

**IN THE THIRD SESSION OF THE THIRD PARLIAMENT OF THE  
FOURTH REPUBLIC OF GHANA**

**EIGHTEENTH REPORT OF THE APPOINTMENTS COMMITTEE  
ON NOMINATION FOR APPOINTMENT AS A JUSTICE OF THE  
SUPREME COURT OF GHANA**

**1.0 INTRODUCTION**

- 1.1 Pursuant to Article 144 (2) of the Constitution, His Excellency the President communicated to Parliament his nomination of **Professor A. Kodzo Paaku Kludze** for appointment as a Justice of the Supreme Court of Ghana.
- 1.2 In accordance with Order 172 (2) of the Standing Orders, the Speaker referred the nomination to the Appointments Committee on November 29, 2002 for consideration and report.
- 1.3 The Committee held a public hearing in accordance with Order 172 (4) on Thursday, March 27, 2003 to consider the nominee and hereby reports as follows:

**2.0 REFERENCE DOCUMENTS**

- i. Constitution of the Republic of Ghana, 1992
- ii. Standing Orders of the Parliament of Ghana

**3.0 PROCEDURE ADOPTED**

In accordance with Order 172 (3), the nomination was published in the mass media to inform the general public and to invite their views in the form of written memoranda on the

suitability, experience and capability of the nominee for the position.

In response, the Committee received one memorandum in the name of "the Youth of Gbi-Kpeme" that sought to challenge Prof. Kludze's qualification for the appointment.

Subsequently, the Committee investigated the matter but made no adverse findings against the nominee.

On appearing before the Committee, the nominee testified on oath and answered questions on a wide range of issues in respect of the nomination.

#### **4.0 OBSERVATIONS**

##### **4.1 Resume of Nominee**

Prof. Kludze is a Distinguished Professor of Law at the Rutgers University School of Law in the USA. He holds a Ph. D. from the University of London. He also obtained LL. B. (Hons.) and BA (Hons.) from the University of Ghana. He was admitted to the Ghana Bar in 1965 and has since been a member of the New York State bar and US Supreme Court Bar since 1984.

He has lectured in various capacities in Ghana, Nigeria and the USA. He has five publications and twenty articles to his credit.

##### **4.2 Constitutional Requirements**

In considering the nomination, the Committee reviewed the relevant Constitutional requirements for appointment to the Supreme Court namely: **Articles 128 (4) and 145 (2) (a).**

In respect of **Article 128 (4)**, the Committee noted that the nominee was called to the Ghana Bar in 1965 and therefore has thirty-eight (38) years standing as a lawyer.

As regards the character and integrity of the nominee, the memorandum mentioned earlier, sought to question the qualification of the nominee but the Committee's investigations could not establish any misdemeanour on the part of the nominee. Rather, the nominee had demonstrated a high sense of patriotism and selflessness towards the promotion of education in his hometown – Gbi-Kpeme in the Hohoe District.

In respect of **Article 145 (2) (a)**, the Committee was made to understand that the nominee who was born on March 12, 1934 is sixty-nine (69) years and therefore has one year to serve on the Bench. Thus, Prof Kludze fully satisfies the requirements of the Constitution.

Prof. Kludze told the Committee that he believes he is younger than his age but had adopted it in his official records for the sake of maintaining consistency. This notwithstanding, the nominee argued that longevity is not a sufficient attribute for service on the Bench. Rather, one must be assessed on the basis of his/her impact on the development of the country's legal system and justice administration in terms of his exposition and force of legal arguments. He pointed out that he did not consider pecuniary interest as essential in the appointment and referred to **Article 155 (1)** of the Constitution under which he cannot retire after one year on the salary of a Justice of the Supreme Court.

The Committee found that even at his age, Prof. Kludze still has interest in researching into land issues to enhance land law in Ghana. He hopes to conduct research in the northern regions after his tenure at the Supreme Court expires.

#### **4.3 Access to the Supreme Court**

The Committee observed that Prof. Kludze firmly believes in equal access to the Supreme Court irrespective of one's financial standing. He is of the opinion that the practice of imposing fines on individuals who seek constitutional interpretations at the Supreme Court discourages others who genuinely require the service and therefore denies them justice and suggested that the practice be reconsidered.

#### **4.4 The Question of "Packing the Supreme Court"**

The nominee does not agree with the perception of "packing the Supreme Court". He explained that, given the load of cases before the Supreme Court vis a vis the slow pace at which cases are disposed of, it is necessary to appoint more Judges to help speed up work. He however believes that the provisions of **Article 144 (2)**, clearly put brakes on the President in the appointment of judges to the Supreme Court.

#### **4.5 Mechanization of the Courts**

The nominee expressed support for the modernization of the courts in Ghana through the introduction of information and communication technology (ICTs). The nominee believes modernization would greatly facilitate expedited justice delivery in the country.

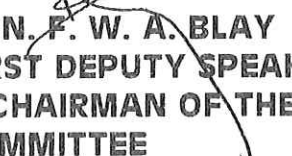
#### **4.5 The Concept of Freedom**

Prof. Kludze was of the opinion that the freedom of expression is the greatest attribute of Ghanaian society today. However, he believes that freedom is a dynamic concept that changes with various social epochs. Furthermore, it is not an absolute concept but must be subject to ones responsibilities vis-à-vis the rights of others.


#### **5.0 CONCLUSION**

The Committee has carefully examined the eligibility of Professor A. Kodzo Paaku Kludze for the appointment and found that he is truly an accomplished legal luminary and academician who exhibited deep knowledge of law and the 1992 Constitution in spite of his long absence from the country. Accordingly, his nomination is recommended, by majority decision, for approval by this Honourable House.

Respectfully submitted.



**HON. F. W. A. BLAY  
FIRST DEPUTY SPEAKER  
& CHAIRMAN OF THE  
COMMITTEE**



**FREDERICK K. NUTSUGAH  
CLERK TO THE COMMITTEE**

*28<sup>th</sup> March 2003*