

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

**FIRST REPORT OF THE JOINT COMMITTEE ON  
APPOINTMENTS AND JUDICIARY**

**On**

**NOMINATIONS FOR APPOINTMENT TO THE  
SUPREME COURT**

**3<sup>rd</sup> March 2006**

# FIRST REPORT OF THE JOINT COMMITTEE ON APPOINTMENTS AND JUDICIARY ON APPOINTMENTS TO THE SUPREME COURT

## 1.0 INTRODUCTION

1.1 Pursuant to Article 144 (2) of the Constitution, His Excellency the President communicated to Parliament his nomination of two Justices of the Court of Appeal for appointment to the Supreme Court of the Republic.

They are:

- a) Mrs. Justice Sophia Ophilia Adjeibea Adinyira
- b) Mr. Justice Samuel Kwadwo Asiamah

1.2 In accordance with Orders 172 (2) and 176 of the Standing Orders, the Speaker referred the nomination to the Joint Committee on Appointments and Judiciary on 7<sup>th</sup> February, 2006 for consideration and report.

## 2.0 PROCEDURE

In accordance with Order 172 (3), the nomination was published in the mass media and views in the form of written memoranda were invited on the suitability, experience and capability of the nominees for the positions.

The Committee held a public hearing in accordance with Order 172 (4) on 1<sup>st</sup> March, 2006 to consider the nominees. On appearing before the Committee, the nominees testified on oath and answered questions on a range of issues related to their appointment.

The Committee hereby reports as follows:

## 3.0 REFERENCES

- a) Constitution of the Republic of Ghana, 1992
- b) Standing Orders of the Parliament of Ghana

## 4.0 BACKGROUND

In response to clarifications sought, the Judicial Service informed the Committee that the number of Judges on the Supreme Court, by convention, has been within an upper limit of thirteen (13) plus the Chief Justice. The last appointments were made in October 2004 and the roll stood as follows:



- i. G. K. Acquah, CJ
- ii. F. Y. Kpegah
- iii. W. A. Atuguba
- iv. Theodore Adzoe
- v. Sophia A. B. Akuffo (Ms.)
- vi. G. T. Wood (Mrs.)
- vii. S. A. Brobbey (On Secondment)
- viii. Seth Twum
- ix. S. K. Date-Bah
- x. Modibo Ocran
- xi. Julius Ansah
- xii. Felix M. Lartey
- xiii. R. T. Aninakwah

Subsequently, Mr Justice S. A. Brobbey was seconded to the Gambia as Chief Justice. Mr. Justice Felix M. Lartey retired in April 2005 and Mr. Justice Theodore Adzoe is due to retire in May 2006 on medical grounds. Mr. Justice F. Y. Kpegah has also been indisposed and is due for preliminary medical check up for treatment abroad. Thus, the nominal roll of judges on the Supreme Court after May will stand at eleven (11) including the Chief Justice but with only nine (9) in active service.

The Supreme Court sits in panels of not less than five (5) Judges. Having regard to its workload, the Court sits in two panels that rotate weekly. Given the current number of active judges, some judges have had to sit every week and hence the need to augment the number in accordance with the convention.

## **5.0 CONSTITUTIONAL REQUIREMENTS**

The Committee reviewed the constitutional requirements for the appointment of judges to the Supreme Court, especially articles 128 and 145. In respect of article 128 (4), the Committee noted that both nominees have more than fifteen (15) years standing as lawyers. The Committee did not make any adverse finding about their moral character and integrity.

In respect of article 145 (2), the Committee noted that both nominees have not attained the age of seventy (70).

## **2.0 OBSERVATIONS**

### **6.1 MRS. JUSTICE SOPHIA OPHILIA ADJEIBEA ADINYIRA**

#### **6.1.1 Resumé**

Mrs. Justice Sophia Ophilia Adjeibea Adinyira is a Court of Appeal judge with thirty-two (32) years standing at the Bar. She was born on 1<sup>st</sup> September 1949 at Cape Coast and attended Fijai Secondary School (1961-1966) and Wesley Girls High School (1966-1968). She obtained LL.B. Hons and B.L. from the University of Ghana and was called to the Bar in 1973.

She was appointed as an Assistant State Attorney in 1974 and rose to the position of Principal State Attorney in 1986. She was appointed to the High Court in 1989 and promoted to the Court of Appeal in 1999.

She is married with five children.

#### **6.1.2 Experience and Contribution**

In response to questions about her experience and changes she would bring to the judiciary, if appointed, the nominee said that she had acquired immense experience in the management of both civil and criminal cases as a state attorney and subsequently as a judge. In addition, she was familiar with the socio-cultural background of people in many communities across the country where she had practiced and that would inform her contributions to judgments. To her, these qualities have sufficiently prepared her for the demands on a Supreme Court Judge.

On her contribution to the reform efforts of the Chief Justice, Mrs. Justice Adinyira said she had represented the Chief Justice at various fora and had been resourceful in the Continuing Judicial Education Programme of the Judicial Service.

#### **6.1.3 Corruption and the Image of the Judiciary**

Mrs. Justice Adinyira expressed the view that, as a human institution, corruption could not be eradicated in the judiciary but be minimized. She cited delays in the disposal of cases, unclear judgments, volume of work and ineffective supervision of staff as some of the issues that create image problems for the judiciary and



fuel the perception of corruption. In her view, speedy disposal of cases and clearly written judgments are essential for public confidence in the judicial process. She said the adoption of Alternative Dispute Resolution mechanisms would help reduce the pile of cases before the courts and thereby reduce pressure on judges.

The nominee told the Committee that the conduct of judges must be above suspicion; court staff should be effectively supervised and courts ought to be well managed to uphold the dignity and integrity of the judiciary.

### 6.1.3 Views on Pertinent Social Issues

The Committee sought the views of the nominee on certain social issues. On the Domestic Violence Bill, she expressed the view that various complaints of domestic violence are made to the police but these are not adequately dealt with due to inadequate legal provisions hence the need for the Bill. In her opinion, the fuss about section 42 (g) of the Bill is based on a wrong interpretation of the provision.

According to Mrs. Justice Adinyira, the occurrence of rape in marriage could constitute grounds for divorce. In her view, even if there is a presumption of consent in marriage, each person is entitled to protection by the law so where one feels that his/her rights have been violated, appropriate redress could be sought.

The nominee agreed to a suggestion that prostitution promotes the spread of HIV/AIDS. She argued that common law and general moral standards frown on prostitution therefore, its legalization would not curb the spread of the HIV/AIDS pandemic. To her, the solution is education and behavioural change.

On church/society relations, Mrs. Justice Adinyira told the Committee that the church must help in the national poverty eradication efforts. In her words, "without the satisfaction of human needs, affirmation of human rights is really difficult". She agreed that the poor had difficulties in accessing justice and hence the need for Legal Aid.

## **6.2 MR. JUSTICE SAMUEL KWADWO ASIAMAH**

### **6.2.1 Resumé**

Mr. Justice Samuel Kwadwo Asiamah is a Court of Appeal Judge with twenty-eight (28) years standing at the Bar. He was born on 6<sup>th</sup> June 1938 and attended O'Reilly Secondary School (1958-1962) and the Advanced Teacher Training College, Winneba (1968-1970). He obtained LL.B. Hons and B.L. from the University of Ghana and was called to the Bar in 1978.

He was appointed as a Magistrate Gd. II in 1979 and worked in various parts of the country as he rose steadily through the ranks to the Court of Appeal in June 2002. Prior to his appointment to the Bench, Mr. Justice Asiamah worked as a trained teacher for seven years.

In response to a question, the nominee informed the Committee that he once changed his name by dropping "Ayirebi" on purely religious grounds because it had a connection with a fetish in the Kwahu area where he hails from.

He is married with five children.

### **6.2.2 Death Penalty**

The Committee sought the views of Mr. Justice Asiamah on the death penalty. He said article 15 of the Constitution protects the dignity of all persons and to him, nothing constitutes an affront to the dignity and sanctity of human life more than the death penalty does and therefore should be abolished.

### **6.2.3 Progression in the Judiciary**

The nominee told the Committee that promotions on the Bench ought to focus on competence and moral uprightness of judges. He disagreed with a proposal that judges be paid additional duty hour allowances to enable the courts dispose off cases faster. He contended that there was no need for a judicial officer to work extra hours for an allowance when already exhausted.

In response to a question about his progression in life, in spite of his very humble background, Justice Asiamah said determination was



the key and therefore anyone who aspires to reach the top of his/her career has to be determined.

#### **6.2.4 Inducements and Corruption in the Judiciary**

Mr. Justice Asiamah told the Committee that as a judge, people have sought to induce him to give judgment in their favour but maintained that he was always guided in his judgment by the law. He narrated an experience to the Committee about an attempt by certain persons to influence his judgment in a case of impersonation that once came before him. He said he resisted the attempt on the grounds that as a person he had no will in the determination of cases except the will of the court. To him, something could be done about corruption in the judiciary if the hearts of the people can be changed.

Responding to a question on his seeming harsh posture on his colleagues at the Bar who appear before him, he stated that "the law is no respecter of persons" and so he did not hesitate to punish anyone found foul of the law. He admitted that he was once convicted of a motor traffic offence and suffered the penalty thereof. He stated that he had no regrets or ill-feelings about judgments he had given.

#### **6.2.5 Religious Inclination**


The nominee told the Committee that in spite of his deep religious inclination, he did not force his beliefs on others. He referred to the preamble of the Constitution which acknowledges "THE ALMIGHTY GOD" and said he only prayed and shared the word of God with his staff who were willing to do so before the commencement of work. He agreed with a suggestion that churches should pay taxes in view of their acquisition of assets. As he put it "even Jesus paid tax". On compliance with municipal by-laws, Justice Asiamah said fake churches should be identified and dealt with.

### **7.0 CONCLUSION and RECOMMENDATION**


The Committee carefully examined the eligibility of Messrs Justices Sophia Ophelia Adjeibea Adinyira and Samuel Kwadwo Asiamah for appointment as Justices of the Supreme Court of the Republic and found that they were forthright in their answers to questions put to them. They demonstrated confidence, strong conviction and good knowledge of the law.

Having regard to the number of judges available for active duty by June 2006 as explained in paragraph 4.0 earlier, the Committee recommends the two nominees, by consensus, for approval by this Honourable House in order to augment the number of judges on the Supreme Court.

Respectfully submitted.

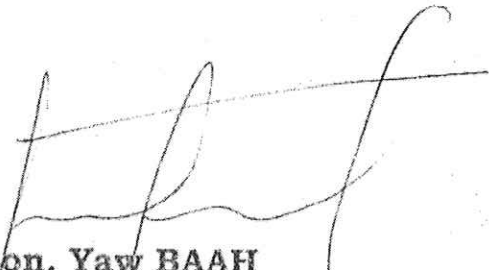


**Hon. F. W. A. BLAY**  
First Deputy Speaker  
& Chairman of the  
Appointments Committee

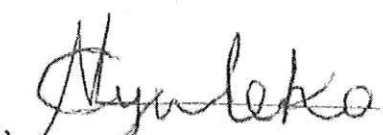


**Frederick K. NUTSUGAH**  
Clerk, Appointments Committee

3rd March, 2006



**Hon. Yaw BAAH**  
Chairman, Judiciary  
Committee



**Cyril K. O. NSIAH**  
Clerk, Judiciary  
Committee