



SENATE OF THE FEDERAL REPUBLIC OF NIGERIA

VOTES AND PROCEEDINGS

Wednesday, 2nd February, 2005

1. The Senate met at 10.20 a.m. The Senate President read Prayers.
2. **Votes and Proceedings:**
The Senate President announced that he had examined the Votes and Proceedings of Tuesday, 1st February, 2005 and approved same.

By unanimous consent, the Votes and Proceedings were adopted.

3. **Admission of the Chairman, Independent National Electoral Commission and Officials of the Commission:**
Motion made and Question Proposed: That the Senate do suspend Rule 17 to enable the Chairman, Independent National Electoral Commission and Officials of the Commission to be admitted to the floor of the Senate (*Senate Majority Leader*).

Question resolved in the Affirmative.

The Chairman, and his Team admitted.

4. **Briefing by Chairman, Independent National Electoral Commission (INEC):**
The President recounted the circumstances which led to the invitation of the Chairman, Independent National Electoral Commission and requested the Chairman to explain whether the Certificate of Election issued to Chief Ben Obi is authentic, and whether the letter from the Counsel to Senator Abana forwarded to the National Assembly by the Independent National Electoral Commission had anything to do with the status of Chief Ben Obi's certificate of Return.

The Chairman averred that the Certificate of Return issued by the Commission to Chief Ben Obi on 26th January, 2005 and duly signed by him is authentic and that the letter forwarded to the National Assembly had no effect whatsoever on the status of Chief Obi's Certificate of Return since only the Electoral Act and properly constituted Election Tribunals determine in quality, matters relating to Elections.

In response as to whether the Chairman would have signed the Certificate of Return if he had received the letter from Senator Abana's Counsel on 25th January, 2005, the Chairman stated that he would still have signed and issued the Certificate of Return to Chief Ben Obi on 26th January, 2005.

The President thereafter ordered that the Chairman, Committee on Judiciary, Human Rights and legal Matters do a letter to the Judiciary for the President's signature in view of the proliferation of suit on Election Petitions. He then ruled that Chief Ben Obi be invited to subscribe the Oaths.

5. Oaths of Allegiance and Membership — Senator-Elect:

The Senator-Elect Chief Ben Obi (PDP Anambra Central Senatorial District) took and subscribed the Oaths as required by law.

6. Report of the Committee on Banking, Insurance and Financial Institutions Central Bank of Nigeria (Amendment) Bill 2004 (SB.113):

Motion made and Question Proposed: That the Senate do resolve into the Committee of the Whole to consider the Report of the Committee on Banking, Insurance and Financial Institutions on the Central Bank of Nigeria (Amendment) Bill 2004 (*Senate Majority Leader*).

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

COMPARATIVE ANALYSIS OF THE PROVISIONS OF THE CENTRAL BANK OF NIGERIA DECREE NO. 24 OF 1991 AND THE PROPOSED CBN (AMENDMENT) BILL 2004.

CENTRAL BANK OF NIGERIA ACT, 1991

Decree No 24

PART 1 - ESTABLISHMENT AND GENERAL PROVISIONS RELATING TO THE CENTRAL BANK OF NIGERIA.

- Clause 1:**
- (1) There shall continue to be for Nigeria a body known as the Central Bank of Nigeria (hereafter in this Decree referred to as "the Bank").
 - (2) The bank shall continue to be a body corporate with perpetual succession and a common seal and may sue and be used in its corporate name.
 - (3) Subject to the limitations in this decree, the Bank may acquire, hold and dispose of movable and immovable property for the purpose of its functions.

Committee's Recommendation:

That the provision in Clause 1 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 1 stand part of the Bill put and agreed to.

- Clause 2:**
- The Principal objects of the Bank shall be to-
- (a) issue legal tender currency in Nigeria;
 - (b) maintain external reserves to safeguard the international value of the legal tender currency;
 - (c) promote monetary stability and a sound financial system in Nigeria; and

Committee's Recommendation:

Immediately after the word "monetary" insert the words "and price" (*Senator Sunday Zik Ambuno*) — *Agreed to.*

- (d) act as banker and financial adviser to the Federal Government.

Question that Clause 2 as amended stand part of the Bill put and agreed to.

- Clause 3:**
- The Bank shall have its head office in any location which is by law the capital of the Federal Republic of Nigeria, and may open branches in any part of Nigeria and appoint agents and correspondents abroad in accordance with the decisions of the Board.

Committee's Recommendation:

That the provision in Clause 3 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 3 stand part of the Bill put and agreed to.

PART II - CAPITAL AND RESERVE

Clause 4: (1) The authorized capital of the Bank shall be three hundred million naira.

Committee's Recommendation

Leave out the words "three hundred million" and *insert* the words "sixty billion" instead thereof (*Senator Sunday Zik Ambuno*)

Amendment Proposed:

Leave out the words "Sixty billion" and *insert* "One hundred billion" instead thereof (*Senator Mohammed S. Daggash*).

Question that the amendment be made put and agreed to.

(2) All the capital of the Bank shall be subscribed and held only by the Federal Government.

(3) The paid-up capital may be increased by such amount as the Board may, from time to time, resolve with the approval of President, and shall be subscribed by the Federal Government and paid up at par.

Question that Clause 4 as amended stand part of the Bill put and agreed to.

Clause 5: (1) The Bank shall-
(a) in respect of each financial year, determine its operation surplus, which shall be the remaining sum from its income and other receipts after meeting all current expenditures as approved by the Board.

Committee's Recommendation:

Leave out all the words after "surplus" in line 1 and *insert* as follows:

"after payment of personnel cost and meeting all budgetary expenses as approved by the National Assembly, which shall be paid into the Consolidated Revenue Fund" (*Senator Sunday Zik Ambuno*).

Amendment Proposed:

Immediately after the word "Fund" in line 3 *insert* the word "Quarterly" (*Senator Mohammed S. Daggash*).

Question that the amendment be made put and agreed to.

(b) as approved by the Board for that year, make provision for the contribution to staff superannuation fund and for any other purpose specially approved by the President.

(2) The Bank shall establish a general reserve fund and shall allocate thereto at the end of each financial year one-sixth of its operating surplus for the year.

(3) The balance of the operating surplus shall be paid to the Federal Government half-yearly.

Question that Clause 5 as amended stand part of the Bill put and agreed to.

PART III - ADMINISTRATION

Clause 6: (1) There shall be for the Bank a Board of Directors (hereinafter in this Decree referred to as "the Board") which shall be responsible for the policy and general administration of the affairs and business of the Bank.

(2) The Board shall consist of:-

- (a) a Governor who shall be the Chairman;
- (b) four Deputy Governors;

- (c) the Permanent Secretary, Federal Ministry of Finance, and
- (d) five Directors.

Committee's Recommendation:

Immediately after the word " five" *insert* the word "external"
(Senator Sunday Zik Ambuno) — *Agreed to.*

- (3) The Board constituted under subsection (2) of this section shall be responsible for:

- (a) the consideration and approval of the annual budget of the Bank;

Committee's Recommendation:

Leave out all the words in sub-clause 6(3)(a) and *insert* as follows:

"Preparation and forwarding the Banks Budget to the National Assembly for approval" (Senator Sunday Zik Ambuno) — *Agreed to.*

- (b) the approval of the audited and management accounts and the consideration of the management letter from the external auditors;

Committee's Recommendation:

Leave out the words "external Auditors" in sub-clause 6(3)(b) and *insert* the words "Auditor-General" (Senator Sunday Zik Ambuno) — *Agreed to.*

- (c) the formulation of the Monetary and Credit Policy for Nigeria;

Committee's Recommendation:

Leave out all the words in sub-clause 6(3)(c) (Senator Sunday Zik Ambuno) — *Agreed to.*

- (d) devising suitable mechanism to determine rates of exchange at which the Bank shall buy and sell foreign currencies;

Committee's Recommendation:

Leave out all the words in sub-clause 6(3)(d) (Senator Sunday Zik Ambuno) — *Agreed to.*

- (e) the appointment of auditors in accordance with section 43 of this Decree, the provision of the necessary facilities and rate of remuneration;
- (f) the establishment and closing of Zonal Offices, Branches and Currency Centres;
- (g) carrying out of such other activities as are necessary and expedient for the purposes of achieving the objectives of the Bank.

- (4) it shall be the duty of the board to approve the detailed responsibilities of each of the Deputy Governors on the recommendations of the governor.

- (5) Without prejudices to subsections (4) of this section, the Board may on the recommendation of the Governor, assign or re-assign the Deputy Governors, from time to time, as may be expedient for the performance of the Bank's function under or pursuant to this Decree.

Committee's Recommendation:

Insert a new sub-clause 6(6) as follows:

"Any person being a Member of the Board whose appointment is subject to confirmation by the Senate under Sections 9(1) and 11(1) of this Act, and whose appointment has not been so confirmed shall, within sixty days of the coming

into force of the sections, be presented by the President for confirmation, and unless so confirmed, his appointment shall be deemed terminated" (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 6 as amended stand part of the Bill put and agreed to.

- Clause 7:**
- (1) The Governor or in his absence, one of the Deputy Governors nominated by him, shall be in charge of the day-to-day management of the Bank and shall be answerable to the Board for his acts and decisions.
 - (2) The provisions of subsection (1) of section 6 of this Decree shall apply in relation to the general policy pursued or intended to be pursued on any administrative matters including staff pensions, salaries, allowances and any other similar matters.

Committee's Recommendation:

That the provision in Clause 7 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 7 stand part of the Bill put and agreed to.

Clause 8:

Committee's Recommendation:

That Clause 8 remains expunged and renumber the existing clauses (*Senator Sunday Zik Ambuno*)— *Agreed to.*

Clause 9:

- (1) The Governor and Deputy Governors, shall be persons of recognized financial experience and shall be appointed by the President by instrument under the public seal and on such terms and conditions as may be set out in their respective letters of appointment.

Committee's Recommendation:

Immediately after the word "President" in line 2 *insert* the words "subject to confirmation by the Senate" (*Senator Sunday Zik Ambuno*) — *Agreed to.*

- (2) The Governor and Deputy Governors shall be appointed in the first instance for a term of five years and shall each be eligible for re-appointment for another term not exceeding 5 years;

Committee's Recommendation:

Leave out the Figure "5" and *insert* figure "4" instead thereof (*Senator Sunday Zik Ambuno*) — *Agreed to.*

- (3) Notwithstanding subsection (1) or (2) of this section, the President may extend the tenure of office of Governor, any Deputy Governor or any other Director of the Bank whose term of office has expired until a successor to such Governor, Deputy Governor or Director is appointed.

Committee's Recommendation:

Leave out all the words in sub-clause 9(3) and *insert* the following:

" In appointing Governor and Deputy Governor, the President shall have due regard to a fair representation of the financial, agricultural, industrial and commercial interest and with regard to the Principle of Federal Character" (*Senator Sunday Zik Ambuno*) — *Agreed to.*

- (4) The Governor shall:-
(a) from time to time, keep the Head of State, Commander-in-Chief of the Armed Forces informed of the affairs of the Bank; and

Committee's Recommendation:

Leave out all the words in sub-clause 9(4)(a) and *insert* the following:

“The Governor of the Board shall appear before the National Assembly at semi-Annual Hearing as specified in paragraph (b) regarding:

- (i) Efforts, activities objectives and plans of the Board with monetary policy; and
- (ii) Economic development and prospect for the future described in the report required in sub-section (c) ”(Senator Sunday Zik Ambuno) — *Agreed to.*

- (b) at the end of every period of six months make a formal report of the affairs of the Bank to the Provisional ruling Council.

Committee's Recommendation:

Leave out all the words in sub-clause 9(4)(b) and *insert* the following:

“ 9(4) (b) The Governor of the board shall appear:

- (i) Before the committee on banking of the House of Representative in March of every year.
- (ii) Before the Senate Committee on banking in September of every year.
- (iii) Before either Committee referred to In sub-paragraph (i) or (ii) upon request” (Senator Sunday Zik Ambuno) — *Agreed to.*

Committee's Recommendation:

Insert new sub-clause 9(4)(c) as follows:

- “(c) Parliamentary Report; the board, concurrent with each semi annual hearing required by this section submit a written report toe the Committee on banking of the Senate and the committee on banking of House of Representative containing a discussion of the conduct of monetary policy and economic developments and employment, unemployment, production, investment, real income, productivity, exchange rates, international trade and payment, and prices and any other relevant matters ”(Senator Sunday Zik Ambuno) — *Agreed to.*

Question that Clause 9 as amended stand part of the Bill put and agreed to.

Clause 10: The Governor and the Deputy Governors shall devote the whole of their time to the service of the Bank and while holding office shall not occupy any other office or employment whether remunerated or not:

Provided that the Governor or any of the Deputy Governors may by virtue of his office be appointed with the approval of the Board to:-

- (a) act as member of any commission established by the Federal Government to enquire into any matter affecting currency or banking in Nigeria.
- (b) become Governors, Director or member of the Board or by whatever name called, of any international bank or international monetary institution to which the Federal Government shall have interest or given support or approval:

become Director of any corporation in Nigeria in which the Bank may participate under paragraph (i) of subsection (1) of Section 27 of this Decree.

Committee's Recommendation:

That the provision in Clause 10 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 10 stand part of the Bill put and agreed to.

Clause 11: (1) The five Directors of the Bank shall be appointed by the President.

Committee's Recommendation:

(i) Immediately after the word "five" *insert* the word "external"

(ii) After the word "President" *insert* the following "subject to confirmation by the Senate. In appointing the five external Directors of the Bank, the President shall have due regard to fair representation of the financial, agricultural industrial and commercial interest and the Principle of Federal Character" (*Senator Sunday Zik Ambuno*) — *Agreed to.*

(2) A Director appointed pursuant to this section shall be a person of recognized standing and experience in financial or banking affairs, but whilst a Director of the Bank, he shall not be regarded or act as a delegate on the board of any Federal, State or Local Government or of any commercial, financial agriculture, industrial, or other interest with which he may have been connected before his appointment as a Director of the Bank.

(3) A director appointed pursuant to this section shall.

(a) hold office for three years and shall be eligible for re-appointment for another term of three years only;

Committee's Recommendation:

Leave out the word "three" in sub-clause 11(3)(a) and *insert* the word "Four" (*Senator Sunday Zik Ambuno*) — *Agreed to.*

(b) be entitled to such fees and allowances as may be prescribed by rules made in that behalf by the Board and approved by the President.

Question that Clause 11 as amended stand part of the Bill put and agreed to.

Clause 12: (1) No person shall be appointed or shall remain Governor, Deputy Governor or Director of the Bank if he is:-

(a) a member of any Federal or State Legislative house;

(b) a Director, officer employee of any bank licensed under the Banks and other Financial Institutions Decree 1991.

(2) The Governor, any Deputy Governor or any Director shall cease to hold office in the Bank if he -

(a) becomes of unsound mind or, owing to ill health, is incapable of carrying out his duties;

(b) is convicted of any offence involving imprisonment for six months;

(c) is guilty of a serious misconduct in relation to his duties under this Decree;

(d) is disqualified or suspended from practicing his profession in Nigeria by order of a competent authority made in respect of him personally;

(e) becomes bankrupt or suspends payments or compounds with his creditors.

(3) The Governor or any Deputy Governor may resign his office by giving at least three months notice in writing to the President of his intention to do so; and any Director may similarly resign by giving at least one month's notice in writing to the President of his intention to do so.

(4) If the Governor, any Deputy Governor or any Director of the Bank dies, resigns or otherwise vacates his office before the expiry of the term for which he has

been appointed, there shall be appointed a fit and proper person to take his place on the Board for the unexpired period of the term of appointment in the first instance:-

(a) if the vacancy is that of the Governor or a Deputy Governor, the appointment shall be made in the manner prescribed by section 9 (1) of this Decree; and if the vacancy is that of any Director, the appointment shall be made in the manner prescribed by section 11 (1) of this Decree.

Committee's Recommendation:

That the provision in Clause 12 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 12 stand part of the Bill put and agreed to.

Clause 13:

(1) Meetings of the Board shall take place as often as may be required, but not less than six times in every financial year of the Bank.

(2) The Governor shall preside at every meeting of the Board and in his absence, a Deputy Governor designated by him shall preside at such meeting.

(3) Five members of the Board, two of whom shall be Directors other than the Governor or the Deputy Governors, shall form a quorum at any meeting.

(4) Unless otherwise provided in this Decree, decisions shall be by a simple majority of the votes of members present, but in case of any equality votes, the person presiding shall have a casting vote.

Committee's Recommendation:

That the provision in Clause 13 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 13 stand part of the Bill put and agreed to.

Clause 14:

(1) Appointment of employees of the Bank shall only be in respect of positions created by the Bank and on such terms and conditions as may be laid down by the Board:

Provided that the appointment and removal of staff of the grade Assistant Director and above shall be with the approval of the Board.

(2) No salary, fee, wages, allowance or other remuneration paid by the Bank shall be computed by reference to the operating surplus of the Bank.

(3) The salaries, fees, wages, or other remuneration or allowances (including pensions and other retirement benefits) payable to or in respect of employees

of Bank, other than the Governor or Deputy Governors, shall be as stipulated, from time to time, by the Board.

Committee's Recommendation:

That the provision in Clause 14 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 14 stand part of the Bill put and agreed to.

PART IV - CURRENCY

Clause 15: The unit of currency in Nigeria shall be the naira which shall be divided into one hundred kobo.

Committee's Recommendation:

That the provision in Clause 15 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 15 stand part of the Bill put and agreed to.

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Clause 16: The exchange rate of the naira shall be determined, from time to time, by a suitable mechanism devised by the Bank for that purpose.

Committee's Recommendation:

That the provision in Clause 16 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 16 stand part of the Bill put and agreed to.

Clause 17: The Bank shall have the sole right of issuing currency notes and coins throughout Nigeria and neither the Federal Government nor State Government nor any Local Government nor any other person or authority shall issue currency notes, bank notes or coins or any documents or token payable to bearer on demand being document or token which are likely to pass as legal tender.

Committee's Recommendation:

That the provision in Clause 17 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 17 stand part of the Bill put and agreed to.

Clause 18: The bank shall -

- (a) arrange for the printing of currency notes and the minting of coins.
- (b) Issue, re-issue and exchange currency notes and coins at the Bank's offices and at such agencies as it may, from time to time, establish or appoint;
- (c) Arrange for the safe custody of un-issued stocks of currency notes and for the preparation, safe custody and destruction of plates and paper for the printing of currency notes and disc for the minting of coins;
- (d) arrange for the destruction of currency notes and coins withdrawn from circulation under the provisions of section 20 (3) of this Decree or otherwise found by the Bank to be unfit for use.

Committee's Recommendation:

That the provision in Clause 18 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 18 stand part of the Bill put and agreed to.

- Clause 19:**
- (1) Currency notes and coins issued by the Bank shall be -
 - (a) in such denominations of the naira or fractions thereof as shall be approved by the President on the recommendation of the Board;
 - (b) of such form and designs and bear such devices as shall be approved by the President on the recommendation of the Board;
 - (2) The standard weights and composition of coins issued by the Bank and the amount of remedy and variation shall be determined by the President on the recommendation of the Board.

Committee's Recommendation:

That the provision in Clause 19 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 19 stand part of the Bill put and agreed to.

- Clause 20:**
- (1) Currency notes issued by the Bank shall be legal tender in Nigeria at their face value for the payment of any amount.
 - (2) Coins issued by the Bank shall, if such coins have not been tampered with Currency (Special Provision) Decree 1984 for any person to falsify, make or counterfeit any bank note or coin issued by the Bank which is legal tender in Nigeria.

be legal tender in Nigeria at their face value up to:-

- (a) an amount not exceeding forth naira in the case of coins of denomination of 10k or less;
 - (b) an amount not exceeding one hundred naira in the case of coins of denominations above 10k but not more than 50k;
 - (c) an amount not exceeding two hundred naira in the case of coins of denominations above 50k but not more than ₦1.
- (3) Notwithstanding subsection (1) and (2) of this section, the Bank shall have power, if directed to do so by the President and after giving reasonable notice in that behalf, to call in any of its notes or coins on payment of the face value thereof and any notes or coins on payment of the face value thereof and any notes or coins with respect to which a notice has been given under this subsection, shall, on the expiration of the notice, cease to be legal tender, but subject to Section 22 of this Decree, shall be redeemed by the Bank upon demand.
 - (4) It shall be an offence punishable under the provisions of subsections (1) and (2) of section 1 of the Counterfeit

Committee's Recommendation:

That the provision in Clause 20 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 20 stand part of the Bill put and agreed to.

- Clause 21:**
- A coin shall be deemed to have been tampered with if the coin has been impaired, diminished or lightened otherwise than by fair wear and tear or has been defaced by stamping, engraving, mutilating or piercing whether the coin has or not been thereby diminished or lightened.

Committee's Recommendation:

That the provision in Clause 21 be retained (*Senator Sunday Zik Ambuno*) — *Agreed*

to.

Question that Clause 21 stand part of the Bill put and agreed to.

- Clause 22:**
- (1) No person shall be entitled to recover from the Bank the value of any lost, stolen, mutilated or imperfect note or coin.
 - (2) The circumstances in which and the conditions and limitations subject to which the value of the lost, stolen, mutilated or imperfect notes or coins may be refunded ex-gratia shall be within the absolute discretion of the Bank.

Committee's Recommendation:

That the provision in Clause 22 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 22 stand part of the Bill put and agreed to.

- Clause 23:**
- The bank shall not be liable for the payment of any stamp duty under the Stamp Duties Act in respect of its notes issued as currency.

Committee's Recommendation:

That the provision in Clause 23 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 23 stand part of the Bill put and agreed to.

- Clause 24:**
- The bank shall at all times maintain a reserve of external assets consisting of all or any of the following:-
- (a) gold coin or bullion;

- (b) balance at any bank outside Nigeria where the currency is freely convertible and in such currency, notes, coins, money at call and any bill of exchange bearing at least two valid authorized signatures and having a maturity not exceeding ninety days exclusive of days of grace;
- (c) treasury bills having a maturity not exceeding one year issued by the Government of any country outside Nigeria whose currency is freely convertible;
- (d) securities of or guarantees by, a government of any country outside Nigeria whose currency is freely convertible and the securities shall mature in a period not exceeding ten years from the date of acquisition;
- (e) securities of, or guarantees by international financial institutions of which Nigeria is a member if such securities are expressed in currency freely convertible and maturity of the securities shall not exceed five years;
- (f) Nigeria's gold tranche in the International Monetary Fund;
- (g) Allocation of Special Drawing Rights made to Nigeria by the International Monetary Fund.

Committee's Recommendation:

That the provision in Clause 24 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 24 stand part of the Bill put and agreed to.

- Clause 25:**
- The Bank shall use its best endeavour to maintain external reserves at level considered

by the bank to be appropriate for the monetary system of Nigeria.

Committee's Recommendation:

That the provision in Clause 25 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 25 stand part of the Bill put and agreed to.

Clause 26: Unless otherwise prohibited by law relating to the control of exchange, the Bank shall issue and redeem on demand at its head office, Nigerian currency against other currencies eligible for inclusion in the reserve of external assets under this Decree.

Committee's Recommendation:

That the provision in Clause 26 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 26 stand part of the Bill put and agreed to.

PART V - OPERATIONS

Clause 27: (1) The bank may:

- (a) issue demand drafts and effect other kinds of remittance payable at its own offices or at the offices of agencies or correspondents;
- (b) purchase and sell gold coin or bullion;
- (c) open accounts for and accept deposits from the Federal, State and Local Governments, and from funds, institutions and corporations of all such Governments, banks and other credit or financial institutions;
- (d) purchase, sell, discount and rediscount inland bills of exchange and promissory notes arising out of bona fide commercial transactions bearing two or more valid authorized signatures and maturing within ninety days exclusive of days of grace, from the date of acquisition.

- (e) Purchase, sell, discount and rediscount inland bills of exchange and promissory notes arising out of bona fide commercial transactions bearing two or more valid authorized signatures drawn or issued for the purpose of financing seasonal agricultural operation or the marketing of crops, semi-manufacturing or manufacturing operation designed for export or the marketing of these products and maturing within 180 days exclusive of days of grace, from the date of acquisition.
- (f)
 - (i) purchase, sell, discount or rediscount treasury bills of the Federal Government which have been publicly offered for sale and are to mature within 184 days;
 - (ii) purchase, sell, discount or rediscount treasury certificates maturing within such a period as may be determined by the Federal Government and specified by an Instrument made by the Federal Government;
 - (iii) discount and rediscount project-tied bonds issued by State Governments, Local Government, Corporations owned by the Federal or State governments, being bonds which have been publicly offered for sale and with maturity not exceeding three years;

- (g) purchase and sell securities of the Federal Government maturing in not more than twenty-five years which have been publicly offered for sale or form part of an issue which is being made to the public at the time of acquisition so however that the total amount of such securities of maturity exceeding two years in the ownership of the Bank other than securities held in terms of paragraph (h) or held by the Bank as collateral under sub-paragraph (ii) of paragraph (k) of this subsection shall not together at any time exceed seventy-five per cent of the total demand liabilities of the Bank;
- (h) invest in securities of the Federal Government for any amount; and to mature at any time, on behalf of staff superannuation funds and other internal funds of the Bank;
- (i) subscribe to, hold and sell shares of any corporation or company or debentures thereof set up with the approval of or under the authority of the Federal Government for the purpose of:-
 - (i) promoting the development of money or capital markets in Nigeria or of stimulating financial or economic development;
 - (ii) promoting or undertaking financial, industrial, agricultural and public utility enterprises, so however that in any such case, the total value of the holdings of shares or, as the case may be, debentures to which this paragraph applies shall not at any time exceed ten times the aggregate of the Bank's paid-up capital and the general reserve fund of the Bank;
- (j) grant advances for fixed periods not exceeding three months against publicly issued treasury bills of the Federal Government;
- (k) grant advances for fixed periods not exceeding one year at a minimum rate of interest of at least one per cent above the bank's minimum rediscount rate against:-
 - (i) gold coin or bullion;

- (ii) securities of the Federal Government which have been publicly offered for sale and are to mature within a period of twenty-five years;

Provided that no advance so secured shall at any time exceed seventy-five per cent of the market value of the security pledged and that the total of such securities held by the Bank is within the limitation imposed by paragraph (g) of this subsection;

- (iii) such bills of exchange and promissory notes as are eligible for purchase, discount or rediscount by the Bank up to seventy-five per cent of their nominal value;

- (iv) warehouse warrants or their equivalent (securing possession of goods), in respect of staple commodities or other goods duly insured and with a letter of hypothecation from the owner;

Provided that no such advances shall exceed seventy-five per cent of the current market value of the commodities in

question;

- (v) treasury certificates issued by the Federal Government;

Provided that no advances so secured shall at any time exceed seventy-five per cent of the market value of the certificates pledged;

- (l) purchase and sell foreign currencies and purchase, sell discount and rediscount bills of exchange and treasury bills drawn in or on places abroad and maturing within 184 days exclusive of days of grace from the date of acquisition;
- (m) borrow specifically under the provisions of a refinancing agreement or for any other purpose;
- (n) issue naira-denominated notes or other forms of securities or make any arrangement in respect of outstanding foreign obligations of the Federal Government in the course of rescheduling and restructuring such obligations and for this purpose naira - denominated notes issued by the Bank shall bear the signature of the Governor of the Bank and shall, when issued bind the Federal Government to pay the principal sum mentioned in that note and the interest thereon;
- (o) maintain accounts with central banks and other banks outside Nigeria;
- (p) purchase and sell securities of or guaranteed by any government whose currency is freely convertible or securities issued by international financial institutions of which Nigeria is a member, which are also expressed in currencies which are freely convertible;
- (q) act as correspondent, banker or agent for any central bank or other monetary authority established under government auspices;
- (r) undertake the issue and management of loans publicly issued in Nigeria by the Federal or State Government or by Federal or State public bodies;

Committee's Recommendation:

Leave out all the words in sub-clause 27(1)(r)(Senator Sunday Zik Ambuno) — Agreed to.

- (s) accept from customers, for custody, securities and other articles of value;
- (t) undertake on behalf of customers and correspondents, the purchase, sale, collection and payment of securities, currencies and credit instructions in Nigeria or abroad, and the purchase or sale of gold or silver;
- (u) promote the establishment of Bank clearing systems and provide facilities for the conduct of clearing business in premises belonging to the Bank;
- (v) notwithstanding paragraph (d) of section 29 of this Decree, grant temporary advances to commercial banks within the meaning of the Banks and Other Financial Institutions Decree 1991 which participate in bank clearing in respect of temporary debit balances on their accounts at such rate of interest and under such terms as the Bank may, from time to time determine;

Committee's Recommendation:

Leave out the word "commercial" in line 2 (Senator Sunday Zik Ambuno) — Agreed to.

- (w) hold redeemable bonds for the purpose of regularizing any currency exchange exercise;
 - (x) subject as is expressly provided in this Decree, generally conduct Business as a bank, and do all such things as are incidental to or consequential upon the exercise of its power or the discharge of its duties under this Decree.
- (2) The Governor may, at any time in his discretion and by previous notice in writing lodged with the Board, decide that the powers conferred by subsection (1) of this section in accordance with the provisions of paragraph (f), (g), (h), (i) or sub-paragraph (ii) of paragraph (k) of that subsection be extended to the treasury bills and treasury certificates or the securities, as the case may be, of any State Government with which the Bank appears substantially to have established relationship of banker, or to any specified treasury bills and treasury certificates or securities of such State Government subject to the same conditions as specified in those paragraphs and subject to limitations Specified in paragraph (g) of subsection (1) of this section which limitations shall then apply to the aggregate value of the Federal and State Government securities so dealt with.
- (3) The bank shall have power:-
- (a) to carry out open market operations for the purpose of maintaining monetary stability in the economy of the country, and without prejudice to the generality of the foregoing, the Bank may also for that purpose issue, place, sell, repurchase, amortize or redeem securities to be known as "stabilization securities" (which shall constitute its obligations) and the securities shall be issued at such rate of interest and under such conditions of maturity, amortization, negotiability and redemption as the Bank may deem appropriate;

Committee's Recommendation:

Leave out the words "to be known as stabilization securities" in line 5 (Senator Sunday Zik Ambuno) — Agreed to.

- (b) to issue other forms of securities as it deems necessary for open market operations.

Committee's Recommendation:

Leave out all the words in sub-clause 27(3)(b) (Senator Sunday Zik Ambuno) — Agreed to.

- (4) The bank shall have power;-
- (a) to sell or place by allocation to each bank any stabilization securities issued under subsection (3) of this section;

Committee's Recommendation:

Leave out the word "stabilization" in line 1 (Senator Sunday Zik Ambuno) — Agreed to.

- (b) to repurchase, amortise or redeem in such manner as the Bank may deem appropriate, any such stabilization securities, and any stabilization securities repurchased by the Bank shall be extinguished and shall not constitute the assets of the Bank.

Committee's Recommendation:

Leave out the word "stabilization" in line 2 (Senator Sunday Zik Ambuno) — Agreed to.

- (5) Without prejudice to subsections (1) to (4) of this section as relates to the powers of the Bank to grant advances and make provisions for securities, the Bank may without the exclusion of other banks, grant advances to any authority;-
- (a) for fixed periods not exceeding one year at a rate of interest which shall be at least one per cent above the Bank's minimum rediscount rate; and
- (b) excepts as prescribed in subsection (6) of this section, upon such conditions as the Bank may specify or as prescribed to ensure payment thereof with interest.
- (6) The advances referred to in subsection (5) of this section may be granted in any particular case where a guarantee in writing is given by the Federal Government to the Bank on behalf of any such authority so however that:-
- (a) the total advances which may, subject to the provisions of this section, be granted shall not exceed an amount considered by the Bank to be adequate for the authority to commence its operations at the beginning of the crop or produce season;
- (b) any such advances shall be secured so soon after the advances have been granted as may be agreed by the Bank (either in part or in whole) as prescribed in paragraph (j) or (k) of this subsection and the said provisions shall be so construed.
- (7) Any advances which may be granted by virtue of the provisions of subsections (5) and (6) of this section shall be used solely for the purpose of financing:-
- (a) the purchasing and marketing operations authorized to be undertaken by any such authority by the law under which the authority was established or as may be approved by the Bank; and
- (b) with the approval of the Bank, other operations as may be incidental thereto:
- Provided that any such authority may, if it so wishes, make advances to any license buying agent (within the meaning of any law under which the authority was established) for the purchase of produce for sale to the said authority, and provided also that the quality of produce

to be so purchased is included in the estimated tonnage of crops against which total advances are to be made by the Bank.

- (8) subsection (5) to (8) of this section relate to any authority of the Federal Government or State Government or two or more State Governments including an interim authority established for such purpose by any law in operation in Nigeria.
- (9) The reference is subsection (5) to (8) of this section to the granting of advances includes a reference to the provision of credit facilities.

Question that Clause 27 as amended stand part of the Bill put and agreed to.

Clause 28:

- (1) In addition to any of its powers under this Decree, the bank may:-

- (a) require persons and institutions having access thereto, at all reasonable times, to supply, in such forms as the Bank may from time to time direct, information relating to or touching or concerning matters affecting the economy of Nigeria;
- (b) issue guidelines to any person and any institution that engages in the provision of financial services, including operators of bureaux de change, development banks, community banks, discount houses and insurance companies.

Committee's Recommendation:

Leave out all the words after "institution" in line 1 and *insert* the words "under this provision" (Senator Sunday Zik Ambuno) — *Agreed to.*

- (2) The bank shall take account of matters of confidential nature supplied to the Bank under this section, but where the Bank is satisfied that it is in the national interest and that the person supplying the information does not object to a time of becoming aware of it, the Bank may, from any information in its possession, compile and publish statistical data, and anything relevant thereto, on the national economy.
- (3) Where any person lawfully required to supply information for the purpose of this section:-
 - (a) supplies information which he knows to be false or supplies the information recklessly as to its truth or falsity; or
 - (b) without reasonable excuse (the proof of the reasonableness to lie on him) fails to comply with any requirement of the Bank under paragraph (a) of subsection (1) of this section the supply or failure to supply, as the case may be, as therein provided, shall be an offence under this section.
- (4) An offence under this section is punishable on conviction by:-
 - (a) imprisonment not exceeding three years or with a fine not less than ₦100,000 or more than ₦1,000,000 for every false information or with both such imprisonment and fine;

Committee's Recommendation:

Leave out the words and figures "less than ₦100,000 or more than ₦1,000,000" and *insert* the words and figure "exceeding ₦10 million" (Senator Sunday Zik Ambuno) — *Agreed to.*

- (b) a fine of not less than ₦5,000 or more than ₦20,000 for every day during which the failure to comply with any requirement of the Bank continues.

Committee's Recommendation:

Leave out the words and figures "less than ₦5,000 or more than ₦20,000" and *insert* the word and figure "exceeding ₦2,000,000" (Senator Sunday Zik Ambuno) — *Agreed to.*

- (5) A person or institution that fails to comply with any guidelines issued under paragraph (b) of subsection (1) of this section shall be liable on conviction:-
 - (a) in the case of an institution, to fine not less than ₦100,000 or more than ₦1,000,000; and

Committee's Recommendation:

Leave out the words and figures "less than ₦100,000 or more than

₦1,000,000” and *insert* the word and figure “exceeding ₦10 million” (*Senator Sunday Zik Ambuno*) — *Agreed to.*

- (b) in the case of a person, to imprisonment for a term not exceeding three years or to a fine not less than ₦50,000 or more than ₦100,000 or to both such imprisonment and fine.

Committee’s Recommendation:

Leave out the words and figures “less than ₦50,000 or more than ₦100,000” and *insert* the word and figure “exceeding ₦2,000,000” (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 28 as amended stand part of the Bill put and agreed to.

Clause 29:

The Bank shall not:-

- (a) engage in trade or otherwise have a direct interest in any commercial, agricultural or industrial undertaking, except as provided in subsection (1) of section 27 of this decree, or in any other undertaking, except such interest which the Bank may in any way acquire in the Course of the satisfaction of debts due to it, and provided that all such interests so acquired shall be disposed of at the earliest suitable time;
- (b) except as provided in paragraph (i) of subsection (1) of section 27 of this Decree, purchase the shares of any corporation or company including the shares of any banking institution;
- (c) grant loan upon the security of any shares;
- (d) subject to the provision of Section 33 of this Decree, grant unsecured advances or advances secured otherwise than as laid down in paragraphs (j) and (k) of subsection (1) of section 27 of this Decree;

Provided that in the event of any debts due to the Bank becoming in the opinion of the Bank endangered, the bank may secure such debts on any real or other property of the debtor and may acquire such property which shall be re-sold at the earliest suitable time;

- (e) purchase, acquire or lease real property except in accordance with the provision of paragraph (d) of this section and except so far as the Bank shall consider necessary or expedient for the provision or future provision of business premises for the Bank, its agencies and any clearing houses set up as provided in section 41 of this Decree and residences for the Governor, Deputy Governors and Officers and other employees of the Bank;
- (f) draw or accept bills payable otherwise than on demand;
- (g) pay interest on deposit except deposits in respect of cash reserve and special deposit as stipulated in Paragraphs (a) and (c) of subsection (1) of section 39 of this Decree;

- (h) accept for discount or as security for an advance made by the Bank bills or notes signed by members of the Board or by officers and other employees of the Bank;
- (i) open accounts for or accept deposits from persons other than as provided in paragraph (c) and (o) of subsection (1) of section 27 of this Act.

Committee’s Recommendation:

That the provision in Clause 29 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 29 stand part of the Bill put and agreed to.

Clause 30: The Bank shall make public at all times its minimum rediscount rate.

Committee's Recommendation:

That the provision in Clause 30 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 30 stand part of the Bill put and agreed to.

PART VI RELATIONS WITH THE FEDERAL GOVERNMENT

Clause 31:

- (1) The Bank shall be entrusted with the Federal Government banking and foreign exchange transactions.
- (2) The Bank shall receive and disburse Federal Government moneys and keep account thereof without remuneration for such services.
- (3) In any place where the Bank has no branch, it may appoint another bank to act as its agent for the collection and payment of Federal Government moneys.

Committee's Recommendation:

That the provision in Clause 31 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 31 stand part of the Bill put and agreed to.

Clause 32: Notwithstanding the provisions of section 31 of this Act, the Federal Government may:

- (a) maintain accounts in Nigeria with other banks in such cases and on such conditions as the Federal Government may determine;
- (b) use the services of the State Treasuries for the collection and payment of Federal Government moneys in places where it may be appropriate or convenient to do so.

Committee's Recommendation:

That the provision in Clause 32 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 32 stand part of the Bill put and agreed to.

Clause 33:

- (1) Notwithstanding the provisions of paragraph (d) of section 29 of this Act, the Bank may grant temporary advances to the Federal Government in respect of temporary deficiency of budget revenue at such rate of interest as the Bank may determine.
- (2) The total amount of such advances outstanding shall not at any time exceed twelve and a half percent of the estimated recurrent budget revenue of the Federal Government for the year in which the advances are granted.

Committee's Recommendation:

Leave out the words “twelve and a half per cent” in line 2 and *insert* the words “five per cent” (*Senator Sunday Zik Ambuno*) — *Agreed to.*

- (3) All advances made pursuant to this section shall be repaid as soon as possible and shall in any event be repayable by the end of the Federal Government financial year in which they are granted and if such advances remain unpaid at the end of the year, the power of the Bank to grant such further advances

in any subsequent year shall not be exercisable, unless and until the outstanding advances have been repaid.

Committee's Recommendation:

Insert a Proviso under sub-clause 33(3) as follows:

“Howsoever that all advances made pursuant to this section shall be paid in such form as the Bank may determine provided that no repayment shall take the form of a promissory note or such other promise to pay at a future date or secutization by way of issuance of treasury bills, bonds, certificates or other forms of security which is required to be underwritten by the Bank“ (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 34 as amended stand part of the Bill put and agreed to.

- Clause 34:**
- (1) The Bank shall be entrusted with the issue and management of Federal Government loans publicly issued in Nigeria, upon such terms and conditions as may be agreed between the Federal Government and the Bank.

Committee's Recommendation:

Leave out the provision in sub-clause 34(1) (Senator Sunday Zik Ambuno) — Agreed to.

- (2) Notwithstanding the provisions of this section, the Bank may appoint agents for the issue and management of Federal Government loans publicly issued in Nigeria.
- (3) The Bank shall have power to perform functions relating to the management of the external debts of the Federal Government as may be directed by the President.
- (4) For the purpose of this section, the Bank shall have power to issue, from time to time, guidelines for the smooth operation of the Debt Conversion Programme of the Federal Government.

Question that Clause 34 as amended stand part of the Bill put and agreed to.

- Clause 35:**
- The Bank may act as banker to States and Local Governments and to funds, institutions or corporations established by Federal, State and Local Governments.

Committee's Recommendation:

That the provision in Clause 35 be retained (Senator Sunday Zik Ambuno) — Agreed to.

Question that Clause 35 stand part of the Bill put and agreed to.

- Clause 36:**
- The Bank may act generally as agent for the Federal Government, State Government or Local Government:-

- (a) where the Bank can do so appropriately and consistently with the provisions of this Act and with its duties and functions as a Central Bank; and
- (b) on such terms and conditions as may be agreed between the Bank and the government concerned.

Committee's Recommendation:

That the provision in Clause 36 be retained (Senator Sunday Zik Ambuno) — Agreed to.

Question that Clause 36 stand part of the Bill put and agreed to.

PART VII - RELATIONS WITH OTHER BANKS

Clause 37: The bank may act as banker to other banks in Nigeria and outside Nigeria.

Committee's Recommendation:

That the provision in Clause 37 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 37 stand part of the Bill put and agreed to.

Clause 38: (1) The bank shall wherever necessary seek the co-operation of and co-operate with other banks in Nigeria:

- (a) to promote and maintain adequate and reasonable financial service for the public;
- (b) to ensure high standards of conduct and management throughout the banking system:-
- (c) to further such policies not consistent with this Act as shall in the opinion of the Bank be in the national interest.

Committee's Recommendation:

Leave out the word "which" in line 1 (*Senator Sunday Zik Ambuno*) — *Agreed to.*

(d) the Registrar-General, Corporate Affairs Commission;

Committee's Recommendation:

Leave out all the words in sub-clause 38(d) and insert a new sub-clause 38(d) as follows:

"38(d) The Managing Director Nigerian Deposit Insurance Corporation" (*Senator Sunday Zik Ambuno*) — *Agreed to.*

(e) a representative of the Federal Ministry of Finance not below the rank of a Director.

Committee's Recommendation:

Leave out all the words in sub-clause 38(e) and insert a new sub-clause 38(e) as follows

"38(e) The Deputy Governor in-charge of Financial Sector Surveillance" (*Senator Sunday Zik Ambuno*) — *Agreed to.*

(f) A representative of the Federal Ministry of Finance not below the rank of Director.

Committee's Recommendation:

Insert a new sub-clause 38(g) as follows

"38(g) A representative of the Managing Director of the Federal Mortgage Bank of Nigeria" (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 38 as amended stand part of the Bill put and agreed to.

(2) The objectives of the Committee shall be to:

- (a) Coordinate the supervision of financial institutions especially conglomerates;
- (b) Cause reduction of arbitrage opportunities usually created by differing regulation and supervision standards amongst supervisory authorities in the economy;

- (c) Deliberate on problems experienced by any member in its relationship with any financial institution;
- (d) Eliminate any information gap encountered by any regulatory agency in Its relationship with any group of financial institutions.
- (e) Articulate the strategies for the promotion of safe, sound and efficient practices by financial intermediaries; and
- (f) Deliberate on such other issues as may be specified from time to time.

Committee's Recommendation:

That the provision in Clause 38 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 38 stand part of the Bill put and agreed to.

Clause 39:

- (1) The Bank may, from time to time, issue directives by circular requiring each bank to-
 - (a) maintain at all times in the form of cash reserves with the bank, at its office, a sum equal to a prescribed ratio of the bank's deposit liabilities;
 - (b) hold a minimum amount of specified liquid assets which shall be expressed as a ratio of deposit liabilities of the bank;
 - (c) maintain as special deposits with the Bank at its head office a percentage of the bank's deposit liabilities or a percentage of an increase or the absolute increase in such deposit liabilities over an amount outstanding on a date and for a period as shall be specified by the Bank.
- (2) for the purpose of paragraph (a) of subsection (1) of this section, the Bank shall specify -
 - (a) the class of deposit liabilities against which the cash reserves mentioned in that paragraph shall be held;
 - (b) the ratio of cash reserve which a bank shall so maintain and the banks may be classified into such categories as the bank may from time to time specify in the circular to every bank.
- (3) For the purpose of paragraph (a) of subsection (1) of this section, the cash reserves of a bank shall be determined within such period as the bank may, from time to time, specify, on the basis of the periodic balances of the bank's deposit liabilities and the bank shall have power:-
 - (a) to prescribe different cash reserve ratios to be maintained by each category of banks;
 - (b) to require each bank from time to time to prepare and deliver to the bank in such form and within such period as the Bank may specify, a true and correct statement showing the position of the Bank may require such statement to be made at such interval as it may specify;
 - (c) to require any bank to furnish to it such information and statistics in such form and as often as the bank may deem necessary for the purpose of satisfying itself that the bank concerned has complied or is complying with the provisions of subsection (1) of this section.
- (4) For the purpose of paragraph (b) of subsection (1) of this section, the Bank

shall have power, in respect of the specified liquid assets which may, from time to time, be held by a bank, to vary the composition and proportion of each category thereof.

- (5) The Bank shall have power:-
- (a) to require that all applications to any bank for loans exceeding such amount as the bank may specify shall be submitted by the bank to the Bank for approval and no such loans shall be made without such approval;
 - (b) to fix a ceiling on the volume of loans, advances and discount outstanding at each bank and it may fix Different ceiling for different categories of each such loans, advances and discounts;
 - (c) to fix ceiling on the aggregate amount of loans, advances and discounts granted by any bank and outstanding at any time and the Bank may place limits on the rate of increase in the aggregate amount of such loans, advances and discounts within a specified future period of time.
- (6) For the purpose of paragraph (c) of subsection (1) of this section, the Bank shall have power to specify the class of deposits to which the provisions of that subsection shall apply and special deposits held in accordance with that subsection shall not count as specified liquid assets for the purposes of paragraph (b) of subsection (1) of this section; and subject to the provisions of this subsection, the Bank may, at its discretion, pay interest on such special deposits held by it.
- (7) The Bank shall have power to prohibit any bank which fails to comply with any directive issued under this section, from extending new loans and advances and from undertaking new investments, until the bank complies with the directive to the satisfaction of the Bank, and may, in addition, levy fine as appropriate under the provisions of section 15 (5) of the Banks and Other Financial Institutions Decree 1991.
- (8) Any bank which furnishes false information to the Bank for any purpose under this section shall be guilty of an offence and liable on conviction to a fine of not less than ₦500,000 for the first offence and to a fine of ₦1,000,000 for second or each subsequent offence.

Committee's Recommendation:

Leave out the figures "₦500,000 and ₦1,000,000" in line 3 and insert the figure "₦10,000,000 and ₦20,000,000" respectively (Senator Sunday Zik Ambuno) — Agreed to.

Question that Clause 39 as amended stand part of the Bill put and agreed to.

Clause 40:

The bank may appoint as its agent any bank in Nigeria on such terms as may be agreed between the Bank and the bank concerned for the issue, re-issue, exchange and withdrawal of currency notes and coins, or for any other purpose pertaining to the Bank's functions under this Decree.

Committee's Recommendation:

That the provision in Clause 40 be retained (Senator Sunday Zik Ambuno) — Agreed to.

Question that Clause 40 stand part of the Bill put and agreed to.

Clause 41:

It shall be the duty of the Bank to facilitate the clearing of cheques and credit

instruments for banks carrying on business in Nigeria and for this purposes, the bank shall at any appropriate time and in conjunction with other banks establish clearing houses in premises provided by the Bank in such places as the Bank may consider necessary:

Provided that a bank may be barred from participating in clearing for such period as the bank may deem fit for non-compliance with directives of the Bank.

Committee's Recommendation:

That the provision in Clause 41 be retained (*Senator Sunday Zik Ambuno*) — Agreed to.

Question that Clause 41 stand part of the Bill put and agreed to.

PART VII - ACCOUNTS AND STATEMENTS

Clause 42: The financial year of the Bank shall begin on 1st January and end on 31st December.

Committee's Recommendation:

That the provision in Clause 42 be retained (*Senator Sunday Zik Ambuno*) — Agreed to.

Question that Clause 42 stand part of the Bill put and agreed to.

Clause 43: (1) The accounts of the Bank shall be audited by an auditor or auditors appointed by the Board.

(2) Without prejudice to the provisions of subsection (1) of this section, the president may direct the Auditor-General of the Federation to conduct an examination of the accounts of the Bank, and submit a report thereon relating to the issue, re-issue, exchange and withdrawal of currency notes and coins by the Bank and the bank shall provide all necessary facilities for the purpose of the examination.

Committee's Recommendation:

That the provision in Clause 43 be retained (*Senator Sunday Zik Ambuno*) — Agreed to.

Question that Clause 43 stand part of the Bill put and agreed to.

Clause 44: (1) The Bank shall, within two months after the close of each financial year, transmit to the President, a copy of its annual accounts certified by the auditor.

Committee's Recommendation:

Immediately before the word "President" in line 2 insert the words "National Assembly and the" (*Senator Sunday Zik Ambuno*) — Agreed to.

(2) The bank shall, within four months from the close of each financial year, submit to the President a report on its operations during the year.

Committee's Recommendation:

Leave out the provision in sub-clause 44(2) (*Senator Sunday Zik Ambuno*) — Agreed to.

(3) Any report required to be submitted to the president shall be published by the Bank in such manner as the Governor may direct.

- (4) The Board shall ensure that accounts submitted pursuant to this section shall as soon as possible be published in the Gazette.
- (5) The bank shall as soon as may be practicable after the last day of each month make up and publish a return of its assets and liabilities as at the close of business on that day, or if that day is a holiday, as at the close of business on the last preceding business day.
- (6) A copy of the return referred to in subsection (5) of this section shall be forwarded to the President and shall be published in the Gazette.
- (7) In the application of this section, the gold tranche position at the International Monetary Fund shall form part of the external reserve assets of the Bank.

Question that Clause 44 as amended stand part of the Bill put and agreed to.

PART IX-MISCELLANEOUS

- Clause 45:**
- (1) There shall be for the Board a Secretary who shall be:-
 - (a) appointed by the Board; and
 - (b) be responsible to the Board through the Governor,
 - (2) The Secretary shall be responsible for:-
 - (a) convening; on the authority of the Chairman, meetings of the Board;
 - (b) recording the minutes of all meetings of the Board and such other meetings as the Board may direct;
 - (c) acting as Secretary to any committee of the Board;
 - (d) maintaining and keeping minutes books and a register of the Directors of the Bank;
 - (e) keeping in safe custody the Common Seal of the Bank;
 - (f) keeping in safe custody all title documents relating to the Bank's properties;
 - (g) keeping in safe custody all agreements entered into by the Bank and any third party;
 - (h) carrying out such other duties and responsibilities as may be assigned to him, from time to time, by the Governor.

Committee's Recommendation:

Transfer all the provision in Clause 45 to Part II and renumber as Clause 14(*Senator Sunday Zik Ambuno*)

Question that Clause 45 as amended stand part of the Bill put and agreed to.

- Clause 46:**
- (1) The Board shall have power to make and alter rules and regulations for the good order and management of the Bank.
 - (2) Neither the Federal government nor the Bank nor any officer of that government or bank shall be subject to any action, claim or demand by or liability to any person in respect of anything done in good faith in pursuance or in execution of, or in connection with the execution or intended execution of any power conferred upon that Government, the Bank or such officer, by

this Decree.

Committee's Recommendation:

Leave out the provision in sub-clause 46(2)(Senator Sunday Zik Ambuno) — *Agreed to.*

- (2) For the purposes of this section, the Minister or any officer duly acting on his behalf shall be deemed to be an officer of the Federal Government and the Governor, any Deputy Governor of the Bank or other employees thereof shall be deemed to be an officer of the Bank.

Question that Clause 46 as amended stand part of the Bill put and agreed to.

Clause 47: The Bank shall be exempted from the payment of tax under the Companies Income Tax Act., 1979.

Committee's Recommendation:

That the provision in Clause 47 be retained (Senator Sunday Zik Ambuno) — *Agreed to.*

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Question that Clause 47 stand part of the Bill put and agreed to.

Clause 48: The provision contained in the Schedule to this Decree shall have effect with respect to the proceedings of the Board and the other matter contained therein and the Board shall have the power to amend the provisions of the Schedules as it may deem necessary.

Committee's Recommendation:

- (i) *Leave out* the word "Decree" in line 1 and *insert* the word "Act"
- (ii) *Leave out* the words "amend the provision of " in line 3 and *insert* the words "regulate its proceedings under"
- (iii) Immediately after the word "necessary " in line 3 *insert* the words "subject to approval of the National Assembly" (Senator Sunday Zik Ambuno) — *Agreed to.*

Question that Clause 48 as amended stand part of the Bill put and agreed to.

Clause 49: The provisions of the Companies and Allied Matters Decree 1990 shall not apply to the Bank.

Committee's Recommendation:

That the provision in Clause 49 be retained (Senator Sunday Zik Ambuno) — *Agreed to.*

Question that Clause 49 stand part of the Bill put and agreed to.

Clause 50: Except with the written consent of the governor, no bank shall hereafter be registered under the provisions of any Federal legislation by a name which includes any of the words "Central", "Federal", "Federation", "National", "Nigerian", "Reserve", "State", "Christian", "Islamic", "Moslem", "Quranic", or "Biblical".

Committee's Recommendation:

That the provision in Clause 50 be retained (Senator Sunday Zik Ambuno) — *Agreed to.*

Question that Clause 50 stand part of the Bill put and agreed to.

Clause 51: The bank shall not be placed under liquidation except pursuant to legislation enacted

in that behalf and then only in the manner directed by that legislation.

Committee's Recommendation:

Leave out the provision in Clause 51 (Senator Sunday Zik Ambuno)

Question that Clause 51 as amended put and agreed to.

Clause 52: (1) In furtherance of the provisions of paragraph (c) of Section 2 of this Decree, the Bank shall have power to established a Credit Bureau to collect, in such manner as the Bank may think fit, credit information on the customers of banks and other financial institutions and the bank may disclose the information so collected in such manner as may be deemed appropriate by the Bank;

Provided that the credit information so collected shall be used solely for the purpose of operating the Credit Bureau and that any information disclosed by the Bank to any person or institution shall be confidential between the bank and the person or institution to whom the information is disclosed.

Committee's Recommendation:

Insert new sub-clauses 52(2) and 52(3) as follows:

"52(2) Every bank shall, before granting a loan, advance or credit facility to any customer, obtain from the Bank credit information on that customer where the amount of the loan, advance or credit facility is up to a threshold that may be set from time to time by the Bank

52(3) Any bank that fails to comply with the provisions of this section is guilty of an offence and liable on conviction to a fine not exceeding ₦20,000,000" (Senator Sunday Zik Ambuno)

Question that Clause 52 as amended stand part of the Bill put and agreed to.

Clause 53: In this Act, unless the context otherwise requires:-

"Bank" means the Central Bank of Nigeria continued in being by this Act;

"bank" means a bank licensed under the Banks and Other Financial Institutions Decree 1991 or under the repealed Banking Act".

Committee's Recommendation:

Immediately after the word "Act" in line 3 insert the words "or any other prior legislation." (Senator Sunday Zik Ambuno) — Agreed to.

"bank examiner" has the meaning assigned to it in section 30 of the Banks and Other Financial institutions Decree 1991;

"Board" means the Board of Directors of the Bank;

"Governor" and "the Deputy Governor" means respectively the Governor and Deputy Governors of the Bank as appointed under this Act;

"Officer" or "officers of the Bank" means officers of the Central Bank of Nigeria;

"President" means the President, Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria.

"States" means States within the Federal Republic of Nigeria.

Question that Clause 53 as amended stand part of the Bill put and agreed to.

- Clause 54:**
- (1) This Act may be cited as the Central Bank of Nigeria (Amendment) Act 2005.
 - (2) The Central Bank of Nigeria Act 1967 and the Finance Act 1969 are hereby repealed.
 - (3) The under-mentioned amendment enactment are hereby consequentially repealed, that is:-
 - (a) Central Bank of Nigeria (Amendment) Act, 1962;
 - (b) Central Bank of Nigeria (Amendment) Act, 1967;
 - (c) Central Bank of Nigeria (Amendment) (No. 2) Act, 1967;
 - (d) Central Bank of Nigeria (Amendment) Act, 1969;
 - (e) Central Bank of Nigeria (Amendment) Act, 1968;
 - (f) Central Bank of Nigeria (Amendment) (No.2)Act;
 - (g) Central Bank of Nigeria (Currency Conversion) (Amendment) Act, 1968;
 - (h) Central Bank of Nigeria (Amendment) Act, 1969;
 - (i) Central Bank of Nigeria (Amendment) Act, 1972;
 - (j) Central Bank of Nigeria (Amendment) (No. 2) Act, 1960;

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- (k) Central Bank of Nigeria (Amendment) Act, 1972;
- (l) Central Bank of Nigeria (Amendment) Act, 1976;
- (m) Central Bank of Nigeria (Amendment) Decree, 1987; and
- (k) Government Promissory Notes (Amendment) Decree, 1989.
- (4) Without prejudice to section 6 of the Interpretation Act of 1964, the repeal of the enactments referred to in subsection (3) of this section shall not affect anything done under or pursuant to those enactments.
- (5) The rights, interest, obligations and liabilities of the Bank existing before the commencement of this Decree under any contract or instruments, or in law or in equity apart from any contract or instrument, shall by virtue of this Decree be assigned to and vested in the Bank.
- (6) Any such contract or instrument as is mentioned in subsection (5) of this section shall be of the same force and effect against or in favour of the Bank and shall be enforceable fully and effectively.

Committee's Recommendation:

That the provision in Clause 54 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 54 stand part of the Bill put and agreed to.

SCHEDULE

Section 48

PROCEEDINGS OF THE BOARD, ETC

Paragraph 1:

Committee Recommendation:

- (1) Not less than three weeks notice shall be given of each meeting of the Board and such notice shall be sent to every Director at his registered address but where it is necessary to convene an emergency meeting, all reasonable steps shall be taken to give notice to every Director who is at the time in Nigeria.
- (2) No person other than the Directors and Secretary shall attend meetings of the Board but the Chairman may request the presence of officers of the Bank when technical matters are under consideration.

Question. that Paragraph 1 under head "Proceedings of the Board" stand part of the Supplementary Provision to the Bill, put and agreed to.

Paragraph 2:

Committee Recommendation:

- (1) The Board shall cause minutes to be duly entered in a book provided for that purposes.
 - (a) of all appointments of officers made by the Board;
 - (b) of the names of all Directors present at each meeting of the Board;
 - (c) of all resolutions and proceedings of each meeting.
- (2) A copy of the minutes shall be circulated at that or succeeding meeting and after approval by the Board, signed by the Chairman.

Question. that Paragraph 2 under head "Proceedings of the Board" stand part of the Supplementary Provision to the Bill, put and agreed to.

Paragraph 3:

Committee Recommendation:

The common seal of the Bank shall be affixed under such conditions as may be determined, from time to time, by a resolution of the Board.

Question. that Paragraph 3 under head "Proceedings of the Board" stand part of the Supplementary Provision to the Bill, put and agreed to.

Paragraph 4:

Committee Recommendation:

Every Director shall, on appointment or re-appointment, sign a declaration as in Form 1 in the Annex to this Schedule affirming his allegiance and service to the Bank and pledge himself to observe strict secrecy respecting all transactions of the Bank.

Question. that Paragraph 4 under head "Proceedings of the Board" stand part of the Supplementary Provision to the Bill, put and agreed to.

Paragraph 5:

Committee Recommendation:

Every Director having an interest, directly or indirectly in any dealing or business in which the Bank is concerned shall disclose such interest at the meeting of the Board at which the dealing or business is discussed and in no circumstances shall he vote on the matter. If required by the Board to do so, he shall withdraw from the meeting.

Question. that Paragraph 5 under head "Proceedings of the Board" stand part of the Supplementary Provision to the Bill, put and agreed to.

Paragraph 6:

Committee Recommendation:

- (1) Every Director, officer and other employee of the Bank shall be indemnified by the Bank against all losses, costs and expenses incurred by him by reason of any contract entered into or act or deed done in the proper and careful discharge of his duties. The Bank shall pay all such costs, losses and expenses.
- (2) No Director, officer or other employee of the Bank shall be liable to the Bank for any losses, costs or expenses incurred by the Bank by the insufficiency or deficiency of value of, or title to, any property or security acquired or taken on behalf of the Bank or by the insolvency, bankruptcy or wrongful act of any customer or debtor of the Bank, unless due to willful default in the execution of his duties.

Question. that Paragraph 6 under head "Proceedings of the Board" stand part of the Supplementary Provision to the Bill, put and agreed to.

Paragraph 7:

Committee Recommendation:

Transfer Paragraph 7 under head "Proceedings of the Board" to the body of the Act and renumber as Clause 11(Senator Sunday Zik Ambuno)— Agreed to.

In consultation with the Board, the Governor and Deputy Governors shall be responsible for:-

- (a) the formulation and execution of the monetary and Credit policy for Nigeria;
- (b) fixing the rate or rates of discount or rediscount and the rate or rates of interest on advances to Government and to other customers of the bank.
- (c) devising suitable mechanism to determine rates of exchange at which the Bank shall buy and self foreign currencies under section 16 of this Decree;
- (d) the appointment of auditors in accordance with section 43 of this Decree, the provision of the necessary facilities and the rates of remuneration;
- (e) the establishment and closing of Zonal Offices, Branches and Currency Centres;

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- (f) the appointment of Zonal Controllers, Branch Controllers and Currency Officers;
- (g) the appointment of officers and other employee.

Provided that the Governor shall have authority to make such appointment as he deems appropriate without consultation with the Board in relation to officers and employees whose salaries do not exceed Central Bank Services Scale 06.

Question. that Paragraph 7 under head "Proceedings of the Board" as amended stand part of the Bill, put and agreed to.

Paragraph 8:

Committee Recommendation:

Transfer Paragraph 8 under head "Proceedings of the Board" to the body of the Act and renumber as Clause 12(Senator Sunday Zik Ambuno)— Agreed to.

- (1) The Governor and Deputy Governors shall have special responsibility for:-
 - (a) the organization of the management of the Bank at its Head Office, Zonal Offices, Branches and Currency Centres;
 - (b) causing;-
 - (i) true accounts to be kept of all transactions entered into by the Bank and of the assets and liabilities of the Bank and of all valuables entrusted to the Bank;
 - (ii) the compilation form and publication of accounts in accordance with section

44 (2) of this Decree;

- (c) the safe-keeping of all the assets of the Bank and the valuables entrusted to the Bank;
- (d) the discharge by officers and other employees of the Bank of the duties placed upon them;
- (e) the supervision of arrangements relating to the issue and redemption of currency notes and coins and all matters connected with the forms, design and composition of currency notes and coins;

provided that the Director of Currency Operations shall be charged with the direct responsibility under the Governor for special matters under this sub-paragraph.

- (2) It shall be the duty of the Governor to work out the detailed responsibilities of each of the Deputy Governors; and may assign any of his duties during his absence from duty or at such other time to any of the Deputy - Governors as he deems fit.
- (3) Without prejudice to sub-paragraph (2) of this paragraph, the Governor shall have power to assign or re-assign the Deputy Governors, from time to time, as may be expedient for the performance of the Bank's function under or pursuant to this Decree.

Question. that Paragraph 8 under head "Proceedings of the Board" as amended stand part of the Bill, put and agreed to.

Paragraph 9:

Committee Recommendation:

The books of the Bank shall be kept at the Head Office of the bank or at such other places as the Board may, from time to time, determine.

Question. that Paragraph 9 under head "Proceedings of the Board" stand part of the Supplementary Provision to the Bill, put and agreed to.

Paragraph 10:

Committee Recommendation:

The Governor shall formulate, for the approval of the Board, general rules and any subsequent amendments thereto, providing for:-

- (a) the safe keeping of the common seal of the Bank;

- (b) the safe keeping of the assets of the Bank and of valuables entrusted to the Bank;
- (c) the safe keeping of stocks of unissued or redeemed currency and the preparation, safe custody and destruction of plates and paper for the printing of currency notes and disc for the minting of coins;
- (d) the protection of bank notes and coins in transit;
- (e) the conditions under which any Zonal Controller, Branch Controller and Currency Officer may be appointed;
- (f) the conditions governing discount and advances;
- (g) the exercise of dual control and general security throughout the Bank;
- (h) such additional arrangements which may be made to ensure the efficient working of the Bank, through proper observance of security and the accuracy of the accounts of the Bank.

Question. that Paragraph 10 under head "Proceedings of the Board" stand part of the Supplementary Provision to the Bill, put and agreed to.

Paragraph 11:

Committee Recommendation:

- (1) The Board shall, from time to time, as it deems fit delegate some of its responsibilities to the Committee of Governors.
- (2) Formal meetings of the Committee of Governors shall take place as often as may be require but not less than once a month.
- (3) The Committee of Governors shall cause minutes to be duly entered in books provided for that purpose during each of its formal meetings.
- (4) The Governor shall preside over every meeting but in his absence a Deputy Governor designated by him shall act in his place, and in the absence of both the Governor and any such designated Deputy Governor, one of that other Deputy Governors present shall as Chairman.

Question. that Paragraph 11 under head "Proceedings of the Board" stand part of the Supplementary Provision to the Bill, put and agreed to.

Paragraph 12:

Committee Recommendation:

The Board by resolution shall, for such purposes as it may, from time to time, decide, authorize the Governor, the Deputy Governors or any officer of the Bank to sign documents relating to all aspects of the Bank's business; provided that such documents are not required by law or common practice to be given under seal. Any such authorizations shall forthwith be notified in the Gazette.

Question. that Paragraph 12 under head "Proceedings of the Board" stand part of the Supplementary Provision to the Bill, put and agreed to.

Paragraph 13:

Committee Recommendation:

- (1) No officer or other employee of the Bank shall occupy any other office or hold any other employment whether remunerated or not except with the approval of the Board embodied in a resolution and only in the following capacities, that is to say:
 - (a) as member of any economic research institution or any commission established by the Federal Government to enquire into any matter affecting currency or banking in Nigeria or into such other subjects relating to the functions of the Bank under this Decree;
 - (b) as director or member of the Board or by whatever name called of any international bank, international monetary authority or economic institution to which the Federal Government shall have interest or given support or approval;

- (c) Director or alternate Director of any corporation in Nigeria in which the Bank may participate under paragraph (i) of subsection (1) of section 27 of this Decree;
 - (d) member of other agency of the federal, State and Local Government.
- (2) Any remuneration to which any officer or other employee of the Bank is entitled in respect of any appointment made by virtue of the provisions of this Schedule shall be paid direct to the Bank.
- (3) This Schedule shall not prevent the Bank from employing, at the Board's discretion and subject to such terms and conditions as shall be laid down by the Board, part-time advisers for particular purposes and for specific periods of time.

Question. that Paragraph 13 under head "Proceedings of the Board" stand part of the Supplementary Provision to the Bill, put and agreed to.

Paragraph 14:

Committee Recommendation:

All officers and employees of the Bank shall be required to sign declaration as in Forms 2 in the Annex to this Schedule affirming their allegiance and service to the Bank and pledging themselves to observe strict secrecy respecting all transactions of the Bank.

Question. that Paragraph 14 under head "Proceedings of the Board" stand part of the Supplementary Provision to the Bill, put and agreed to.

Paragraph 15:

Committee Recommendation:

Leave out the Provision in Paragraph 15 under head "Proceeding of the Board" (Senator Sunday Zik Ambuno) — Agreed to.

- (1) The appointment of a legal practitioner to the bank and changes in that appointment shall be made by the Board on the recommendation of the Governor:
- (2) Plaints, written statements, affidavits and all other documents connected with legal proceedings may be signed and verified on behalf of the bank by any officer empowered by or under paragraph 12 of this schedule.

Question. that Paragraph 15 under head "Proceedings of the Board" as amended put and agreed to.

Paragraph 16:

Committee Recommendation:

The Board may require any officer or other employees to give the Bank, in such manner as it may require, such security as it may regard reasonable for the faithful discharge of his duty.

Question. that Paragraph 16 under head "Proceedings of the Board" stand part of the Supplementary Provision to the Bill, put and agreed to.

Paragraph 17:

Committee Recommendation:

In the Schedule, unless the context otherwise requires;-

"Committee of Governors" means a committee of the Governor and the Deputy Governors of the Central Bank of Nigeria;

"Director" means a member of the Board of Directors of the Central Bank of Nigeria.

Question. that Paragraph 17 under head "Proceedings of the Board" stand part of the Supplementary Provision to the Bill, put and agreed to.

Annexe

FORM 1 paragraph (4)

**FORM OF DECLARATION OF ALLEGIANCE AND
SECRECY BY DIRECTORS**

I,..... being appointed a Director of the Central Bank of Nigeria, do solemnly declare that I will faithfully perform the duties of Director and that I will to the best of my ability uphold the interest of the Central Bank of Nigeria and that I will observe strict secrecy respecting all transactions of the Bank and all matters or any information which may come to my knowledge in the discharge of my duties except when required or authorized to do so by the Board of the Bank or by law.

Signed:.....

Question, That Form 1 “Form of Declaration of Allegiance and Secrecy by Directors” stand part of the Schedule to the Bill — Agreed to.

FORM 2 paragraph (14)

**FORM OF DECLARATION OF ALLEGIANCE AND
SECRECY BY OFFICERS AND EMPLOYEES**

I, being appointed a member of the staff of the Central Bank of Nigeria, do solemnly declare that I will faithfully perform the duties assigned to me and that I will to the best of my ability uphold the interests of the Central Bank of Nigeria and that I will observe strict secrecy respecting all transactions of the of the Bank and all Matters or any information which may come to my knowledge in the discharge of my duties except when required or authorized to do so by the Board of the Bank or by law.

Signed:.....

Question, That Form 2 “Form of Declaration of Allegiance and Secrecy by Officers and Employees” stand part of the Schedule to the Bill — Agreed to.

Chairman to report Bill.

(SENATE IN PLENARY)

The Senate President reported that the Senate in the Committee of the Whole considered the Report of the Committee on Banking, Insurance and Financial Institutions on the Bill for an Act to amend the Central Bank of Nigeria Act 1991, as Amended and for connected purposes and approved as follows:

Part I	—	As Amended
Part II	—	As Amended
Part III	—	As Amended
Part IV	—	As Amended
Part V	—	As Amended
Part VI	—	As Amended
Part VII	—	As Amended
Part VIII	—	As Amended
Part IX	—	As Amended
Title	—	As Amended

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Motion made and Question Proposed: That the Senate do approve the Report of the Committee of the Whole on the Central Bank of Nigeria (Amendment) Bill 2005 (*Senate Majority Leader*).

Question put and agreed to.

Motion made and Question Proposed: That the Bill for an Act to amend the Central Bank of Nigeria Act 1991, as amended and for Connected Purposes be read the Third Time (*Senate Majority Leader*).

Question put and agreed to.

Bill accordingly read Third Time and Passed.

7. **Report of the Committee on Banking, Insurance and Financial Institutions:**

Banks and Other Financial Institutions Act (Amendment) Bill 2004 (SB. 114):

Motion made and Question Proposed: That the Senate do resolve into the Committee of the Whole to consider the Report of the Committee on Banking, Insurance and Financial Institutions on the Banks and Other Financial Institutions Act (Amendment) Bill 2004 (*Senate Majority Leader*).

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

A BILL FOR AN ACT TO AMEND THE BANKS AND OTHER FINANCIAL INSTITUTIONS DECREE NO. 25 OF 1991 AND FOR CONNECTED PURPOSES

PART I - BANKS ESTABLISHMENT OF BANKS, ETC

BANKS AND OTHER FINANCIAL INSTITUTIONS ACT, 1991

- Clause 1:**
- (1) The Central Bank of Nigeria (hereafter in this Decree referred to as "the Bank") shall have all the functions and powers conferred and the duties imposed on it by this Decree.
 - (2) The Bank shall addition to the functions and powers conferred on it by this Decree, have the functions and powers conferred and the duties imposed on the Bank by the Central Bank of Nigeria Decree 1991.
 - (3) The Bank may authorise or instruct any officer or employee of the Bank to perform any of the functions, exercise any powers, or discharge any of its duties under this Decree.
 - (4) The Bank may, either generally or in any particular case, appoint any person who is not an officer or employee of the Bank, to render such assistance as it may specify in the exercise of its powers, the performance of its function, or the discharge of its duties under this Decree, or to exercise, perform or discharge the functions and duties on and in the name of the Bank.
 - (5) For the purposes of this Decree, a person shall be deemed to be receiving money as deposits:-
 - (a) if the person accepts deposits from the general public as a feature of its business or if it issues an advertisement or solicits for such deposit;
 - (b) notwithstanding that it receive moneys as deposits which are limited to fixed amounts or that certificates or other instruments are issued in respect of any such amounts providing for the repayment to the holder thereof either conditionally or unconditionally or the amount of the deposits at specified dates or for the payment of interest or divided on the amounts deposited at specified intervals or otherwise, or that such certificates are transferable.

- (6) Notwithstanding anything contained in this section to the contrary, the receiving or moneys against any issue of shares and debentures offered to the public accordance with any enactment in force within the Federation shall not be deemed to constitute receiving moneys as deposits for the purposes of his Decree.

Committee's Recommendation

That the provision in Clause 1 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 1 stand part of the Bill put and agreed to.

- Clause 2:**
- (1) No person shall carry on any banking business in Nigeria except it is a company duly incorporated in Nigeria and holds a valid banking licence issued under this Decree.
 - (2) Any person who transacts banking business without a valid licence under this Decree is guilty of an offence and liable on conviction to imprisonment for a term not exceeding 10 years or to a fine of ₦2,000,000 or to both such imprisonment and fine.

Committee's Recommendation:

Leave out all the words in subclause (2) and *insert* the following:

"Any person who transacts banking business without a valid licence under this Act shall in the case of individual be guilty of an offence and liable on conviction to of ₦10,000,000 or to a term of imprisonment to 10 years or both and in the case of a company shall be liable to a ₦20,000,000" (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 2 as amended stand part of the Bill — Agreed to.

- Clause 3:**
- (1) Any person desiring to undertake banking business in Nigeria shall apply in writing to the Governor for the grant of a licence and shall accompany the application with the following:-
 - (a) a feasibility report of the proposed bank;
 - (b) a draft copy of the memorandum and articles of association of the proposed bank;
 - (c) a list of the shareholders, directors and principal officers of the proposed bank and their particulars;
 - (d) the prescribed application fee; and
 - (e) such other information, documents and reports as the Bank may, from time to time, specify.
 - (2) After the applicant has provided all such information, documents and reports as the Bank may require under subsection (1) of this section, the shareholders of the proposed bank shall deposit with the Bank a sum equal to the minimum paid-up share capital that may be applicable under section 9 of this Decree.
 - (3) Upon the payment of the sum referred to in subsection (2) of this section, the Governor may issue a licence with or without conditions or refuse to issue a licence and the Governor need not give any reasons for the refusal. Where an applicant and the licence fee shall be paid.
 - (4) The Bank may invest any amount deposited with it pursuant to section 3(2) of this decree in treasury bills or such other securities until such a time as the Governor shall decide whether or not to grant a licence, and where the licence is not granted the Bank shall repay the sum deposited to the applicant, together with the investment income after deducting administrative expenses and tax on the income.

Committee's Recommendation

That the provision in Clause 3 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 3 stand part of the Bill put and agreed to.

Clause 4: The Bank may invest any amount deposited with it pursuant to section 3(2) of this decree in treasury bills or such other securities until such a time as the Governor shall decide whether or not to grant a licence, and where the licence is not granted the Bank shall repay the sum deposited to the applicant, together with the investment income after deducting administrative expenses and tax on the income.

Committee's Recommendation

That the provision in Clause 4 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 4 stand part of the Bill put and agreed to.

Clause 5:

- (1) The Bank may vary or revoke any condition subject to which a licence was granted or may impose fresh or additional conditions to the grant of a licence.
- (2) Where the grant of a licence is subject to conditions, the bank shall comply with those conditions to the satisfaction of the Bank within such period as the Bank may deem appropriate in the circumstances.
- (3) Any bank which fails to comply with any of the conditions of its licence is guilty of an offence under this section and shall be liable on conviction to a fine not exceeding ₦50,000 for each day during which the condition is not complied with;

Committee's Recommendation:

Leave out all the words immediately after the word “exceeding” and insert the following:

“~~₦~~1,000,000 in the first instance and ~~₦~~500,000 for each day during which the offence continues and in addition any person who being a director, manager or officer of a bank fails to take reasonable steps to secure compliance with any of the conditions of the licence of the bank is guilty of an offence and liable on conviction to a fine not exceeding ₦1,000,000” (*Senator Sunday Zik Ambuno*) — *Agreed to.*

- (4) Where the Governor proposes to vary, revoke or impose fresh or additional conditions on a licence, he shall before exercising such power, give notice of his intension to the bank concerned and give the bank an opportunity to make representation to him thereon.
- (5) Any bank which fails to comply with any fresh or additional condition imposed in relation to its licence is guilty of an offence and liable on conviction to a fine not exceeding ₦500,000 and to an additional fine of ₦5,000 for each day during which the offence continues.

Committee's Recommendation

Leave out the figures “~~₦~~500,000” and “~~₦~~5,000” and *insert* the figures “~~₦~~1,000,000” and “~~₦~~50,000” respectively instead thereof (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 5 as amended stand part of the Bill put and agreed to.

Clause 6:

- (1) No bank may open or close any branch office anywhere within or outside Nigeria except with the prior consent in writing of the Bank.

Committee's Recommendation:

Immediately after the word “office” in line 1, *insert* the words “cash center or representative office” (*Senator Sunday Zik Ambuno*) — *Agreed to.*

- (2) Any bank which contravenes the provisions of subsection (1) of this section is

guilty of an offence and liable to a fine not exceeding ₦2,000,000 and the closure in case of the opening of a branch office and the re-opening in the case of a closure of a branch office and in addition to a fine of ₦100,000 for each day during which the offence continues.

Committee's Recommendation

Leave out the figures "~~₦2,000,000~~ and ~~₦100,000~~" and insert the figures "~~₦5,000,000~~ and ~~₦2,000,000~~" respectively instead thereof (Senator Sunday Zik Ambuno) — Agreed to.

Question that Clause 6 as amended stand part of the Bill put and agreed to.

Clause 7:

- (1) Except with the prior consent of the Governor, no bank shall enter into an agreement or arrangement:-

Committee's Recommendation:

Immediately after the word "bank" in line 1, insert the words "or shareholder" (Senator Sunday Zik Ambunbo) — Agreed

- (a) which results in a change in the control of the bank;

Committee's Recommendation:

Leave out all the words in subclause (1)(a) and insert the following:

- (i) A change in the control of the bank;
- (ii) The transfer of a significant shareholding in the bank (Senator Sunday Zik Ambunbo) — Agreed
- (b) for the sale, disposal or transfer however of the whole or any part of the business of the bank;
- (c) for the amalgamation or merger of the bank with any other person;
- (d) for the reconstruction of the bank;
- (e) to employ a management agent or to transfer its business to any such agent.

- (2) Any person who contravenes the provisions of subsection (1) of this section is guilty of an offence and liable to a fine not exceeding ₦1,000,000 and in the case of a continuing offence to an additional fine of ₦10,000 for each day during which the offence continues.

Committee's Recommendation

- (i) Leave out the word "exceeding" in line 1 and insert the words "less than"

- (ii) Insert a new subclause (3) to read as follows:

"For the purpose of paragraph (a) of subsection (1) of this section, a transfer by a bank or shareholders of an aggregate of not less than 5 percent of the share capital of the banks shall be deemed to be the transfer of a significant shareholding. Provided that the Governor shall have the power by notice published in the gazette to vary from time to time the percentage of the share capital of a bank which constitutes significant shareholding (Senator Sunday Zik Ambuno) — Agreed

Question that Clause 7 as amended stand part of the Bill put and agreed to..

Clause 8:

- (1) Except with the prior approval of the Bank, no foreign bank shall operate branch offices or representative offices in Nigeria.

- (2) The Bank may, subject to such conditions as it may impose, from time to time, grant to any bank registered in Nigeria or a foreign bank a licence to undertake off-shore banking business from Nigeria.
- (3) Subject to the provisions of subsection (1) of this section, nothing in the provisions of the Nigerian Investment Promotion Commission Decree 1995 or any other law or enactment shall be construed as authorising any person whether as a citizen of Nigeria or a non-Nigerian to carry on any banking business in Nigeria without a valid banking licence issued by the Bank under this decree.
- (4) Any person who contravenes the provisions of subsection (1) or (3) of this section is guilty of an offence and liable on conviction to a fine not exceeding ₦1,000,000 and in the case of a continuing offence to an additional fine of ₦10,000 for each day during which the offence continues.

Committee's Recommendation

Leave out the figure ₦10,000 in line 3, and *insert* the figure ₦100,000 (Senator Sunday Zik Ambuno).

Question that Clause 8 as amended stand part of the Bill put and agreed to.

Clause 9:

- (1) The Bank shall, from time to time, determine the minimum paid-up share capital requirement of each category of banks licensed under this Decree.

Committee's Recommendation:

Leave out all the words in subclause 9(1) and *insert* the following:

"No bank shall carry on banking business in Nigeria unless the bank has and maintains, while carrying on that category of banking business, paid-up share capital, plus shareholders' fund unimpaired by losses and for this purpose banks shall be categorized as follows:

- (a) Mega Banks — ₦25 billion
 - (b) Medium Banks — ₦10 billion
 - (c) Small Banks — ₦5 billion.
 - (d) Specialized Banks — as stipulated in their respective Acts.
 - (e) Community Banks — with share capital as may from time to time be prescribed by the Bank (Senator Sunday Zik Ambuno) — *Agreed*
- (2) Any failure to comply with the provisions of this section of this Decree within such period as may be determined by the Bank, from time to time, shall be a ground for the revocation of any licence issued pursuant to the provisions of this Decree or any other Act repealed by it.

Committee's Recommendation

Leave out all the words in subclause 9(2) and *insert* the following:

"Subject the approval of the National Assembly, the Bank shall have power to review from time to time the criteria for categorization in subsection (1) (Senator Sunday Zik Ambuno) — *Agreed*

Question that Clause 9 as amended stand part of the Bill put and agreed to.

Clause 10:

Notwithstanding the provisions of the Companies and Allied Matters Decree 1990 or any agreement or contract, the voting rights of every shareholder in a bank shall be proportional to his contribution to the paid-up share capital of the bank.

Committee's Recommendation

That the provision in Clause 10 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 10 stand part of the Bill put and agreed to.

Clause 11: Notwithstanding anything contained in any law or in any contract or instrument, no suit or other proceeding shall be maintained against any person registered as the holder of a share in a bank on the ground that the title to the said share vest in any person other than the registered holder;

Provided that nothing in this section shall bar a suit or other proceeding on behalf of a minor or person suffering from any mental illness on the ground that the registered holder holds the share on behalf of the minor or person suffering from the mental illness.

Committee's Recommendation

That the provision in Clause 11 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 11 stand part of the Bill put and agreed to.

Clause 12: (1) The Governor may, with the approval of the Board of Directors and by notice published in the Gazette, revoke any licence granted under this decree if a bank:-

- (a) ceases to carry on in Nigeria the type of banking business for which the licence was issued for any continuous period of 6 months or any period aggregating 6 month during a continuous period of 12 months;
- (b) goes into liquidation or is wound up or otherwise dissolved;
- (c) fails to fulfil or comply with any condition subject to which the licence was granted;
- (d) has insufficient assets to meet its liabilities;
- (e) fails to comply with any obligation imposed upon it by or under this Decree or the Central Bank of Nigeria Decree 1991, as amended.

Committee's Recommendation

Insert the new subclauses 12 (f) and (g) as follows"

- "(f) has its insured status terminated by the Nigerian Deposit Insurance Corporation and remains so uninsured for a period of six months"
- (g) Is in the opinion of the Bank critically under-capitalized with capital adequacy ratio of less than 24%, or such threshold as the Bank may prescribe from time to time" (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 12 as amended stand part of the Bill put and agreed to.

Clause 13: (1) A bank shall maintain, at all times, capital funds unimpaired by losses, in such ratio to all or any assets or to all or any liabilities or any liabilities or to both such assets and liabilities of the bank and all its offices in and outside Nigeria as may be specified by the Bank.

(2) Any bank which fails to observe any such specified ratios may be prohibited by the Bank from:-

- (a) advertising for or accepting new deposits;
- (b) granting credit and making investment;
- (c) paying cash dividend to shareholders.

- (3) In addition, the bank may be required to draw up within a specified time a capital reconstitution plan acceptable to the Bank.

Committee's Recommendation

That the provision in Clause 13 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 13 stand part of the Bill put and agreed to.

Clause 14:

- (1) Failure to comply with the provisions of section 13 of this Decree may constitute a ground for the revocation of the licence of the bank under this Decree.
- (2) Where the Bank purposes to revoke the licence of any bank pursuant to subsection (1) of this section, the Bank shall give notice of its intention to the bank and the bank may within 30 days make representation (if any) to the Bank in respect thereof.

Committee's Recommendation

That the provision in Clause 14 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 14 stand part of the Bill put and agreed to.

Clause 15:

- (1) Every bank shall maintain with the Bank cash reserves, and special deposits and hold specified liquid assets or stabilization securities, as the case may be, not less in amount than as may, from time to time, be prescribed by the Bank by Virtue of section 39 of the Central Bank of Nigeria Decree 1991.

Committee's Recommendation:

- (i) *Leave out* the word “stabilization” in line 2, and *insert* the word “other”
- (ii) *Leave out* the word “Decree” in line 4 and *insert* the word “Act” (*Senator Sunday Zik Ambuno*) — *Agreed to.*
- (2) Where both assets and liabilities are due from and to other banks they shall be offset accordingly, and any surplus of assets or liabilities shall be included or deducted, as the case may be, in computing specified liquid assets.
- (3) In the case of the long-term advances to a bank or by an overseas branch or office of a bank, the advances may, with the approval of the Bank, be excluded from the demand liabilities of the bank.
- (4) Every bank shall:-
 - (a) furnish within a reasonable time any information required by the Bank to satisfy the Bank that the bank is observing the requirements of subsection (1) of this section;
 - (b) not allow its holding of cash reserves, specified liquid assets, special deposits and stabilization securities to be less than the amount which may, from time to time, be prescribed by the Bank;

Committee's Recommendation:

Leave out the word “stabilization” in line 2 and *insert* the word “other” (*Senator Sunday Zik Ambuno*) — *Agreed to*.

- (c) not during the period of any deficiency, grant or permit increases in advances, loans or credit facilities to any person without the prior approval in writing of the Bank.
- (5) Any bank which fails to comply with any of the provisions sub-section (4) of this section is guilty of an offence and liable to a fine of:-

- (a) in the case of paragraph (a) ~~₦~~500,000 for every month during which a default under that paragraph (a) exists;
- (b) in the case of paragraph (b) ~~₦~~500,000 for each month of the offence;
- (c) in the case of paragraph (c) ~~₦~~500,000 for each month of the offence, and the Bank may also, during the period when the bank fails to comply with any of the requirements of subsection (4) as aforesaid, withdraw any privileges of facilities that are normally accorded to the bank.
- (6) For the purposes of this section, specified liquid assets provided they are freely transferable and free from any lien or charge of any kind shall, without prejudice to the provisions of section 39 of the Central Bank of Nigeria Decree 1991, consist of all or any of the following, that is:-
 - (a) currency notes and coins which are legal tender in Nigeria;
 - (b) balances at the Bank;
 - (c) net balances at any licensed bank (excluding uncleared effects) and money at call in Nigeria;

Committee's Recommendation:

Immediately after the word “and”, *insert* the word “collateralised” (*Senator Sunday Zik Ambuno*) — *Agreed to*.

- (d) Treasury Bills and Treasury Certificates issued by the Federal Government;
- (e) inland bills of exchange and promissory notes re-discountable at the Bank;

Committee's Recommendation:

Immediately before the word “Inland”, *insert* the words “Interbank placement” (*Senator Sunday Zik Ambuno*)— *Agreed to*.

- (f) stocks issued by the federal Government with such dates of maturity as may be approved by the bank;
- (g) negotiable certificate of deposit approved by the bank; and
- (h) such other negotiable instruments as may, from time to time, be approved by the Bank for the purpose of this subsection.

Question that the Clause 15 as amended stand part of the Bill put and agreed to.

DUTIES OF BANKS

- Clause 16:** (1) Every bank shall maintain a reserve fund and shall, out of its net profits for each year (after due for taxation) and before any dividend is declared where the amount of the reserve funds is:-
- (a) less than the paid-up share Capital, transfer to the reserve fund a sum equal to not less than thirty per cent of the net profits; or
 - (b) equal to it in excess of the paid-up share capital, transfer to the reserve fund a sum to not less than fifteen per cent of the net profit;

Provided that no transfer under this subsection shall be made until all identifiable losses have been made good.

- (2) Any bank which fails to comply with the provisions of subsection (1) of this section is guilty of an offence and liable on conviction to a fine of ₦500,000.

Committee's Recommendation:

Leave out the figure "₦500,000" and insert the figure "₦5,000,000" (Senator Sunday Zik Ambuno) — Agreed to.

- (3) Notwithstanding paragraphs (a) and (b) of subsection (1) of this section, the Bank may, from time to time, specify a different proportion of the net profits of each year, being either lesser or greater than the proportion specified in paragraphs (a) and (b) to be transferred to the reserve fund or a bank for the purpose of ensuring that the amount of the reserve fund of such bank is sufficient for the purpose of its business and adequate in relation to its liabilities.

Question that Clause 16 as amended stand part of the Bill put and agreed to.

- Clause 17:** (1) No bank shall pay dividend on its shares until:-
- (a) all its preliminary expenses, organisational expenses, shares selling commission, brokerage, amount of losses incurred and other capitalised expenses not represented by tangible assets have been completely written off;
 - (b) adequate provisions have been made to the satisfaction of the Bank for actual and contingent losses on risk assets, liabilities, off balance sheet commitments and such unearned incomes as are derivable therefrom;
 - (c) it has complied with any capital ratio requirement as specified by the Bank pursuant to section 13 (1) of this Decree.
- (2) Any director, manager or officer who fails to comply with the requirements of this section of this Decree is guilty of an offence and liable on conviction to a fine of 5 per cent of the dividend paid or to imprisonment

Committee's Recommendation

That the provision in Clause 17 be retained (Senator Sunday Zik Ambuno) — Agreed to.

Question that Clause 17 stand part of the Bill put and agreed to.

- Clause 18:** (1) No manager or any officer of a bank shall :-
- (a) in any manner whatsoever, whether directly or indirectly have Personal interest in any advance, loan or credit facility, and if he has any such personal interest to the ;
 - (b) grant any advance, loan or credit facility to any person, unless it is

authorized in accordance with the rules and regulations of the bank; and where adequate security is required by such rules and regulations,

such security shall, prior to the grant, be obtained for the advance, loan or credit facility and shall be deposited with the bank;

- (c) benefit as a result of any advance, loan or credit facility granted by the bank.
- (2) Any manager or officer who contravenes or fails to comply with any of the provisions of subsection is guilty of an offence under this section and liable on conviction to a fine of ₦100,000 or to imprisonment for a term of 3 years; and in addition, any gains or benefits, accruing to any person convicted under this section by reason of such contravention, shall be forfeited to the Federal Government, and the gains or benefit shall vest accordingly in that Government.

- (3) It shall be the duty of a director of a bank who is in any way, whether directly or indirectly, interested in the grant of an advance, loan or credit facility with the bank to declare the nature of his interest at a meeting of the board of directors of the bank.
- (4) in the case of a proposed advance, loan or credit facility, the declaration required by this section of this Decree shall be made at the meeting of the board of directors of the bank at which the request for the advance, loan or credit facility is first taken into consideration or if the director was not present on the date of the meeting at which the matter was discussed he shall state his interest in the proposed advance, loan or credit facility at the next meeting of the board of director becomes interested in any advance, loan or credit facility after it is granted, the declaration shall be made at the first meeting of the board of directors of the bank held after he, becomes so interested.
- (5) For the purpose of this section of this Decree, a general notice given to the Board of directors of a bank by a director to the effect that he is a member of a company or from seeking an advance, loan or credit facility for the bank shall be regarded as a declaration of his in the grant to that company or firm, and shall be deemed to be a sufficient declaration of interest in relation to any such advance, loan or credit facility so granted;

Committee's Recommendation:

- (i) *Leave out* the word “Decree” and *insert* the word “Act”
- (ii) *Also leave out* the word “for” in line 3 and *insert* the word “from”
(Senator Sunday Zik Ambuno) — *Agreed to.*

Provided that any such notice shall not have effect unless it is given at a meeting of the board of directors of the bank which shall be required to do all things, reasonably necessary to ensure that it is so given.

- (6) The provisions of section (3) of this section shall not apply in any case-
 - (a) where the interest of the director consist only of being a person holding less than 5 per cent of the shares of the company which is seeking an advance, loan or credit facility from the bank; or
 - (b) if the interest of the director may properly be regarded by the Bank as immaterial.
- (7) For the purpose of subsection (5) of this section, a general notice given to the board of directors of a bank by a shall be deemed to be a sufficient declaration

of interest in relation to any advance, loan or credit facility, if:-

- (a) the notice specifies the nature and extent of his interest in the company or firm;
 - (b) such interest is not difficult in nature to or greater in extent than the nature and extent specified in the notice at the time any advance, loan or credit facility is made; and
 - (c) the notice is given at the meeting of the board of directors of the bank or the director takes reasonable steps to ensure that it is brought up and read at the next meeting of the board of directors of the bank after it is given.
- (8) Every director of a bank, who holds any office or possesses any property whereby, whether directly or indirectly, duties or interests might be created in conflict with his duties or interests as a director of a bank, shall declare at a meeting of the board of directors of the bank, the fact and the nature, character and extent of the interest.

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- (9) The declaration referred to in subsection (8) of this shall be required to be made at the first meeting of the board of directors of the bank held:-
- (a) after he becomes a director of the bank or
 - (b) if already a director after he came into possession of the property.
- (10) The secretary of the bank shall cause to be brought up and read any declaration made under subsection (3) or (8) of this section at the next meeting of the board of directors of the bank after it is made and shall record any declaration made under this section of this Act in the minutes of the meeting at which it was made or at the meeting at which it was brought up and read.
- (11) Any director who contravenes the provisions of subsection (3) or (8) of this section is guilty of an offence liable on conviction to a fine of ₦100,000 or imprisonment for a term of 3 years or to both such fine and imprisonment.

Committee's Recommendation

Leave out the figure "₦100,000" and insert the figure "₦1,000,000" (Senator Sunday Zik Ambuno) — Agreed to.

Question that Clause 18 as amended stand part of the Bill put and agreed to.

Clause 19:

- (1) No bank shall:-
- (a) employ or continue the employment of any person who is or at any time has been adjudged bankrupt or has suspended payment to or as compounded with his creditors or who is or has been convicted by a court for an offence involving fraud or dishonesty, or professional misconduct;
- Committee's Recommendation:*
Immediately after the word "been" in line 3, insert the words "dismissed from office" (Senator Sunday Zik Ambuno) — Agreed to.
- (b) be managed by a management agent except as may be approved by the Bank.
- (2) Except with the approval of the Bank, no bank shall have as a director any person who is a director of:-
- (a) any other bank;

- (b) Companies which among themselves are entitled to exercise voting rights in excess of ten per cent of the total voting rights of all the shareholders of the bank.
- (3) No bank shall be managed by a person who is:-
 - (a) a director of any other company not being a subsidiary of the bank; or
 - (b) engaged in any other business or vocation.
- (4) Every director of a bank shall sign a code of conduct in such form or manner as the Bank may, from time to time, prescribe.
- (5) The chief executive of a bank shall cause all the officers of the bank to sign a code of conduct as may be approved by the board of directors.

Question that Clause 19 as amended stand part of the Bill put and agreed to.

- Clause 20:**
- (1) A bank shall, not, without the prior approval in writing of the Bank, grant:-
 - (a) to any person any advance, loan or credit facility or give any financial guarantee or incur any other liability on behalf of any person so that the total value of the advance, loan, credit facility, financial guarantee or any other liability in respect of the person is at any time more than twenty per cent of the shareholders fund unimpaired by losses or in the

case of a merchant bank not more than fifty per cent of its shareholders fund unimpaired by losses; and for the purpose of this paragraph all advances, loans or credit facilities extended to any person shall be aggregated and shall include all advances, loans or credit facilities extended to any subsidiaries or associated of a body corporate;

Committee's Recommendation:

Leave out all the words in subclause 1(a) and *insert* the following:
 "To any person any advance, loan or credit facility or give any financial guarantee or incur any other liability on behalf of any person so that the total value of the advance, loan, credit facility, financial guarantee or any other liability in respect of the person is at any time more than 35 percent of the shareholders fund unimpaired by losses of such percentage as the Bank may from time to time determine and for the purpose of this paragraph, all advances, loans or credit facilities extended to any person shall be aggregated and shall include all advances, loans or credit facilities extended to any subsidiaries or associates of a body corporate or other related party as the Bank may be regulation from time to time prescribe" (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Provided that the provisions of this paragraph shall not apply to transactions between banks or between branches of a bank or to the purchase of clean or documentary bills or exchange, telegraphic transfers or documents.

- (b) any advance, loans or credit facilities against the security of its own shares or any unsecured advances, loans or credit facilities unless authorised in accordance with the bank's rules and regulations and where any such rules and regulations require adequate security, such security shall be provided or, as the case may require, deposited with the bank.

Committee's Recommendation:

- (i) *Leave out* all the words in subclause 1(b) and *insert* the

following:

“Any loan, advance or credit facilities against the security of its own shares”

(ii) *Insert a new subclause 1(c) as follows:*

“Any loan, advance or credit facility in excess of ₦1,000,000 or such amount as may be prescribed by the Bank, except such loan, advance or credit facility is secured in accordance with Bank’s rules and regulations” (*Senator Sunday Zik Ambuno*) — *Agreed to.*

(2) A bank shall not, without the prior approval in writing of the Bank:-

(a) permit to be outstanding, unsecured advances, loans or unsecured credit facilities of an aggregate amount in excess of ₦50,000.

Committee’s Recommendation:

Leave out the figure “₦50,000” and insert the words “₦1,000,000 or such amount as may be prescribed by the Bank” (Senator Sunday Zik Ambuno) — Agreed to.

(i) to its directors or any of them whether such advances, loans or credit facilities are obtained by its directors jointly or severally; whether such advances, loans or credit facilities are obtained by its directors jointly or severally;

(ii) to any firm, partnership or private company in which it or any one or more of its directors is interested as director, partner, manager or agent or any individual firm, partnership or private company of which any of its directors is a guarantor;

(iii) to any public company or private company in which it or any one or more of its directors jointly or severally maintains shareholding of not less than five per cent either directly or indirectly;

(b) permit to be outstanding to its officers and employees, unsecured advances, loans or unsecured credit facilities, which in the aggregate for any one officer or employee, is an amount which exceeds one year's emolument to such officer or employee;

(c) engage, whether on its own account or on a commission basis, in wholesale or retail trade, including the import or export trade, except in so far as may exceptionally be necessary in the course of the banking operations and services of that bank or in the course of the satisfaction of debts due to it; so however that nothing in this paragraph shall be construed as precluding a bank from undertaking equipment leasing business or debt factoring provided that the foregoing provisions or this Paragraph shall not apply to a bank in the circumstances permitted under section 21 of this Decree;

(d) without prejudice to the provisions of section 21 of this Decree, acquire or hold any part of the share capital of any financial or commercial or other undertaking, except:-

(i) any shareholding approved by the Bank in any company set up for the purpose of promoting the development of the money market or capital market in Nigeria or of improving the financial machinery for financing economic development;

- (ii) any shareholding approved by the Bank pursuant to sub-paragraph (i) of this paragraph, the aggregate value of which does not at any time exceed twenty-five per cent of the

sum of paid-up share capital and statutory reserves of that bank;

Committee's Recommendation:

Leave out the words "paid-up share capital and statutory reserves of that bank" and *insert* the words "shareholders fund unimpaired by losses" (Senator Sunday Zik Ambuno) — *Agreed to.*

- (iii) all shareholding acquired by a merchant bank while managing an equity issue.

Committee's Recommendation:

Leave out the word "merchant" (Senator Sunday Zik Ambuno) — *Agreed to.*

Provided that the aggregate value of such acquisition does not at any time exceed the sum of the paid-up share capital of that merchant bank or ten per cent of its total assets, excluding contract items, whether is higher and that this paragraph shall not apply to any nominee company of a bank which deals in stock and shares for or on behalf of the bank's customers or clients or majority interest acquired by a merchant bank in a company while managing an equity issue.

- (e) remit, either in whole or in part, the debts owed to it by any of its directors or past directors;
- (f) purchase, sell, dispose, acquire or lease any real estate for whatever purpose;
- (3) Notwithstanding the foregoing provisions of this section, a bank may secure debt on any real or other property, and in default of repayment, may acquire such property and exercise any power of sale, as may be provided for in any Instrument or, by law prescribed, immediately upon such default or soon thereafter as may be deemed proper.
- (4) In paragraphs (a) and (b) of subsection, the expressions "unsecured advance and loans" or "unsecured credit facilities," mean advances loans or credit facilities made with security, any part thereof which at any time exceeds the market value of the assets constituting the security, or where the Bank is satisfied that there is no established market value, the of the assets as determined on the basis of a valuation approved by the Bank.
- (5) In paragraphs (a) and (e) of subsection (2) of this section, the expression "director", includes director's wife, husband, father, mother brother, sister, son, daughter and their spouses.
- (6) All the directors of a bank shall liable jointly and severally to indemnify the bank against any loss arising from any unsecured advances, loans or credit facilities under paragraph (a) of subsection (2) of this section.
- (7) Any director, manager or officer who fails to comply with the requirements Of this section of this Decree is guilty of an offence and liable on conviction to a fine not exceeding ₦100,000 or to imprisonment for a term of 3 years and shall in addition be required to repay the loan or forfeit his known assets in lieu of the unpaid loan.

Committee's Recommendation:

Leave out the figure "~~₦~~100,000" and insert the figure "~~₦~~1,000,000" (*Senator Sunday Zik Ambuno*)— *Agreed to*.

- (8) Any bank which after the commencement of this Decree, enters into transaction which is inconsistent with the requirement of subsection (7) of this section is guilty of an offence and liable on conviction to a fine of ~~₦~~1,000,000;

Committee's Recommendation:

(i) *Leave out* the words "inconsistent with" in line 2 and *insert* the word "contravenes"

(ii) *Leave out* the figure "~~₦~~1,000,000" and *insert* the figure "~~₦~~5,000,000" (*Senator Sunday Zik Ambuno*) — *Agreed to*.

Question that Clause 20 as amended stand part of the Bill put and agreed to.

Clause 21:

- (1) A bank may acquire or hold part of the share capital of any agricultural, industrial or venture capital company subject to the following conditions, that this:-
- (a) the venture capital company is set up for the purpose of promoting the development of indigenous technology or a new venture in Nigeria;
- (b) the shareholding by the bank is in small or medium-scale industries and agricultural enterprises as defined by the Bank;
- (c) the shareholding by the bank in any medium scale industry, agricultural enterprise or venture capital company or any other business approved by the Bank shall not be more than ten per cent of the bank's shareholders fund unimpaired by losses and shall not exceed

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forty per cent of the paid-up share capital of the company, the shares of which are acquired or held;

Committee's Recommendation:

Leave out the words "and shall not exceed forty per cent of the paid-up share capital of the company, the shares of which are acquired or held" and *insert* the words "or such other percentage as the Bank may from time to time prescribe" (*Senator Sunday Zik Ambuno*) — *Agreed to*.

- (d) the aggregate value of the equity participation of the bank in all enterprises pursuant to this section does not, at any time, exceed in the case of a commercial bank, twenty per cent of its shareholders fund unimpaired by losses or in the case of a merchant bank, not more than fifty per cent of its shareholders fund unimpaired by losses;

Committee's Recommendation:

Leave out all the words subclause 1(d) and insert the followings:

"The aggregate value of the equity participation of the Bank in all enterprises pursuant to this section does not at any time exceed thirty-five per cent of its shareholders' fund unimpaired by losses or such other percentage as the Bank may from time to time prescribe" (*Senator Sunday Zik Ambuno*) — *Agreed to*.

Provided that a bank may hold shares acquired in the course of the satisfaction of any debt owed to it.

- (2) Without prejudice to the provisions of subsection (1) of this section, a bank

may hold or acquire share capital of any other business, subject to the approval of the Bank.

- (3) Every bank shall, within 21 days of the acquisition of any shareholding pursuant to subsection (1) of this section (1) of this section, give full particulars thereof to the Bank.
- (4) Any bank which fails to comply with the provisions of subsection (3) of this section is guilty of an offence and liable on conviction to a fine of ₦1,000 for each day during which the offence continues.

Committee's Recommendation

Leave out the figure "₦1,000" and insert the figure "₦50,000" (Senator Sunday Zik Ambuno) — Agreed to.

Question that Clause 21 as amended stand part of the Bill put and agreed to.

Clause 22:

- (1) A merchant bank shall not:-
 - (a) accept any deposit withdrawable by cheque;
 - (b) accept any deposit below an amount which shall be prescribed, from time to time, by the Bank;
 - (c) hold for more than six months any equity interest acquired in a company while managing an equity issue except as stipulated in section 21 of this Decree.

Committee's Recommendation:

Leave out subclauses 1(a), (b) and (c) and insert the following:

A Bank shall not hold for more than 6 months any equity interest acquired in a company while managing an equity issue " (Senator Sunday Zik Ambuno) — Agreed to.

- (2) any merchant bank which acts in contravention of or fails to comply with any of the provisions of this section is guilty of an offence and liable to a fine not exceeding ₦25,000 for each day during which the offence continues.

Committee's Recommendation:

(i) Immediately after the word "any" in line 1, leave out the word "merchant"

(ii) Leave out the figure "₦25,000" and insert the figure "₦500,000" (Senator Sunday Zik Ambuno) — Agreed to.

Question that Clause 22 as amended stand part of the Bill put and agreed to.

Clause 23:

- (1) Every bank shall display at its office its lending and deposit interest rates and shall render to the bank information on such rates as may be specified, from time to time, by the Bank;

Provided that the provisions of this subsection shall not apply to profit and loss sharing banks, but such a bank shall indicate conspicuously in all its offices that it charges no interest.

- (2) Any bank in breach of any of the provisions of this section is guilty of an offence and liable to a fine not exceeding ₦5,000 for every day during which the offence continues.

Committee's Recommendation:

Leave out the figure "₦5,000" and insert the figure "₦50,000" (Senator

Sunday Zik Ambuno) — Agreed to.

Question that Clause 23 as amended stand part of the Bill put and agreed to.

BOOKS OF ACCOUNT

- Clause 24:**
- (1) Every bank shall cause to be kept proper books of account with respect to all the transactions of the bank.
 - (2) For the purpose of subsection (1) of this section, proper books of account shall be deemed to be kept with respect to all transactions if such books as are necessary to explain such transactions give a true and fair view of the state of affairs of a bank are kept by the bank and are in compliance with the accounting standard as may be prescribed for banks.
 - (3) The books of account shall be kept at the principal administrative office of a bank and at the branches of each bank in the English language or any other language approved by the Federal Government.

Committee's Recommendation:

Leave out all the words immediately after the words "English language"
(Senator Sunday Zik Ambuno) — Agreed to.

- (4) Where the books of account, kept by a bank with respect to all its transactions, are prepared and kept in such a manner that, in the opinion of the Bank, have not been properly prepared and kept, or where a bank renders returns in accordance with the provisions of section 25 of this Decree, which in the opinion of the bank are inaccurate, the bank may appoint a firm of qualified accountants to prepare proper books of account or render accurate returns, as the case may be, for the bank and the cost of preparing the accounts and rendering the returns shall be borne by the bank.
- (5) If any person being a director, manager or officer of a bank:-
 - (a) fails to take all reasonable steps to secure compliance with any of the provisions of this section;

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- (b) has by his willful act been the cause of any default thereof by the bank, he is guilty of an offence and liable on conviction, in respect of paragraph (a) of this subsection, to a fine of ₦10,000 and in respect of paragraph (b) of this section, to a fine of ₦50,000.

Committee's Recommendation:

- (i) *Leave out* the figures "₦10,000" and "₦50,000" and insert the figures "₦100,000" and "₦500,000" respectively instead thereof
- (ii) *Insert* a new subclause 24(6) as follows:
"Any Bank in breach of any of the provisions of subsection (1) to (4) of this section shall be guilty of an offence and liable on conviction to a fine of not less than ₦500,000"
(Senator Sunday Zik Ambuno) — Agreed to.

Question that Clause 24 as amended stand part of the Bill put and agreed to.

- Clause 25:**
- (1) Every bank shall submit to the Bank not later than 28 days after the last day of each month or such other interval as the bank may specify, a statement showing:-
 - (a) the assets and liabilities of the bank; and
 - (b) an analysis of advances and other assets, at its head office and

branches in and outside Nigeria in such form as the bank may specify, from time to time.

- (2) Every bank shall submit such other information, documents, statistics or returns as the bank may deem necessary for the proper understanding of the statements supplied under subsection (1) of this section.
- (3) Any bank which fails to comply with any of the requirements of subsection (1) or (2) of this section is, in respect of each such failure, guilty of an offence and liable to a fine not exceeding ₦25,000 for each day during which the offence continues.

Committee's Recommendation:

Leave out the figure "₦25,000" and insert the figure "₦250,000" (Senator Sunday Zik Ambuno) — Agreed to.

Question that Clause 25 as amended stand part of the Bill put and agreed to.

- Clause 26:**
- (1) The statements and information submitted by each bank under section 25 of this Decree shall be regarded as confidential;

Provided that the Bank shall furnish any such statement or information to any agency of Government as required by law.

- (2) Notwithstanding any thing in this section, the bank may prepare and publish consolidated statements aggregating the statements furnished under section 2 of this Decree for each category of banks.

Committee's Recommendation

That the provision in Clause 26 be retained (Senator Sunday Zik Ambuno) — Agreed to.

Question that Clause 26 stand part of the Bill put and agreed to.

- Clause 27:**
- (1) Subject to the prior approval in writing of the Bank, a bank shall not later than 4 months after the end of its financial year:-

Committee's Recommendation:

Leave out all the words in subclause 27(1) and insert the following:

"A Bank shall, not later than 4 months after the end of its financial year, forward to the Bank for approval its financial statement, which shall be prepared in accordance with the relevant accounting standards for banks" (Senator Sunday Zik Ambuno) — Agreed to.

- (a) cause to be published in a daily newspaper printed in and circulating in Nigeria and approved by the Bank;
- (b) exhibit in a conspicuous position in each of its offices and branches in Nigeria; and
- (c) forward to the Bank, copies of the bank's balance sheet and profit and loss account duly signed and containing the full and correct names of the directors of the bank.

Committee's Recommendation:

Leave out all the words in subclauses (a), (b) and (c) (Senator Sunday Zik Ambuno) — Agreed to.

- (2) Every published account of a bank, under subsection (1) of this section, shall disclose in detail penalties paid as a result of contravention of the provisions

of this Decree and provisions of any policy guidelines in forces during the financial year in question and the auditor's report shall reflect such contravention.

Committee's Recommendation:

Leave out all the words in subclause 2, and insert the following:

"Every bank shall thereafter but not later than 1 month after approval by the Bank:

- (a) Cause to be published in a daily newspaper printed and circulating in Nigeria;
 - (b) Exhibit in a conspicuous position in each of its office and branches;
 - (c) Forward to the Bank, copies of the bank's balance sheet and profit and loss account duly signed and containing the full and correct names of the directors of the bank" (*Senator Sunday Zik Ambuno*) — *Agreed to.*
- (3) The balance sheet and profit and loss account of a bank shall bear on their face the report of an approved auditor and shall contain statements on such matters as may be specified by the Bank, from time to time.
- (4) For the purpose of subsection (3) of this section, an "approved auditor" shall be an auditor approved for the purpose of section 29 of this Decree.
- (5) Any bank which fails to comply with any of the requirements of this section is in respect of each such failure guilty of an offence and liable on conviction to a fine of ₦10,000 each day during which the offence continues.

Committee's Recommendation

Leave out the figure "₦10,000" and *insert* the figure "₦100,000" (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 27 as amended stand part of the Bill put and agreed to.

Clause 28:

- (1) Every balance sheet and every profit and loss account of a bank shall give a true and fair view of the state of affairs of the bank as at the end of the reporting period.

- (2) Every balance sheet and every profit and loss account of a bank forwarded to the Bank in accordance with the provisions of subsection (1) of this section and section 27 (1) (c) of this Decree shall comply with the requirements of any circular which has been issued by the Bank thereon.
- (3) Any person being a director or any bank who fails to take all reasonable steps to secure compliance with any of the provisions of this section in respect of any accounts is guilty of an offence and liable to pay to the Bank a fine of ₦1,000 or to imprisonment for 5 years or to both such fine and imprisonment.

Committee's Recommendation

Leave out all the words immediately after the word "section" in line 2 and *insert* the words "or section 27 of this Act is guilty of an offence and liable on conviction to a fine not less than ₦1,000,000 and in addition, the Governor may suspend or remove from the office any such director" (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 28 as amended stand part of the Bill put and agreed to.

Clause 29:

- (1) Every bank shall appoint annually a person approved by the Bank, in this section referred to as "the approved auditor," whose duties shall be to make

to the shareholders a report profit and loss account of the bank and every such other information as may be prescribed, from time to time, by the Bank.

- (2) For the purpose of this section, the approved auditor shall be an auditor whose duties shall be an auditor who is:-
- (a) a member of one of the professional bodies recognized in Nigeria;
 - (b) approved by the Bank;
 - (c) resident in Nigeria; and
 - (d) carrying on in Nigeria professional practice as accountant and auditor.
- (3) Any person:-
- (a) having any interest in a bank otherwise than as a depositor; or
 - (b) who is a director, officer or agent of a bank; or
 - (c) which is a firm in which a director or a bank has any interest as partner or director; or
 - (d) who is indebted to a bank, shall not eligible for appointment as the approved auditor for that bank. (3) and a person appointed as such auditor who subsequently:-
 - (i) acquires such interest; or
 - (ii) becomes a director, officer or agent of that bank; or
 - (iii) becomes indebted in a partner in a firm in which a director of a bank is interested as partner or director, shall cease to be such auditor.

Committee's Recommendation

Leave out all the words in subclause 3 and *insert* the following:

- “(3) Any person:-
- (a) having any interest in a bank otherwise than as a depositor; or who subsequently acquires such interest; or

- (b) who is a director, officer or agent of a bank or who subsequently becomes a director, officer or agent of that bank; or
- (c) which is a firm in which a director of a bank has any interest as partner or director or which subsequently becomes indebted to a partner in a firm in which a director of a bank is interested as partner or director- shall not be eligible for appointment as the approved auditor for that bank.
- (d) who is indebted to a bank, shall not eligible for appointment as the approved auditor for that bank, and a person appointed as such auditor who subsequently:-
 - (i) acquires such interest; or
 - (ii) becomes a director, officer or agent of that bank; or

(iii) becomes indebted to a partner in a firm in which a director of a bank is interested as partner or director, shall cease to be such auditor” (*Senator Sunday Zik Ambuno*) — *Agreed to.*

- (4) If any bank:-
- (a) fails to appoint an approved auditor under subsection (1) of this section; or
 - (b) at any time, fails to fill a vacancy for such person, the Bank shall appoint a suitable person for that purpose and shall fix the remuneration to be paid by the bank to such auditor.
- (5) Every auditor of a bank shall have a right of access at all times to the books, accounts and vouchers of the banks, and shall be entitled to require from directors, managers and officers at the annual general meeting of the shareholders of the bank and two copies of each report together with the auditor's analysis of bad and doubtful advances in a form specified, from time to time, by the bank shall be sent to the Bank.
- (6) The report of the approved auditor shall be read together with the report of the board of directors at the annual general meeting of the shareholders of the bank and two copies of each report together with the auditor's analysis of bad and doubtful advances in a form specified, from time to time, by the bank shall be sent to the Bank.
- (7) If an auditor appointed under this section, in the course of his duties as an auditor of a bank, is satisfied that:-
- (a) there has been a contravention of this Act, or that an offence under any other law has been committed by the bank or any other person; or
 - (b) losses have been incurred by the bank which substantially reduce its capital funds; or
 - (c) any irregularity which jeopardizes the interest of depositors or creditors of the bank, or any other irregularity occurred; or
 - (d) he is unable to confirm that the claims of depositors or creditors are covered by the assets of the bank, he shall immediately report the matter to the Bank.
- (8) The approved auditor shall forward to the Bank two copies of the domestic reports on the bank's activities not later than 3 months after the end of the bank's financial year.

- (9) Any approved auditor under this section who acts in contravention of or fails deliberately or negligently to comply with any of the provisions of this section of this Act is guilty of an offence and liable on conviction to a fine not exceeding ₦500,000 and where the approved auditor is a firm, the individual partner or partners shall in addition be liable on conviction to imprisonment for a term not exceeding 5 years and to the fine required to be paid by the firm under this subsection.
- (10) The appointment of an approved auditor shall not be determined without prior approval of the Bank (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 29 as amended stand part of the Bill put and agreed to.

SUPERVISION

Clause 30

- (1) There shall be an officer of the Bank who shall be appointed by the Governor to be known as the Director of Banking Supervision or by such other title as the Governor may specify.
- (2) The Director of Banking Supervision shall have power to carry out supervisory duties in respect of banks, other financial institutions and specialised banks and for that purpose shall:-
 - (a) under conditions of confidentiality, examine periodically the books and affairs of each bank;
 - (b) have a right of access at all times to the books, accounts and vouchers of Banks;
 - (c) have power to require from directors, managers and officers of banks such information and explanation as he deems necessary for the performance of his duties under this section.
- (3) The Governor shall appoint to assist the Director of Banking Supervision such other officers of the bank as the Governor may, from time to time, decide.
- (4) The officers may be designated examiners or have such other titles as the Governor may specify.
- (5) For the purpose of this section, references to examiners are references to the Director of Banking Supervision and any officer of the Bank appointed pursuant to subsection (3) of this section.
- (6) In examining the affairs of any bank under this Decree, it shall be the duty of an examiner at all times to avoid unreasonable hindrance to the daily business of the bank.
- (7) Every bank shall produce to the examiners at such times as the examiners may specify, all books, accounts, documents and information which they may require.
- (8) If any book, document or information is not produced in accordance with the requirement of an examine under this section or what is produced or furnish to an examiner is false in any material particular, the bank is guilty of an offence and liable on conviction to a fine of ₦100,000 and in addition, to a fine of ₦10,000 for each day during which the offence continues.

Committee's Recommendation

Leave out the figures "₦100,000" and "₦10,000" and insert the figure "₦1,000,000" and "₦100,000" respectively instead thereof (Senator Sunday Zik Ambuno) — Agreed to.

Question that Clause 30 as amended stand part of the Bill put and agreed to.

Clause 31:

- (1) The Governor shall, in the case of routine examination, forward a copy of the report arising from the examination together with the recommendations of the Bank, to the bank concerned with instruction that it be placed before the meeting of the board of directors of the bank specially convened for the purpose of considering the report and the recommendations thereon.
- (2) The bank shall within 2 weeks convey to the Governor the board of directors reactions to the report and its proposals for implementing the recommendations of the Bank.
- (3) Any bank which fails to comply with the provisions of subsection (1) or (2) of this section is guilty of an offence and liable to the Bank for a fine not

exceeding ₦25,000 for each day during which the offence continues and if the offence continues for more than 60 days, the bank may in addition to the fine withdraw any privilege or facility granted to that bank by the bank.

Committee's Recommendation

- (i) Leave out the figure "₦25,000" and insert the figure "₦500,000"
- (ii) Leave out the words "60 days" and insert the word "30 day" (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 31 stand part of the Bill put and agreed to.

- Clause 32:**
- (1) The Governor shall have power to order a special examination of investigation of the books and affairs of a bank where he is satisfied that:-
 - (a) it is in the public interest so to do; or
 - (b) the bank has been carrying on its business in a manner detrimental to the interest of its depositors and creditors; or
 - (c) the bank has "insufficient" assets to cover its liabilities to the public; or
 - (d) the bank has been contravening the provisions of this Act; or
 - (e) an application is made therefore by:-
 - (i) a director or shareholder of the bank; or
 - (ii) a depositor or creditor of the bank;

Provided that in the case of paragraph (e) of this subsection, the Governor may not order a special examination or investigation of the books and affairs of a bank if he is satisfied that it is not necessary to do so.
 - (2) For the purpose of subsection (1) of this section, the Governor shall have power to appoint one or more qualified persons other than the officers of the Bank to conduct special examination or investigation, under conditions of confidentiality of the books and affairs of the Bank.
 - (3) Nothing in this section or any other section of this Act shall be construed as precluding the Governor from appointing one or more officers of the bank as examiner apart from those mentioned in section 30 of this Act and directing or requiring all or any of the officer to exercise all or any of the powers of the director of Banking Supervision under this Act.
 - (4) The Governor shall have power to order that all expenses of or incidental to an examination or investigation be paid by the Bank examined or investigated.

- (5) Notwithstanding the power of the bank specified in this Decree, as amended, the bank shall have power, from time to time, to examine the books and affairs of:-
 - (a) the Nigerian Industrial Development Bank;
 - (b) the Nigeria Agricultural and Cooperative bank;
 - (c) the Nigerian Export Import Bank;
 - (d) the Nigerian bank for Commerce and Industry;
 - (e) the Urban Development Bank;

- (f) the Federal Mortgage Bank of Nigeria and all primary mortgage institutions;
- (g) Community Banks;
- (h) Peoples Bank of Nigeria;
- (i) bureaux de change;
- (j) discount houses and such other financial institutions and specialized banks as may be specified from time to time by the Bank.

Committee's Recommendation

Leave out subclauses 5(a) to (j) and insert the following:

- (a) the Nigerian Agricultural Cooperative and Rural Development Bank;
- (b) the Nigerian Export Import Bank;
- (c) the Nigerian Bank for Commerce and Industry;
- (d) the Nigerian Industrial Development Bank;
- (e) the Federal Mortgage Bank of Nigerian and all Primary Mortgage Institutions;
- (f) Community Banks;
- (g) People's Bank of Nigeria, and such other specialized Banks as may from time to time be established" (*Senator Sunday Zik Ambuno*) — *Agreed to.*

- (6) The periodic reports and findings of the Bank in relation to the other financial institutions and specialized banks together with the recommendations of the Bank shall in specific cases be forwarded to the appropriate Minister for necessary action.

Committee's Recommendation

Leave out all the words in subclause (6) and insert the following:

"The Bank shall furnish periodic reports and findings in relation to the other specialised Banks together with the recommendations of the Bank in specific cases to the appropriate Minister for appropriate action" (*Senator Sunday Zik Ambuno*) — *Agreed to.*

- (7) For the purposes of implementation of this section of this Decree, the other financial institutions and specialized banks shall be treated in the same manner as other banks with respect to the requirements of section 24 of the Decree.

Committee's Recommendation

Leave out all the words in subclause (7) and insert the following:

"For the purposes of implementation of this section of this Act, the specialized Banks shall be treated in the same manner as other Banks with respect to the requirements of section 24 of this Act" (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 32 as amended stand part of the Bill put and agreed to.

Clause 33:

- (1) Where a bank informs the Bank that :-
 - (a) it is likely to become unable to meet its obligations under this Decree:
 - or

- (b) it is about to suspend payment to any extent; or
 - (c) it is insolvent; or
 - (d) where, after an examination under section 32 of this Decree or otherwise howsoever, the Bank is satisfied that the bank is in a grave situation as regards the matter referred to in section 32 (1) of this Decree, the Governor may by order in writing exercise any one or more of the powers specified in subsection (2) of this section.
- (2) The Governor may by order in writing under subsection (1) of this section:-
- (a) prohibit the bank from extending any further credit facility for such period as may be set out in the order, and make the prohibition subject to such exceptions, and impose such conditions in relation to the exceptions as may be set out in the order and from time to time, by further order similarly made, extend the aforesaid period;
 - (b) require the bank to take any steps or any action or to do or nor to do any act or thing whatsoever, in relation to the bank or its business or its directors or officers which the Bank may consider necessary and which is set out in the order, within such time as may be stipulated therein;
 - (c) remove for reasons to be recorded in writing with effect from such date as may be set out in the order, any manager or officer of the bank, notwithstanding anything in any written law or any limitations contained in the memorandum and articles of association of the bank;
 - (d) in respect of a bank, notwithstanding anything in any written law or any limitations contained in the memorandum and articles of association of the bank and in particular, notwithstanding any limitation therein as to the minimum or maximum number of directors, for reasons to be recorded in writing:-
 - (i) remove from office, with effect from such date as may be set out in the order, any director of the bank; or directors of the bank, and provide in the order for the person or persons so appointed to be paid by the bank such remuneration as may be set out in the order;
 - (ii) appoint any person or persons as a director or directors of the bank, and provide in order for the person or persons so appointed to be paid by the bank such remuneration as may be set out in the order;
 - (e) appoint any person to advise the bank in relation to the proper conduct of its business, and provide in the order for the person so appointed to be paid by the bank such remuneration as may be set out in the order.

Committee's Recommendation

That the provision in Clause 33 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 33 stand part of the Bill put and agreed to.

Clause 34:

- (1) If after taking such of the steps stipulated in section 33 of this Decree or such other measures as in the opinion of the Bank may be appropriate in the circumstance, the state of affairs of the bank concerned does not improve, the Bank may turn over the control and management of such bank to the Nigeria

Deposit Insurance Corporation (hereinafter in this Decree referred to as "the Corporation:") on such terms and conditions as the Bank may stipulate from time to time.

- (2) Where the Corporation has assumed control over a bank as provided under section 34 of this Decree and such bank is significantly under-capitalised to the extent that its risk weighted assets ratio is below 5 per cent but above 2 per cent, the Corporation may:-
- (a) require the bank to submit a recapitalisation plan acceptable to the Corporation within a stipulated period; or
 - (b) prohibit the bank from extending any further credit and incurring any additional capital expenditure without the approval of the Corporation; or
 - (c) notwithstanding the provisions of section 7 of this Decree, require the bank to take such steps or to do or not to do any act or thing whatsoever in relation to the business of the bank or its directors or officers, which the Corporation may consider necessary within such time as the Corporation may stipulate; or
 - (d) with the approval of the Bank remove, for reasons to be recorded in writing and with effect from any date as may be specified, any director, manager, officer or employee of the bank; or
 - (e) appoint with the approval of the Bank any person or persons as a director or directors of the bank and cause their remuneration to be provided by the bank.

Committee's Recommendation

That the provision in Clause 34 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 34 stand part of the Bill put and agreed to.

- Clause 35:**
- (1) Where the Corporation has assumed control of the business of the Bank pursuant to section 34 of this Act, the Corporation shall remain in control of and continue to carry on the business of the Bank in the name and on behalf of the bank until a time in the opinion of the Bank, it is no longer necessary for Corporation to remain in control of the business of the Bank.
 - (2) Accordingly, the cost and expenses of the Corporation or remuneration of an appointed person of the bank shall be a first charge on the assets of the Bank.

Committee's Recommendation

That the provision in Clause 35 be retained (*Senator Sunday Zik Ambuno*) — *Agreed to.*

Question that Clause 35 stand part of the Bill put and agreed to.

- Clause 36:**
- (1) In the event that the bank over which the Corporation has assumed control cannot be rehabilitated, the Corporation may recommend to the Bank other resolution measures which may include the revocation of the bank's licence.

Committee's Recommendation

Leave out all the words in Clause 36 and *insert* the following:

"Notwithstanding anything contained in any law or Memorandum and Articles of Association of a bank, where the Corporation has pursuant to Section 34 of

this Act, assumed the supervision and control of a bank whose paid up capital is lost or un-represented by available assets, the Corporation may:-

- (a) With the approval of the Bank apply to the Federal High Court for an order for the corporation to purchase or acquire the bank for a nominal fee for the purpose of restructuring and subsequent sale.
- (b) Recommend other resolution measures including the revocation of the bank's licence" (*Senator Sunday Zik Ambuno*) — *Agreed to*.

Question that Clause 36 as amended stand part of the Bill put and agreed to.

Further consideration deferred till the next legislative day.

Chairman to report progress.

(SENATE IN PLENARY)

The Senate President reported that the Senate in the Committee of the Whole considered the Report of the Committee on Banking, Insurance and Financial Institutions on the Bill for an Act to amend the Banks and Other Financial Institutions Act and for other matter connected purposes and approved as follows:

Clause 1	—	As Recommended
Clause 2	—	With slight Amendment
Clause 3	—	As Recommended
Clause 4	—	As Recommended
Clause 5	—	As Recommended
Clause 6	—	As Recommended
Clause 7	—	With slight Amendment
Clause 8	—	As Recommended
Clause 9	—	As Recommended
Clause 10	—	As Recommended
Clause 11	—	As Recommended
Clause 12	—	As Recommended
Clause 13	—	As Recommended
Clause 14	—	As Recommended
Clause 15	—	As Recommended
Clause 16	—	As Recommended
Clause 17	—	As Recommended
Clause 18	—	As Recommended
Clause 19	—	As Recommended
Clause 20	—	As Recommended
Clause 21	—	As Recommended
Clause 22	—	As Recommended
Clause 23	—	As Recommended
Clause 24	—	As Recommended
Clause 25	—	As Recommended

Clause 26	—	As Recommended
Clause 27	—	As Recommended
Clause 28	—	As Recommended
Clause 29	—	As Recommended

Clause 30	—	As Recommended
Clause 31	—	As Recommended
Clause 32	—	As Recommended
Clause 33	—	As Recommended
Clause 34	—	As Recommended
Clause 35	—	As Recommended
Clause 36	—	As Recommended

Motion made and Question Proposed: That the Senate do approve the Report of the Committee of the Whole (Clauses 1 — 36) on the Banks and Other Financial Institutions Act (Amendment) Bill 2005 (*Senate Majority Leader*).

Question put and agreed to.

11. Adjournment:

Motion made and Question Proposed: That the Senate do adjourn till Thursday, 3rd February, 2005 at 10.00 a.m. (*Senate Majority Leader*).

Adjourned accordingly at 1.05 p.m.

Adolf Wabara
President of the Senate