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THE SOUND OF DEMOCRACY: LEGAL AND PROCEDURAL EXAMINATION OF THE VOICE VOTE IN THE SENATE OF THE NIGERIAN NATIONAL ASSEMBLY

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Abstract

The voice-vote remains one of the most enduring decision-making procedures in legislatures, symbolizing both the simplicity and immediacy of parliamentary democracy. Notwithstanding, its continued use raises important questions about transparency, accuracy, and democratic accountability in contemporary law-making. This article offers a detailed legal and procedural examination of the voice vote in the Nigerian Senate, interrogating how it is initiated, conducted, and ruled upon, the discretionary power it accords the Presiding Officer, and its normative foundation within practice. The study finds that while the voice vote is efficient for disposing uncontested matters, routine motions, and procedural questions, its reliance on auditory estimation introduces significant risks of partisan manipulation, and the suppression of minority voices. The article further finds that systemic challenges, including the absence of objective thresholds for determining "majority," limited opportunities for Members to demand division, and insufficient technological support for verification, are structural barriers to participation and quorum visibility. These weaknesses undermine legislative credibility and public trust, particularly during contentious deliberations where precision is essential. The article argues that for the Nigerian Senate to embody the ideals of democratic decision-making, voice voting must be complemented, and in some contexts replaced by more transparent, verifiable, and participatory voting procedures. Drawing on comparative analysis from two jurisdictions- the United Kingdom and Canada, the article proposes reforms such as expanding electronic voting infrastructure, tightening the procedural conditions for voice-vote rulings, strengthening safeguards for calling divisions, and enhancing transparency measures such as audio archiving and recorded voting.

Keywords: Democracy, Legislative Practice, National Assembly, Representation, Senate, Voice-Vote.

1. Introduction

Voice voting, captured in the resonant call of "those in favour say aye, and those against say nay" remains one of the most symbolic decision-making procedures in parliamentary practice. A voice vote is a method of voting where members of a group of assembly verbally express support or opposition to a proposal, with its outcome determined by the volume of the responses, and the side

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that is louder declared the winner.[2] In the Nigerian Senate, it continues to serve as the default method for determining consensus on motions, procedural questions, and in some cases, substantive decisions. Despite its simplicity, the voice vote raises questions about how legislative preferences are validated and recorded in a modern constitutional democracy.

The central problem is whether the voice vote strengthens democratic deliberation or undermines accountability. While proponents emphasise its speed and efficiency, critics argue that the voice vote leaves room for manipulation. These concerns are magnified in a democracy like Nigeria's, still grappling with increasing demands for institutional credibility. This paper interrogates the legal, procedural, and democratic dimensions of voice voting in the Senate of the Nigerian National Assembly.

The paper is structured into six parts. Immediately following this Introduction, Part 2 conceptualises the voice-vote, while Part 3 examines the legal and procedural framework governing the use of the voice-vote in the Senate, and its procedural dynamics. Parts 4 and 5 respectively deal with the democratic tension of the use of the voice-vote, and a cross-jurisdictional survey of the practice. Part 6 contains the findings, recommendations, and conclusion.

2.Conceptualizing The Voice-Vote

Voice votes are useful for gauging the sense of an assembly on particular issues before proceeding to a formal vote,[3] but it may not always accurately reflect the sentiment of the group. In large assemblies especially, it can be difficult to accurately determine the volume of responses, leading to potential inaccuracies in outcome. Voice votes also lack the anonymity of written ballots, which may make some members hesitant to express their opinions. Additionally, voice votes may not be proper for more contentious issues where a formal ballot vote may be more appropriate.[4] Beyond its symbolic appeal, the voice vote introduces a complex tension between tradition and transparency because its reliance on the subjective judgment of the Presiding Officer raises democratic concerns. Although not within parliamentary practice, an illustrative example of the workings of the voice vote occurred in the run-up to the election of Barrack Obama as the President of the United States of America, when more than 5,000 delegates assembled for the Democratic Convention.[5] Confirming Barack Obama and Joe Biden as the Democratic nominees for the offices of the President and Vice-President respectively was a mere formality, but not everything at the Convention went smoothly.[6] A thorny issue was to be decided by a "voice vote", in which those in favour were to declare "aye" while those against say "no".[7] When the Chairman could not decide

[2] Ingo R Titze and Anil Palaparthi, 'The Accuracy of Voice Vote' *The Journal of the Acoustical Society of America* (2014) (135) (1) 362-368 <https://pmc.ncbi.nlm.nih.gov/articles/PMC3985892/> accessed 21 December, 2025.

[3] ibid.

[4] ibid.

[5] ibid.

[6] Philip Ball, 'How One Loudmouth Can Derail Democracy, *BBC* (North Carolina, 29 January 2014) <https://www.bbc.com/future/article/20140128-perils-of-voting-with-your-voice> accessed 21 December, 2025.

[7] The former Ohio Governor Ted Strickland had introduced an amendment to the Democratic "party platform" – the statement of intent – that would reinstate wording referring to "God-given rights" and affirming Jerusalem as the capital of the State of Israel.

whether the first vote had met this criterion, he called for a second vote, with the same result. He tried a third time, and the relative loudness of the voice vote was still not obvious. The Chairman declared a result anyway, eliciting many boos.[8]

The incident prompted research into the accuracy of the voice votes,[9] where Ingo Titze, and Anil Palaparthi found that except in cases of near-consensus, the voice-vote is a bad way of making democratic decisions.[10] In conducting the experiment, the researchers divided a university acoustics class of 54 people into two groups, and asked them to make voice votes to be assessed by five adult listeners. All the voters were women (men were excluded) so that the voting groups were as uniform as possible. Participants were asked to speak at varying volumes. The first experiment implied that the listeners' perceptions were reliable. While a 50:50 ratio of speakers elicited the judgement from all five judges that both groups were the same size, an imbalance of just 54:46 was enough for the larger group to be judged louder almost all the time. Although this was in a good acoustic environment, the researchers figured that typical noise levels and poor acoustics were unlikely to mask a two-thirds majority.[11] The real problem emerged when a few individuals were asked to respond more loudly. Only a single loudmouth in the minority group could obscure a two-thirds majority unless there are more than about 40 voters. It was the recommendation of the researchers at the close of the experiment that voice-votes must be used with clear guidelines and calibration, and an understanding of their limitations.[12]

An important takeaway from the experiment is that unless some control is imposed on the sound level of individual voters, it is difficult to establish even a two-thirds majority, much less a simple majority. There is no symmetry in the bias created by unequal sound production of individuals because soft voices do not bias the group loudness much, but loud voices do.[13]

3. Legal Foundations, And Procedural Dynamics

3.1 Legal Order

3.1.1 The Constitution of the Federal Republic of Nigeria, 1999 (As Altered)

Although, the Constitution does not explicitly mention the voice-voting method, it confers procedural autonomy on the National Assembly, and establishes general voting requirements. Collectively, these provisions furnish the framework within which the voice-vote has evolved as a valid tool in the Senate. The Constitution is notably silent on the specific modalities of how ordinary questions should be put to the vote. This silence is not an omission however, rather, it reflects a deliberate constitutional design that gives the Senate the power to regulate its own procedure."[14] Consequently, the legitimacy of the voice-vote, derives not from express constitutional codification, but from the Constitution's delegation of procedural rule-making power to the National Assembly.[15]

[8] (n 5).
[9] (n 1).
[10] ibid.
[11] ibid.
[12] ibid
[13] (n 1).
[14] Section 60
[15] ibid.

3.1.2 The Standing Orders of the Senate, 2022

This is the instrument governing the Senate's conduct of its internal business, and provides the authority for the use of voice-vote.[16] The Standing Orders, once adopted, carry legal authority and validity. The Orders expressly recognises voice voting as a legitimate and primary method of decision-making.[17] While it grants discretion to the Presiding Officer, the Orders simultaneously empower Senators to demand more transparent voting methods when necessary.[18] Instructively, the effectiveness of this framework depends not only on the written rules but also on institutional norms, leadership neutrality, and adherence to democratic principles.

a. Procedural Dynamics in the Senate

i. How Voice Votes are Initiated, Conducted, and Ruled upon.

The Standing Orders empower the Presiding Officer to put the question to the House and decide based on the volume of responses.[19] A question is said to be put when the Presiding Officer collects the voices of the Ayes, and Noes, and declares the result subsequently.[20] This declaration is made by the Presiding Officer by stating that "I think the ayes have it'', or "I think that the noes have it.''[21]

ii. The Legal Status of the Voice Vote.

A properly conducted voice-vote is legally valid and presumed regular under the doctrine of parliamentary autonomy. Courts in Nigeria generally refrain from interfering with such internal parliamentary procedures except where a constitutional violation is alleged.[22] The voice-vote therefore enjoys full procedural legitimacy as a mode of decision-making, reinforced by both constitutional delegation and entrenched parliamentary practice.

Iii. The Presiding Officer, and the Threshold of "Majority.''

The Presiding Officer plays a central role in the conduct of a voice vote because his ruling is not merely ceremonial, but carries binding procedural effect. The Presiding Officer's judgment is therefore both authoritative and largely unreviewable within the chamber. The threshold for determining a majority during a voice vote is rooted in the simple-majority principle, except where the Constitution requires a special majority. In a voice vote, this threshold is not measured numerically but inferred from the relative volume of support and opposition perceived by the Presiding Officer. As long as the matter in question requires only a simple majority and no division

[16] ibid

[17] Order 71

[18] Order 72(1)

[19] Order 70 of the Senate Standing Orders 2022 (As Amended).

[20] ibid

[21] ibid

[22] Nwamaka Adaora Iguh, and Chinaza Michael Egwuatu, 'Need for a Strict Observance of the Provisions of the Constitution of the Federal Republic of Nigeria 1999 (As Amended) in the Application of Judicial Review' *African Journal of Law and Human Rights* (2023) (7) (1) 83-88 <https://www.journals.ezenwaohaetorc.org/index.php/AJLHR/article/viewFile/2523/2597> accessed 21 December, 2025.

is demanded, the Presiding Officer's declaration satisfies the requirement for majority decision-making.[23] The majority in a voice vote is functionally a procedural construct validated by the Standing Orders and sustained by the absence of a request for a more precise method of counting.

iv. Supplementary Mechanisms

In the Senate or the Committee of the Whole Senate, a Senator may challenge the opinion of the Presiding Officer by claiming a division.[24] If in the opinion of the President of the Senate, or in the Committee of the Whole Senate, the Chairman, as to the decision of a question being challenged, the President of the Senate or Chairman shall put the question a second time.[25] If after this, their opinion is challenged again, a division is taken by the Clerk calling each Senator's name and asking each Senator separately how he desires to vote, and then record the vote accordingly.[26] The Clerk thereafter reads the names and announces the number of those who have voted for, and against the proposal, and the President of the Senate or Chairman then declares the result of the division.[27] This procedure is replicated in Committees other than the Committee of the Whole Senate.[28]

v. Procedural Safeguards

Procedural safeguards in the use of the voice vote are designed to ensure that the process is fair and transparent. The Standing Orders require the Presiding Officer to clearly state the question before calling for the "Ayes" and "Noes," ensuring that Senators understand precisely what is being decided.[29] This clarity is reinforced by the obligation to put the question audibly and sequentially, allowing every Senator a reasonable opportunity to participate. The chamber must also be in an orderly state, and debate on the motion must have formally closed, preventing disruptions that could distort the volume of responses.[30] These steps anchor the voice vote in procedural predictability.

Another critical safeguard is the right of Senators to challenge the Presiding Officer's ruling by demanding a division.[31] Once a division is called, the voice vote result cannot stand, thereby creating an internal check on the Presiding Officer's subjective assessment of which side was louder. This right ensures that contentious or closely contested matters are not decided based on acoustics alone. Additional layers of accountability include quorum requirements, the recording of decisions in the Votes and Proceedings, and the possibility of raising points of order if procedure is breached.

Collectively, these safeguards ensure that the voice vote remains a credible, reviewable, and procedurally compliant mechanism within the Senate's decision-making framework.

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[23] Order 70 (4)

[24] Order 72(1) of the Standing Orders of the Senate.

[25] A combined reading of Order 72 (2) and (3) of the Standing Orders of the Senate.

[26] Order 72 (3) of the Senate Standing Orders 2022 (As Amended).

[27] ibid

[28] Order 74(1) of the Senate Standing Orders.

[29] See generally, Order 70 of the Senate Standing Orders 2022 (As Amended).

[30] ibid.

[31] (n.22)

These safeguards appear procedurally robust on paper, but they are unfortunately, irregularly applied within the context of the Senate, thereby exposing a troubling gap between normative safeguards and practical legislative practice.

4. Democratic Tension

The design of the voice-vote process assumes that public and collective vocal expression is a visible and audible demonstration of majority will, but issues abound. This section of the article expatiates on those tensions.

4.1. Democratic Ideals

4.1.1. Constituent Rights over Representatives

In its narrow sense, the voice-vote meets the minimum threshold of openness because the process is seemingly transparent. However, when measured against modern standards of transparency, the voice-vote falls short because voice-voting does not produce a record of how each Senator votes. This anonymity raises implications for the rights of citizens in a constitutional democracy because at the core of representative governance is the expectation that elected officials act transparently and remain accountable to the electorate. Procedural justice literature argues that individuals trust parliament more if they believe they have a voice in the form of a selected representative in the policy-making process.[32] Due to the overwhelming majority of individuals never participating directly in parliament, they instead gain voice through representation. However, when legislative decisions are taken through an unrecorded collective shout of "ayes" and "noes," this expectation is weakened.

The voice voting method also has serious consequences for open government principles because contemporary legislative practice increasingly demands traceable decision-making, enabling citizens, Civil Society Organisations, and the media to subject the exercise of public power to scrutiny. Political trust has been an issue of interest to political scientists for decades, because it is often considered a fundamental indicator of the health and legitimacy of a democracy.[33] Voice votes obscure legislative alignments and policy preferences, consequently frustrating public understanding of the motivations and coalitions that shape legislative outcomes. The opacity of voice voting therefore has negative effects on public trust in legislative institutions. Such perceptions erode confidence in the legislative process and may fuel broader suspicion about the responsiveness and integrity of democratic institutions.

The inability to trace votes also hinders advocacy and redress strategies because stakeholders lack the evidentiary basis to target specific representatives in petitions, oversight complaints, or public campaigns. As such, the continued use of the voice-vote for decisions with substantive implications presents a significant democratic challenge. As legislative governance evolves toward greater openness, the institutional reliance on opaque voting mechanisms warrants critical reassessment and reform.

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[32] Kris Dunn, 'Voice and Trust in Parliamentary Representation' *Electoral Studies* (2012) (31) (2) 393-405 <https://doi.org/10.1016/j.electstud.2012.01.006> accessed 21 December, 2025.

[33] ibid.

4.1.2 Subjectivity and Potential Manipulation

A further challenge inherent in the use of voice voting is the high degree of subjectivity involved in determining outcomes. Unlike electronic or division voting where numerical tallies provide objective and verifiable results, the voice vote relies almost entirely on the Presiding Officer's perception of which side's oral response appears louder. This introduces discretion into the decision-making process because the Presiding Officer is effectively empowered to translate vocal intensity into legislative will. As a result, small but highly coordinated groups of legislators may artificially amplify their responses to create the perception of majority support, while quieter but numerically superior legislators can be overshadowed. Parliamentary scholarship has repeatedly observed that presiding officers may consciously or unconsciously favour the position of the majority party or the executive, especially in politically charged contexts where institutional incentives align toward rapid decision-making.[34]

Dissatisfied legislators or constituents also face significant barriers in challenging questionable outcomes. Calls for a 'division' or recorded vote, as contained in the Standing Orders of the Senate may mitigate this risk, but such requests are themselves subject to procedural rules and political calculations. The result is a voting modality that is structurally predisposed to opacity and discretionary interpretation.

4.1.3 Democratic Tension in the Nigerian Senate

The outcome of a voice vote depending entirely on the Presiding Officer's subjective assessment has seen senators frequently view the procedure as vulnerable to partiality or strategic manipulation. The most recent of such instances occurred in March 2025, where upon a voice-vote, the Senate ratified the proclamation of a state of emergency by the President of the Federal Republic of Nigeria on Rivers State, Nigeria. A consequence of this action was the suspension of the Governor of the State, and all elected officials in the state for a period of six months. The President acted pursuant to the provisions of section 305 of the Constitution.

Specifically, section 305(1) provides that:

> "Subject to the provisions of this Constitution, the President may by instrument published in the official *Gazette* of the Government of the Federation issue a proclamation of a state of emergency in the Federation or any part thereof.''

Subsection (6) of the same section provides that:

> "A proclamation issued by the President under this section shall cease to have effect –
>
> (a) if it is revoked by the President by instrument published in the official *Gazette* of the Government of the Federation;
>
> (b) if it affects the Federation or any part thereof and within two days when the National Assembly is in session, or within ten days when the National Assembly is not in session, after its publication, there is no resolution supported by two-thirds majority of all the members of each House of the National Assembly approving the proclamation…''

[34] Kayode Abdulwahab, AbdulRauf Ambali and Moshood Olayinka Salahu, 'The Impact of Interference of the Executive Arm of Government in the Choice of the Principal Officers at the Sub-National Legislature, in Nigeria's Fourth Republic: Kwara and Osun States in Focus' *Journal of Administrative Science* (2024) (21) (1) <https://jas.uitm.edu.my/images/2024_APRIL/4.pdf> accessed 21 December, 2025.

The section reveals a clear constitutional breach by the Senate in the use of the voice-vote to determine such a matter because subsection 6 (b) provides without ambiguity, a requirement of two-thirds majority. Expectedly, a trail of condemnations trailed the actions of the Senate.

Ali Ahmad, a Professor of Constitutional Law, believes that the National Assembly should have upheld legislative precedent by using electronic voting or division. He argued that two-thirds cannot be determined through a voice vote, and that lawmakers acted against established rules.[35]

From a Civil Society perspective, the Policy and Legal Advocacy Centre (PLAC) criticized the conduct of the National Assembly in the following way:

> "At a time when the National Assembly has come under intense negative media and public scrutiny, and stakeholders engaging the legislative institution are working hard to promote positive engagements between its members and citizens, the action taken today will further undermine the trust citizens have in the Institution and its ability to stand for what is right."[36]

Also weighing in, Ireti Kingibe, senator representing the Federal Capital Territory, condemned the act. According to the Senator, the Senate Standing Order mandates a roll call or electronic voting system to determine numerical compliance for decisions of this magnitude accurately.[37] The Senator specifically stated that:

> "When a supermajority like two-thirds is needed, a recorded vote, whether through division voting, roll call, or electronic voting is necessary to ensure compliance with constitutional requirements. The Senate Standing Orders and House Rules generally mandate a roll call or electronic voting system to accurately determine numerical compliance for decisions of this magnitude. A voice vote is insufficient for determining a two-thirds majority in the National Assembly for an emergency proclamation. A formal recorded vote is crucial to confirm the exact number of lawmakers in support."[38]

Also, Aminu Tambuwal, senator representing Sokoto-South, echoed similar concern and said that the National Assembly did not demonstrate a two-thirds majority. Tambuwal said the approval process was unconstitutional because the attendance in the senate did not meet the required members, and the voice vote failed to confirm the actual count. The Senator questioned whether the Senate had met this (quorum) requirement, stating that "from what I saw, there was no such number on the floor on that day."[39] He further stressed that the Constitution mandates that two-thirds of all Senate members, not just those present and voting, must approve such a resolution.''[40] The Senator questioned why the National Assembly failed to follow established precedent, and

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[35] Samuel Akpan, 'Matters Arising: Is voice vote reliable for determining two-thirds in parliament?' *TheCable* (Abuja, 26 March, 2025) <https://www.thecable.ng/matters-arising-is-voice-vote-reliable-for-determining-two-thirds-in-parliament/> accessed 21 December, 2025.

[36] ibid.

[37] Olugbenga Ige, 'Ireti Kingibe Faults Voice Vote in Rivers Emergency Rule Approval' *Punch* (Abuja, 21 March, 2025) <https://punchng.com/ireti-kingibe-faults-voice-vote-in-rivers-emergency-rule-approval/> accessed 21 December, 2025.

[38] ibid.

[39] Hafsat Bello, 'Tambuwal faults State of Emergency Declaration in Rivers State' *Daily Post* (Abuja, 24 March, 2025) <https://dailypost.ng/2025/03/24/tambuwal-faults-state-of-emergency-declaration-in-rivers-state/> accessed 21 December 2025.

[40] ibid.

recalled past instances where the National Assembly adhered to due process before declaring states of emergency.[41]

It is pertinent to note that this incident is not merely an isolated disagreement over parliamentary acoustics. It illuminates structural vulnerabilities inherent in a voting method that lacks objective verification mechanisms. When disputes arise, Senators have limited recourse because calls for division may be ignored, points of order may be overruled, and the internal nature of parliamentary procedure bars judicial intervention. Consequently, allegations of bias, whether founded or perceived, persist unresolved, deepening mistrust in the fairness of proceedings. These controversies reinforce arguments that the voice vote, while expedient, is ill-suited for decisions of substantive significance where transparency and institutional credibility are paramount.

5. Cross-Jurisdictional Survey

5.1 The United Kingdom (UK)

In the UK Parliament, voice voting, commonly referred to as voting "on the voices," forms part of a long-established parliamentary tradition but operates within a procedural framework that significantly limits its democratic risks. In both the House of Commons and the House of Lords, the Presiding Officer first puts the question to the House, inviting Members to respond verbally with "Aye" or "No." In the House of Lords, Members vote by saying 'content' or 'not content'. Only if the decision cannot be determined 'on the voices' does a formal division take place.

A critical safeguard in the UK model is that any MP may immediately challenge the Speaker's declaration by calling for a division. Once a division is demanded, the House proceeds to a recorded vote.[42] This mechanism ensures that voice voting functions only as a preliminary or convenience procedure rather than a definitive method for resolving contested or consequential issues. Equally present in the UK Parliament is a rule that 'vote follows voice'. This means that an MP's call of "Aye" or "No" should match their vote in the division. The MP may change his original call when the Speaker puts the question a second time, and there is no obligation to vote if the MP has called one way but does not want to record their vote in the division. Any objection that an MP has voted the opposite way from the way they called must be made before the numbers are reported by the tellers if possible or, if not, immediately afterwards.[43]

This paper however opines that the practical reality of policing what MPs voiced when the question is put in order to ascertain whether they voted the same way in a division however does seem a tricky proposition. Nevertheless, the process supports consistency of opinion, and trusts that MPs would not change their opinions irrationally.

By conventional practice, voice votes in the UK are largely confined to routine, procedural, or broadly consensual matters, including adjournments, minor amendments, and formal motions. The UK practice demonstrates how voice voting can coexist with democratic transparency when

[41] According to the Senator, "during President Obasanjo's administration, two-thirds had to be garnered in both chambers before a state of emergency was declared. The same happened under President Goodluck Jonathan in 2013 when emergency rule was imposed in Borno, Adamawa, and Yobe States."

[42] UK Parliament, 'Rules and Traditions of Parliament' <https://www.parliament.uk/about/how/role/customs/> accessed 21 December 2025.

[43] UK Parliament, 'Vote Follows Voice' <https://guidetoprocedure.parliament.uk/articles/9RMwklWv/vote-follows-voice> accessed 21 December, 2025.

embedded within robust procedural safeguards. The automatic availability of divisions, the publication of voting records, and the entrenched culture of accountability collectively mitigate the risks of subjectivity and manipulation.

From a comparative perspective therefore, the UK Parliament illustrates that the democratic acceptability of voice voting depends less on its existence and more on the institutional constraints placed upon its use. Where voice votes are subordinate to mandatory or easily triggered recorded voting, their impact on transparency and accountability is minimal. This stands in contrast to legislative systems where voice votes may be used conclusively for contentious decisions without reliable mechanisms for verification.

5.2 Canada

Voice voting in Canada operates within a structured framework that prioritises verifiability and individual accountability. Once debate on a motion has concluded, the Speaker puts the question and the House pronounces itself on the motion.[44] A decision on a motion before the House can be made with no dissenting voices, in which case the motion is adopted and no division is taken.[45] When the House appears ready to proceed to a decision, the Speaker will ask, "is the House ready for the question?". If no Member rises to speak, the Speaker is then satisfied that the debate has concluded and puts the question to dispose of the motion. If debate terminates pursuant to a pre-determined deadline, the Speaker interrupts the proceedings to put the question, in accordance with the terms of the Standing Order or the special order. The Speaker then asks, "is it the pleasure of the House to adopt the motion?". In the absence of any dissenting voice, he or she will declare the motion carried, and in this way, a question can be decided without resorting to a vote. If the Speaker hears a dissenting voice, he or she may first verify whether the House wishes to have the motion declared carried or negatived simply "on division". Alternatively, the Speaker will proceed to conduct a voice vote and then, if it is demanded, a recorded vote.[46]

When it is obvious that the House wishes to divide on the question,[47] the Speaker will take a voice vote. He or she will ask for the decision of the House by saying, "all those in favour of the motion will please say 'yea', and then, "all those opposed will please say 'nay'". The Speaker listens to both responses, judges the voices and the sense of the House, and states his or her opinion as to the result that "in my opinion, the yeas (nays) have it". If there is no objection, the Speaker then declares the motion carried or lost, as the case may be. However, if five or more Members rise to signal a demand for a recorded vote, the Speaker will "call in the Members". [48] If fewer than five Members rise, the Speaker concludes the initial assessment as correct and declares the motion carried or negatived on division. It sometimes happens that, after the yeas and nays have been

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[44] Section 49 of the Constitution Act, 1867, 30 & 31 Victoria, c.3 (U.K) <https://laws-lois.justice.gc.ca/eng/const/page-1.html> accessed 21 December, 2025.

[45] Eric Janse and Jeffrey LeBlanc, House of Commons Procedure and Practice, Fourth Edition, 2025, <https://www.ourcommons.ca/procedure/ourprocedure/DebateandVoting/c_g_debatevoting-e.html> accessed 21 December, 2025.

[46] (n 47)

[47] When dissent is expressed, the Speaker asks if it is the pleasure of the House to adopt the motion.

[48] Order 45(1) of the Standing Orders of the House of Commons – Consolidated Version as of June 5, 2025 <https://www.ourcommons.ca/procedure/standing-orders/Chap10-e.html#SO81> accessed 21 December 2025.

called, Members have said "on division" to indicate that the question was not decided unanimously, without resorting to a recorded vote.[49]

By way of safeguards, the Speaker's role in determining the result of a voice vote is deliberately constrained. While the Speaker may declare which side has prevailed, this declaration is provisional and readily reversible upon a request for a recorded division. This limits the scope for subjective interpretation or perceived bias and reinforces the neutrality of the presiding officer. The ease with which Members can trigger a recorded vote acts as a deterrent against procedural manipulation and ensures that minority voices are institutionally protected.

Crucially, as in the United Kingdom, constitutional convention in Canada strongly discourages reliance on voice votes for contentious or consequential matters. Substantive legislation, budgetary measures, confidence motions, and issues with constitutional or political significance are almost invariably decided by recorded votes. Voice votes therefore function primarily as a procedural convenience, facilitating efficiency where consensus is apparent rather than serving as a decisive mechanism for disputed outcomes.

From a comparative perspective, the Canadian model reinforces the argument that the democratic legitimacy of voice voting depends not on its existence but on the procedural checks that govern its use.

5.3 Comparative Assessment- Nigeria, the United Kingdom, and Canada.

A juxtaposition of the practice in the three jurisdictions reveal that the democratic acceptability of voice voting depends less on its formal recognition than on the procedural constraints that govern its use. In the UK and Canada, voice votes function as preliminary or convenience mechanisms, deployed primarily where consensus is apparent and always subject to immediate displacement by a recorded division at the request of Members. The ease with which divisions can be triggered, combined with entrenched conventions against using voice votes for contentious or constitutionally significant matters, ensures transparency, rights, and maintains public confidence through the publication of identifiable voting records.

In contrast, the Nigerian Senate's reliance on voice votes as conclusive decision-making tools, sometimes even in politically or constitutionally consequential contexts, exposes the process to democratic opacity. The absence of a routine expectation of recorded voting, coupled with the discretionary power of the presiding officer to resist calls for division, weakens accountability and frustrates citizens' ability to trace legislative responsibility.

The comparative lesson is thus quite clear, voice voting is democratically sustainable only when institutionally subordinated to mandatory, accessible, and verifiable voting procedures. Where such safeguards are absent, or weak, as the Nigerian experience demonstrates, voice voting risks transforming from a tool of procedural efficiency into a mechanism of democratic deficit.

[49]Robert Marleau and Camille Montpetit, 'House of Commons Procedure and Practice' <https://www.ourcommons.ca/marleaumontpetit/DocumentViewer.aspx?DocId=1001&Sec=Ch12&Seq=11&Language=E#fn242> accessed 21 December, 2025.

6. Findings, Recommendations, And Conclusion

6.1 Findings

This paper finds that the voice-vote is constitutionally inadequate for a numeric threshold where the Constitution requires a specific numeric majority such as the two-thirds approval mandated for a proclamation of a state of emergency. In such instances, the legitimacy of the voice-vote diminishes sharply because as already revealed in this study, reliance on a voice vote fails to provide verifiable evidence that the constitutional threshold has been met.

The paper also finds that excessive procedural discretion undermines fairness and neutrality because the Standing Orders of the Senate confers broad discretion on the Presiding Officer to determine the voting methods without clear mandatory triggers for recorded divisions. The Presiding Officer also has wide discretion in determining which voice is louder between the 'nays' and 'noes', and this creates a risk of arbitrariness, perceived bias, and procedural abuse.

The study also finds that the continued reliance on voice voting for sensitive matters creates a feeling of procedural opacity that undermines public trust in the Senate. This practice contributes to public scepticism regarding the independence and integrity of the legislature. Perceptions of executive dominance and legislative rubber-stamping are reinforced when constitutionally significant decisions are taken without transparent voting records, thereby weakening democratic accountability and public trust.

It is also a finding of this paper that the Standing Orders of the Senate do not adequately distinguish between matters suitable for voice voting and those requiring recorded votes. This misalignment permits procedural convenience to override constitutional safeguards, contrary to the principle of constitutional supremacy.

6.2. Recommendations

The absence of explicitly stated provisions in the Standing Orders of the Senate regarding when, and when not to use the voice-vote, has enabled discretion to the Senate over matters that it otherwise should not. To address this gap, this paper recommends mandatory recording for constitutionally prescribed numeric thresholds. This would entail an amendment of the Standing Orders of the Senate to require a recorded vote whenever a motion seeks to satisfy a constitutional numeric majority. This requirement should be framed as mandatory and non-discretionary to ensure objective proof of constitutional compliance.

In relation to the finding that excessive procedural discretion undermines fairness and neutrality, this paper recommends the amendment of the Standing Orders of the Senate to the effect that a recorded vote must be taken as of right upon the request of the mover of a motion or a fixed minimum number of senators. This is a lesson gleaned from the Canadian experience where five or more members can demand a division vote.

It is also recommended that in order to promote constituent's holding senators accountable, the Standing Order should institutionalise the publication of certified voting records, including the names of senators and their votes, within a specified timeframe after plenary sessions.

Also deriving from the findings, this paper recommends that the Standing Orders of the Senate should expressly confine the use of voice votes to routine, procedural, and non-contentious matters. Clear criteria should be articulated to distinguish such matters from constitutionally or politically sensitive decisions requiring recorded votes.

It is also recommended that the Senate progressively adopts electronic voting systems with audit trails or structured manual roll-call divisions. Such systems would reduce ambiguity, minimize disputes over vote outcomes, and align the Senate's practice with comparative standards.
The paper also recommends that the Senate adopts a binding guidance note for presiding officers and clerks detailing when voice votes are appropriate, how demands for divisions are handled, and the obligation to prioritise constitutional compliance over procedural expediency.

6.3 Conclusion

This study has demonstrated that the use of the voice vote in constitutionally sensitive decisions within the Nigerian Senate exposes significant deficits in legality, transparency, and democratic accountability. Recent practice, particularly the approval of the Rivers State emergency proclamation, illustrates that this challenge is systemic rather than incidental and poses real risks to institutional legitimacy and judicial scrutiny. An aggregation of the recommendations proffered, reveals an intention to reconcile procedural efficiency with constitutional fidelity by preserving the legitimate use of voice votes while ensuring that constitutionally significant decisions are subject to transparent, verifiable, and accountable voting processes. By recalibrating the use of voice votes to their proper, limited role, the Senate can strengthen its constitutional checking function, restore public confidence, and ensure that the "sound" of democracy is matched by its substance.