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26th - 28th September, 2006

FEDERAL REPUBLIC OF NIGERIA

NATIONAL ASSEMBLY
DEBATES
FIFTH ASSEMBLY
Fourth Session
THE SENATE
OFFICIAL REPORT

26th September, 2006

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**Announcement
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**SENATE OF THE FEDERAL
REPUBLIC OF NIGERIA**

Tuesday, 26th September, 2006

The Senate met at 10.15 a.m.

PRAYERS

(The Senate President in the Chair)

VOTES AND PROCEEDINGS

The President: Distinguished Senators, the Senate is called to order. Let us consider the Votes and Proceedings of Thursday, 21st September, 2006. We have pages 323 and 324.

Senator Mohammed Ibrahim (Jigawa North-East): Mr. President and my distinguished Colleagues, in the absence of any correction or amendment, I move that the Votes and Proceedings of Thursday, 21st September, 2006 be adopted.

Senator Ibikunle Amosun (Ogun Central): I second the Motion ably moved by Senator Ibrahim that the Votes and Proceedings of Thursday, 21st September, 2006 be adopted by this distinguished Senate.

Question put and agreed to.

Resolved: That the Votes and Proceedings of Thursday, 21st September, 2006, be adopted.

ANNOUNCEMENTS

**Members of Igor Local Government
Legislative Council at the Gallery**

The President: I wish to acknowledge the presence of Members of Igor Local Government Legislative Council, Uselu Benin-City, Edo State at the Gallery. They are here to observe the Senate Proceedings. We wish them a very happy stay in Abuja and happy viewing.

Letter of Appreciation

We have a letter of appreciation from the Hon. Minister of Foreign Affairs, Prof. U. Joy Ogwu. She wrote to thank distinguished Senators for the screening exercise conducted some time ago.

**Letter from PDP Members of Ilaje
Local Government**

There is also a letter from PDP members of Ilaje local Government Area of Ondo State. It has to do with unelected Council Chairmen. I will refer it to the *Ad Hoc* Committee that is handling that process now.

Presidential Forum on Census 2006

There would be a Presidential Forum for stakeholders on Status of Census 2006. There is going to be a comprehensive status report presented. The date is Thursday, 5th October, 2006 at 11.00 a.m. at the Banquet Hall of the Presidential Villa.

ORDER OF THE DAY

Closed Session

Senator Dalhatu Tafida (Kaduna North): Mr. President, before we go on to the Order Paper for today, I wish to move that this distinguished Senate dissolves into a Close Session to consider an issue that is very important to this country.

Senator Daniel Saror (Benue North-East): I second the Motion moved by the Senate Leader for a Closed Session.

Senator Aruwa (Kaduna Central): Point of Order, Mr. President.

The President: Senator Aruwa, we will take your Point of Order immediately we resume the Plenary session. I heard you, please.

Question put and agreed to.

Resolved: That the Senate do go into a Closed Session to consider an issue that is very important to this country.

Sitting suspended: 10.37 a.m.

Sitting Resumed: 11.20 a.m.

The President: At the Closed Session, the Senate discussed matters that affect our affairs so that we do not deviate. We also instructed ourselves to remain focused. Is it a true reflection of what transpired?

No proofs of the Daily Report can be supplied. Corrections which Members suggest for the Bound Volume should be clearly marked in the Daily Report, but not telephoned and the copy containing the corrections must be received by the Editor (Official Report) Senate, Room SB 21, National Assembly Complex, Three Arms Zone, Abuja.

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31st October, 2006

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Senator Udoma Udo-Udoma: Mr. President, I second this very ably moved Motion because this woman was personally very well known to me. I was born in Aba and I knew her even as a little child. She was a powerful speaker, a courageous woman, confident and a real Amazon. So, it is in that regard that I thank the mover of this Motion and wish to second it.

Senator Ewa-Henshaw (Cross River South): Mr. President, in supporting my distinguished Colleague, Senator Joy Emodi and my neighbour, I want to add that Chief (Mrs.) Margaret Ekpo was a very close woman to me; she was like a mother. I grew up in her house at No. 7, Asa Road, Aba in the late 1950s. I had known her for at least, fifty years. Her second son whom we lost about three months ago was my classmate in the Secondary School. Chief (Mrs.) Margaret Ekpo turned 92 years old on the 27th of August, 2006.

Mr. President, we appreciate the Motion that Senator Joy Emodi moved; and I support all the Prayers.

Senator Yari Gandi: Mr. President and my distinguished Colleagues, it is a great pleasure to support the Motion moved by a great Sister - a Motion intended to celebrate motherhood.

As a child, a husband and a politician, it will be a great pleasure to eulogize this great woman who served this country and motherhood very well. She was a great mother, an activist and a politician. She was a great woman of virtue and substance in our society and lived an exemplary life that not only women but even men should copy from.

Mr. President and my Colleagues, I support this Motion moved by Senator Joy Emodi on this great woman. I urge my other Colleagues to support it.

Senator Daisy Ehanire-Danjuma (Edo South): Mr. President and my distinguished Colleagues, I thank Senator Joy Emodi for bringing this Motion today. We all know about Mrs. Margaret Ekpo, a great activist and Amazon; a fearless woman who encouraged a lot of women in politics. I dare say that she is the last of all the great women that fought for women's rights in Nigeria; especially, in the political field.

Recently, I had discussion with her and she told me about her birthday and that they were planning a big celebration for her in Calabar.

We all appreciate the role she played in Nigeria as a woman and a mother. One of the last few words she said to me was to make sure that we encourage a lot of women to be involved in politics as it will move the country to a better future.

Senator Ibikunle Amosun (Ogun Central): Mr. President, I join my other Colleagues in commending the Mover of this Motion and to reiterate all that has been said about this great woman. Even when we were growing up in Abeokuta, we often hear about here and Madam Kuti.

I like to comment on the Prayer one, which I really do not know the importance of having it there. But I support prayers two and three. So, I will call for an amendment to the effect that we live out Prayer one and adopt Prayers two and three.

The President: Senator Araraume, are you supporting in your comments the amendment being sought by Senator Amosun?

Senator Ifeanyi G. Araraume (Imo North): Yes, Mr. Senate President, I join my Colleagues to congratulate Mrs. Emodi for bringing this Motion on the death of this great lady.

Coming to the Prayers, I will rather support that Prayer one remains as it is. However, I like to suggest an amendment on Prayer two that we write a letter to the family and to the Governor of Cross River State

The President: I will like to take the Prayers and we can make amendments as we go on. Prayer one: *That the Senate do send a letter of condolence to the President and Commander of the Armed Forces of Federal Republic of Nigeria.*

Senator Joy Emodi you can shade more light on that very Prayer, please.

Senator Joy Emodi: The woman was a great nationalist; she contributed to the existence of this country today.

The President: Thank you. Any Senator who does not like that can move a counter-Motion.

Senator Dalhatu Sarki Tafida: Mr. President, I am supporting that Prayer number one should be left as it is, for the simple reason that late Mrs. Margaret Ekpo

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to the Committee on Judiciary, Human Rights and Legal Matters for action. The Chairman of this Committee, Senator O. A. Osunbor from Edo Central will with the leave of the Senate presents his Committee's Report.

The President: Distinguished Senator Osunbor, you may seek the leave of the Senate to present your Committee's Report.

Senator Oserheimen Osunbor (Edo Central): Mr. President, I do hereby seek the leave of the Senate to present the Report of the Committee on Judiciary, Human Rights and Legal Matters on the procedure to be adopted by the Senate in dealing with the Report of the Administrative Panel of Enquiry on PTDF sent to us by Mr. President.

I so move.

Senator Victor Ndoma-Egba (Cross River Central): I wish to second the Motion on the leave being sought to present the Report of the Senate Committee on Judiciary, Human Rights and Legal Matters on the reference of the Report of the Administrative Panel of Enquiry on the Economic and Financial Crimes to this Senate.

The President: Senator Osunbor, you have the floor.

Senator Osunbor: Mr. President, the Senate at its sitting on Wednesday 13 September, 2006 considered the communication from Mr. President, on the Report of the Administrative Panel of Inquiry on the Economic and Financial Economic Crimes Commission (EFCC) investigation concerning alleged conspiracy, fraudulent conversion of public funds, corrupt practice and money laundering by some public officers and other persons.

The investigation was reportedly necessitated by the request from the US Federal Bureau of Investigation and upon instruction by Mr. President for the investigation of the Petroleum Technology Development Fund (PTDF) on the allegation of Congressman William J. Jefferson. The matter was referred to this Committee with the mandate to advise the Senate on the procedure to be adopted by the Senate and report back within two (2) weeks.

The Committee met four times in the course of this assignment. Members were very mindful that the Committee's mandate is to advise and guide the Senate on what to do with the Report forwarded to it by Mr.

President, having regard to the Senate Standing Rules, Practice and Convention as well as the relevant laws. From the various comments, reactions and deliberations on this matter two clear view points emerged, namely:

1. That the Senate should simply take note of the report as communicated by Mr. President. This point of view is predicated on two grounds:

(a) Mr. President in his letter of communication made it categorically clear that:

The Report of the Administrative Panel of Inquiry chaired by the Honourable Attorney - General of the Federation and the conclusions of the Federal Executive Council on the issue are hereby forwarded to you- for information of the members of the Senate" unquote..

(b) The Constitution of the Federal Republic of Nigeria does not empower the Senate or any legislative arm of government for that matter, to exercise a power of review over an Administrative Panel of Inquiry referred to in section 137 (1) (i) of the Constitution. This, in the Committee's view, falls within the purview of the Courts - the power of review of administrative action being one of inherent powers of the judiciary under the common law and under section 6 (6) (a) of the Constitution. It is the job of the courts and not the Senate to sit in review over the report of the Administrative Panel of Inquiry. It is a matter of public knowledge that this is in fact being done.

2. The second point of view is that while it is true that Mr. President forwarded the report to the Senate for information, it would amount to gross dereliction of duty on the part of the Senate to note the information and do nothing at all, given the weight of the allegations contained in the report, the personalities involved and the fact that this is a matter of immense public interest extending beyond our shores. Senate cannot afford, like Pontius Pilate, to wash its hands off the matter and pretend to have seen nothing and heard nothing. To do this would gravely damage the integrity of our democratic institutions and leadership.

Even if the Report had not been forwarded to the Senate by Mr. President, the media reports on the Administrative Panel of Inquiry and the revelations

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The Committee wishes to put on record its appreciations to the Senate for the confidence it reposes in the Members and for the opportunity to serve in this very important assignment.

This Report has been endorsed by all twelve Members of the Senate Committee on Judiciary, Human Rights and Legal Matters except the Vice Chairman who unfortunately has flight problems and so he is not here yet to sign, otherwise eleven out of the twelve Committee Members have endorsed this Report.

The President: Thank you Senator Osunbor, you may go ahead and lay the Report on the table. Distinguished Senators, I think it is necessary to have few comments on this after that I will take the Recommendations.

Report accordingly laid.

Senator Dalhatu Tafida: Mr. President, having presented this Report and laid it on the Table, I move, that this distinguished Senate do accept and adopt the Report for consideration.

Senator Lawal Shuaibu (Zamfara North): I second the Motion that the Senate do accept and adopt this Report for consideration.

Question put and agreed to:

Resolved: That the Senate do accept and adopt the Report of the Senate Committee on Judiciary, Human Rights and Legal Matters for consideration.

Senator Lawal Shuaibu: Mr. Senate President, I would like to commend Senator Osunbor, the Chairman of the Senate Committee on Judiciary and his team for the fantastic work that has been done in this Report. I believe Sir, that the job of the Senate has now been simplified because a clear procedure has been presented and we have just accepted it. In fact, if I am not mistaken, we have adopted it.

I would like to say, Sir, on the issue of their Recommendation, particularly the second one that I am very happy that they have presented this issue of PTFD.

PTFD is just a drop of what is taken from the NNPC but we have allowed it to become a problem within the polity. If this is what is happening, what then happens in the NNPC itself, I do not know?

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This is a Pandora box and only God knows what is going to happen in that box. It has been opened now and we do not know who it will engulf. But I believe that we will do as we did in this Senate the first time. We will be transparent; we will be very objective and we will keep up to the expectations of Nigerians.

Senate A. Olorunnimbe Mamora (Lagos East): Mr. Senate President, I want to join the Minority Leader, Senator Lawal Shuaibu in commending this Report and those who have put it together, ably headed by Senator Osunbor.

In considering this Report, Mr. Senate President, I want to draw the attention of this august Senate to the last sentence on Page 3, which I will read with your kind permission.

The Senate in the face of this allegations (and I want to add - counter allegations) cannot afford to sit idly by but must act albeit independently.

This is the crux of the matter. I believe that while taking cognizance of the Rules of the Senate, we will appreciate the fact that these Rules in themselves cannot and do not supersede the Constitution, which is the fundamental law of the Country. So, we must create for ourselves a kind of opening and that we have found through Section 88 of the Constitution. It provides the leeway for us to act and act in a manner to discharge the burden of responsibility on us on this matter.

It is in that regard that I want to commend this Senate to adopted *intoto* the Recommendations of this Committee so that posterity will judge us right on this issue.

Senator Sule Yari Gandi (Sokoto East): Mr. President, I will like to say that when the Judiciary Committee was given this assignment, the mandate given was simply to provide the road map for this Senate to tackle this issue that is before it. I believe that this Committee has done a wonderful job by providing not only providing a road map but certainly a road map that is incontrovertible. It is a road map that I believe will lead this Country out of this problem.

The marvellous work that Senator Osunbor and members of his Committee has done has once again put this Senate on the spotlight and our democracy on test. This Senate has once more become like a city on a hill - if I may quote the words of President J.F Kennedy - that all eyes are on us. I believe that the Committee has

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Trying to amplify the submission of the Committee, I was saying that we can not pretend that we have not heard or that we have not read. That was in the course of my own submission and I think it is in order and legitimate.

The President: I would like to mention one more time that we received a 15-page response, well in advance, from the Vice-president and if you have not received a copy of that very response, you will get it today. So, we will marry the two if that is the point you are referring to.

Senator Oyofe, are you satisfied?

Senator Victor Oyofe: Mr. President, I am standing on my feet again. What we are here today considering has to do with the Report that the Committee was mandated to read and give us direction as to where to go. Therefore, there is nothing about for and against. If tomorrow we include what comes from the Vice-president to a Committee, then they must bring the *for and against*.

So, there is no need to play with words here. This is straight forward English.

The President: Distinguished Senators, until we change our Rules my decision on this is final. Senator Oyofe, I am saying that when we have settled for the people that will handle this after we have gone through, the recommendations all the Reports will go to them.

Distinguished Senators do you have more comments or can I go through the recommendations?

Several distinguished Senators: Go ahead.

The President: I am on the recommendations.

Firstly, that the Senate notes the information as communicated by Mr. President.

Question put and agreed to.

Secondly, that the Senate may wish to, in accordance with the Senate Standing Rules and pursuant to Section 88 of the Constitution of the Federal Republic of Nigeria through a Committee cause an investigation into the PTDF and other related matters or organisations.

Question put and agreed to.

Resolved:

- (i) That the Senate notes the information as communicated by Mr. President.
- (ii) That the Senate may wish to, in accordance with the Senate Standing Rules and pursuant to Section 88 of the Constitution of the Federal Republic of Nigeria through a Committee, cause an investigation into the Petroleum Technology development fund (PTDF) and other related matters or organisations.

The President: I think we are making progress on this. Senate Leader, we would at a later date shed light on the composition of the Committee that will take a look at this as per our resolution this morning. And in accordance with our Constitution this resolution will be gazetted in our Journals.

Yes, Senator Wabara, do you want to say something?

Senator Adolphus Wabara (Abia South): I am very sorry to draw you back, Mr. President, Sir. I believe you have ruled on the matter but I have a little reaction; it is a progressive one on the last statement you made about a *later date*. This is a very serious national issue, Mr. President, with all due respect, Sir. *(Interruptions)*

The President: Distinguished Senator Wabara, it will be as early as tomorrow. *(Laughter)*

ORDERS OF THE DAY

Committee on Judiciary, Human Rights and Legal Matters

Report on Customary Court Bill, 2006

Senator Dalhatu Tafida (Kaduna North): Mr. President and my distinguished Colleagues, the first item on the Order of the Day is a Report of the Committee on Judiciary, Human Rights and Legal Matters. The Report is on Customary Court Bill, 2006. To do that is Senator O. A. Osunbor, the Chairman of the Committee.

Mr. President, with the leave of the Senate, Senator Osunbor will present his Report.

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Clause 55 of the Bill seeks to confer on the Customary Court of Appeal in the FCT exclusive jurisdiction in civil causes and matters relating to chieftaincy matters. This has been deleted on the ground that it will conflict with the powers of the High Court, which currently exercises jurisdiction in chieftaincy matters by virtue of Section 12 of the Chiefs Appointment and Deposition Federal Capital Territory Decree 1997.

Comments on the Schedules

Part I of the Schedule deals with the limit of jurisdiction and powers of the Court in civil causes. The Committee amended all the provisions of the Bill to reflect, more appropriately, the rationale for the establishment of the Court. It further delineates grades of the Court, limit of jurisdiction and penalties in the column provided thereof.

Part II of the Schedule deals with limits of jurisdiction and power of the Court in criminal cases. The Committee took into cognizance specific instances in the Bill where criminal jurisdiction is conferred on the Court. Consequently, it introduced a general provision empowering the Court to hear cases, *where criminal jurisdiction is conferred on the Court by this Act.*

Financial Compendium

As this Bill seeks to establish an entirely new Court, a financial compendium of cost is appended to this Report. The Committee is of the view that this cost can be accommodated within the usual appropriation to the National Judicial Council especially in view of the proposed increase of the statutory transfer under the 2007 proposals before us. We are sure that it will be possible to accommodate the additional cost of establishing these Courts.

Mr. President and distinguished Colleagues, on behalf of the Members of the Committee, I express our gratitude for the opportunity to serve, and sincerely recommend this Bill for passage.

Thank you very much, Mr. President.

Bill laid on the Table.

The President: Senate Leader, you may move the Motion for the Senate to accept and consider the Report formally.

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Senator Tafida: Mr. President, having presented the Report, I move that the Senate do accept and consider it.

Senator Lawal Shuaibu: I second the Motion that the Senate do accept and consider the Report.

Question put and agreed to.

Resolved: That the Senate do accept and consider the Report of the Committee on Judiciary, Human Rights and Legal Matters on the Customary Court Bill, 2006.

Senator Dalhatu Tafida: I move that the Senate do dissolve into Committee of the Whole to consider the Report of the Committee on Judiciary, Human Rights and Legal Matters on the Customary Court Bill, 2006, Clause-by-Clause.

Senator Lawal Shuaibu: I second the Motion that the Senate do dissolve into Committee of the Whole to consider the Report Clause- by-Clause.

Question put and agreed to.

Report of the Committee on Judiciary, Human Rights and Legal Matters on the Customary Court Bill, 2006 – CONSIDERED IN THE COMMITTEE OF THE WHOLE.

The Chairman: Distinguished Senators, we have 73 clauses to consider in this Bill – One Schedule, Parts I and II, the Long Title and, then, we are done.

Let us treat Clauses 1 – 4, please.

Question put and agreed to.

Clause 1 – (ESTABLISHMENT OF CUSTOMARY COURT) – as recommended, ordered to stand part of the Bill.

Clause 2 – (COMPOSITION OF CUSTOMARY COURT) – as recommended, ordered to stand part of the Bill.

Clause 3 – (PROCEEDINGS OF THE COURT) – as recommended, ordered to stand part of the Bill.

Clause 4 – (QUALIFICATION FOR APPOINTMENT) – as recommended, ordered to stand part of the Bill.

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lending a helping hand, as the case may arise, to the staff of the Customary Court under the Customary Court Registrar. That is what this portion is saying.

The Chairman: I think Senator Umaru is concerned about the question of Customary Court of Appeal. We are talking about Customary Court and then Customary Court of Appeal and that was the point he raised. Senator Umaru Dahiru, am I quoting you right?

Senator Dahiru: Yes, Sir. As I was saying, in the scheme of service, normally staff are posted but here they said *appointed by*. Then who is the appointing officer? They have no right to appoint anybody. Their own staff is posted and mark you Customary Court of Appeal is higher, while this is the beginning. But the Judicial Service Commission can in fact, dispatch staff all over the places. You can go up and you can come down; it is just like our own Reporters or Aids here, sometimes they are here and sometimes they are busy working elsewhere, but under one command. That is what I am saying.

Senator Abubakar Danso Sodangi: Mr. Chairman, I think my Chairman distinguished Senator Osunbor, has explained why we have presented this issue as provided for here.

To allay the anxiety of Senator Dahiru, he should know that we are doing two things here. In the first instance, there is no Court of first instance in the Customary Court of Appeal, as it were in Abuja FCT. Now we are creating a Court of first instance whereby you can go to the lower Court with your problem; you will go there for adjudication. If at the end of the day, you are not satisfied, you will go on appeal at the Customary Court of Appeal. That should be noted.

Secondly, judicial staff are appointed by the Judicial Service Committee within Abuja FCT which is already in place. Junior officers are appointed by the Chief Registrar of every Court. But any senior officer from level 06 is appointed by the Judicial Service Committee, to be sent to any Court from the Customary Court of Appeal. He could even be posted to Sharia Court of Appeal or Federal High Court. I think that is why we have made the provision here. This is my understanding of this portion. We have done a lot of job, and we had a Public Hearing on this. This is my explanation.

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Senator Daniel Iyorkegh Saror (Benue North East): I am wondering whether the Committee is trying to create a situation, where they can use the staff appointed by the Judicial Service Committee, as well as additional staff that could come from the Customary Court of Appeal. Can I suggest that we take *two* in the original Bill and add to it *and such other support staff employed by the Customary Court of Appeal*? That will take care of both arms, to allow the staff from the Court of Appeal to come and serve and also allow the staff appointed by the Judicial Service Committee of the Court just established. I wonder whether we can join the two.

Senator Osunbor: Mr. Chairman, Sir, in addition to the clarification offered by Senator Sodangi, I want to say that this is really referring to the junior staff who are not necessarily employed through the Judicial Service Commission or Committee, in the case of FCT. Here we are not really talking about appointment because when Senator Dahiru made his last contribution he was talking on who has power to appoint. We are not talking of appointment here.

But in order to make to solve the problem, I want to propose that; *support staff employed in*. When you say *employed in*, it solves the question as to who appointed them in the first place, whether it is the Chief Registrar of the Customary Court of Appeal or Judicial Service Committee. That is, instead of *employed by* we say *employed in*, because they are currently employees of the Court of Appeal but can render assistance to the Registrar of the Customary Court. So we will substitute the phrase *employed by* with the phrase *employed in* the Customary Court of Appeal.

The Chairman: Distinguished Senators, we are on Clauses 4 to 13 and we are now treating 9(2). We have agreed, unless you have a different view.

Senator Abubakar Maikafi (Bauchi South): I thought you will rule on the amendment proposed by Senator Osunbor that we replace *by* with *in* and say *employ in the Customary Court of Appeal*. I think it is more appealing.

The Chairman: Thank you very much Senator Maikafi. I was going to say unless any person has a counter view then we will progress. If there is no counter view it means we have all accepted that amendment by deleting *by* and replacing it with *in*. It makes it more explicit.

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That to me takes care of two sources of support staff: (i) those appointed by the Judicial Service Committee and, (ii) those that are sent to them by the Customary Court of Appeal. That is my Motion.

The Chairman: Senator Osunbor did you hear the Motion moved by Senator Saror?

Senator Osunbor: I did not quite get the second part of the Motion.

The Chairman: Senator Saror, kindly go through the second part of the Motion, please.

Senator Daniel Saror: Mr Chairman, I want to expatiate. Really looking at this issue based on the observation made earlier, we have established a Customary Court that has a Registrar, who works under the supervision of a Chief Registrar. The Registrar is supposed to be assisted by the staff appointed by the Judicial Service Committee, which would be assigned to him by the Chief Registrar.

We are now adding to that list of the support staff of the Customary Court of Appeal, who are not part of the Customary Court. They are under a different jurisdiction, and I am saying that to empower the Registrar you have the pool with the quality of staff that he needs. He should be free to take those that come to him from the Chief Registrar, who were already appointed by the Judicial Service Commission; and those that may be assigned to him through the Customary Court of Appeal.

That is the essence of what I am trying to say. If it does not make sense, then I am sorry. We can go ahead.

The Chairman: Senator Osunbor, is that combination and clarification acceptable to you?

Senator Oserheimen Osunbor: Mr. Chairman, I believe that at this point, it is for the Senate to really decide. I do not think it adds anything really to what we have recommended.

The Chairman: Is there any more comment on this issue? Otherwise I will take a position.

Senator Umar Dahiru: (Sokoto East) Mr. Chairman, I am speaking from experience. I was a member of the State Judiciary Commission for four

years, and I know we have Area Court, which is similar to Customary Court. They are under the control of one umbrella; be it bailiff, Judge, Registrar and down the ladder and they can be posted anywhere. You can be posted from Bwari to Gwagwalada depending on the need. But if you allow the Registrar alone in one given area to be appointing his staff, I do not know where he is going to get his salary.

On the issue of discipline, there must be a control. So the appointing officer must be the Commission itself. This is the only constitutional body given the power to appoint judicial staff; be it a bailiff, be it the court, be it whatever, they are the judicial staff. So if you allow somebody to be appointing, corruption will go on there, with so many bailiffs trying to come and tout. If you know that there is touting through you, being my staff, I can fire you. If you allow the court to be crowded, God knows the kind of justice we are going to get in that kind of place. That is the reason why it must be centrally controlled. I am speaking from experience.

The Chairman: So, what is your view on the amendment being proposed by Senator Saror?

Senator Umar Dahiru: Mr. Chairman, if you look at Section 2 of the Bill, it has recommended itself; we should follow it and take it like that. To get another body to appoint will be doing disservice to the system.

Senator Oserheimen Osunbor: Mr. Chairman, I believe Senator Oyoyo's contributions made it very clear. This sub-section is not empowering anybody to employ anybody. It is not the essence. If you want to talk about power to appoint, then you must look at a different Section of this Bill. So, any argument relating to whether or not a Registrar, Judicial Service Commission or Chief Registrar can appoint or not, with due respect, is irrelevant to this Sub-section. You should look for that under a different section.

What this aspect is talking about is that people can assist the Registrar. As to how those people would be employed, let us please look at a different Section of the Bill to resolve that dispute.

Clause 3 - (ESTABLISHMENT AND COMPOSITION) - ordered to stand part of the Bill.

Clause 9 - (OFFICERS OF CUSTOMARY COURTS) - ordered to stand part of the Bill.

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customary court can apply native law and customary law in so far that they are compatible with current ideas of justice in Nigeria society. That is what it is saying.

Senator Lawal Shuaibu: Mr. Chairman, if you look at new Section 18, it says: *A customary law shall be deemed to be binding upon a person where that person is an indigene of a place in which the customary law is in force.*

I thought Customary Law is applicable when you submit yourself to it. But here it says: *Shall be deemed to have a binding force on him.* I think one has to submit himself to it?

Senator Timothy Adudu (Plateau North): If you look at the imaginary notes on page 9, which addressed the fear which has been expressed by Senator Shuaibu, it says: *Section 18 deleted because it relates to the Land Use Act and interest in land in the FCT is vested in Federal Government.* So, it is deleted here.

If you look at the whole Section 19 and at the Jurisdiction of the court, it says: *those who submit themselves to the Customary Court.* So, this one is just an expression. But the jurisdiction proper is as contained in the section that provides for jurisdiction, which says that it is those who submit themselves to the court. If you are residing in a place and you submit yourself to the jurisdiction of the court, you will be bound by the provisions of the Act. I think that takes care of that, Mr. Chairman.

The Chairman: Distinguished Senator Lawal Shuaibu, it is the old 19 (1) (a) that you are worried about as regards how a Customary Law shall be deemed to be binding upon a person where that person is an indigene of a place in which the customary law is in force. What do you recommend it should be?

Senator Lawal Shuaibu: It should be that when that person submits himself to the application of that law.

The Chairman: Page 10 (d) says: *- agrees or is deemed to have agreed to be bound by the customary law.*

Senator Shuaibu: We have not reached there.

The Chairman: All right, we have now reached there. I have said Clauses 14 to 21.

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Senator Abubakar D. Sodangi: As you know, Senator Lawal Shuaibu is from Zamfara State and no Customary Law will ever be applied there except you submit yourself if you are there. *(Laughter)*

The Chairman: Let us consider Clauses 14 to 21?

Question put and agreed to.

Clause 14 - (i) PERSONS SUBJECT TO COURT'S JURISDICTION - ordered to stand part of the Bill.

(ii) (CIVIL JURISDICTION) - ordered to stand part of the Bill.

(iii) (CRIMINAL JURISDICTION) - ordered to stand part of the Bill.

Clause 15 - (COURT TO PROMOTE RECONCILIATION) - ordered to stand part of the Bill.

Clause 16 - (LAW TO BE ADMINISERED) - ordered to stand part of the Bill.

Clause 17 - (APPROPRIATE CUSTOMARY LAW) - ordered to stand part of the Bill.

Clause 18 - (i) (BINDING CUSTOMARY LAW) - ordered to stand part of the Bill.

(ii) (GUARDIANSHIP OF CHILDREN) - ordered to stand part of the Bill.

Clause 19 - (ESTABLISHMENT OF CUSTOMARY LAW) - ordered to stand part of the Bill.

Clause 20 - (PRACTICE AND PROCEDURE) - ordered to stand part of the Bill.

Clause 21 - (RIGHT OF AUDIENCE) - ordered to stand part of the Bill.

The Chairman: Let us take Clauses 22 to 29 which started from page 11.

Question put and agreed to.

Clause 22 - (REPRESENTATION BEFORE CUSTOMARY COURT) - ordered to stand part of the Bill.

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Senator Rufai S. Hanga (Kano Central): Clause 51 is deleted by the completion here. I think Clause 52 should be Clause 51 now?

The Chairman: We will take Clauses 52 to 60, is there any comment?

Question put and agreed to.

Clauses 52 – (ADJUDICATION WITHOUT AUTHORITY) - ordered to stand part of the Bill.

Clause 53 – (PENALTY FOR OBSTRUCTING PERSONS EXECUTING COURT ORDER) - ordered to stand part of the Bill.

Clause 54 – (EXACTION OF FEES OR FINES IN EXCESS OF THOSE AUTHORISED) - ordered to stand part of the Bill.

Clause 55 – (CORRUPTION BY MEMBERS AND OFFICERS OF THE CUSTOMARY COURT) - ordered to stand part of the Bill.

Clause 56 – (REFUSAL TO PRODUCE DOCUMENTS, ETC) - ordered to stand part of the Bill.

Clause 57 – (FAILURE TO OBEY SUMMONS) - ordered to stand part of the Bill.

Clause 58 – (i) (REFUSAL TO GIVE EVIDENCE) - ordered to stand part of the Bill.

(ii) (GIVING FALSE EVIDENCE) - ordered to stand part of the Bill.

Clause 59 – (PERVERSION OF COURSE OF JUSTICE) - ordered to stand part of the Bill.

Clause 60 – (RENDERING FALSE RETURNS) - ordered to stand part of the Bill.

Clause 61 – (FALSIFICATION OF RECORDS) - ordered to stand part of the Bill.

Clause 62 – (COLLECTION AND CUSTODY OF REVENUE) - ordered to stand part of the Bill.

Clause 63 – (POWER TO MAKE RULES OF COURT) - ordered to stand part of the Bill.

Clause - 64 (i) – (TRANSITIONAL PROVISIONS)

(ii) (CONCURRENT JURISDICTION OF OTHER COURT) - ordered to stand part of the Bill.

Clause 65 – (SAVINGS) - ordered to stand part of the Bill.

Clause 66 – (REPEAL OF CERTAIN SECTIONS OF AREA COURT ACT) - ordered to stand part of the Bill.

(ii) – (APPLICABILITY OF CERTAIN PROVISIONS OF EVIDENCE ACT) - ordered to stand part of the Bill.

Clause 67 – (INTERPRETATION) - ordered to stand part of the Bill.

Clause 68 – (SHORT TITLE AND CITATION) - ordered to stand part of the Bill.

The Chairman: Distinguished Senators, I am taking the Committee recommendation; the centre numbering. 62 and 63 are on page 28, which is where we are. 63, 64, 65, 66 and 67; therefore what stands here as 69 is (Short Title)

Is there any comment from any distinguished Senator?

PART 1 – CIVIL CAUSES (LIMIT OF JURISDICTION AND POWER)

PART 11 – CRIMINAL CAUSES)

Question put and agreed to

SCHEDULES – agreed to

Long Title: (A BILL FOR AN ACT TO ESTABLISH CUSTOMARY COURT FOR THE FEDERAL CAPITAL TERRITORY ABUJA AND TO PRESCRIBE THE MODE OF ITS OPERATIONS AND SUPERVISION 2006) - agreed to.

Senator Dalhatu Tafida: Mr. Chairman, I move that the Chair reports progress.

Senator Lawal Shuaibu: I second the Motion that the Chair reports progress.

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The Chairman: Distinguished Senators, as the Leader said, it is a very straight-forward Bill. I am aware that this is a fasting period and not many Senators are able to stay long hours now. But it is a straight-forward Bill with only 31 Clauses, two Schedules and a Long Title.

Clause 1 - (ESTABLISHMENT OF THE NATIONAL AGENCY FOR THE PREVENTION AND CONTROL OF HIV/AIDS AFFLICTIONS) - ordered to stand part of the Bill.

I am taking the central column; that is, the Committees' Recommendation as it makes it easier.

Several distinguished Senators: Yes.

The Chairman: Clauses 1, 2 and 3. Clause 3 is the Functions of the Board. Is it not? Clause 4 is the Removal of a Member and Cessation of Membership. Clause 6 is on Meetings of the Board.

Clauses 1 through 7 are on page 8, that is, Committees of the Board. Supplementary Provisions is Clause 8. I shall put the question on clauses 1 through 8. Are there comments? Yes, Senator Osunbor, please.

Senator Osunbor: Mr. Chairman, Sir, there is a typographical error on page 6. There is a word on the third line there - *bil* instead of the word, *inability*. There is a *bil* in-between them. So, it should be written properly.

The Chairman: That is, Clause 4(1) which reads: *that the Chairman or any Member of the Agency may be removed from office by the President for...* That word, *inability*. All right, Secretariat, please, take note and do it properly.

Clause 2 - (ESTABLISHMENT, COMPOSITION, ETC. OF THE GOVERNING BOARD OF THE AGENCY) - ordered to stand part of the Bill.

Clause 3 - (TENURE OF OFFICE) - ordered to stand part of the Bill.

Clause 4 - REMOVAL OF A MEMBER AND CESSATION OF MEMBERSHIP) - ordered to stand part of the Bill.

Clause 5 - (FUNCTIONS OF THE AGENCY) - ordered to stand part of the Bill.

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Clause 6 - (MEETINGS OF THE BAORD) - ordered to stand part of the Bill.

Clause 7 - (COMMITTEES OF THE BAORD) - ordered to stand part of the Bill.

Clause 8 - (SUPPLEMENTARY PROVISIONS) - ordered to stand part of the Bill.

Clause 9 - (FUNCTIONS AND POWERS OF THE AGENCY) -

Senator Abubakar Maikafi (Bauchi South): Mr. Chairman, as can be seen, the Committee has virtually changed everything under Clause 9: it is so long. The Chairman should throw more light on why they have to change almost everything in the Bill to completely new activities that the Agency is supposed to perform.

Senator Ibiapuye Martyns-Yellowe (Rivers West): Mr. Chairman, the Committee in its wisdom thought to merge Powers and Functions. That is what happened. In doing so, we have to re-order the Clauses so as to see what Power is and what are Functions later.

Looking at Clause 6 of the original Bill, the Power of the Agency is totally deleted. This is because all the powers there had been moved and merged with *Functions*. That is why the whole thing was re-ordered.

The Chairman: I do not see much problem with this except for the kind of typists employed. Looking at Clause 9(f) *mobilize*. The font is all right; maybe, they do not know the difference between capital and small letters? The Secretariat should, please, take note.

Senator Maikafi, are you satisfied with the explanation?

Senator Abubakar Maikafi: Mr. Chairman, I am all right. I was just telling the Chairman that he should have educated us more on the Remarks column. If he had said that the *Powers and Functions* were merged, I would not have asked the question, Sir.

Clause 9 - (FUNCTIONS AND POWERS OF THE AGENCY) - ordered to stand part of the Bill.

Clause 10 - (STRUCTURE OF THE AGENCY) -

Senator Martyns-Yellowe: Part III is the Structure of the Agency.

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which is to carry along the States together so that they can legislate for themselves and follow Federal Government in doing what they are doing.

The Federal Government cannot legislate for the States. Within the ambit of the National Council on AIDS, for instance, you can now carry along the State Government to implement decisions taken at the level of the Presidential Council as well as the National Council. So, there are two different Councils.

Senator Lawal Shuaibu (Zamfara North): Mr. Chairman, as the going says *'too many cooks spoil the broth'*. When you have an Agency and an approved Governing Board for that agency, with a Chief Executive, which is quite conventional when it comes to the process of law making, I do not see any reason why we should border ourselves with a Presidential Council or a National Council. It has no place in our law making.

Once we set up a Governing Council with a Management team, we should give them the Legal backing with which to go ahead to implement this policy. Let them liaise with the National Council in the Villa and do what they think is expedient. As far as we are concerned, when we are passing a law for the control of HIV/AIDS in this country, we should de-emphasise the issue of involving a National Council with a Presidential Council, because we have never passed a law giving powers to a Presidential Council in this country.

When we have a law for an Agency, giving it the legal back bone, there should be a Governing Board that directs the affairs or that formulates policy for the Chief Executive and his Management team to implement.

Senator Dalhatu Tafida: Mr. Chairman, there appears to be a little bit of confusion. The Board as indicated on page two of the Report is all right, but I think the reflection of a Presidential Council in it is a carry over of what the HIV programme is at the moment in Nigeria and it has not been dropped. I think it is our responsibility to drop that portion and just allow it as a Board to function. Perhaps, there should be a link somehow with the Presidency, if we want, but it is not necessary.

I think we should just leave it as a Board and then have the National Council on the control of HIV/AIDS which is similar to what we have in the National Council on Health or Agriculture but not Presidential.

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Senator Rufai S. Hanga (Kano Central): 'Committees of the Board', I think the Bill has gone ahead to create Committees and Departments as can be seen on page 8, item 7; Finance Committee, Audit Committee, Human Resources Committee, Monitory and Evaluation Committee. These are Departments that should be created from the structure of the Management and not from the Board, Sir.

The Chairman: Distinguished Senator Martyns-Yellowe, we are listening to you to explain why this issue should not come under Administrative matters like these Committees on the Board, why is it not an administrative matter?

Senator Ibiapuye Martyns-Yellowe: Mr. Chairman, let me take you back to the brief of the Bill. This Bill seeks to formally establish National Agency for the Control of HIV/AIDS and to set up other high powered intervention bodies; to co-ordinate the implementation of programmes for the control of the epidemic in Nigeria.

NACA as presently constituted has no formal organizational structure. It is a Committee which meets once a month. There is also the need to borrow a leaf from successes achieved in other countries, such as Uganda, South Africa, Ghana, Kenya, *et cetera* and to co-ordinate their responses to the pandemic in their land.

This, therefore, gave birth to the idea of re-engineering NACA to prepare it for the role of a full-fledged Agency. It is also strongly believed that the Bill when enacted into law would empower NACA to regulate the services of all stakeholders. This is what makes the Presidential Council necessary. It is to carry along the line Ministries and not only the Ministry of Health. It is to provide adequate legal and institutional frame work to achieve laudable goals on AIDS.

So, this is the reason why we have a Presidential Council at that level. The National Council is only to carry along the States with them.

Senator Tafida: Mr. Chairman, like I said earlier on, there is a carry over of the structure of NACA as it is now and what we hope it would be. It is our responsibility here to create a structure that is similar to what obtains world wide and even here in this country, which we have created times without number.

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to the Committee on Health for restructuring and fine-tuning as the Senate Leader has said.

Question put and agreed:

Bill accordingly stood down and referred back to the Committee on Health for restructuring and fine-tuning.

Senator Dalhatu Tafida: I move that the Chair Report Progress

Senator Shuaibu Lawal: I second the Motion that the Chair Report Progress.

Question put and agreed to.

(Mr. President resumes the Chair)

The President: The Senate in the Committee of the Whole resolved to refer the Bill back to the Committee on Health for restructuring and fine-tuning.

Is this a true reflection of what transpired in the Committee of the Whole?

Several distinguished Senators: Yes.

ADJOURNMENT

Senator Dalhatu Tafida: Mr. President, I move that having become time bad that this distinguished Senate do adjourn until tomorrow 27th September, 2006, at 10.00 a.m.

Senator Lawal Shuaibu: Mr. President, I second the Motion that having become time bad that the Senate do adjourn until tomorrow, 27th September, 2006, at 10.00 a.m.

The President: Before putting the Question, I want to remind the distinguished Senators that tomorrow at 12.00 noon; Mr. Nuhu Ribadu of the EFCC will be appearing before the Senate.

Question put and agreed to:

Resolved: That the Senate do adjourn until tomorrow, 27th September, 2006, at 10.00 a.m.

The Senate adjourned accordingly at 1.50 p.m.

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**SENATE OF THE FEDERAL
REPUBLIC OF NIGERIA**

Wednesday, 27th September, 2006

The Senate met at 10.20 a.m.

PRAYERS

(The President in the Chair)

VOTES AND PROCEEDINGS

The President: Distinguished Senators, the Senate is called to order. Let us consider the Votes and Proceedings of Tuesday, 26th September, 2006, beginning from page 325. Pages 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359 and 360.

Senator Ike Ekweremadu (Enugu West): Mr. President, Sir, in the absence of any amendment, I move that the Votes and Proceedings of Tuesday, 26th September, 2006 be adopted.

Senator Mohammed Ibrahim (Jigawa North East): Mr. President, I second the Motion moved by distinguished Senator Ekweremadu that the Votes and Proceedings of Tuesday, 26th September, 2006 be adopted.

Question put and agreed to:

Resolved: That the Votes and Proceedings of Tuesday, 26th September, 2006 be adopted.

ANNOUNCEMENT

Message from Mr. President

Payment of Power Sector Projects and Additional two Days of National Population Census, 2006

The President: This letter was dated 22nd September, 2006 and it reads:

Dear President of the Senate,

I refer to my letter Ref. PRES/134 dated August 16, 2006 in respect of payment of Power Sector Projects and funding of additional two days of National Population Census 2006. Since the Bill was

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inadvertently denominated in US dollars, I write to withdraw the Bill to enable me incorporate it in the 2007 Appropriation Bill.

Accept, Mr. Senate President, the assurances of my highest consideration.

Yours sincerely,

(Signed)

OLUSEGUN OBASANJO

Ad-Hoc Committee on Executive Communications

The President: Distinguished Senators, you will recall that yesterday we resolved to have a Committee to take a look at the Reports emanating from the Presidency. On the areas that border on our Legislative responsibility, we agreed that we will have a Committee to take a closer look at it and make recommendation to this hallowed Chamber.

In keeping with our Rules, the Selection Committee has met and approved the list of Senators who will do justice to those Reports.

We had difficulty in making our selection because we have so many *Ronaldos* in our team, and when you have to select eleven out of so many *Ronaldos*, it is very difficult. However, we made sure that every zone is adequately represented with a minimum of two Senators, while the highest number of representatives per zone is three; that is South-South, and I will explain why shortly. Again, we have very strong and very effective standing Committees from where we built our list.

I would like to announce the list of members of the Committee as follows. I am not calling the names in order of importance; just to start from somewhere:

1. Senator Nuhu Aliyu - Member
2. Senator Victor Oyofe - Member
3. Senator Eze Ajoku - Member
4. Senator Isaiah Balat - Member
5. Senator Tunde Ogbeha - Member
6. Senator Rufai Hanga - Member

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Several distinguished Senators: Yes.

The Deputy President: I am told that it was circulated and everybody had it and that it was also put on notice. That is the advantage of having something on notice so that people can actually bring back their copies. How many people do not have their copies? I can see hands of almost all the Senators.

Senator Tafida: Mr. President, I think that the distinguished Senator standing in for the Chairman would present the Report in detail and I think that if we listen carefully, we will get it. We gave everybody a copy last week and it is a very straight forward Report. You should forgive us for not providing extra copies. You know that whenever we make a mistake we do own up.

The Deputy President: Are you all right with the suggestion made by the Leader?

Several distinguished Senators: Yes.

The Deputy President: So, we can proceed?

Several distinguished Senators: Yes.

The Deputy President: Senator Ugbane, you can go ahead.

Senator Nicholas Ugbane: Mr. President, Sir, the Senate at its sitting on Thursday, 24th August, 2006 referred to the Committee on National Identity Card and National Population Commission, the screening of a Presidential Nominee, Hon. Sir Chimaobim Nwakanma from Abia State as a Commissioner in the National Population Commission vide Votes and Proceedings of 24th August, 2006. The members of the Committee are as follows:

1. Senator Iya Abubakar - Chairman
2. Senator Mohammed Daggash - Vice Chairman
3. Senator Nicholas Ugbane - Member
4. Senator Sule Yari Gandi - Member
5. Senator Ittak Bob-Ekarika - Member
6. Senator A. Z. Sunday - Member
7. Sen. Uche Chukwumerije - Member

8. Senator Lawal Shuaibu - Member

9. Senator T. K. Folarin - Member

10. Senator Christopher Nshii - Member

The Secretary to the Committee is Mr. Chizie Ekezie.

The Committee wrote a letter to the Special Adviser to the President on National Assembly Matters requesting that the necessary documents for the screening of the Hon. Sir Chimaobim Nwakanma be made available to the Committee. The documents including the Report from the State Security Service (SSS) were received on Monday 12th September 2006.

Conduct of the screening – the Committee resolved to conduct the screening on 12th September, 2006 subject to all the necessary documents being made available to it. Consequently, the Committee conducted the exercise after receiving all the necessary documents.

The nominee made an introduction of his background. In the course of this, the Committee took note of the fact that the nominee was a member of the House of Representatives during 1999 to 2003 National Assembly. As a result of this and in the spirit of the Senate tradition of screening former members of the National Assembly, the nominee, Hon. Sir, Chimaobim Nwakanma, was asked to take a bow and leave.

Among the documents presented to the Committee for the screening of the candidate were:

1. Curriculum Vitae (CV)
2. Evidence of Clearance from the Police;
3. State Security Service (SSS) Report, and
4. Acknowledgement Slip of Assets Declaration.

Briefly, the CV of the nominee has been captured here but for those who do not have the paper, I may have to go back quickly, Hon. Sir Chimaobim Nwakanma was born in April, 1944 in Umuakwu, Nsulu Ngwa North Local Government Area of Abia State. He had his Secondary School Education at Samuel's Vocational Academy, Mbawsi. He proceeded to the London College of Printing and Distributive Trades (London), where he obtained Higher National Diploma (HND) (Business Studies) in 1976. He also obtained

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Population Commission in the screening of honourable Sir Chimaobim Wakanma (Abia State) as a Commissioner in the National Population Commission and approved the nomination.

Is it a true reflection of what happened in the Committee of the Whole?

Several distinguished Senators: Yes.

Senator Dalhatu Tafida: Having deliberated and approved the Report in the Committee of the Whole, I move that the Senate accepts the Report.

Senator Daniel Saror: I second the Motion that the Senate accepts this Report.

Question put and agreed to.

Resolved: That the Senate do accept the Report of the Committee on National Identity Card and National Population Commission.

The Deputy President: Honourable Sir Chimaobim Wakanma is hereby confirmed as a Commissioner of the National Population Commission representing Abia State.

Conference Committee

Report on the National Hajj Commission of Nigeria Bill, 2006

Senator Dalhatu Tafida: Mr. President, the next Order of the Day is also a Report for presentation and consideration. It is a Conference Report of the National Hajj Commission of Nigeria Bill, 2006. To do that and with the leave of the Senate is Senator Jibril Aminu from Adamawa Central.

The Deputy President: Distinguished Senator Jibril Aminu, you have the Floor.

Senator Jibril Aminu (Adamawa Central): Mr. President, distinguished Senators, I am highly honoured to present this morning the Conference Report on the National Hajj Commission of Nigeria, Bill, 2006 and I seek the permission of Mr. President to do so.

Senator Ibikunle Amosun (Ogun Central): Mr. President, I want to respectfully second my Chairman in the Committee, Senator Jibril Aminu that the Senate do grant him approval to lay the Report on the Table.

Question put and agreed to.

(Report laid on the Table)

The President: You may proceed to present your Report.

Senator Jibril Aminu: I am highly honoured to present to this Senate the Conference Report of the Committee of Foreign Affairs of the Senate and Committee of Foreign Affairs of the House of Representatives on the Hajj Bill.

We do present for harmonisation, a Bill for an Act to Repeal the Nigerian Pilgrims Act, Laws of the Federation of Nigeria 1990 and Establish the National Hajj Commission of Nigeria to be charged with the responsibility of licensing, regulating, performing oversight and undertaking supervisory functions of the agency and other bodies and for all matters connected therewith, 2006.

The Senate in its Plenary Session on Thursday, 22nd June, 2006 and the House of Representatives Plenary Session on Wednesday 7th of June, 2006 respectively passed the National Hajj Commission of Nigeria Bill.

Consequently, the two Houses nominated six members each to serve on the Conference Committee to harmonize the differences from the two versions of the Bill.

The Conference Committee met on Tuesday, 14th June, Thursday, 11th July and Thursday, 14th September, 2006 during which the harmonization process on the Bill was concluded and adopted.

Membership of the Committee is as was approved by each House.

Deliberation

Members of the Conference Committee deliberated extensively on the areas of differences in the Bill as passed by the two Chambers. During the Conference, there had not been any cause to resort to voting or division on any issue, since all the decisions taken were based on consensus.

This report highlights sections that were harmonised and adopted out of the 22 sections from the Senate version and 21 sections from the House or

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Basically, the Bill seeks to provide mechanism for facilitating the investment of trust and other funds in issued securities including mortgage backed securities and secondary mortgage transactions.

Only sections (2) and (3) are affected in this proposed amendment. Section 2 of the Principal Act is amended by adding two new paragraphs (e) and (f) in subsection (1). Paragraph (b) of subsection (2) in the Principal Act is substituted with the following:

(b) The price of the debentures, bonds, mortgage-backed securities or shares of the class in question is quoted on the Nigerian Stock Exchange.

Similarly, paragraph (a) of subsection (3) of the Principal Act is also substituted with the following:

The value of the part of the Trust Fund invested in the exercise of that power to exceed one-half of the total value of the fund;

Or as continued in paragraph (a) of subsection 4 it is also proposed that we substitute the existing paragraph with the following:

"shares" includes stocks, "debentures" include debenture stocks, and "bonds" includes mortgage backed securities"

Finally, the Schedule of the Principal Act is amended by inserting the following new items 5 and 6 -

5. The Federal Mortgage Bank of Nigeria; and
6. The Nigeria Social Insurance Trust Fund.

Mr. President, these amendments being proposed are basically simple; I do not see any hidden motive or agenda, rather it is for the good of Trustee Investments in Nigeria which can only do our economy some good.

I am, therefore, pleading with you to just agree that this Bill be passed to the appropriate Committee for consideration and report.

The Deputy President: I thank you, Leader. As he rightly said, it is a very straight-forward Bill. The Bill has only two or three Clauses and with your consent, we may just pass it to the appropriate Committee for final deliberation.

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Senator Abdulazeez A. Ibrahim (Taraba Central): Mr. President. We need to add features; and the shares should include debenture-stocks and bonds.

Secondly, we need to have seven seats; because the Abuja Community Exchange has started operating and people can also have Nigerian features there.

The Deputy President: I suggest that amendments be directed to the Committee so that they can reflect them such that by the time it is brought back, they would have been reflected.

The Leader should move that the Bill be moved to the Committee.

Senator Tafida: I am very delighted that everybody seems to be in support of this Bill which I said is a simple one. We had very positive contributions. I, therefore, move that this Bill be read a Second Time.

Question put and agreed to.

The Deputy President: We will give them one week and if it is not sufficient, they can come back.

Bill read the Second Time and refereed to Committee on Capital Market and to report back within one week.

National Assembly Budget and Research Office Bill, 2006 - (SB. 336)

Order for Second Reading

Senator Tafida: Mr. President, the next item on the Order Paper is also a Bill for Second Reading. The Bill is entitled National Assembly Budget and Research Office Bill, 2006 - (SB. 336); otherwise known as (NABRO) Bill.

Mr. President, this is our Bill and it is not controversial. I, therefore, with the permission of the Sponsors, that is, Senator Saror and others, wish to move that I be granted the leave to flag off debate on the general principles of this very important Bill.

Senator Saror: Mr. President and my distinguished Colleagues, I second the Motion that the Senate Leader be granted leave to lead debate on the Bill on the Creation of National Budget and Research Office.

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segments of this country. Some claimed that the National Assembly has no business in interfering with the Budgets that are sent to it by Mr. President. We know that that was not the correct approach.

I think that time has shown that Nigerians are now looking up to the National Assembly to ensure that the Budget, as passed, is implemented as passed. That is a long way from where we were in Year 2000. We are no longer looked at as intruding or interfering with the Executive function of preparing the Budget. That being the case, the National Assembly Budget and Research Office, when it comes into being, will greatly improve the relationship between the National Assembly and the Executive arm of Government in its ability to critically assess the fiscal policies of this country: the budgetary provisions and budget oversight which are critical elements that are required to deliver the dividends of Democracy to our people.

So, I believe that when this Bill is passed, it will help the National Assembly in its annual budget plans. It will help in analyzing the Revenue and Expenditure profiles for essential estimates of government. It will also provide fiscal and programme analysis for not just Members of the National Assembly, but interested community in the civil society as well. It will provide fiscal information to the Legislature and allow others to follow through and ask appropriate questions as the Budget is being implemented.

The Bill is a very good one and I urge my Colleagues to give their support to it and see that by the time we leave office, that we leave behind us, a legacy of a strong, well equipped and well provided for National Assembly Budget Office that will serve this country for many years to come.

Senator Oserheimen A. Osunbor (Edo Central): Mr. President and distinguished Colleagues. I want to speak in support of this Bill. Since the inception of the Senate in 1999, people had spoken about the necessity for this Bill. The need for a Budget Office in the National Assembly cannot be over-emphasized. It, definitely, would improve on the handling of our budgetary matters including the appropriation itself.

There is no doubt at all that this Bill has a lot of merit in principle. I believe that distinguished Senators will not hesitate to commit it to the necessary Committee for further legislative action. I expect that when that happens, the Committee will have another look at the aspect relating to the appointment of the Director-General because I listened as the Senate

Leader give his remarks about the method of appointment saying that it is to be done by the leadership.

I would want to believe that this is an appointment being made by the National Assembly itself and not just by the leadership alone. Although in reality, it will be the leadership that will be making the recommendation, but it has to be seen to be an appointment made by the National Assembly for the National Assembly Budget Office. Otherwise, I think that this Bill deserves the support of distinguished Senators.

Senator Abdulazeez A. Ibrahim Mr. President, I am excited about this Bill for two reasons; and I support it fully.

Firstly, one of the Rules of this Senate requires that for most or all Bills, we should prepare compendium but we have not been doing so. The Budget Office, I believe through the Research Department and a Costing Unit, should be able to provide these compendia which both the Executive and the Legislature had been unable to do. It will also serve to cross-check any compendium that comes along with any Bill that the Executive brings to us.

Secondly, the Budget Office would also help the National Assembly in doing Research, Comparative Analyses especially on Economy such as Economic Forecast so that we do not always rely on the Central Bank and similar organizations.

By way of recommendation, I would like that, while doing the details of the Bill that a Committee is charged to provide a secured source of funding for the Budget Office. This is because the task is large and peculiar; and I would recommend that 10 *per cent* of the Overhead cost of the National Assembly be provided for that Budget Office.

Senator Joy Emodi (Anambra North): Mr. President and distinguished Colleagues. This is a very important Bill and as the Mover of the Motion said, it is overdue. The most important function of the National Assembly is that of Appropriation; and we can only carry out this function effectively if we are able to establish a National Assembly Budget Office that would be charged with the responsibility of Research and Analysis.

As could be observed, once the Executive sends the proposed Budget to us, we are the ones to carry out the

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prescribed by the National Assembly. So the budget essentially is a document and a law of the National Assembly.

Unfortunately, in the past five years, we have carried on the process of budgeting based on the initiatives and the whims and caprices of the Executive Arm. This has been because of two factors; basically that the necessary capacity and the institutional support that we require in the National Assembly to do an effective work during the budget process has been absent. I believe that the initiative of the Budget Office is aimed at addressing the issues of capacity and institutional support. This is because the Budget Office as it exists in several other parts of the world is basically to provide a body of knowledge and capacity to be able to assist the National Assembly to address every relevant issue that may become necessary and it will require to be informed during the budget and appropriation process.

It is a most welcome initiative, which I am aware has been in the offing for quite a long time and I am aware that there is a lot of enthusiasm within the international community, as well as the multilateral institutions, to provide back up and financial support to actualize this Bill. I will therefore, like to commend the Senate Leader for bringing up this Bill and I wholeheartedly support it.

Senator Julius Ucha (Ebonyi Central): Mr. President, I want to lend my support to the passage of this all-important Bill by this august assembly. I sincerely wish to commend the leadership for introducing this Bill at this point in time. I also wish to say that everything has time. The National Assembly has been doing its best in tackling the budget of this nation, even without the budgetary office. But at this point in time, God has made it possible for this Bill to be presented before the National Assembly.

The Budget we all know is a policy trust of every nation and the basic foundation for the process of development of every nation. Therefore, it is very important that the National Assembly establishes a Budget Office for the purpose of capacity building of members of the National Assembly because, when we have that instrument in place, it will also enhance our position in oversight functions.

I therefore, lend my support to the passage of this Bill.

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Senator Yari Ghandi: (Sokoto East) Mr President, this Bill is one attempt the National Assembly is making to deepen the institution of democracy. The concept of Congressional Budget Office, as in the United States, for instance, is not a Budget office that will be focusing only on the Budget of National Assembly as many people would like to believe, it is a budget office that makes research and analysis in to national economy, monitors terms of development, keep indices of micro and macro-economic development in United States and compares it with the implementation of the National Budget and national priorities.

You will discover that all we have been doing in the last seven years is to rely heavily on data provided by the Executive anytime the budget is presented. Most times you find that the Ministry of Finance and the Central will provide more than five revenue profiles of this country at a time. At some point in time, the National Assembly would even be confused as to which revenue profile to use for budgeting. We are made to consume whatever is brought here, simply because we have not been conducting an independent analysis of the economic development in this country vis-a-vis the implementation of our National Budget. We have not been making serious research into the issue of the priorities of our country with regard to where we need to focus our National Budget and what we seek to achieve?

You will find that if we establish this office, it will provide us with one opportunity; that opportunity is to make sure that we have the capacity to conduct research and analysis independently of the Executive; monitor our revenue profile so that we know what we earn as a nation, what should be factored in the budget and not to consume anything that is brought to us or accept whatever is brought to us by anybody the way he feels he should. At the same time, we will try to compare our national economic trends with the realities of our various Constituencies and realities of our countries vis-à-vis the priorities we have to address. This is what the National Assembly is going to empower this institution with and by the time we do this, we will have the opportunity to avail Nigerians with the correct and exact statistics.

What I am saying is that this National Assembly budget Office is a very good boost for our democracy because all attempts we have been making since 1999 to date is to deepen the institution of democracy. The various laws we have been passing is all in an attempt to deepen the institution of democracy. Indeed, one critical factor that has remained elusive with this our

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supporting me because an Idoma man would then be the Governor of Benue State. (Laughter)

Mr. President, you read a letter this morning from the President of Nigerian, saying that he is withdrawing his Supplementary Appropriation Bill which he submitted to us in Dollars. But that is not the issue; the issue is that this particular Senate indicted Mr. President for spending money or withdrawing money from the Consolidated Revenue Fund of the Federation without the approval of the National Assembly. They are now bringing to us a Supplementary Bill to legalise illegality, which we said we were not prepared to do. How do you expect us to do that?

As you said, the President is telling us that he is going to absorb this illegality in the 2007 Budget. What we approved last year was a total Budget of N1.8 Trillion. Then there was the illegal withdrawal of funds from the Consolidated Revenue Fund to fund Census and also to fund the so called power plants.

The President: Distinguished Senator Idris Kuta, with all due respect, our Standing Rule 53(4) says: *A Senator must confine his observations to the subject under discussion and may not introduce matter irrelevant thereto.*

Senator Kuta: I am making reference.

The President: Distinguished Senator Idris Kuta, let me help out; we will get to that and you will have an opportunity to air your views on the issue of withdrawal. It was in a letter that I read today and we will probably have it on the Order Paper sometime and then you can comment on that. Please, confine yourself to the NABRO Bill.

Senator Kuta: Mr. President of the Senate, I quite agree with you. I was just making a reference to the importance of setting up a Budget Office. But I believe that it is too late. We should leave that to the new President of Nigeria and the new Senate in 2007. This is because this Budget Office cannot be approved. Even if we pass the Bill now, the President will not be able to assent to it by the time he leaves office.

The President: Distinguished Senator Kuta, I thank you very much for your contribution and I thank other Senators who found time to comment on this Bill.

I will put the Question because, as you know, we have a case for 12.00 noon.

Question put and agreed to.

Bill read the Second Time and referred to the Committee on Establishment and Public Service Matters, to report back within four weeks.

Senator Tafida: Mr. President and my distinguished Colleagues, we are talking about a Budget Office and everything we do here, if it has something to do with establishment matters, goes to the Committee on Establishment and Public Service Matters. This Bill is supposed to go to the Committee on Appropriation and Finance.

The President: Distinguished Leader, we are trying to establish an Office. We think the Committee on Establishment can handle it and it will be appropriate. In any case, I think my decision on this is final, not yours.

X INVITATION OF MALLAM NUHU RIBADU, X
CHAIRMAN, EFCC

Distinguished Senators, I believe you will recall that we have a guest for this hour. I will like to call on the Leader to take the necessary due process.

Senator Tafida: Mr. President and my distinguished Colleagues, before we go to the issue of our guest, I will like to remind us that we still have an item to attend to on the Order Paper. After the visitor had gone, we will go back to it because the Sponsor of the Report is ready now.

Having said that, Mr. President, if you remember, a Motion was sponsored by Senator Fidelis Okoro on the decay of Local Governments in Enugu State and some other parts of this country. The Motion sought among other things that the Chairman of the EFCC should report to the Senate to clarify certain issues. A date was fixed but the Chairman of the EFCC was not available. He had travelled but he wrote back to give us some dates from which we chose today's date.

With this in view, the visitor is around and I want to invoke three of our Standing Rules. The first is for us to go into the Committee of the Whole in order to receive the visitor. The second is for us to suspend Senate Standing Rule 17 in order to allow in the Chairman, EFCC and his Assistants. I have been told that two Commissioners and two Directors from his Office accompanied him. The third is to invoke Order

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According to Senator Azuta-Mbata this morning, in addition to our responsibility of appropriating for the general good of our country, we should also have the oversight function as given to us by the Constitution to know what is happening about the appropriated funds.

If the report from the EFCC about the number two citizen in Nigeria is public information, why would the reports on Governors, Councillors, Chairmen or Parastatals not be a public knowledge? You can read the report on the Vice President in any website or in any library across the world. We should have the benefit of hearing from the Chairman of the EFCC what has become of the reports on the States they have investigated, and we are covered by even the Act setting up the Commission.

I will, on behalf of distinguished Senators, say that the EFCC has been doing a marvellous work, but as far as possible, there should be no sacred cow. We should throw it open and be public about it. Mention names and do not hide anything. Go to court if you have to go to court.

Mr. Chairman, you are here to address the Senate on your activities about investigations you have carried out in many States of Nigeria. Tell us what you know about the cankerworm, the tumour called corruption in Nigeria.

Mallam Nuhu Ribadu: Your Excellency, Mr. Senate President, Your Excellency, Mr. Deputy Senate President, the Senate Leader, other Leaders and distinguished Senators of the Federal Republic of Nigeria, a very good afternoon to you and thank you for the invitation. I cannot agree more with Mr. President, but I am going to go through my opening remarks and then make myself available for whatever inquiries that will be put to me.

First, permit me to open my presentation with a statement of gratitude for the generous invitation to address this hallowed Chamber of Africa's best minds, and I mean that - in the enterprise of legislative architecture for Africa's most populous and most influential nation. I have always wanted to get this opportunity to stand before you and thank you for the leadership you are giving; for the hope you are creating for our country and for standing up to the challenges of the times. You have shown that, really, we have good people in this country. You have courage to really stand when you are asked to, even if it means extremely difficult situations. Thank you very much, Mr. President.

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As I look across this Hall today, I am reminded in all humility of the great opportunities before us, as well as the incredible challenges we face in the difficult task of transformative policy making. Thank you, distinguished Senators, for your daily policy engagement for the progress of our nation. I also want to quickly thank you for the visionary step you took three years ago to bring our organisation, the Economic and Financial Crime Commission, into existence via the EFCC (Establishment) Act of 2004. In that modest time capsule, we have tried to remain faithful to the mandate you gave us, the summary of which is to help the process of evolving a Nigeria of our dreams, shedding off the miasma around our image and aspiration as a people and as a nation.

Before getting into the details of my presentation, let me also use this rare opportunity to comment on your many impressive contributions to our national policy making process. Without looking too far, one would remember the wonderful collaboration - along with your brothers in the lower House - you have developed with the Presidency and which led to the recent epochal and solitary resolution of our debt burden. Certainly too, it is pertinent to comment on your sterling contributions to National Economic Reforms and Budgeting Process which have moved this country forward from the odium of the past in the larger public management practice of this country. You are, indeed, ensuring the survival of democracy.

Our agency is unusually blessed; as much as we have enjoyed your wonderful support, it is pertinent at this point to say very proudly that much credit still goes to Mr. President, who has shown an incredible capacity for political will and who has given formidable support to our work. Without this kind of support, our work would be impossible and we are eternally grateful for this support.

Mr. Senate President and distinguished Senators, as a nation today, we stand at the gaps of our great historical divide and the boundary of the momentous decision passage. Whatever direction we turn holds immense implication for the stability of our democracy and the future of our nation. One right turn will lead us to the proper place we belong as true leaders of the region and the architects of Africa's renewal. However, we can also make a wrong turn as many nations have done in history and smash the package of promises embedded in our collective struggles triggering it to unravel in the most horrendous patterns of nightmarish holistic forms. Today, you are in the driving seat and a lot depends on you. You know very well what I am

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clean, if you do not sanitize, no policy can ever work, nothing.

At the heart of the Nigeria democratic challenge today, in our opinion, is the question of governance; governance matters. It is the framework around which citizens come to acquire true sense of the dividends of democracy. It is governance that helps to bridge the gap between the abstract promises of democratic theory and the practical reality of daily public management. If you follow our sequence in this campaign, you would realize, that we started by taking the 419 people, that is what we started with in 2003. We looked it and asked, who are those responsible for the bad image we have; who deny Nigeria this simple respect that people would want to come and do business with us? Those who have turned us into a country of fraudsters, and we discovered it was the 419 people who are free and moving round, and some times, with escort, in our country and they were the celebrated. So, we went after them and within a short period of time, we brought them to justice. In the first two weeks of the work, we apprehended about 35 of them and among them, the *kingpins* and we recovered over \$750m from them and we said that enough is enough. Those people were responsible for almost the entire compromise in the law enforcement and the judiciary for well over a decade. Do you not see that serious little things make a difference?

Today, we have most of them in the prisons and that is where they belong, they wrath so much damage to us as a people, good quality people, about 150 million Nigerians that wherever you go, people look at you as a fraudster. No one wants to do business with you. So, we started with that but we did not stop there, we went after those that we consider are doing terrible damage in the private and public sectors; we went into the banking sector. We went after smugglers also.

It was very early in our days then when we went after the Vasuanis - one family that was controlling more than 30 *per cent* of the imports in Nigeria. A family that will go to a court and get a court order stopping them from paying duty to Customs. After that we started going to the banks. At one point, we even closed a Port in Nigeria - Onne Port in Port Harcourt and within three months, we recovered about N30 billion. When we went into that Port, we discovered that 80 *per cent* of the containers there were either smuggled or without documentation at all.

We worked with the government and had a bit of reform in the Customs; not only in Customs but in Police, Nigeria Drugs Law Enforcement Agency and

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other government agencies. We have been working and we are now at where it is most important and that is those who are in charge of our funds; people who have been elected and trusted with the responsibility to manage our funds, and this is the most difficult area and that is why we are facing unbelievable challenges. When we were fighting the 419s, the banks and so on, we were being applauded but today, it is a different thing. But the job has to be done; there is no alternative to it, if we are honest.

I have mentioned earlier that if you have been following the sequence of this campaign, you will realise that we started by taking on the 419 gangs, followed by confronting the phenomena of bank frauds, smugglers, illegal bunkering (people who steal crude oil) it is only in Nigeria that you hear about such; we worked with other Law Enforcement Agencies and seized well over 40 tankers, some with crude in them. We brought some of them to justice. Today, we got about 25 convictions for the first time in the history of this country. At least, we frustrated them.

Before the current engagement with crime palpitated within the government Agencies, States and Local Governments and those who brought us to the state of disrepute and shame, and who for no reason reduced us to the level we are - those past leaders and they are there. We have leaders in this country who took billions, it is unfortunate and tragic. If you go to the world's economic records, they will tell you that the person with the highest record, the number one individual who stole the most money in the world, is a Nigerian. And it is a fact because the records are there in their banks. A Nigerian caused a change in the entire finance Rules and Regulations in the world. But there are still others around; yes, there are.

This progression grounds on our conviction that if you would reduce the huge catalogue of public management failures in Nigeria in one simple concept, it would be that corruption stands at the midrib of our obstacles to attend the best that we hope to be as a people and as a nation. That is a fact. And more importantly is what is on our shoulders, which is the responsibility of being leaders in Africa. If Nigeria fails, nothing will ever work. Today, we are living on the kindnesses of people all over the world. Everybody is talking about helping Africa and it will continue to be so until Nigeria takes the leadership. No one can do anything apart from us. We have the means and capacity and we can do it. But it is you, distinguished Senators, who can give us this lead. I am confident as a concerned citizen that without dealing decisively and

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time. I would not want to make it public because of the implications of going to trial but I have the copies with me.

Senator David Mark (Benue South): Mr. Chairman, EFCC, the difference between this briefing direct from the Chairman and the Press Briefing that the Chairman would give is indeed, the fact that in our case we are performing our legislative duties and therefore have the unique opportunity to know more details than would be given in a Press Briefing.

Mr. Chairman, I recall that Senators have been named as people who asked for bribe, nobody hid their names, they named them openly. It happened in this country and we know them; they said this was what happened and they put their names up on the pages of newspapers.

You will also recall, Mr. Chairman that sometimes ago the number three person in this country was accused by name, not just by his appointment but by name, of being involved in asking for bribe and EFCC was part and parcel of this whole exercise; they did not hide the name of the number three person in this country; they did not hide the names of the Senators who were involved; they were all on the pages of newspapers and on the television.

You will also recall that honourable Members were involved and their names were published openly for everybody to hear. More recently, the name of the Vice President is being called openly, he is the number two person in this country and nobody is hiding under any cloak. They have not gone to court at the time these names were called and for the current one now they have not gone to the court.

With all due respect, if the names of our own Colleagues could be called openly even before they went to court, we also reserve the right in the course of our legislative duties to know the names of all the Governors and all those who are involved; the big men and the richest man in the country who is a Nigerian. So, I think there is a difference in that Briefing.

Several distinguished Senators: Yes, Yes.

The second point that I want to make, Mr. Chairman, is this, there are 31 States that the Chairman of EFCC said they have managed to put their papers together and are going to send them to the court sooner or later. In alphabetical orders, he should give us the

names of those 31 States and precisely what is happening there. I must emphasize, Sir, that Section 37 of the Act setting them up says that they must give us Reports at the end of every September proceeding the year. That is the Report we are getting now. If it becomes necessary that he gives this Report, whether it disturbs him from going to court or not, I would not know, but I do not suppose that our legislative duties will stop anybody from going to court. So, he should give us the names of those 31 States in alphabetical order and in details who and who was involved by name. There is no doubt that the briefing he gave was excellent and I think he is very eloquent; but we do not want to leave this particular briefing today without being more educated than what we read on the pages of papers. We have read a lot of these things on the pages; so we want to know the details involved.

Finally, Sir, Mr. Chairman, there are 419ners, the bankers and all these other characters who have been named, and of course, some of them were on the pages of newspapers even before they went to court. I think it is only proper that the Chairman of EFCC should also apprise us of some of the big 419ners, who are mentioned today, yet tomorrow you see them moving about again, not alone now but with policemen as security, which means that somewhere along the line something had gone wrong. I think we would like to be briefed properly on that

The Chairman: Thank you Senator David Mark. Distinguished Senators just before I take your questions, let me quickly read the Resolution of the Senate so that the Chairman of EFCC would understand why Senator David Mark made that comment.

We said:

That the Senate do urge Mr. President, Commander-in-Chief of the Federal Republic of Nigeria to direct the Chairman of Economic and Financial Crimes Commission EFCC to release to the Senate forthwith the Reports of his investigation into the allegations of monumental corruption in Enugu State Government in particular and other States of the Federation in respect of which they have also carried out investigation and prosecute those found guilty. and we continued:

That the Senate do invite the Chairman of EFCC. And that is why you are here.

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Unfortunately all these Chairmen and some of the functionaries admitted to having private Bank Accounts in the same localities. These are some of the details that really took place.

We also looked into the assets of the Governor and we have somehow been able to investigate to establish most of the allegations. They are a lot.

We also look at over pricing of construction contracts awarded by Enugu State Government. The contracts were so many and we followed each and everyone. We have specialist that we use who go and look at it and evaluate it and we have come up with what we consider appropriate. One of the roads project was considered reasonably priced while another one was considered to be under priced. Eight of the ten building projects were confirmed to have been attained to 70 *per cent* completion; general pricing of the building projects and certification of work done were observed to be on the high side and have therefore, been recommended to be specifically re-valued downwards. Construction quality of nine building projects and 12 road projects out of the entire 24 were adjudged unsatisfactory. ... and the contracts commended. Two road projects and one building project which were still at the infancy stage were observed in addition to... These all some of the details, most of which if, maybe are made available to you in copies you will be able to appreciate.

In respect of the other States, we will start alphabetically like you said, with Abia State.

The Commission received petition from Abia Leaders Forum against the State Governor – Orji Uzor Kalu, alleging several instances of stealing, misappropriation of funds, fraudulent acquisition of assets. And we have established *prima facie* cases of conspiracy, stealing, corruption, abuse of Office, forgery and money laundering against the Governor – Orji Uzor Kalu and Josephine Uzor, Isegbe Kalu.

Governor Uzor Kalu used the following companies and enterprises belonging to himself, his Mother – Mrs. Uneh Ogu, Miss Ogbonnaya Kalu – Daughter, Mrs Ifoma Kalu – Wife, Marcus Uzor – Brother, Honourable Nana – Uzor Brother, Emeka Ogboneh – MD, (Slok) John Gerim, Maduka Elechi, Godwin Ozuma and looting of Abia State Government Treasury.

Building his business empire in the following: Naya Nigeria Limited, Asted Off- shore Limited,

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General Ventures International, Slok Properties, Slok Pharmaceuticals, Slok Shipping Company, Slok Nigeria, Fan-Belt Constructions, Sam Publishing Company, Reality Organisation, Naikuso Enterprising, Cash and Go, Mengo Enterprises.

We noted that the State Governor used his position in channeling State and Local Government funds in excess of N25 billion to his private business using the above personal companies. Investigations are still on. Some of the cases were ready and we will start going to court. It is one of the cases that we would go to court on immediately.

Adamawa State: The Commission received petition written by one Senator Wanpana, alleging that all the twenty one Local Governments in Adamawa conspired and misappropriated funds. Nineteen of them have been indicted while investigation continues. The State Governor and the Commissioner for Local Government and Chieftaincy Affairs were alleged to have committed high scale misappropriation and withholding Local Government statutory allocation for all the Local Government Councils in the State. Arrangements have been concluded to charge indeed the Governor, the Commissioner of Local Governments, Principal Personal Secretary to the Governor and others to court.

Akwa Ibom State: Do I go all through the States? (Interruptions)

Several distinguished Senator: Yes, go ahead.

Mallam Nuhu Ribadu (Chairman (EFCC): The Commission received petition against nine Local Governments in Akwa Ibom State, alleging the misappropriation and embezzlements of public funds. Investigations are still on going. Projects claimed to have been executed by the Local Governments are being inspected. Services of experts are being employed for the purposes of evaluation of work done. The State Government is also being investigated, project inspected and the outcome of the investigations will be communicated to you in due course.

Anambra State: Multiple allegation of conspiracy or case of conspiracy, diversion and misappropriation of funds were reported against the former Governor –Chris Ngige by some members of the State House of Assembly, some contractors and some members of his cabinet. The complaints bothered on grounds scale of misappropriation, diversion of Local Governments

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the 13 *per cent* Oil Derivation Fund. Investigation is on. Some of these investigations are not just internally but externally. But progress is being made considerably in the case of Delta State.

Enugu State: I had spoken on it.

Ekiti State: The Commission received a petition from Ekiti Justice and Equity Movement against the Governor, officials of the State Government, contractors and friends of the Government alleging conspiracy, illegal diversion of funds, corrupt practice, enrichment, money laundering, operating several foreign accounts, abuse of office and stealing.

The case was diligently investigated and led to the discovery of Government Funds not accounted for. A criminal case related to the above-mentioned office had been established and some indigenes are already in Court.

In addition, offences and breaches by the Governor and his Deputy had been reported to the Speaker of the State Assembly. What we try to do is that as we investigate, we also make these available to the State Assembly. If they want to do the work, fine; it is their responsibility. Constitutionally, they are supposed to check the Governor. Recently, we have begun to get positive responses from some of them. We hope they are going to see and also learn from what we are doing. Hopefully, it will change things in the States.

Edo State: The Commission received petition against four Local Governments alleging misappropriation of funds. The petition also is being investigated and the outcome will be communicated.

Against the Governor also, are allegations of criminal misappropriation, embezzlement of the 13 *per cent* Oil Derivation and the entire Statutory Allocation of the State since 1999. These were allegations levelled against the Executive Governor. Investigation into the case is still on-going and it will come out.

Ebonyi State: The Commission received petition against four Local Government Chairmen in Ebonyi State for misappropriation and embezzlement of public funds. They are being investigated; the outcome of the investigation will be communicated to you.

Imo State: The Commission received petition against the State Government; Commissioners and Chairmen of Local Government Joint Account over the

deduction of ₦56 million from each of the 27 Local Governments in the State for the purpose of tarring four kilometres of roads in each Local Government. The project has been abandoned and investigation into the matter is still in progress.

Other projects claimed to have been executed by the various Chairmen of the Local Governments are being verified with the assistance of experts. One of the Chairmen had already been charged to Court in Lagos. A female Lawyer who attempted to bribe EFCC officials has also been charged to Court.

There are allegations also, of corruption and abuse of office against the Speaker, Imo State House of Assembly, Hon. K. K. Nwagu. Investigation is still in progress on this matter. The Speaker was said to be the one extorting and pauperizing Ikeduru Local Government thereby stunting its development and growth. Especially, he was said to have collected forcefully between ₦2 million and ₦3 million each from Ikeduru Local Government Acting Chairman supposedly to protect his interest in the State House of Assembly. Imposing individuals on the Council and forcing the Council to pay between ₦140,000.00 and ₦180,000.00 monthly to these individuals as if they work for the Local Government. A certain road under construction by the State Government was awarded to Ideal Construction Company for ₦250 million while 35 *per cent* of this amount was given to him as *kick back*.

Jigawa State: The Commission received petition that the current Chairman of Birnin-Kudu mismanaged funds allocated to the Local Government to the tune of ₦81 million - monthly allocation from the Federal Government to the Local Government. He was alleged to have inflated the contract sum for the purchase of 12 vehicles by his son and also conveyed his siblings and supporters to Mecca. That is what most of them in the North do; using public money to send people to Saudi Arabia. But this year, we are going to confront them.

In the course of investigation, the Suspect, his Deputy, the Accountant, the HOD, Works; Councillors and Chairmen of all the Polling Units were interviewed. And it was discovered that the funds meant for these polling units were diverted by the Chairman, Local Government and also the Governor. But investigations on the Governor's are just more than one; they are several and they will come out.

Kwara State: The Commission received a petition of constant stealing and abuse of office against the Government regarding Ilorin Water Expansion Project

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Government. These are some of the things that they are charged for in Court today. There was so much noise made about the Assembly there to the effect that there was a Court order stopping us whereas there was never any Court order. Indeed, it was the Court order which we got that enabled us to have them arrested. They are facing the same Court. That is what is going on there.

Rivers State: The Commission received petition against three Local Government Chairmen in Rivers State and against her Governor. The investigation has gone extremely far and we are likely to start going to Court very soon in this respect.

Sokoto State: The Commission received petition against the State Government and individuals which had been under investigation for a while now. We are yet to conclude. Nothing has been established yet in that investigation.

Taraba State: A case of alleged conspiracy and abuse of office had been established against the State Government, the Local Governments and the State Assembly. This is one of the cases that we are going to Court on. Hopefully, in the next couple of weeks; probably, before the end of October, 2006, we will be in Court. Going by our calculation, we envisage taking about 15 States to Court.

I have counted at least 31 States over which we have done something. However, it is an on-going investigation and many of the case have not been concluded; but we are going to continue working. There are lots of problems and frustrations in the course of doing this work. In some of the cases, there is nothing anybody can do. For some, I think you can help. Maybe, as I answer questions, I will be able to speak on some other things.

Zamfara State: This is one of the worst cases that we have. *(Laughter)* Yes; it is. We have already gone to Court in the case of Zamfara, as we had charged officials including the Governor himself to Court. It is a tragedy and very unfortunate to know what is going on.

People deceive and hoodwink, turn things upside-down, turn colours, change things and go all over the World, *et cetera*. The Governor of Zamfara State even went to the British Parliament to say that it is because he was going to be president of Nigeria that they were doing that to him. Meanwhile, all the cases against him are on direct stealing. *(Interruptions)*

Senator Fidelis Okoro (Enugu North): Mr. Chairman, EFCC, you did mention few names that are involved in this heinous crime in Enugu State. I would want to find out if it is true that Peter Mba refunded ₦5.2 million being part of the sum of ₦55 million originally set out by the Enugu State Government to bribe the investigating officials of your Commission.

Again, one Victor Ode refunded the sum of ₦19.8 million. I was also told that, apart from the ₦5.2 million refunded by Peter Mba who is the current Commissioner for Finance in Enugu State, that he also refunded ₦25 million that was found in his possession.

I was equally informed that one Ifeanyi Nwoga refunded ₦2 million which is part of the same money. Worst is the fact that Sam Ezeofor and Chinya Ukoha refunded a lot of money that ran into ₦500 million or thereabout.

Mr. Chairman, I do not know if you are aware that in order to compensate Sam Ezeofor for the criminal activities, he was nominated as Commissioner for Local Government, screened by the State House of Assembly and sworn in by the Governor.

One of the reasons why these happen, even though I do not believe it, is because, as Dr. Chimaroke Nnamani boasted severally, the EFCC is in his pocket. Though judging from what we saw and heard here, I do not believe him. But that was what he said. Otherwise, how can he and the House of Assembly, knowing very well that he is being investigated and indicted by you, go ahead to appoint, screen and clear Sam Ezeofor as a Commissioner? Right now, as I am talking, he is the Commissioner for Local Government in Enugu State. Chinya Ukoha is also a Commissioner in Enugu State. Are you aware, Mr. Chairman?

The Chairman: Chairman, EFCC, would you like to address some of the issues he raised please?

Mallam Nuhu Ribadu (Chairman, EFCC): Yes, I will, Mr. President. Distinguished Senator, I heard what you said and I can confirm most of the things in respect of the recoveries involving Peter Mba, Ude and some of the other people you mentioned.

Yes, I can confirm to you that they took about ₦55 million from the State Government to bribe my officials. We recovered the money from them. They lied that they were going to give it to EFCC but converted it for their own use. We recovered the money and saw what they did with it. Some of them

including the one asked by Senator Danjuma. First and foremost, I will tell you that I will have to admit the fact that we cannot do everything ourselves. We have limitations as to our capacity and of course with time factor. We have from the on set adopted what we consider a suitable target for maximum impact.

You spoke about deterrent and we have taken it extremely very serious and set example. We went after those who were taking money outside the country and recovered some money. The fact that we got one, governor pants down stopped the rest from taking money out. This is a big impact and it is making a difference. It is not possible for us to be everywhere and solve all the problems at the same time. This work is a process, we have started it and we cannot claim to be a hundred *per cent* in a position to handle all at the same time. We can do indeed whatever is possible in our capacity and capability. It is going to be a continuation and others will have to come along. We want to see if Nigerian Police can be part of this, ICPC and all the rest to be part of it so that collectively, we can make a difference.

In respect of full disclosures, we always do it but we have to have a reason to do that. Normally we never hid anything; we work in transparency. We will make everything public by the time we go to court or if we have mandatory invitation to come and appear before you. In that case, we will have no alternative than to make it public.

If it involves something very critical to government, for example, the President has to know and there is nothing we can do than to send it to the State Assemblies. These are the disclosures we do. We do not just go to a Press Conference and start giving details of our investigations. We would continue to do so. Any case that is ready and has reached a prosecutable stage, we will take it to court and the moment it is in court, it is in the public domain.

In respect of Borno State, investigation is going on. If on one side we meet a brick wall, we leave it at that and look for some other areas. It will be difficult for you to move forward with investigation, if those who petitioned or made the complaint, refuse to go further or step down. We have had this problem a lot but it is not the end of it. There are other things that we are working on and I am sure very soon you will hear what is happening in Borno State.

Senator Ibikunle Amosun (Ogun Central): The Economic and Financial Crime Commission (EFCC)

Chairman, when you were giving your briefing, you brushed over Ogun state. I want to know the position of Ogun State. My people will want to know; have you received any petition; what is the position of things?

Senator Isa Mohammed (Niger South): Mr. Chairman, during the *third term* issue I rose up in defence of the President of the country and his economic team. I am very happy today that the Chairman, EFCC, Deputy Commissioner of Police, Nuhu Ribadu is here to enlighten the nation on what he has been doing. I will like the to tell him that the down trodden, the '*talakawas*' are with him and that he should give more publicity through the Hausa service or Yoruba service and the Ibo service, so that these *talakawas* or the down trodden, the poor, who are always being misled by the money-bags to understand the activities of the EFCC.

I will like to suggest - just as has been done in other countries like in America where the father of the present President, who was also the President of America, was an Intelligence Chief; so also was Putin of Russia - that himself or El Rufai should lead this country, so that the good job he has done would not be put in the bin.

The Chairman: Thank you, distinguished Senator Isa Mohammed. Kindly take your seat, please.

Distinguished Senators, I will take as many as possible, if you go straight to the question.

Senator Francis Arthur Nzeribe (Imo West): Mr. Chairman (EFCC), your investigation in Imo State is predicated on the resolution of the Senate; as a matter of fact, it is correct to say that your investigation in Imo is because the Senate asked you to do so. Could you please confirm that all the twenty-seven local governments are being investigated, as contained in the Motion and also the roguish governor and his wife is also being investigated?

The Chairman: Do you like to take this now or do I take Senator Tunde Ogbeha so that you take the three questions together?

Senator Jonathan Tunde Ogbeha (Kogi West): Mine is in general form. Having had the experience you have of our situation in this country, what we have listened to today is a sad commentary. I want you to suggest to us how or the weaknesses in the Act setting you up where you think the National Assembly can

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are not proper, you cannot do anything. We have faced difficulties, for example, with the Miscellaneous Offences Act. We take people who are breaking these pipelines to court and the laws say that if you catch such a person, it is life imprisonment; no more, no less. We requested for it to be brought down to, say, five years or three years so that the court will be able to do justice. We have lost a couple of cases as a result of this. The court will not want to send poor people to life imprisonment simply because they were caught doing this and so on and so forth.

There are so many other areas; for example, theft of crude oil. We never knew about it. We wanted it to be penalised. For example, we wanted a new law that can address these cases of kidnapping taking place in some parts of Nigeria. We have got some people, we have charged them and we have got three convictions for kidnapping, but the laws are not appropriate. If you can help us to address these issues, it will help greatly because the law you passed on 419 is making a huge change. Give us a little time and we will be able to stop 419 simply because of the law you passed.

It is the same thing, for example, with the Evidence Act and the Criminal Procedure Law. They are all archaic; they are all very outdated. Please, Sir, I do not know if it is possible for you to take interest in them and see how you can improve them.

The Evidence Law, the Criminal Procedure Law and some of the rules of the court are more or less responsible for the slow justice process in our country. They are responsible for the frustration of the entire process. If you can look at it and improve it, then you are making a revolution in the justice system in Nigeria. This is because the justice system has failed; it has collapsed. Hardly will you get justice anywhere you go, no; we suffered. You made it possible for us to get these 88 convictions we are talking about. Why? It is simply because in one of the provisions you amended, you said that the moment we take a case to court, it will not suffer any interlocutory injunction, and that is it. It changed the entire nature and I can tell you, Sir, that by next year we will be getting over 200 convictions, simply because of that.

If you look closely into some of these procedural laws and improve them, it will help the Nigeria Police Force, NDLEA, NAFDAC, ICPC and all the others. Why ICPC is finding it very difficult and their cases cannot go forward is simply because at every step, the lawyers are frustrated. They have been there for six or seven years and I do not know how many convictions

they have so far and it is serious. It is not that they are not serious, Sir. I think probably there are some things in the system that make it impossible for them and it is the National Assembly that can solve that problem. The National Assembly should please get interested.

Of course, some laws are international crimes. We have some of the Protocols that are supposed to be addressed and maybe you can put a bit of interest into them and address them. I think Senator Shuaibu was working on them. If it is possible for you to pay more attention to them, it will help us. But more importantly, Sir, stand by us, identify with us and that is going to be the greatest help and support you can give us.

Thank you very much, Sir.

Senator Abiola Ajimobi (Oyo South): Mr. Chairman, like you said before, we will leave the commendation to the Chairman. But I do like to commend your operational principle which is that you want suitable targets for maximum impact. If we now go on the basis of that principle, I would like to know how you really determine who to investigate. This is with regard to most of the investigations you told us about; you said that you received petitions from so, so and so on. Without receiving petitions, I would have thought that if you wanted to follow that principle of suitable targets for maximum impact, we should first determine who are those people spending the highest money. We should have started from the Federal Government. What are we doing about the Presidency, for instance? Then we go to the State Governments. In other words, if nobody had written anything, for instance, on the PTDF and so on, those things would have been going on and nobody would know anything. We have big companies like NNPC, PTDF and others. How come you have never gone there to investigate them? I would like to know that.

Finally, I would like to say that you should not fight against the word *selectivity*. You have to be selective by virtue of your principle. This is because in Nigeria, we are so corrupt that you cannot go to everybody at the same time. So, you start from the big ticket items which I say are those who are spending big money and then you go down the line. So, I would like you to comment on that, please,

The Chairman: One more question. Yes, Senator Aruwa?

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because you asked about people with big money; politically exposed persons with so much money. And that is how they got to the level of looking, for example, at the Governor of Bayelsa State and the rest with so many other things.

They took these cases by themselves. Almost all these big cases that we have been investigating are cases as a result of a request from outside. With regard to the Governor of Plateau State, it was a request from the UK authorities because he was caught with money over there. DSP Alamieyeseigha was also caught with money over there. Even with regard to the case involving the Vice President, it is also from outside. The case involving General Marwa is also from outside. In most cases, we do not initiate cases ourselves. No, and we have an obligation to respond to international requests because we have signed that we are going to. We work together; we work for them and they also work for us.

If there is going to be a selective charge, it should go to the International Law Enforcement Agents because we did not ask anybody to go and keep money over there. We did not tell anybody to go and transact business with people over there. We were not there; so, some of these cases come from that point.

If, Sir, you look at our activities, you will see that we have worked in the Federal Government more than any other place. We have worked against those who are very close to the Presidency more than any other place and I can count them to you. We have taken his Ministers; we have taken his Law Officers and we have taken people heading agencies. We are almost in all these agencies you are talking about. Up to this very moment, not a single person from the Opposition has been taken by EFCC, but that does not mean that we will not.

But then whatever you do in this world, people will say that it is not enough. How dare you leave NPA? In that case, you cannot do anything. That is how human beings are and we understand it. We have to live with it. We can only do what we can within the time given to us and within our own capability. We will continue to move. History and posterity will judge.

I do not know what benefit we can make from NPA. Who is there in the NPA that we are afraid of and for what? In the case of NPA, it was even an Administrative Panel that was set up. NPA went to the government and wanted to get some money to pay its outstanding liabilities. The Federal Government at its

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Cabinet Meeting felt that these debts needed to be checked and they established an administrative panel. The only thing is that the EFCC headed it, but in that Panel, we had the Secretary to the Government, the Head of Service, the Due Process Office and the Ministry of Finance all as Members. The EFCC just happened to be the Chairman. After that, it was concluded that there was need for this thing to be checked and investigated and that was when the Federal Executive Council looked at the Report and directed it to us for investigation which we are doing right now, and we are going to come out with the result.

So, it quite disheartening that for twenty-four hours, you are working day and night and some people think that without doing some little things, you are nothing, as if we are getting something from NPA or from anybody. It is not so, Sir.

On the issue of the *Third Term*, yes, this is the place where it took place. We are throwing a challenge to those who are even making the allegation. How for God's sake on earth does anybody want me to go into every Senator's account or every Representative's account to determine whether or not he took money? Through the investigations we have done in other Houses of Assembly, you will see monies taken from State Governments and given to Members of the Assemblies and we can follow the trend.

In the case of the National Assembly, we have checked the Federal Government. People do not know, but we check daily the accounts of the NNPC and the accounts of some vital government agencies to see whether or not money was taken. And, indeed, we do check even the Security Vote from the Federal Government. There is nowhere that we have seen money taken and diverted to the National Assembly for any project. We have not seen it.

We are left with only one option. Those who are making the allegation should please, in the name of God, if they love this country like us, come and tell us that this Senator or this Member of the House of Representatives took money and they will see what we can do. You cannot stand and make wild allegations without having the courage to stand up and say it. If you do not do that, what else do you expect us to do? Tell us and you will see what we can do.

We have investigated this case before and we have shown the report of our investigation. Why should we shy away this time? But it will be impossible for us, Sir, to go into the account of every Member of the

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have signed a Treaty between Nigeria and America that gives permission for America to ask you to investigate any citizen of Nigeria and if there is such a Treaty, you should tell us when that Treaty was signed?

Secondly, Sir, what is happening between Mr. President and his Vice has put this country into total shame and disgrace in the international community. When they were taking the oaths of office there is one pertinent paragraph which says and I read:

I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me as President of the Federal Republic of Nigeria, except as may be required for the due discharge of my duties as President.

I am not hiding that fact, the only exception that I want Mallam Ribadu to explain is that the same Federal Executive Council report was sent to us plus your own. When you submitted the NPA report, it went to the Federal Executive Council. To me, that report was rejected and the rejection of the report, I believe, is an indictment on you. You said that you are carrying out a new investigation now. That is why Nigerians give insinuation that you are handpicking people that you want to indict leaving those you do not want to indict.

This government came into power since 1999, so people are implying that why did you wait until now (when we are preparing for a new election for new leadership) before you start picking people that you are investigating? (*Interruptions*) I am addressing the Chair please. It is natural. By the position you hold at EFCC, you cannot exonerate yourself. People will not stop putting insinuation and aspersions on you but you should take it in good faith and show to Nigerians that you are doing what you are doing fairly without fear or favour.

The Chairman: Distinguished Senators, I would like to remove one of the questions raised by Senator Idris Kuta and that has to do with the issue of bilateral agreement between Nigeria and United States and whether or not we have that for EFCC to carry out its constitutional role.

Distinguished Colleagues, you should remember that at certain time in our tenure, we turned the searchlight on the National Assembly and we investigated ourselves. If the Executive has deemed it necessary to do the same now, I think it is good for our

economic development and our democracy. So, I would like to disallow that question so that there will be no sacred cows. EFCC can move ahead and investigate as many people as they want to. There is no time-frame as we have been told. So, you may address other issues raised by Senator Kuta but not the issue on bilateral relationship.

Mallam Nuhu Ribadu (Chairman, EFCC): Mr. President with your permission, I will start by going back to one of the previous questions asked by Senator Aruwa in respect of law and order.

We are a law enforcement agency and I can assure you, Sir, that today we are number one in ensuring that we do things according to the law. Maybe that is the reason why we are making a difference. You mentioned, Sir, that you lived in the US; but you know that the way we live in Nigeria today, if we were to live in US, all of us will be in prison. Things that happen here that people get away with can never happen over there.

From the work we are doing with FBI today, we have seen what they do. The things that they do over there and get results, we dare not do them here. For the same case we are investigating, the FBI went into the Chambers of the House of Representatives in the US and carted away documents and papers of Congressman Jefferson. We dare not do it in Nigeria. The day we went after one suspect – (*Interruptions*).

We in the EFCC never do anything without the authority of the Court; never. Whatever the Court says that you have to get permission for you to do it, we get the authority. If it is an execution of a search warrant, we will get it. If it is to get a warrant of arrest for a particular thing, we will always get it. That is why when people talk about our Commission doing things without Court orders, we challenge them and ask them to point at one single Court order that EFCC disobeyed. Up till now, nobody has brought anything.

If you have problem with EFCC, the Courts are there for you to challenge us and we will be ready to face you there. Anything that we have done that is out of the order of the Court, the Courts are there to take the cases and we are ready. Up till now we have not seen a single person going to Court to say he is challenging us; that we are doing something out of the law. And we will be ready because we go by the law. We take the cases we do to the Court. There is no any other place for anybody to go apart from the Courts.

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We have guests in the Chamber and we suddenly do not apply the Rules of Proceedings. When distinguished Senator Isa Mohammed was entertaining us, we were short of fighting him and asking him to leave the Chamber. I will not do this now but when next you try to demonstrate that you are overwhelming, I will not hesitate to apply the Rules, please. Get this very clear.

Senator Gandhi, have you finished your point?

Senator Yari Gandhi: Yes, I have.

Senator Uche Chukwumerije: (Abia North) Chairman EFCC, let me first say that today really should be a day of mourning for this nation after listening to you. You spoke with a passion and a bluntness that struck a very receptive cut in me.

But that said, you have defended with a lot conviction and to a great extent the issue of the allegation about being selective and I think that all of us are convinced that in 99.9 *per cent* cases you are even handed. But then there is still that 0.1 *per cent* and you have to do more to convince the public that EFCC is not selective in that 0.1 *percent*.

You have replied to instances of NPA; you have replied to instances of allegations against some Senators as of money; of course, you are silent on the fact that a certain bank on a certain day had a run down of almost N1b. And it appears your technical response would be that nobody came and complained about this or give information. There is the mysterious case of an almost a *no-go-area* called the oil Ministry, where, for seven years Mr. President was both the *approver* and the *spender*; because he has been both the President and the Minister. Again your technical reason for not responding to that kind of situation would be that nobody came to report or if they reported, they have not come to produce enough evidence.

The general impression therefore, is that you take as much interest in a case as you think would please certain interests; and that represents that 0.1 *per cent* that I am taking about. I said earlier that in 9.99 *per cent* you were all right.

My mind also goes to a very short traditional story. There is one Chief Judge in a village - by tradition the oldest man in the Village is the Chief Judge - and in any case brought to him they respected him for his consistency; for his sense of justice and for his

truthfulness and he convicts and all that and they are all very clear.

Then they caught one man and many villagers saw him; he stole somebody's fowl, killed and put it in his bag and was going home. They caught him and he was taken to the village square, invariably to the Judge and this man happens to be a very close friend of the elders in the town; in other words a friend of the establishment. But when he was brought there what happened? He lowered his voice and spoke to the Chief Judge and said, please with that wisdom and discretion with which old men look into bags, look into this bag and see whether it has anything inside it. He looked into the bag, felt it and told them that there was nothing inside the bag. This is the impression of EFCC; that you see what you want to see and do not see what you do not want to see. Can you do more to respond to that?

Secondly and briefly is on the issue of Plateau State. Nobody, not even Members of the Legislature, is above the law, and we do not by any means claim immunity. But do you not think that the mode and circumstance, in which the Legislators in Plateau State Assembly, especially the Leadership, were hounded and arrested, violated the spirit, if not the letter of their human rights and derogated very much from the corporate dignity of the Legislature as the third arm of governance?

Thank you.

Senator Ike Ekweremadu: (Enugu West) Mr. Chairman, Sir, the Chairman of EFCC alluded to issues of good governance and specifically spoke about the rule of law which he also tried to amplify. But I am a little bit worried and I say so in regard to most of the Reports. He spoke on the issue of Court Orders but I want to refer him to the issue of detentions for periods exceeding two months, three months or six months.

Basically you are a lawyer, in addition to your training as a Policeman and I am conversant with Section 35(4) of the Constitution defining issues of detention; that people can be detained but that should be within a reasonable time. And it went further to explain what reasonable time is all about, which is one day in a place that there is a court or two days where there is no court; but we have had instances of people spending days, weeks and months with your organisation. So, can you expatiate on the reasons behind this and how you intend to address that issue to ensure that you are still compliant of the Constitution of Nigeria?

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which you can ensure that you enforce your right, which is the court. You are entitled to go to court and get a court order. If the court gives the order and we disobey it then it is different thing. So far, we are waiting for such to happen.

The things we do, we do them properly. The only unfortunate thing is that people are not used to it in our country. People use money to completely scuttle and compromise the process. No one sees justice. Nobody has ever been brought to true justice in this country in the real sense of what justice is until the little attempt that we are making. It is something which is new and will take time for people to understand. It is a tough one but it has to be done.

Thank you very much.

The Chairman: Distinguished Senators, I think I should start by apologizing to those who could not put their questions across. But to put the records straight for the purpose of this, I would like to remind you that the United Nations Convention on Trans-National Organized Crimes sought for mutual cooperation in investigation and mutual legal assistance. It was rectified by this same Senate early in 2005. So, if you want more records, you should check through your diary; you will see that we have ratified that. It is just for the records. So, EFCC has every opportunity of cooperating with the Federal Bureau of Investigation (FBI) and *vice versa*.

On behalf of the distinguished Senate, I would like to propose a vote of thanks to the Chairman of EFCC for the courage he has shown. I think history would be kind to him and his group when the history of our country is put together. You will agree with me that we would give and we have continued to give maximum support to the fight against corruption. If EFCC epitomizes this fight, they symbolize the fight against corruption in Nigeria.

If EFCC is a creation of National Assembly, we have no reason but to continue to support EFCC by way of appropriation, by way of legislation to encourage them to sustain the fight against king-pins and big time crooks in our country. We have no fear of saying this being members of the National Assembly. Since we have set them to work for our country, we congratulate the Chairman, Mr. Nuhu Ribadu and his men and wish them continuous success in their fight.

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They should not fight shy. Charge all those people to court and let them be charged. Thank you. You may take a bow and go.

(Mr. Nuhu Ribadu, Chairman, Economic and Financial Crimes Commission took a bow and withdrew from the Chamber).

Distinguished Leaders and Senators, is there any further comment? That is why we moved into Committee of the Whole. Otherwise, the Senate Leader should move a Motion for progress report.

Senator Tafida: I move that the distinguished Chair reports progress.

Senator Lawal Shuaibu: I second the Motion that the Chair reports progress.

Question put and agreed to.

(The President resumed the Chair)

The President: Distinguished Senators, the Senate in the Committee of the Whole, was briefed by the Chairman of Economic and Financial Crimes Commission, Mallam Nuhu Ribadu, on the Commission's investigations in the States and Local Government Areas of our country. The Chairman stood and answered questions from distinguished Senators.

A Vote of Thanks was proposed on behalf of the Senate by the Presiding Officer.

Is it a true reflection of what transpired?

Several distinguished Senators: Yes.

ADJOURNMENT

The President: Distinguished Colleagues, the Senate is hereby adjourned until the next legislative day, that is, Thursday, 28th September, 2006.

And it being past 2.00, the President adjourned the Senate till Thursday, 28th September, 2006 without question put, pursuant to Order 13(8) of Senate Standing Rules.

The Senate adjourned accordingly at 2.35 p. m.

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and unnecessary and subsequently recommended its deletion. A similar fate befell clause 16 for its close brotherhood with the preceding clause. A consequent restructuring of the clauses were effected.

Part IV of the Bill is the Committee's new Part V and it provides for information technology pacts. However, clause 24 of the Bill under this pact was deleted for verbosity as clause 23(2) of the committee's recommendation has provided for its concern.

Part V of the Bill is the Committee's new Part VI and it dwells on Financial Provision of the Commission to provide for its day-to-day activities and remuneration for its personnel.

Part VI, is the Committee's new Part VII, which provides for Legal Proceedings.

Part VII, is now new Part VIII, which deals with miscellaneous matters and, according to the Committee's recommendations, also deals with Transitional Provisions. The same part also provides for interpretation of the terms used in the Bill.

The Bill provided for only one Schedule which is supplementary Provision relating to the Board, but the Committee recommends three Schedules. Schedule II provides for the management and supervision of the country's code, top level domain, which deals with the domiciliary and management of the country's internet identity. Schedule III enumerates the class of companies that the new clause 11(2) (a) refers to.

CONCLUSION/RECOMMENDATION

Having undertaken a painstaking consideration of the Bill, it is the recommendation of the Committee that this Senate do consider, adopt and pass the National Information Technology Commission Bill as amended into an Act of the National Assembly.

I so move, Mr. President.

This Bill is for presentation and consideration; it has been laid when we did the presentation.

The Deputy President: Thank you. I think we should go into the Committee of the Whole.

Senator Tafida: Mr. President, I move that the Senate dissolves into Committee of the Whole to consider this Report clause-by-clause.

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Senator Lawal Shuaibu (Zamfara North): Mr. President, I second the Motion moved by the Senate Leader that the Senate do go into Committee of the Whole to consider the Report clause-by-clause.

Question put and agreed to.

National Information Technology Development Agency Bill, 2006 - CONSIDERED IN THE COMMITTEE OF THE WHOLE SENATE

The Chairman: Distinguished Senators, the Explanatory Notes will be helpful in helping us to consider the Bill clause-by-clause and I do not think we are going to have any problem at all. It will be smooth and straightforward. We are now on Part 1, clause 1 on page 1.

Senator Tafida: Mr. Chairman, in view of the fact that the committee has restructured the Bill, I think Part 1 is now on page 3 and it starts with, *It is hereby established...*

The Chairman: That is correct.

Senator Abubakar Danso Sodangi (Nasarawa West): I think it is correct to have *It is hereby established ...* instead of *There is hereby established ...*

Senator Oserheimen A. Osunbor (Edo Central): Mr. Chairman, I believe that *There is hereby established a body to be known as the National Information Technology Commission*, is all right.

Senator Tela Baba (Bauchi North): Mr. Chairman, in clause 2 (2), it retains an amendment and the amendment there is the removal of the word *agency*, so it will read: *There shall be a body corporate* because they have already removed the word *agency*. What have they amended there?

Senator Dansadau: You are talking about clause 2 of the Bill? What we are amending there is the word *agency* and we have replaced it with the word *Commission*. (*Interruptions*)

The first page and the first column is the Bill. That is our pattern. You will see that we have put the word *Commission* in bold prints. So, whatever you see in bold letters is a replacement of what has been cancelled. We have cancelled the word *agency* and replace it with the word *commission* in the second column which is the Committee's recommendation and remarks in the third

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The Chairman: Let us correct it. So, it will read: *Such monies as may be appropriated for the fund by the National Assembly.* Yes, can we hear you Senator Baba Tela?

Senator Baba Tela: Mr. Chairman, Clause 14 (3), on page 18. It says:

A levy of 2% of the profit before tax of companies and enterprises enumerated in the Third Schedule to this Act.

There is no Third Schedule attached to this Act. *(Interruption)*

Senator Sodangi: The Committee has provided it. You are thinking about Bauchi. Please, check it properly. *(Laughter)*

The Chairman: Please, let us make progress. Senator Baba Tela, are you happy?

Senator Baba Tela: In the document with me, there is no such attachment.

The Chairman: Look at page 50, it is there.

Senator Baba Tela: May I have the Floor Sir?

The Chairman: Yes, you can.

Senator Baba Tela: Mr. Chairman, on page 50 it says: *Businesses to which this Section refers to; GSM Service providers and all telecommunication companies...*

There is a basic problem with this one because GSM Service Providers and Telecommunication Service Companies are already being charged a percentage of their turnover which is to be paid to the Nigerian Communication Commission. There is a Bill that we passed in this Chamber for the provision of a universal access to universal service which is awaiting concurrence from the House of Representatives. It is going to draw together with NCC from that fund. To charge again on this fund, you have to then re-amend the NCC Act because what they are supposed to charge for the providers is already encapsulated in the Law.

I think charging Service Providers and Telecommunication Companies will amount to triple taxes. You are paying NCC; Universal Service Agency which we have also approved in this Senate, and then

you are asking them again to provide money for this Agency. I think there is going to be too much taxation in this sector.

Senator Daniel Saror: Mr. Chairman, in addition to what Senator Baba Tela has said, we are moving away from multiple taxation; we should not introduce taxation here as a *fund item* for the institute, we should rather fund it through appropriation.

Senator Umar Hambagda (Borno South): Mr. Chairman, still in keeping with the same argument; as you know, we are charging companies Education Trust Fund, Police Trust Fund, et *cetera*. By the time you know it, all the profits will go on these taxes and these are Nigerian companies. I do not think it is reasonable for us to continue duplicating these things.

Senator Saidu Dansadau: Mr. Chairman, I very much appreciate the views of distinguished Senators who are opposed to multiple taxation – it is really a very relevant and genuine observation. I am a business man in my own way and I know how difficult it is to make a profit. But I would like my distinguished colleagues to appreciate from where the Committee came from.

This is an Executive Bill and in the recommendations of the Bill, 2% is to be paid from all companies whose turnover is ₦100 million and above. In view of the inputs received from the stakeholders, particularly the Federal Inland Revenue Services, they came and they were really opposed to multiple taxation. The service providers, like you said, came to the Public Hearing and opposed to multiple taxation. I am opposed to multiple taxation too.

We looked at it critically that it is not fair to say *all companies*. What I want us to understand is that this Commission is a development commission, it plays two roles, and that is what obtains in other parts of the World, particularly, in a place like India which has gone very far.

In fact, this Bill came into being following Mr. President's visit to India. When he asked about Information Technology, they gave him insight into what led India to where it is today. So, when he came back he set up a Ministerial Committee – that was how it started.

We feel that, in view of the complaints against multiple taxations, we said no, it is going to be unfair to tax all those companies. So, that is why we just identify

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not paying. Therefore, it is discriminatory, unjust and unfair.

Secondly, distinguished Senator Anka said these are multinational companies and well established. We are talking of inviting foreign investors; we talking about creating more and more tax avenues to chase investors away. I do not think this is healthy for the overall development of our economy.

Government is divesting in many projects — government is no more in business because we are privatising most business outfits. This is part of the infrastructure that government should provide as an enabling environment for investors and not to go back to the same investors to add more taxes. I think we are going to defeat the whole purpose of attracting investors and the creation of enabling environment for investors to come into this country to invest.

As far as I am concerned, not even 0.0001 *per cent* should be there. It should be wiped off because it is very counter-productive; government should fund this agency. This is an agency that should provide enabling environment for investors to come and invest in the vast resources of this country. Therefore, government should not hesitate in investing in this kind of body.

Senator Lawal Shuaibu: Mr. Chairman, I would like to say that I am not opposed to levy because when it comes to the issue of developing Information Technology, not only in Nigeria but the entire continent of Africa, we are still lacking behind. I do not mind if we look for ways of funding the development of Information Technology in Nigeria.

Actually, I would like to say that we restrict such levy to only related organizations such as GSM Service providers, Telecommunications Companies, Cyber Companies and Internet providers; that is all. But to go about Pension Managers and related companies; banks, financial institutions and insurance, I would like to say the money would be too much and would create another problem. Again, my fear is not so much in that, but in non-compliance. I am not very comfortable.

The Chairman: What page are you on?

Senator Shuaibu: I am at page 4, Sir. It reads: *Any Company, Agency or Organisation that fails to pay the levy or the import duty imposed under Section 11 of this Act, commits an offence and on conviction shall be liable to a fine of not less than ₦1 million; and the Chief*

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Executive Officer of the Company or Agency or Organisation shall be liable to be prosecuted and punished for the offence in like manner.

If we are taxing, let us tax and have everything go in accordance with the laws governing Taxation in this country. But if we call it levy and we apply serious punishment for non-compliance, to me, it becomes a different thing altogether. I do not see this as taxation. If we are going to develop our IT in Nigeria, we should restrict its funding both by way of levying IT directly-related organizations and the appropriation by National Assembly.

Senator Baba Tela: Mr. Chairman, with all due respect to my distinguished Colleagues, Information Technology everywhere in the world is private-sector driven; it is not driven by government: that is what makes it successful. That is why when people invest their money, they derive benefits. The proceeds which, by law Communications companies pay to the NCC do not go to the NCC *per se* rather it is being paid for a specific purpose. This is because these companies do not go to certain areas. So, they are compelled by law to pay over 10 *per cent* of their turn-over to the NCC which money is channelled to other non-served areas and for the promotion of Telecommunications as is related to what they do. The money is provided for something that is related to their field. To now say that they are going to pay additional percentage again for IT which is supposed to be private-sector driven, I think the tax is going to be too much.

If we are going for taxation, why do we not take the normal one as it is to every company; even if it is 1 *per cent* or whatever than to charge Telecommunication companies 2 *per cent*? For example, we have four GSM service providers in this country; we all know that they are multi-billion Naira businesses and once you take 2 *per cent* of what these multi-billion Naira businesses make, it is a very huge sum of money. The Commission guides and provides frame-work of how IT is going to be driven or achieved in this country; it is not putting up any structure. So you cannot pump in such colossal amount of money into a sector that does not provide something that is tangible. We have to find a better way of funding.

Like I said, everywhere in the world, IT is private-sector driven; and I think it should be left at that, or the government should fund it from its own sources.

Senator Abubakar Sodangi: Mr. Chairman and my distinguished Colleagues, my neighbour, Senator

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appreciate the quantum of money that is required to make this Commission work. Otherwise, we will just be talking in the abstract because we do not know the quantum of money that is being referred to.

I, therefore, suggest that they should provide the compendium for this Commission so that we can see where we are going.

Senator Farouk Belo Bunza (Kebbi Central): Mr. Chairman and distinguished Senators, I believe the question is whether we should uphold the Committee's recommendation of 2 *per cent*, look at something lower or delete it completely.

I have listened patiently to contributions made by Senators. I think we all appreciate why the Commission needs to be funded; but I think that we are at variance as to the mode of funding. We have talked about proliferation of taxes which really gives rise or is a major input into the tax fund of the present Administration which this distinguished Senate is considering.

Secondly, we also questioned the rationale for the 2 *per cent* for which some Senators cited instances of organizations having more than they required. For example, 2 *per cent* of a ₦10 billion of a company, when computed, gives a staggering amount. Even at zero *per cent* or whatever figures that somebody mentioned, when also computed, equally gives a staggering amount.

The conclusions I, therefore, draw are:

- (i) You cannot have taxes upon taxes as that will drive away investors as earlier stated.
- (ii) The justification for a 2 *per cent* or 1 *per cent* cannot be established at this point.
- (iii) That there is a provision in the National Budget which has been appropriately captured that should fund this Organisation.

I believe we should leave it at that. By the time the Commission comes into existence and it runs on the appropriations done by the National Assembly, we would be able to confirm whether or not that is sufficient. Let us give it one or two years after which an amendment could come in the form of either fees or whatever but this should be at a future date.

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At this point, and based on the weighty points made, I strongly believe that we should leave it with the appropriation from the National budget.

Senator Umaru Dahiru (Sokoto South): Mr. Chairman and my Colleagues, my contribution is similar to Senator Farouk's. Really, every one of us here appreciates the establishment of this research development agency; we also know the importance of IT. However, for now, this Commission is just like a research development outfit. As is well known, every established Commission wants tax from companies. I think we are battering these companies too much.

Since this Commission is just coming anew, even though it is also very important to Government because it is going to render services to students, I think there is nothing wrong, as Senator Farouk said, if for now we leave out the issue of taxation be it 1 or 2 *per cent*. Let us give it say one, two, or three years before taking a decision. But if, through budget, there is need which supersedes what they are given, then, the National Assembly could consider it and do something more appropriately.

Senator Saidu M. Dansadau: I am very much grateful to my Colleagues for their opinions and observations. But the essence of all these is for us to come out with quality legislation that will serve the nation better.

However, Mr. Chairman, I think that the essence of a Public Hearing after committing a Bill to a Committee is that Members of that Committee, as representatives of the Senate, receive opinions of stakeholders and experts on the Bill. And whatever such Committee recommends is not its Members' views but an aggregation of what came out from such public hearing.

On the issue of taxation, I said to myself that there were complaints. But suggestions came from stakeholders that instead of charging this levy to all companies, the Committee should identify companies that are IT-related; that is, which cannot function without IT and pass on the levy to them.

Mr. Chairman, I do not make recommendations or hold opinions on abstract assumption; I do it on facts. Senator Saror said that there should be financial compendium, this and that to be taken and so on. The compendium is in his hand. Every distinguished Senator got this document yesterday. Unfortunately, people do not read; rather, they would make

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billion, headquarters office ₦1 billion, six zonal offices ₦1.5 billion, 774 centres in the 774 local governments areas of the country ₦7.7 billion.

Mr. Chairman, we do not want to have an agency that is just going to be in terms of building. Like we said earlier on, this is a facilitation agency. It is not something that will have something tangible on the ground. By the time you commit over ₦10 billion or more of that money that you collected from people, we should know that these companies that you are taking these monies from are businesses and they have to make profit. We have to take that into consideration and they will eventually pay this tax, we are charging them to the consumers.

Very soon you would find out that if you are paying ₦1.00 for the one hour that you are going to browse on the Internet, you would now have to pay ₦1.50k. In effect, you are transferring that money back to the consumers and I think, we should guard against that because we are trying to encourage this kind of IT penetration in this country.

Senator Oserheimen Osunbor (Edo Central): Mr. Chairman, I have been listening carefully because I cannot claim any expertise in the area of information technology or even this issue of modern communication. However, having listened to the various contributions, I should say that first of all, I am quite thrilled by the argument against multiple taxation because, that in itself, can be a major disincentive.

I am very much in agreement with the need to be careful, not simply to create a slush fund just for the sake of creating a slush fund and making monies available to people to spend. However, I have weighed all these arguments against the subject matter that we are dealing with, which is, developing information technology in Nigeria. The age that we are now is the age of information technology. The future of development of mankind I should say rests on the amount of information technology available to you. We have passed the age of mechanical applications; the future of humanity lies and rest squarely on how much information you can generate and you can utilize, whether in the area of defense or in any field; we need to build our own information technology base as a nation.

Even in the area of military, we know these days that it does not depend so much on how many soldiers you have. It depends on how much military information is available to you. So, if we are to develop our country

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for the future, we must independently generate our own information technology base. For that reason, no amount is too much, in my view, to commit to that sector.

We spent a lot of money on the construction of roads. If we are to say use this to develop roads, I am sure that many people will be more persuaded but I think for the long term interest of this nation, committing this money on this kind of project is more than justified. So for that reason, I would say that we should accept the very convincing arguments proffered by the Chairman of the Committee that there have been a lot of wide consultations by the stakeholders, those who understand and appreciate what we are talking about because they deal with it on a day-to-day basis and therefore, amenable to the suggestions that they have proffered.

Nevertheless, as Senator Sodangi also argued, let us start with say 1 per cent. This will not be too heavy a burden for those companies that will be taxed to shoulder. Also bear in mind that if this proves too burdensome in future, the National Assembly is there to also review it and amend it as the case may be. If it is necessary to raise it, it will be raised. If it is necessary to scrap it, it will be scrapped but in the interest of the future of this nation, I would support that we retain this tax of 1 per cent on the companies in support of the Committee's recommendation.

The Deputy Chairman: Distinguished Senators, we have had enough of this debate because we have tried as much as possible to allow people to talk even if it is against our rules for somebody to talk more than three times on the same subject. I have allowed people to talk even three times on the same issue, it is against our rules but I allowed it because of the importance of the Bill itself.

I would like to say that I totally agree with the convincing argument of the Chairman. At the same time, the observations of Senator Saror and Senator Baba Tela cannot be swept under the carpet because these observations are based on practical reality as they are on the ground today.

The truth is who is the ultimate payer of levies or taxes? It is the consumer that is the ultimate payer of these taxes or levies. So are we really helping the consumers? Again, the NCC is there. For example, since the NCC was established, we have seen so many billions of Naira accruing to NCC. They are supposed to provide infrastructures, like this harmonized

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that we should give them one *per cent*. Let us put it to question Sir.

Senator Saidu Dansadau: Mr. Chairman, in all honesty I very much appreciate the contributions made by all Senators but I do not appreciate the contribution of the Senate Leader. I am being frank because the way he talked I would conclude it was discriminatory against me.

You are the Senate Leader when Senator David Mark brought similar Bill and the Senate gave directive for him to simply go back and bring this kind of draft that I brought. In fact, I drew a lesson from that sort of a thing. Before I was asked to go back, let me tell you what I did.

The directives were given but we know that we passed the Act that some 10 per cent is being deducted as levy to NCC from some other organizations. For the Senate Leader at this point in time when people are advocating compromise, to advocate and bring in constitutional provisions, is he suggesting that all the other things that we did were done deliberately to violate the provisions of the Constitution? Is it that we are not aware? It is like an appeal. This is not my Bill; it is an Executive Bill. I am just doing my job assigned to me by the Senate and God knows it is an aggregation of the opinion of the stakeholders. I have no objection if the Senate in its wisdom says delete everything. I have done my job to the best of my ability and I am satisfied. My conscience has guided me and the members of the Committee in giving this recommendation.

I have no objection on suggestion made by Senator Saror that we delete 'd' after all it is not even in the original Bill, it was from the Public Hearing that the suggesting was made. So I have no objection really deleting that.

The Deputy Chairman: Senator Dansadau, on a lighter mood, I am sure that if you had supported the Constitutional Amendment, you would not have had any problem. *(Laughter)*

Senator Tafida: I concede that Senator Dansadau has the right to say what he said but I think he made one fundamental error and that is that we have not dealt with Senator David Mark's Bill. This Bill is still in abeyance. We have not taken it and it is likely going to follow this path. If it comes, so that we can create the Police Tax Fund through levies like this, it would fall

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the same way. This is why, Mr. Chairman, I am saying that, to God in heaven, I am just commenting the way I think I should.

This is just the best way for us. We are the Upper Chamber and when we take decision, it should be infallible. And this is why I am commenting. It is not because I want the Bill to be killed. After all, what is wrong with us even emphasizing in the Bill about being adequately funded? When we say adequately funded, the Executive knows that this thing must be adequately funded. We should take care of this through our Appropriation.

The Deputy Chairman: Distinguished Senators, let me first of all say this and this is from my heart of hearts. I personally appreciate the passion with which Senator Dansadau is defending this thing. To me, it is a demonstration of the highest spirit of patriotism. This is because he has nothing to gain from it as a person, but he has attached so much importance to his job. And I think this, to me, is something that we should really emulate.

It does not matter whether this Bill goes through or not. I just like the passion with which Senator Dansadau is trying his best to convince us and make us see the light as to why he has arrived at where he arrived at. And he has nothing to gain as a person from it but he is doing a job for the Senate. If we attach importance to responsibilities given to us the way he has demonstrated, I think this Senate will be a different place altogether. That is my personal view. But since a constitutional point of view has been raised, let us hear from the lawyers here to help us so that we do not make a mistake.

Senator Osunbor, may I start from you and then I can go to the others. What do we do about the constitutional observation raised by the Senate Leader? Help us!

Senator Oserheimen A. Osunbor: Mr. Chairman, the constitutional point of Order has been raised and it is correct that all revenues must be paid into the Consolidated Revenue Fund. Section 80(1) says as follows:

All revenues or other moneys raised or received by the Federation (not being revenues or other moneys payable under this Constitution or any Act of the National Assembly into any other public fund of the Federation established for a specific purpose) shall

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is number one. Let me put the Question on that one first, so that we can now be left with two amendments.

The Question is that we should give them something.

Amendment put and agreed to.

The Deputy Chairman: So, we have now agreed that they should get something. We are now left to agree between one *per cent* and half *per cent*. I am now going to put the Question.

The Question is that we give them one *per cent*.

Amendment put and agreed to.

The Deputy Chairman: So, we have agreed to give one *per cent* to the Commission. Do you still want to say something, Senate Leader?

Senator Tafida: No, I do not want to make any comment.

The Deputy Chairman: I want to congratulate Senators. On a very serious note, this is the way this Senate should be. This is a quality debate and we have learnt a lot from it. Even though we have spent about an hour on it, to me, it is very rewarding and I want to thank you for that. Let us now continue.

A distinguished Senator: One *per cent* of what?

The Deputy Chairman: One *per cent* of whatever they collect. We do not know the amount they are going to collect.

Senator Tafida: Mr. Chairman, it says here:

One per cent of the profit before tax of companies and enterprises enumerated in the Third Schedule of this Act with an annual turnover of 100 million and above and such paid by the companies shall be tax deductible.

A distinguished Senator: Who will collect it?

The Deputy Chairman: Somebody is asking who is to collect it. The organisation will collect it. Is it not? This one *per cent* will be paid to the Commission. We have now deleted this 10 *per cent* import duties to be collected because Customs can handle it. So, Secretariat, please take note.

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Senator Daniel Saror: Although there is an understanding that Agency means Commission, I wish the Secretariat will correct the sentence that says: *all monies accruing to the fund and the account of the Agency...* and change *Agency* to *Commission*.

The Deputy Chairman: Thank you, Senator Saror.

I will now put the Question in respect of Clauses 11 and 12.

Question put and agreed to.

Clauses 11 and 12 - as amended ordered to stand part of Bill.

The Deputy Chairman: Clauses 13, 14, 15 and 16?

Senator Osunbor: I believe we are talking about the new Clause 15. That should be *any body corporate* because if you look at paragraph 3(a) below, it talks about body corporate and throughout, it talks about body corporate. So, instead of *corporate body*, it should be *body corporate*.

The Deputy Chairman: Secretariat, take note. It should be *body corporate* and not *corporate body*.

I will now put the Question in respect of Clauses 13, 14, 15 and 16.

Clauses 13 and 14 - ordered to stand part of the Bill.

Clause 15 - as amended ordered to stand part of the Bill.

Clause 16 - ordered to stand part of the Bill.

The Deputy Chairman: We now come to Clauses 17, 18, 19 and 20.

Senator Osunbor: The amendment in Clause 17 says: *the President may by order designate the part as free zones and may specify in the order such incentives...* Tax holidays are incentives, so we should just say *such incentives*. Maybe for emphasis we can say: *including tax holidays*, not *and/or*. It should say: *such incentives, including tax holidays* because incentives include tax holidays.

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Clause 30 - (INVESTMENTS) - *ordered to stand part of the Bill.*

Clause 31 - (EXEMPTION FROM TAX) - *ordered to stand part of the Bill.*

Senator Umar Dahiru: Mr. Chairman, I am sorry to take you back to the new Clause 23 on page 33. Under this clause, I think we are over-burdening the Commission. It reads:

The Commission may, in accordance with the General Authority given by the National Assembly, borrow such sum of money that the Commission may require in the course of its functions.

My question is: does it mean they have to come to the National Assembly in order to borrow money? What are we trying to say here? Or do we limit it to their Board, or to the Minister? I think we are over-burdening them if they just have to come to the National Assembly for them to be able to borrow just one kobo. I do not think it is our duty.

Senator Dansadau: Mr. Chairman, I have no objection to our making some amendments but the intent is that in the past, we have had some Parastatals incurring a lot of debt without the knowledge of even Mr. President of the Federal Republic such that at the end of the day, you realise that the country is owing a lot of money. This is some of the things we are trying to guard against. Maybe the National Assembly may have to put a figure that if you are borrowing beyond, you have to get a kind of authority to do that. I am aware that some members of the Committee had some reservations in this regard but that was our thinking.

Senator Tafida: I think this is a good idea from the Committee trying to search out a modality to borrow; even by the government itself as the proponent of fiscal responsibility Bill. I would urge that we take good care of this. It is quite in order the way it is. There should be fiscal discipline.

Senator Daniel Saror: Mr. Chairman, I believe what is in operation is that the Board has an approval limit and the Minister also has an approval limit. Beyond the Minister's approval, it has to go to the Federal Executive Council. Nobody has ever come to the National Assembly for permission to borrow money. It never happened. You go through your Board and from there to the Minister and from the Minister to the Executive Council depending on the quantum of money

that is involved. In the seven years that we have been here, nobody has ever come to the National Assembly to get authority to borrow money. It is not an innovation; this is the standard practice that is going on everyday. We should just change the wording to say the Board and the Board knows the limit that it can go. This is because they are still under the Minister and the Minister is under the Federal Executive Council.

Senator James Kolawole (Ekiti North): Mr. Chairman, I have never seen any Board whose law authorises it to come to the National Assembly before it can borrow money. I agree with the last speaker that if a Board wants to borrow money, it should go to the Board; from there to the Minister and then to the President or the Federal Executive Council. All the Boards that I know of in this country, their law does not allow them to come to the National Assembly.

Senator Dansadau: Mr. Chairman, I have no objection to the amendments if that is the views of the Senate. What we are only saying is that the Commission may cut down on the general authority given to it to borrow money. The whole idea is for them to go through the Minister or to Mr. President before they borrow money. We do not want to leave it entirely to the Board because it will be abused.

You are saying that we should insert Mr. President or the Minister where we have the Board. Thank you, we will amend accordingly.

Senator Abubakar Ibrahim (Katsina South): Mr. Chairman, I think the easiest thing to do is to refer to our standard borrowing clause in all the laws that we pass here. We just go and lift it for this Commission, like other Commissions. We do not even need, like the last speaker was suggesting, the approval of the Minister. This is because the Commission reports to the Minister and it is duty bound to report either quarterly or monthly, as the case may be.

However, between the reporting periods, if they are to borrow or if they have borrowed money, the Minister will automatically be informed. There is a standard borrowing clause in all the Laws we have passed and for all corporations. (*Interruptions*) If you may check with the Secretariat, for every Act we have passed; UBE, and all the Corporations that have passed through here, there is a standard borrowing Clause.

Senator Yusha'u Anka: In any organisation, the power to borrow is vested in the Board of Directors.

months period to six months which is applicable protection under the Laws of Nigeria for Public Officers. (*Interruption*)

We should be consistent and note that that matter was debated in this Chamber recently. There is a Public Officers Protection Act, and recently this Senate debated that Act and decided that this three months period should be extended to six months and that that Protection should continue to exist. It is a decision of this Senate.

So, I just want to point out that we should be consistent with that recent amendment by changing three months to six months.

Senator Dahiru: Mr. Chairman, the Senator has just mentioned that there was a debate on this Public Officers Protection Act; that proposal has not yet been passed into law.

Again, Mr. Chairman, this clause 32 of the Bill which is present clause 25 we mention that it is applicable. So, let us wait for it such that when we pass it, it will apply to this Board but for now it does not exist. Clause 25 has been retained here; Public Officer Protection Act is here to serve this Board. So, we can allow it but we should cancel what is there. When they apply their own Public Officer Protection Act which is for general application, it will apply to this company, and to even companies that are yet to be born. So let us leave it but cancel this provision as of now so that for the sake of uniformity in case we pass that Bill, then it would apply to the government, corporations and so on.

The Chairman: Senator Osunbor, I think the junior advocate is right that since the Public Officers Protection Act will apply to every Public Officer, when it comes into effect everybody will enjoy it.

Senator Osunbor: As the Chairman pleases. But what I am just talking about is consistency and so long as we note that that is the decision of this Senate and no other Bill should contain a provision as to Public Officers Protection Act, I would abide by that. Other than that I know that our Standing Rules also talked about recession of decision of the Senate which can only be by way of substantive Motion and this Senate has decided on six months for the period.

So if that is to change then we change that, specifically on that item or I would be comfortable with

this decision if we note that it that it would be of application to all other Bills coming before this Senate.

Senator Dalhatu Tafida: Mr. Chairman, my distinguished Colleagues, definitely we will pass the Bill, this is because the Bill came through this Senate; it was debated and six months was adopted but that is of general application. I think there is need for us to have a central meeting point. That law of general application and as such does not need to be reflected in a Bill like this. It is automatic once that is passed.

Senator Mohammed Ibrahim: Mr. Chairman, all these issues of protection of public servant or whatever is a colonial mentality. There is no reason why somebody could not be taken to a law court when he commits an offence simply because he is a public servant. (*Interruptions*) Allow me to finish.

Therefore, it is my view that time has now come for us to do away with this colonial mentality because that was what used to obtain when the colonial masters were ruling this country. On the other hand, whenever the Military shoot themselves into power they would hide under that provision to commit offence and nobody could take them to court. This is a democracy.

There is no reason therefore to say because somebody is a public servant or public officer when he commits offence he cannot be taken to court. If there is any explanation which this Senate, or which the Professor or any Colleague of my can respectively give me, I am ready to accept that explanation. Thank you.

Senator Daniel I. Saror: Mr. Chairman, I think that since my distinguished Senator is entitled to introduce a Bill, he can introduce a Bill to abrogate that law which is an existent law, it is still in the books. Bring a Bill here for its abrogation. But my comment was on pages 37 and 39. (*Interruptions*)

The Chairman: What we are now saying is that in view of the fact that there is a law that is applicable to all public officers already passed in this Senate, that law is applicable to these people, so there is no need repeating it. We are not actually rescinding anything; but we are emphasizing that we have passed a law which is applicable to everybody. In the light of that we should delete this.

Question put and agreed to.

The Chairman: Yes, Senator Saror.

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Clause 17 - *As amended.*

Clauses 18 - 20 - *As recommended.*

Clause 21- *As amended.*

Clause 22- *As recommended.*

Clause 23- *As amended*

Clause 25 - *Deleted*

Clauses 26-33 - *As recommended.*

Schedules 1-3 - *As recommended.*

Title - *As recommended.*

Is this the true reflection of what took place in the Committee of the Whole?

Some distinguished Senators: Yes.

Senator Dalhatu Tafida: Mr. President, having reported to the Senate what happened in the Committee of the Whole, I move that the Senate approve the recommendations of the Report as amended.

Senator Daniel Saror: Mr. President, I second the Motion that the Senate approves the recommendations of the Report as amended.

Question put and agreed to.

Resolved: That the Senate approves the recommendations of the Report as amended.

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Senator Dalhatu Tafida: Mr. President, I move that this Bill be now read the Third Time.

Senator Daniel Saror: Mr. President, I second the Motion that this Bill be now read the Third Time.

Question put and agreed to.

Bill read the Third Time and passed.

The Deputy President: I want to congratulate you once more for a job well done. I also want to congratulate my Colleagues for dealing with this Bill very seriously, particularly Senators Saror and others including the *analogue* Senator who has been converted to *digital* (*Laughter*).

ADJOURNMENT

Senator Dalhatu Tafida: Mr. President, in view of the fact that some of us are still expected to attend a very important meeting, which I understand is about to start now, I move that this distinguished Senate do adjourn until Tuesday 3rd October 2006 at 10.00 a.m.

Senator Daniel Saror: Mr. President, I second the Motion that the Senate adjourns till Tuesday 3rd October 2006 at 10.00 a.m.

Question put and agreed to.

Resolved: That the Senate do stand adjourned till Tuesday 3rd October 2006 at 10.00 a.m.

The Senate adjourned accordingly at 12:55 p.m.