution Review. The Committee should be conscious of the fact that time is not on our side on this Bill.

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Bill read the Second Time and referred to the Standing Committee on Constitution Review.

Senator Teslim K. Folarin: Mr. President, we need to stand down the last item on the Order Paper, so, I move that we stand down the last item on the Order Paper to another legislative day.

Senator Adeleke O. Mamowora: Mr. President, I rise to second the Motion that the remaining item on the Order Paper be stood down to another legislative day.

Question put and agreed to.

(The last item on the Order Paper by leave of the Senate stood down to another legislative day)

ADJOURNMENT

And it being 3.40 p.m. the Senate adjourned to Wednesday, 1st July, 2009 at 10.00 a.m. prompt without Question put pursuant to Senate Standing Order 13(7)