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FEDERAL REPUBLIC OF NIGERIA

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SECOND SESSION

THE SENATE OFFICIAL REPORT

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**SENATE OF THE FEDERAL
REPUBLIC OF NIGERIA**

Wednesday, 11th February, 2009

The Senate met at 10:20 a.m.

PRAYER

(The President in the Chair)

VOTES AND PROCEEDINGS

The President: Distinguished Senators, the Senate is called to order. Let us consider the Votes and Proceedings of Tuesday, 10th February, 2009. Pages: 463, 464?

Senator Bukar Abba Ibrahim (Yobe East): Mr. President, there is an error at the beginning of page 464. My Senatorial District was written as *Yobe Senatorial District*. It should read: *Yobe East Senatorial District*. There is nothing like Yobe Senatorial District

The President: This was reproduced from your own letter headed pad. The mistake is from you.

Senator Bukar A. Ibrahim: That is for the record.

The President: I will advise that you correct your own letter headed pad. However, Secretariat, please take note. Page 465?

Senator Dahiru A. Kuta (Niger East): Mr. President, I want to urge Senator Heineken Lokpobiri to look at his letter again and effect correction as follows: In the second line of his letter, the word *be* should be inserted between the words *will* and *an*. It will now read thus:

I write to inform you and all distinguished Senators of the Senate of the Federal Republic of Nigeria that there will be an Arik Airline.

The President: Distinguished Senator Heineken Lokpobiri, there is need to correct that error. It seems to me that small letter *I* rather than capital letter *L* was used for the surname *Lokpobiri*.

We are now on Pages: 466, 467, 468.

Senator Caleb Zagi (Kaduna South): Mr. President, I rise to move that the Votes and Proceedings of Tuesday, 10th February, 2009 be approved as amended.

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Senator Peto Dukku (Gombe North): Mr. President, I rise to second the Motion moved by distinguished Senator Caleb Zagi that the Votes and Proceedings of Tuesday, 10th February, 2009 be approved as amended.

Question put and agreed to.

Resolved: That the Votes and Proceedings of Tuesday, 10th February 2009 be approved as amended.

ANNOUNCEMENTS

**Visit of Staff and Students of Excel Universal
College, Kakuri, Kaduna**

The President: I wish to acknowledge the presence of staff and students of Excel Universal College, Kakuri, Kaduna who are in the Gallery to observe the Senate proceedings. I wish them fruitful observation of the Senate proceedings.

(The Staff and Students of Excel Universal College stood up for recognition)

Sit down. Thank you.

**Invitation of all Senators to the Formal Presentation
of Memorandum of Request for the Creation of
Katagun State**

The President: The Northern Senators' Forum is inviting all distinguished Senators to the formal presentation of Memorandum of Request for the creation of Katagun State to the National Assembly scheduled for today, Wednesday, 11th February, 2009 at 2.00 p.m. at Hearing Room 1.

The Delegation for the Movement for the creation of Katagun State led by eminent Bauchi elders will also meet Members of the Northern Senators' Forum immediately after the presentation. Members are kindly requested to attend, please.

(Signed)

Senator Abdulkadir Mohammed,
Secretary, Northern Senators' Forum

Senator Adeleke Olorunnimbe Mamora (Lagos East): Point of Order, Mr. President!

The President: What is the Point of Order, Senator Olorunnimbe Mamora?

Senator Adeleke O. Mamora: Mr. President, my Point of Order is Order 43 of our Standing Orders, 2007

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as amended dealing with Personal Explanation. With your kind indulgence, it reads:

Personal Explanation: By the indulgence of the Senate and the leave of the President of the Senate, a Senator may make a Personal Explanation although there be no question before the Senate but no controversial matter may be brought forward nor may debate arise upon the explanation. The terms of the proposed statement shall be submitted in detail to the President of the Senate when his leave to make it is sought.

All I am saying is that it appears to me that many of our Colleagues are not aware of the existence of this Code of Ethics. I want to remind this Senate that this was adopted and I know that the Chief Whip several times made reference to Rule 2 which is before you which says that *a Senator shall not approach the Chair except when invited by the Presiding Officer*. There had been instances where our Colleagues even in the course of deliberation would approach your good self and that could cause some kind of distraction.

If you look at the enforcement under Rule 6, it says and I quote: *The Senate Committee on Ethics, Code of Conduct and Public Petitions shall circulate to all Senators and make available to the public copies of the Senate Code of Ethics biannually.*

I am not sure if all our Colleagues have this copy. I was privileged that it was under my Chairmanship of the Code of Ethics Committee that this was produced. I will just request, with your kind permission, that the Chairman should, please, make this available to all our Colleagues.

The President: Distinguished Senator Mamora, all your Points of Order are very well sustained.

PRESENTATION OF REPORT

Report of the Committee on Federal Character and Inter-Governmental Affairs on the Screenings of Nominees

Senator Teslim Kolawole Folarin (Oyo Central): Mr. President, the first business of the day is the presentation of the Report of the Committee on Federal Character and Inter-Governmental Affairs on the Screening of Professor Ahmed Dembo Danfulani as the Director General of the National Institute for Policy and Strategic Studies in accordance with Section 5(2) of the National Institute for Policy and Strategic Studies Act, 2004.

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You may wish to invite Senator Smart Adeyemi to move the Motion for the Senate to receive the Report.

Senator Smart Adeyemi (Kogi West): Mr. President, I rise to move that the Senate do receive the Report of the Committee on Federal Character and Inter-Governmental Affairs on the Screening of Professor Ahmed Dembo Danfulani as Director-General of the National Institute for Policy and Strategic Studies, Kuru, Jos.

Senator Adeleke O Mamora: Mr. President, I rise to second the Motion moved by my Chairman, distinguished Senator Smart Adeyemi that he be allowed to lay the Report of the Committee.

The President: The Motion you are seconding is the one by the Leader of the Senate. Senator Smart Adeyemi was inadvertently called but I will put the Question anyway.

Question put and agreed to.

Resolved: That the Senate do receive the Report of the Committee on Federal Character and Inter-Governmental Affairs on the Screening of Professor Ahmed Dembo Danfulani as the Director-General of the National Institute for Policy and Strategic Studies (NIPSS).

(Report accordingly laid)

ORDERS OF THE DAY

CONSIDERATION OF REPORT

Report of the Committee on Aviation on the Investigative Public Hearing into the Disbursement and Utilisation of the N19.5 billion Intervention Fund

(Second Allotted Day: Adjourned Debate 10th February, 2009)

Senator Teslim Kolawole Folarin: Mr. President, the first Order of the day is the resumption of adjourned debate on the Report of the Committee on Aviation on the investigation into the Disbursement and Utilisation of the N19.5 billion Intervention Fund. You will recall that this Senate deferred further consideration of the Report to the next legislative date which is today Wednesday, 11th February, 2009.

I now move that the Senate resumes consideration of this Report.

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Senator Olorunnimbe Mamora: Mr. Senate President, I rise to second the Motion that the Senate do resume consideration of the Report of the Aviation Committee.

Question put and agreed to.

Resolved: That the Senate do resume consideration of the Report of the Committee on Aviation on the Investigation into the Disbursement and Utilisation of the N19.5 billion Intervention Fund released by the Federal Government in 2006 for the Rehabilitation and Development of Infrastructure in the Aviation Industry.

Senator Teslim Kolawole Folarin: Mr. President, we have finished with the presentation yesterday and what remains now is the debate.

The President: Since he was the main person that did the presentation, I just wanted to find out from him if he has anything else to add and then I would take comments from distinguished Senators and we would go to the recommendations. Senator Anyinchukwu Ude.

Senator Anyinchukwu Ude (Ebonyi South): Mr. President, I only want to say that yesterday I did not present the recommendation aspect of the Report. It is either that you allow me present that aspect or that you take it up from there.

The President: What we would do would be to take comments; after that we would go to the recommendations and I would read them. That is the way we would play it and this is just for people who may want to make general comments on the Report as it is. May I also remind us that I circulated the letter from the distinguished Senator Victor Ndoma-Egba and I hope you all have copies

Senator Kabiru Gaya (Kano South): Mr. President, we have received the letter from Senator Victor Ndoma-Egba that we should limit our discussions on issues that are not in court, especially on the issue of N6.5 billion Safe Tower project. I will cut off my comments on those aspects and, maybe, dwell on other issues because the issues are in court. One of the issues that may not be in court is the issue of the N11 billion contract of various projects that have been awarded.

First of all, I want to commend the Chairman of the Committee and his Members for a job well done. It was thorough and they did receive 58 memoranda from various organisations. So, I sincerely commend that Committee for a thorough job done.

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On the issue of contractors, unfortunately, the issue of corruption is highly highlighted in this aspect of the Report, where contracts worth over N10 billion were awarded where as the companies do not have share capital of N21 million. Forged Due Process Certificates were given and FAAN went ahead and produced certificate and pay without Bureau for Public Enterprises Procurement Act Report.

I was surprised also that there was another contract for the extension of runway in Lagos Airport. The initial contract sum of that contract was N1.02 billion but it was awarded at the cost of N2.06 billion even though the bill was reading N1.02 billion. This is really corruption. It is not only the Ministers that could be involved, the authorities of FAAN should be investigated.

Another surprising thing is that they have an in-house Consultant Architects but it is unfortunate that for only the design of fencing of Lagos and Kano Airport buildings, they paid N506 million to Consultants for ordinary block work of 3 metres fencing. They have in-house Architects who could have been used to do the work. Also for the design of workway pavements, they paid N100 million, which could have been done by the in-house Architects. This is an issue of corruption that really needs to be looked into seriously.

I am also surprised that they also talked about the issue of Federal Character on appointment in FAAN. They have 94 Assistant General Managers; 30 Deputy General Managers and 26 General Managers. This is an unnecessary number of staff. One of the General Managers has only two presiding officers. A General Manager and two supporting staff and these were all appointed by the last Minister. I do not want to mention names but it is there on record.

When we talk of the issue of federal character in this country, we have to look at the position of number of staff in this organisation from various states. It will be surprised to note that out of 8,000 workers, we have only 600 from the South-East, 700 from the South-South; 600 from the North-West; 300 from the North-East and 900 from the North-Central while the South-West has 4,300. Lagos State that is the base of the Airport has only 97 staff while the remaining 4,300 are from the remaining states of the South-West. This is really an imbalance and the issue of federal character should seriously be looked into. Paying that high number of staff 60 per cent is from only one state is a waste of resources by the government.

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I will suggest that all these issues should be looked into. I do not want to discuss the issue of the N19.5 billion contract. I will skip that.

Senator Uche Chukwumerije (Abia North): Mr. President, I want to join the first speaker in commending the comprehensive scope of this Report. What really struck me about this Report is not so much on corruption and the money taken because I have come to see that as part of Nigerian character. What struck me and which I want the Senate to take interest on is the insight it gave to us into the principles of correct management of corporations, and this took about 80 per cent of the Report.

First, is the misuse of public funds. The atmosphere created by the entire Report is one of a culture of impunity and absolute disrespect for the rule of law. This is what worries me most. One, if you take the issue of misuse of public funds and due process, you would find a huge contract given to Safe Tower Project, N6.5 million and the due process was not followed. In addition to that, in a country like Nigeria, as many as 18 companies submitted forged due process certificates. That is a culture of impunity.

You go to the issue of personnel you find that under the cloak of severance, so many ghost workers were involved thereby causing the tax payers over N7 million and nobody investigated that. There is a contradiction in what they did which they called right sizing. You dismissed ten persons with the left hand and with the right hand; you employed twenty other persons to take their place. The principle of federal character was completely ignored.

When you come to the legal part of the corporation itself, they just went to sleep. Little things in the contract that should have been tidied up were not done. The result is that in all the contracts, there is a loophole about indefinite delays; they took their time to do what they wanted. What the law said about low shared capital and the maximum value it could attract, were totally ignored and disrespected.

The Committee's recommendation taught me the need for effective autonomy. First, it took the recommendation of the Committee to get back to BASA what belongs to them, over \$31 million left in the Presidency and being used for other things. In addition, there is ample evidence of ministerial interference. These are the bane of all corporations in Nigeria. Every corporation is reduced to a little kitchen cabinet of a minister.

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In all these, there is a positive side to the Report because we are lawmakers. The Report highlighted areas that deserve encouragement for good corporate behaviour. It listed about twelve companies that got their contracts, fulfilled the terms of their contracts and were fully paid. I am sure this is a good example of good corporate behaviour.

The Report also highlighted the refund of N69 million by people who were wrongly paid this amount when they discovered it.

Lastly, the Committee referred to something this Senate should take note of; and this is a company called Almond that was invited but they treated the Senate Committee with absolute contempt. They refused to come in the first instance, but later sent one junior staff. The man was warned and told to go and tell the Managing Director to come before the Committee. The Managing Director never came and the Committee completed its assignment. The Senate must take a serious view at this kind of behaviour because it reflects on the corporate dignity of this Institution.

In conclusion, I once again, commend the Committee for drawing our attention once again, to the necessity of compliance to the rule of law in many of our corporations.

Senator Ibrahim Ida (Katsina Central): Mr. President, I join those who spoke before me in really commending the Committee on Aviation, its Chairman and Members for a job well done.

Going through the Report, one cannot help but really predicate all the wrong doings that have been highlighted to two or three factors. The first one has been touched by the Senator who spoke before me. There is an over-bearing nature in the relationship between government agencies and ministries to which they relate. These ministries are often wrongly referred to as supervising ministries but honestly speaking, as far as the issues are concerned, they should only be ministries with which such agencies should relate. There is such an overbearing relationship so much so that the ministers regard such agencies as simply extensions of their ministries.

Secondly, as a consequence of that rather than appointing competent and capable people to manage these agencies, they compromise. The ministries end up appointing only those who would do their bidding.

The third issue is that even though such agencies have enabling laws and Acts that established and give

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them powers to run themselves; such laws are put aside and they are subjected to ministerial procedures.

There is a difference between the way in which treasury funds are managed and the manner in which commercial enterprises finances are also managed. Unfortunately, the high breed that emerges from the overbearing nature of the relationship between ministries and agencies confuses the issue.

The way out of this is to have a clear delineation of responsibilities and a proper allowance to all government agencies that have Boards and enabling laws to operate within the purview of the laws and powers of their Boards.

There should be a very clear financial autonomy such that agencies that are capital-intensive should be allowed the leverage to operate within the scope of their size and needs. The present situation whereby the government simply sets a limit across the board is wrong because what it does is that it really perpetrates or encourages fraudulent practices; which often leads to breaking of contracts into smaller parts.

I believe if there is a clear delineation of responsibilities and a very liberal but well controlled facility to government agencies to operate within the purview of their laws, the likes of the problems highlighted in this Report would be substantially minimised if not completely eliminated.

Senator Bode Olajumoke (Ondo North): Mr. President, I thank you very much for your intervention yesterday. If you had not intervened, I would not have had the opportunity to go deep into this Report. That brings me to the issue we have always raised here on the need for reports to be circulated a day or two before they are considered. One would have missed a lot of vital issues that were raised in this Report had we continued yesterday with it. I read it over and I want to congratulate the Chairman and Members of that Committee for a job well done. I believe when we have a situation like this we ought to learn some lessons. The first lesson is the need for us to ensure that reports are circulated on time so that Members can make meaningful input.

Using the Aviation Ministry as an example, it is evident to me from this Report that almost all over the country, there is gross violation of rule of law and it seems to me that there is no one actually in control in monitoring such violations. Perhaps, there is a need for the supervising ministry or organ that is responsible for monitoring such gross violation to be up and doing.

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There is the issue of federal character and, of course, from the statistics that I got from the Report, it is evident that a particular Minister used his position to take care of his zone. I believe if you go to all the ministries you will have a repeat of this concept. To my mind, the Federal Character Commission would appear not to be up and doing also because there is a constitutional provision that mandates them to seek and obtain from the Ministries their federal character composition on an annual basis. If that is being done on a regular basis, we would not have the kind of violation we observed.

Currently, there are complaints by zones of lopsidedness in appointment of certain people from a particular zone in federal appointments. I believe it is simply because the Federal Character Commission is not saying anything. Ideally, it should have queried either the Executive or the ministries that are violating the concept of federal character.

I believe that the Committee has done a good job. We should not allow this Report to just lie low. Let us use it as a stepping stone to put things in order. There are very viable recommendations in the Report and I commend the Committee.

Senator Dahiru A. Kuta (Niger East): Mr. President, we have gone through this Report and it has shown that the investigation has been thorough. My only problem here is that the aviation industry has had a lot of experience particularly as it affects investigations into the activities of this sector and times without number investigations have been carried out mainly as they affect mismanagement and lack of maintenance culture. We hear the same story all over again and there seems to be no progress at all.

It was as a result of lack of maintenance culture and commitment coupled with mismanagement that our only airline, the Nigeria Airways grounded to a halt. Perhaps, the Virgin Nigeria project was able to see the light of the day because it is a Joint Venture.

We would continue to appeal to the Presidency to respect our Resolutions. They have continued to say that they are not bound by the Resolutions of the National Assembly. Unless they respect our Resolutions whatever report we produced here will come to naught. This time around one of the most important things is that we must be very alive to our responsibility particularly as it affects oversight functions. Most of the things we see here are things that we would have taken care of before they came to the position they are now. Our Committees must be more alive to their responsibilities as far as our oversight functions are

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concerned and I want to appeal to the Executive to please abide by the Resolutions of the National Assembly so that we can move this country forward.

Senator Manzo G. Anthony (Taraba North): Mr. President, let me first of all join my Colleagues in supporting this Report and in particular to really commend the Chairman and the Vice-Chairman of this Committee because this is one of the most thorough Reports that we have seen in this Senate. No wonder when we went as observers to Denver with the Chairman of the Committee as part of the democratic convention, Senator Ude was always in his room. When I asked him what he was doing; he said that he was writing this Report. He has put so much passion and energy on this assignment and we can see the outcome.

The President: Did you say that he wrote the Report in Denver, United States of America?

Senator Manzo G. Anthony: He was editing the Report in his room in Denver obviously for final presentation to his Committee.

The point I am trying to make is that Senator Ude put so much heart and passion in this Report and I am sure that we would not just gloss over it. What this Report has shown is really public sector corruption at its highest. There is no doubt that it is not only the Ministry of Aviation that is the culprit; all Federal Ministries and MDAs and, indeed, all organisations in this country are affected by this method of doing business. It is very painful that the key actors in this particular Report are people that this Senate or the last Senate took so much pain; in some cases their names were submitted even three times before they scaled through the screening as Ministers.

I am not pronouncing guilt or innocence on anybody. That is left to the courts to do. While the Judiciary is the last hope of the common man, it cannot and must not be allowed to be used as a refuge for criminals. This Report shows clearly that contracts were over invoiced and it is very difficult for our development partners to see anything good in us if a project that could easily be done with N1 billion is being done with several billions.

Although, the Jury is still out; one of the mistakes, in my opinion that we really need to look at in our Rules is the fact that we cannot discuss matters that are already in courts of law. The intention of that Rule ought to be clear. As against jury system, our Judges take decisions based on evidence that is before them and they cannot and must not be swayed by whatever discussions that are taking place either in this

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distinguished hallowed Chamber or in the Newspapers or even in the beer parlours. They are men and women of integrity.

This is a very good Report. The aspects that we can take within the rules and the guidelines we set for ourselves in this Senate should be taken and we must ensure that the Executive follows through with it.

Senator Ayodele Sylvester Arise (Ekiti North): Mr. President, I will like to join my other Colleagues in saluting the Aviation Committee for a thorough job they have done.

I have few comments on some of the revelations coming up particularly the issue of registration of a company and getting a job of N10 billion with only one million share capital. I want to say that, maybe, the Lawyers here would want to correct us; I do not think that there is any law in this country that stipulates the amount of share capital that you can use to get a particular amount of contract. The only issue when share capital comes to play is when you want to borrow from the bank. In that instance; they would look at how viable your company is then decide whether or not you have sufficient assets for them to hold in the event of default. I have had a similar experience in my Committee where a company with ₦25,000 share capital actually got a job of aver \$1 million and I had to do some research on that. I need to point that out so that we do not make mistakes.

I am more curious about the fact that most of these contracts under the listed items were below N50 million, which is the Ministerial approval level. It would be very helpful if we know what these assignments were and whether it was a way to circumvent going to the Executive for approval because the total there is about ₦600 million, which I have just calculated.

Of course, on the people who are alleged to have forged documents, I hope that those who were supposed to have signed the documents appeared before the Senate to confirm that the documents were actually forged because forgery is a very grievous offence.

I want to salute the job that Elder Ude and his team has done and I think that nobody should support anything to do with corruption in this country. The magnitude of what we have read in this Report is mind boggling. We want to listen to their recommendations.

Senator Mohammed A. Mohammed (Bauchi Central): Mr. President, I will also join my Colleagues in commending the Report. It is a very good Report and

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as some other previous speakers had said, it should not just be allowed to rot; some positive actions must be taken.

The aviation industry has caused a lot of wound to Nigeria. You may recollect so many plane crashes we have had where in some young school children lost their lives. All these were as a result of people who when given responsibility to work; to bring proper equipment to make the management of our airspace well, failed us.

From reports coming to this hallowed Chamber, it shows that something is very wrong with the management of our various institutions. This hallowed Chamber should extend the mandate of the Aviation Committee to cover all the activities of the aviation industry from 1999 to date. We should not just restrict the investigation to only the Aviation Support Fund. From what we have seen now, there must have been a lot of damage done in the past. So, I suggest that when we go to the Prayers, the Committee should be given the mandate to look back from 1999 to date.

The President: You can make comments on the recommendations if you feel strongly about any one of them.

Senator Bala Mohammed (Bauchi South): Point of Order!

The President: What is your Order, Senator Bala Mohammed?

Senator Bala Mohammed: It is Order 49 dealing with Seconding Motions and Amendments. I want to read with your permission. It says: *The question on any motion or amendment shall not be proposed from the Chair in the Senate unless it shall have been seconded, but in Committee, a seconder shall not be required.*

When my Chairman moved the Motion on this Report it was not seconded and we are going to the recommendations where we will make some amendments. I request the Chair to allow any of the distinguished Senators to second the Motion ably moved by my Chairman yesterday at Plenary.

The President: You raised a Point of Order. I have not addressed the Point of Order and you have gone ahead to conclude and second. Your Point of Order is whether this Motion should be seconded or not. That is what the Point of Order is saying. I have neither said yes nor no and you have gone ahead to humbly invite yourself to second the Motion. First of all, it is not a Motion. It is a Report that we are considering. There is

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no need for you to second it. Therefore, I rule you out of order.

We now go to the Recommendation (i) which says:

The Senate should urge the EFCC and the Police to take necessary steps to recover the sum of N5 billion, being inflated cost of the Safe Tower Project from the former Minister of Aviation, Prof. Babalola Aborishade; the former Managing Director of NAMA, Capt. Roland Iyayi, and the contractor, Avsatel Nigerian Limited which executed the project, and prosecute them accordingly. The Safe Tower Project though well intentioned, was used to defraud the country.

Senator Umar Hambagda (Borno South): Mr. President, this recommendation has been overtaken by events. Therefore, I suggest that the Senate just note it and let the law takes its course.

The President: That is a correct situation. It has really been overtaken by events, and all we can do is to note it and allow the law to take its course. It is already in court.

Senator Abubakar Danso Sodangi (Nasarawa West): Mr. President, the recommendation of the Senate Committee on Aviation, as far as this item is concerned, is not harmful or prejudicial. What they have only said is that they saw so and so which is not in consonance with due process and are urging the appropriate agency of government to take action. They have not said anything more than having seen A, B and C and that it is advisable that the necessary agency should play its role. We should accept it.

The President: I am afraid that is not the interpretation here. I know you are a Learned Gentleman but that is not the interpretation.

Senator Kabiru Gaya: Mr. President, I agree with Senator Hambagda. We have been advised by our Senior Advocate in the Chamber that we should not look at issues that are before the court. We should go to the issues that are not in court; so we should just note that recommendation and allow the court to take its course.

Senator Kanti Bello (Katsina North): I sympathise with all of us here on this issue. This is because we have our Rules which we follow and we do not want to go against the Sections of the Constitution on fair hearing. I am also disturbed that there is a Section in the Constitution that is mandating us to expose corruption.

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Therefore, my Amendment on this Recommendation (i) is only to say that the Senate has noted that this contract was inflated.

Some distinguished Senators: No.

Senator Kanti Bello: Well, it is a fact and it is our job to expose corruption. Let me read the Section of the Constitution to you. Section 88(2) of the Constitution has this to say: *The Powers conferred on the National Assembly under the provisions of this section are exercisable only for the purpose of enabling it to –*

(b) *Expose corruption, inefficiency, or waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it.*

What we are discussing is the Intervention Fund appropriated by this distinguished Senate of ₦19.5 billion and by act of corruption, this contract was inflated by ₦5 billion and we are duty bound to honour the provision of this Constitution by saying that this contract has been inflated by ₦5 billion and we stop there. That is my view.

The President: The problem with Recommendation (i) is that if we just say the contract was inflated and we stop there, we have no problem but if we say the contract is inflated and so and so persons should be held responsible then there is a problem.

Senator Sola Akinyede (Ekiti South): Mr. President, we cannot expose what is already known. The EFCC is already acting on this matter. There is no need exposition at this point in time. My submission is that we should note this recommendation. This Senate, is the Senate of the Federal Republic of Nigeria and whatever we say here, cannot be ignored by any court or Judge. As a matter of practice, it is within your sole jurisdiction under our Rules to determine whether or not this matter is being resolved in court. It is not for us; it is for the Senate President. That is the truth.

The President: But allowing you opportunity to make comments is not in court. That is not against the Rules. I have listened to shades of opinion and in my candid opinion, we should just note this recommendation and that was the point raised by Senator Hambagda. I only wanted to hear more comments. I will put the Question that Senate notes the Recommendation.

Question put and agreed to.

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Recommendation (ii) says: *The EFCC should investigate the source of the fake Due Process Certificates said to have been issued by the Bureau of Public Procurement for the award of the N6.5 billion Tower Project. The EFCC should also find out why Certificate of Payment was never raised by the Bureau and no request to that effect was made by the Ministry as well as the source of other fake Due Process Certificates used by contractors who did jobs for and were paid by FAAN.*

This is a long winding recommendation, Senator Anyim Ude. I would like you to clarify that but as a matter of interest, did you call the Director General, Due Process to confirm to you that the Due Process Certificates issued were fake?

Senator Anyim Ude: Mr. President, we did.

The President: And he confirmed that they were all faked?

Senator Anyim Ude: The man who was answering our questions was not there at that point in time and so he confirmed that what he saw was what we were saying.

The President: Distinguished Senator Ude, my question was whether or not you called the Director General, Due Process to confirm that the Certificates which you said were faked were actually faked?

Senator Anyim Ude: That is exactly what I have said. We called him and he confirmed. The additional statement was that these things were done before he took over.

The man who was answering our questions was not there at that point in time. So, he confirmed what he saw which is also what we saw. He did not issue it himself; he was acting at that point in time. Nobody handed over to him. He said he was appointed to act and he saw the things that were sent to us.

Senator Patricia Naomi Akwashiki (Nasarawa North): The confusion here is by his statement; jobs were done and were paid. I do not know where there is contravention. Was it because the certificates were faked? They awarded contracts to contractors. The contractors were there; jobs were done and the jobs were paid for. So what is the problem here?

Senator Joy Ifeyinwa Emodi (Anambra North): Mr. President, the issue here is very simple. The certificates were faked and it was confirmed by the Director General of Due Process who was acting at the

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time. It is not for the contractors to know whether the certificates were faked or not. The issue is that those Certificates were faked. So, it is necessary to look for the perpetrators.

The President: That was the question I asked. I asked, did the Director General confirm that the certificates were faked?

Teslim Kolawole Folarin: Mr. President, we have to be very careful. I disagree with my sister when she said this is a very simple case. When you asked the Chairman, did the Director General confirm that the certificate was faked he said it was not the Director General that issued the certificate; that it was done before his time and then he said it was fake. We should remove the word *fake* and then say *the EFCC should investigate the source of the Due Process Certificates*. That would make more sense.

Senator Ayogu Eze (Enugu North): Mr. President, my Amendment is to the effect that I do not know why the Chairman of the Committee on Aviation after doing such a wonderful job, is insisting on a particular Security Agency of Government that should do the investigation. We should talk about the security agency because where is the guarantee that it must be the EFCC that should investigate it? We have the Police, EFCC and ICPC. So, we have to mandate the security agencies of government to investigate because this is going to be an executive action anyway. We are not going to initiate it. The Executive will decide which of their agencies is appropriate but if we are particular about EFCC, it means that we believe that it must either be EFCC or no other agency.

I support the Amendment by the Leader that rather than say EFCC, we replace EFCC with security agencies.

The President: We can sort out the security agency that will investigate it later on. It is *to investigate the source of the faked Due Process Procurement*. What I have here says: *The EFCC should investigate the source of the fake Due Process Procurement*. It is different from yours?

Some distinguished Senators: It is Due Process Certificate.

The President: It should read; *certificate* instead of *procurement*? Is that what you are saying?

Some distinguished Senators: Yes.

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The President: *Due Process Certificate said to have been issued by the Bureau of Public Procurement*. Is it the Bureau of Public Procurement that issues Due Process Certificates?

Several distinguished Senators: Yes.

The President: Not Due Certificate Office?

Several distinguished Senators: No.

Senator Lee Ledogo Maeba (Rivers South-East): Mr. President, this recommendation is very cogent and from what the Chairman and Members have said, it is cogent and verifiable.

What happened is that when FAAN finished processing it sent it to Due Process Office. The Due Process Office will then certify by issuing a certificate that the process is all right and that the price is good. But what they are saying is that the hawks that operate in the Due Process Office found a way to generate certificates that have the resemblance of what is original and put them into the system. What is here now is that the certificates that were used to make these payments were faked. So, the recommendation is very correct because it is cogent and verifiable by the source the Committee has.

The recommendation that the Committee should investigate who originated this faked certificate is very correct since it is verifiable. Therefore, it should go ahead and look for the people who generated it. So, it is a very good recommendation.

Senator Bassey Ewa-Henshaw (Cross River South): Mr. President, what I understand Senator Anyim Ude to be saying are two things; one, the certificate was faked because the Director General of Due Process came and confirmed that it was faked. However, the Director General attempted to exonerate himself by saying that the certificate was issued when he was not in the office. There are two parts to it and I suggest that we drop the second part and simply deal with whether the certificate was fake or not and it has been confirmed to be fake.

I believe that the EFCC should investigate the source of the faked Due Process Certificate said to have been issued by the Bureau of Public Procurement for the award of the ₦6.5 billion Tower Project.

Senator Ike Ekweremadu (Enugu West): Your Excellency, there are two parts to this recommendation and you expressed concern initially. Reading it down to the word *FAAN*, you will see that the first and second

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sentences are basically saying the same thing. So, what we need to do, first of all, is to stop at the first sentence which also covers the second sentence.

Secondly, the use of the word *fake* appears to me to be judgmental. If we say *fake* then it is conclusive. Then we have nothing to investigate thereafter. If we now say it is *fake*, what will follow would be prosecution, not investigation.

If we are saying that it should be investigated, we should, first of all, remove the word *fake*. For me, this will now read that: *EFCC should investigate the source of the Due Process Certificate said to have been issued by the Bureau of Public Procurement for the award of the ₦6.5 billion Tower project*. All these other things that follow will be part and parcel of that investigation, that is, the second sentence following would form part of the first one during the investigation.

I suggest that we remove the word *fake* so that the investigation would be able to determine the source of those Due Process Certificates and why they did not contact the Bureau would also be part of the investigation. So, the first sentence would cover the entire recommendation.

Senator Mahmud Kanti-Bello (Katsina North): Mr. President, I agree with the Deputy Senate President but there are two issues here. We better look at this thing carefully. In the first instance there are two things. Firstly, the Director-General that was there at that time confirmed that the Due Process Certificate was faked.

The other issue in the same paragraph 2 is that the Bureau never issued any certificate of payment at all. So, besides giving fake Due Process certificate; assuming it is really fake; there is also the lack of payment certificate from that Bureau and payment was made without that certificate. These are the two issues.

There should be two recommendations for paragraph 2; one dealing with the issue of fake Due Process Certificate and the other dealing with payment without certificate.

Senator Mohammed Adamu Bello: I totally disagree with the position of Deputy Senate President that we should remove the word; *fake*. How can you investigate something that is not fake in the first place?

Secondly, it has been confirmed by the Director General that the process itself was entirely fake even though it was done in his absence. That does not mean that it was not faked. The issue of investigation whether it is fake or not from the office that should confirm has

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already confirmed that it is fake. The responsibility of the security agency is to investigate who is responsible for that so that we can stop the problem.

Senator Omar A. Hambagda: I was a Member of the Aviation Committee in the last Senate. When Prof. Borishade was appointed Minister the first thing he did was to establish a Committee to take charge of all contracts. He removed contract matters from the normal way that these agencies operated. It was his Committee headed by his Special Adviser - (*Interruptions*)

The president: Sorry, Senator Hambagda, please let us be careful so that we draw a proper line. It is the correction on recommendations here and not the history of what has happened. There is a section here as we were properly advised, so that we do not delve into it. If you want to make correction on this, you do so and leave the history out.

Senator Akaagerger, do you want to make correction on it?

Senator Joseph Iorshagher Akaagerger (Benue North-East): Mr. President, I was thinking that most of the matters we are bothering ourselves with have already been captured. If the documents that I have here distributed by the authority of the Senate are correct, there is a paper distributed by Senator Ndoma-Egba (SAN), which attaches the charges which are before the High Court and issues of forgery are already captured there. I was thinking that, perhaps, Mr. President would direct that the Committee would go back and bring succinct recommendation because what we have here is already delving into issues that are already being handled by the High Court.

The President: We are only asking EFCC or any of these other Committees to investigate; we are not passing judgment here. If we ask them to investigate, that does not amount to passing judgment. The Recommendation says: *EFCC should investigate the source of this fake Due Process Certificate said to have been issued by the Bureau of Public Procurement for the award of ₦6.5 billion Tower Project*. We would stop there and take the other one as a subsequent recommendation.

I will put the Question on recommendation (ii) as amended.

Question put and agreed to.

Recommendation (iii) says: *The EFCC should also find out why certificate of payment was never issued by the Bureau and no request to that effect was made by*

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the Ministry as well as the source of other fake Due Process Certificates used by contractors who did jobs for and were paid by FAAN.

Truly, when a sentence is this long winding, one gets lost in the process. I have not followed this, I must confess. Can any body offer an explanation?

Senator Kabiru Ibrahim Gaya (Kano South): I will try to recast that. It goes like this: *The EFCC should also find out why payments were made without Due Process Certificates of Bureau of Public Procurement (BPP)*

The President: I will put the Question on recommendation (iii) as amended.

Question put and agreed to.

I will now put the Question on the new recommendation (iv)

Question put and negatived.

Recommendation (v) should now be (iv) because the other (iv) has been dropped. *Steps should be taken to amend the existing Act establishing all the Parastatals in the Aviation sector with a view to reducing Ministerial interference and giving greater autonomy to the Parastatals to act speedily on operational matters especially those involving air safety and security.*

Is there anything that allows the Minister to interfere the way you alleged that they have done? Nothing gives them that authority, so they were doing it illegally.

Senator Anyim C. Ude: Mr. President, that was the fact we saw on ground, whether it was illegal or not; even now that is what they are doing. Chief Executives of Parastatals are almost always summoned to Abuja because they do not have powers to do certain things or they do not want to exercise their powers or that their bosses would not allow them to exercise those powers.

The President: I am saying that there is nothing in the Act that allows Ministers to do what they are doing. There is no Act authorising them to do it.

Senator Lee M. Ledogo: Your Excellency, this recommendation is tied to a Section of many Bills and Acts that we have been passing in this Senate. It says; .. *at the discretion of the Minister.* We have passed several Bills here that contain such clause and where those issues arise, that are at the discretion of the Minister, the Minister uses his discretion to take over the entire

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operation of the agency. There is nothing wrong if we call for amendment into past Acts and look into areas where we have put the phrase, *at the discretion of the Minister*, which the Minister is using to emasculate these agencies.

The President: Who is to bring that Amendment? How can you be shooting yourself on the foot? If there is a requirement for Amendment, it is the Committee that should bring it to us.

I put the Question on recommendation (iv), please.

Question put and negatived.

Recommendation (v)(a) says: *The Federal Government should set up a Contract Review Panel:*

(a) *To review all the contracts awarded with the Intervention Fund with a view to recovering all moneys on inflated contracts and prosecuting guilty and incompetent ones such as FIAT International Limited, while settling legitimate outstanding payments to ensure that all the contracts properly awarded are completed within a prescribed period in the interest of air safety.*

Senator Teslim Kolawole Folarin: Mr. President, I have looked carefully at Recommendation (v)(a) to (d) and again we must be careful. I know you have always advised that we do not get involved in the running of the Ministries. It does appear that this is what this recommendation seeks to do.

Senator Bala Abdulkadir Mohammed (Bauchi South): Mr. President, I hold a contrary view, but I agree with him slightly that we should expunge the portion that mentioned corporate body in this Bill so that, at least, a review should be emphasised on the Intervention Fund. If you permit me, I would suggest an Amendment as follows:

To review all the contracts awarded with the Intervention Fund with a view to recovering all moneys on inflated contracts and prosecuting guilty and incompetent ones, while settling legitimate outstanding payments.

The President: You are suggesting the removal of the names there so that it would read as follows:

The Federal Government should set up a Contract Review Panel to review all the contracts awarded with the Intervention Fund with a view to recovering all moneys on inflated contracts and

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prosecuting guilty and incompetent ones, while settling legitimate outstanding payments to ensure that all the contracts properly awarded are completed within a prescribed period in the interest of Air safety.

Senator Sola Akinyede: Mr. President, I do not think it is fair to prosecute incompetent people. They should be disciplined and I want to suggest we say; *prosecute the guilty ones and discipline incompetent ones.* It is not a crime to be incompetent.

The President: I do not know why you are quarrelling with that but I will put the Question.
Amendment put and agreed to.

Recommendation (v)(b) says: *To discover all ghost contractors, especially at Kano International Airport, unqualified and unregistered contractors who did not follow due process.*

All that would now go with Recommendation (i) and truly, we should not bother about administrative things like ghost workers. That, in my opinion, would belittle this Senate. Various Ministries should fish out their ghost workers.

Recommendation (vi) says: *The Federal Government should specifically ensure:*

- (a) *That the \$1.2 billion for Murtala Mohammed International Airport runway extension is not released to Messer PW Nigeria Limited, until Due Process and Federal Executive Council approval are received for the proposed taxiway job.*
- (b) *The Minister of Aviation should take steps to ensure a legal cancellation of the extension part of the contract, which was not feasible due to lack of space, through an Addendum to the contract or any other means as may be advised by the Legal Departments of both the Ministry and FAAN.*

We have thrown the matter to the Legal Department, so we have no say here.

Question put and negated.

Senator Bassey Ewa-Henshaw: Mr. President, you did not put the Question on (v)(b)

The President: Yes, I did not put the Question on (v)(b) because we all said it was overtaken by (v)(a) but there is no harm in doing so.

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Question put and negated.

Recommendation (vi)(b) says: *Messer PW Limited be given another 10 weeks to complete the runway resurfacing job while FAAN should ensure that properly authenticated certificates are paid.*

In my opinion, we should not delve into things that are day-to-day activities of the ministries.

Question put and negated.

Recommendation (vi)(c) says: *The Minister of State (Air) and the Management of FAAN, meticulously go through contract implementation documentations of Messers ADB Lighting Systems Limited, with a view to ascertaining the veracity or otherwise of their claims for variation. This should not, in any way, affect ADB's commitment to completing the lighting contract 60 days from August 10, which was the date all the runway lights were expected to arrive.*

Question put and negated.

Senator Isiaka Adeleke (Osun West): Mr. President, I believe recommendations (vi)(a) to (p) should fall under (v)(a). We did not go through it; it is the same process. They should all fall under the review.

The President: The point he is making is that we should accept the whole of Recommendation (vi) (a) to (p). Do we accept his suggestion?

Some distinguished Senators: Yes.

The President: Please, put it as a Motion, Senator Adeleke.

Senator Isiaka Adetunji Adeleke: I hereby move that all the recommendations under (vi) should come under Recommendation (v)(a).

Senator Tawar Umbi Wada (Gombe South): Mr. President, I second the Motion that Recommendation (vi) be subsumed under approved Recommendation (v).

The President: I will put the Question on the Motion that Recommendation (vi) is already subsumed by Recommendation (v) and therefore, we should disregard them.

Question put and agreed to.

Senator Joseph Iorshagher Akaagerger: Point of Order, Mr. President!

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The President: What is the Point of Order, Senator Joseph Akaagerger?

Senator Joseph I. Akaagerger: Mr. President, it is a constitutional point of Order; specifically Section 88(1)(b) of the Constitution on power to conduct investigations. With your permission, I read:

88.-(1) Subject to the provisions of this Constitution, each House of the National Assembly shall have power by resolution published in its journal or in the Official Gazette of the Government of the Federation to direct or cause to be directed an investigation into –

- (a) any matter or thing with respect to which it has power to make laws; and*
- (b) the conduct of affairs of any person, authority, Ministry of government department charged or intended to be charged with the duty of or responsibility for –*
 - (i) Executing or administering laws enacted by the National Assembly; and*
 - (ii) Disbursing or administering moneys appropriated or to be appropriated by the National Assembly.*

(2) The powers conferred on the National Assembly under the provisions of this section are exercisable only for the purpose of enabling it to –

- (b) Expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it.*

The gamut of what I am saying is that Recommendation (vi)(p) has not been captured in this Motion that has been read and supported. This is because (p) is saying that the Legal Department of FAAN should be warned for dereliction of duty and non-protection of Federal Government interest by non-provision or invocation of delay clauses in Contract Agreements which also talks about the issue of inflated staff list. So, we are also to expose waste. I think (p) should stand on its own.

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The President: The only way it will come is by an additional Prayer. In any case, the Point of Order that you raised is not going to help you bring it back.

Senator Joseph I. Akaagerger: If we want to insist on fair play this particular (p) should stand on its own. I submit that the Chairman, Committee on Aviation re-presents it as a substantive Motion.

The President: That is all right. Let me first rule you out of Order and then we can find a way to bring it back. So, I rule you out of Order. Maybe, when we finish we will see the way we can apportion blame on the government officials.

Senator Isiaka A. Adeleke: I believe that during the review of the contracts all those would be looked into. We should allow the Review Panel to do the job; they are going to detect all those ones that did not follow the due processes including the Legal Department and then they will recommend appropriate action.

The President: When it comes back, we will see the two sides of the debate and decide whether we even need to put it back or not.

Recommendation (vii) says: *The Federal Ministry of Aviation should set up a Management Restructuring Committee –*

- a) To review all severance payments to former staff of FAAN so as to resolve the duplicated payments, unmask and recover the sum of ₦7,773,376.07 from the beneficiaries suspected to be ghost workers.*

I will now put the Question on Recommendation (vii)(a).

Question put and agreed to.

The President: Senator Anyim Ude, your recommendations are a bit long winding. All that you are saying there is; review the severance payments and then find out whether ghost workers benefited or not.

Recommendation (vii)(b) says: *To restructure NAMA and FAAN where the objective of the severance exercise and right-sizing was defeated by subsequent recruitment exercises that resulted in a bloated workforce with 26 General Managers, 30 Deputy General Managers and 94 Assistant General Managers attracting a total salary bill in FAAN of about ₦700 million monthly.*

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Senator Lee Ledogo Maeba: Mr. President, I have an Amendment. You have been complaining of these unwinding and long winding recommendations. I will help Senator Anyim Ude with the following Amendment: *That the Management Committee should also look at the rightsizing of the work force of both FAAN and NAMA.*

The President: I will put the Question on Recommendation (vii)(b) as amended.

Amendment put and agreed to.

The President: Recommendation (vii)(c) says: *Carry out a detailed staff audit in NAMA and FAAN with a view to addressing the imbalance in the geo-political spread of staff in the two Aviation parastatals.*

Is this not what our Federal Character Committee here can do through its oversight function?

Some distinguished Senators: Yes.

The President: I will put the Question on Recommendation (vii)(c).

Question put and negatived.

Recommendation (viii) says: *That the Federal Ministry of Aviation should scrap the Environment Directorate of the Federal Airports Authority of Nigeria as it is not covered by any establishment as provided in the Act setting up the organization.*

This is just an internal organization; is it not?

Some distinguished Senators: Yes.

The President: Should we really dabble into this?

Some distinguished Senators: No

Senator Chimaroke Nnamani (Enugu East): Mr. President, I believe that there will be some reluctance about scraping the Environment Directorate of the Federal Airports Authority of Nigeria. Rather I would suggest an Amendment in pursuant thereto, that is, the Act setting up the Federal Airports Authority of Nigeria should be amended or regularised to take cognizance of the Environment Directorate and delineate its functions clearly and specifically.

The President: We have told the Committee to bring the Amendment to anything that has to do with the Act if they want.

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Senator Tawar Umbi Wada: You asked the question as to whether we need to bother ourselves with this or not? The answer is to be found in the Act. In most Acts, they specify what departments need to be there. If the Act does not specify that the Environment Directorate needs to be there, then any creation by anybody is a nullity and this Senate could, as a matter of fact, jettison it.

Secondly, if the Act does not give the Minister the discretion to create an additional department, in that case, the creation is wrong. So, the recommendation is proper. We need to be guided by the Act. Does the Act allow for such a creation? Does the Act give the Minister the discretion to create additional department? If the answer is no, then we must approve this recommendation.

The President: Senator T. U. Wada, may I just ask; if you go to the Airport and the man who is managing the Airport decides to create a department that handles luggage zoned according to the way the flights come in; the department may be just luggage clearance; but the man on the ground, for administrative convenience, says all the aircrafts that come in from this and that terminals, their luggage would be cleared in this place; that is the department for this and that is the department for that. Is that not just the day-to-day management activity?

Senator Mahmud Kanti Bello: My feeling is that we need to ask the Committee to clarify one issue. Constitutionally, one of our jobs is to expose corruption and inefficiency in our system. If, having this Environment Directorate is causing inefficiency in the system, it is then that we can quickly recommend its removal. Even though it is not in the Act, I believe this is purely an administrative issue. Unless it is really causing inefficiency in the system, constitutionally, we can recommend its scrapping. Otherwise, if it is just the normal administrative thing, we should not bother. The Committee ought to clarify this particular issue.

The President: How many departments do we have in the Act?

Senator Osita Izunaso (Imo West): I just want to align myself completely with Senator Wada. If you are talking about a Unit or a Committee to handle environmental issues, those are internal administrative matters but not to create a full directorate. Directorate is even more than a department. Senate should not allow heads of parastatals to be creating directorates because they are funded with money. The point here is that if it is a Committee to handle environmental issues, then it becomes day-to-day activity or operations of the

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establishment but not a full directorate. I suggest that the recommendation be upheld.

The President: Whether to retain or not to retain; I have asked a fundamental question. How many departments are created by the Act?

Senator Bala Abdulkadir Mohammed: With the permission of my Chairman, the departments created in the Act are five; those departments are called established departments and approved by the Committee on Establishment under the Head of Service. As explained by Senator Wada and concurred by Senator Osita, this is called over-establishment. Nobody or authority unless so delegated, should create a department in any parastatal in any ministry because it will add to the cost of running the parastatal or ministry and cause a bad precedence because anybody would just create it.

The President: Senator Bala, you have not addressed the issue.

Senator Anyinchukwu Ude: I do not have the exact name of the directorate but what I know is that it is illegal because it was created by the Minister. The Act specifies the number and the names and I am sure that Environment Directorate is not one of them. I do not have the Act here.

The President: I have the Act here and I cannot see the creation of any of the departments. Even the one Senator Bala mentioned, I cannot find it in the Act.

There is Membership of the Board here; Functions of the Authority; Powers of the Authority; Power to Discontinue Use of Airport; Management of Additional Airports; Valuation of Airports; Power of Minister to Issue Direction to the Authority; Managing Director of the Authority; Staff Generally; Pensions; Sources of Revenue.

Senator Bala, maybe, I will just send this to you because I cannot find anything about departments here.

Senator Ike Ekweremadu: As usual in this Chamber, when we are dealing with recommendations, we deal with these recommendations in relation to findings. I want to suggest that we go back to what Senator Kanti Bello raised earlier. Let the Committee tell us what findings led to this recommendation because if we know why, it would be easier for us to vote one way or the other. But if there is no finding leading to this, then they need to go back and do more work as Committee. If they feel dissatisfied with the

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directorate, they can come with a proposal amending that Section of the Act.

If we must vote in respect of this, we would need to know the findings that led to this recommendation. I suggest that the Committee do tell us the findings in this Report that led to this recommendation to enable us vote appropriately.

The President: Senator Ude, where did you derive this recommendation from?

Senator Anyim Chukwu Ude: Your Excellency, we are trying to save FAAN from collapsing. FAAN has too many people working there and that is why they earn about ₦1 billion every month and spend about ₦700 million paying salaries. That is why when you go to the Airport everywhere is hot. The generators are not maintained. If you go to the International Airports, passengers spend about three hours waiting for their luggage to come out of the conveyor belts that are broken down because they do not have enough money to maintain them. All the money they earn end up in paying salaries. We are trying to see, even at this point, how we can help them survive. That is the background, Sir.

The President: Where in the main Report is this emanating from?

Several distinguished Senators: It is on page 6.

The President: You said here on page 6 that: *Directorates and departments were flagrantly created on the directive of the former Minister of Aviation outside the provisions of the Act establishing FAAN. An example was the creation of Directorate of Environment during the period of Fani-Kayode.* Where are the existing approved Directorates?

Senator Bala Mohammed: As I said earlier, maybe, I said it when it was not ripe. The issue of departments may not be in the Act but as I said, the process of getting approved establishment is well known to some of us including distinguished Senator Ida. When a parastatal is created, the directorates, the nomenclature and all that it requires, are approved by the Ministry of Establishment. This is what we are saying.

The Directorate of Environment is outside the approved and established directorates as per what is being done in the Civil Service or in the Public Service. It is an addition and as it has been said; its creation is adding more responsibility on the lean resources of the parastatal. That is why we made the recommendation.

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This recommendation is at your own disposal. We believe that we have to right-size FAAN as per approved establishment. That is the explanation.

The President: Is it not covered by the rightsizing that we took earlier?

Several distinguished Senators: It has covered it.

Question put and negated.

Recommendation (ix) says: *The Federal Ministry of Aviation should ensure that only regular staff of FAAN and other Aviation Parastatals, are Heads of Directorates and Departments while contract and ad-hoc staff should, at best, act as Resource Persons.*

Question put and negated.

Recommendation (x) says: *On the Bilateral Air Services Agreement (BASA) Fund, the Senate commends the Honourable Minister of Finance and the Honourable Minister of Justice and Attorney-General of the Federation, for taking steps to implement the decision taken to return the management of the Fund to Nigerian Civil Aviation Authority in keeping with the Aviation Act, 2006.*

Senator Teslim Kolawole Folarin: Mr. President, it is just a minor correction. Since this Report is an official document of the Senate, and it would be referred to many years to come, it is important we state the names of the Ministers because it keeps changing. When you say Attorney-General, which one of them? When you say Minister of Finance, which one of them?

The President: Do we even want to do that?

Several distinguished Senators: No.

Question put and negated.

Recommendation (xi) says: *The Federal Ministry of Finance should explain the difference of \$7,269,754.74 spotlighted in No.78 above, while the Accountant-General of the Federation and the Ministry of Aviation provide necessary details of the unspecified expenditure of \$3,149,210.29 and explanation for \$7,269,754.74 identified in No.80 above.*

I am lost completely with this one.

Senator Tawar Umbi Wada: This is not supposed to be a recommendation. This is more or less the function of the Committee. If they want further explanation from the Minister of Finance, they can ask

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him and if they want the Accountant-General to provide necessary details, they should do so but if we now say that they should explain, explain to who? Are they to come to the Senate Chamber to explain? That is the point. I do not think that this recommendation should stand.

Question put and negated.

Recommendation (xii) says: *The Federal Ministry of Aviation should prepare a four, five or ten year Development Plan for the utilisation of the BASA Fund, especially in safety critical areas of the aviation industry, and avoid ad-hoc plans/arrangements that will not help the industry but individuals who suspect that their tenures would be short.*

Question put and negated.

Recommendation (xiii) says: *All unspent monies in the Intervention Fund and those recovered from Contractors who were paid from the Intervention Fund Account, should be used to:*

- a. *Complete all approved outstanding projects; and*
- b. *The balance allocated to the Nigerian Civil Aviation Authority (NCAA) and the Nigerian Meteorological Agency which were initially excluded from allocations from the Intervention Fund.*

I think you better get the fund first before you begin to spend it.

Question put and negated.

Recommendation (xiv) says: *In order to save FAAN from collapsing under the weight of a crushing debt burden of refunding \$222 million monthly to commercial banks up to year 2010, the Federal Ministry of Aviation should arrange the liquidation of the outstanding balance of the loan of \$6.5 billion either through the BASA Fund; now wrested from the Presidency or Bonds raised through the Debt Management Office.*

Question put and agreed to.

Recommendation (xv) says: *The Federal Government should revisit and implement the recommendations made by the Air Marshall Paul Dike Committee on critical issues in aviation industry.*

Question put and agreed to.

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Recommendation (xvi) says: *The Federal Government should re-assess the need to hand-over unviable Airports said to have been constructed for political reasons to State Governments or private companies to manage instead of using funds generated from four viable airports to run the other seventeen unviable ones.*

Those who have said nay, when they cancel the airport in your Senatorial District do not come back here.

Senator Ike Ekweremadu: Sorry, Sir, we are to approve recommendation that is in tune with the Constitution, but aviation is in the Exclusive List. There is no way we can push the airports to the states. It is not possible.

Senator Lee Maeba Ledogo: Point of Order!

The President: What is your Order, Senator Lee Maeba?

Senator Lee Maeba Ledogo: Mr. President, it is Order 70(1)(c) of our Standing Orders, 2007 as amended. It is on matters not open to debate. With your permission I read:

Order 70(1): *The following matters not open to debate shall be moved without argument or opinion offered and shall be forthwith put from the Chair without amendment.*

Order 70(1)(c): *Motion that the question be now put.*

The Motion having been taken and question put Mr. Senate President is supposed to announce the result. So, in our convention it is out of place to interrupt you from announcing the result. Therefore, on the basis of Order 70, I urge you to announce the result.

The President: This will not stop me from announcing the result but Senator Lee Maeba has also raised a Point of Order which is that airport is under the Exclusive Legislative List.

Senator Sola Akinyede (Ekiti South): Mr. President, I agree that aviation is under the Exclusive Legislative List but the recommendation is that the Federal Government should reassess. So, it is the Federal Government that should decide what it is going to do; it is not for the State Governments. So, it is still within the province of the Exclusive List.

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The action of giving the airports to the states is the action of the Federal Government, not of the states. It does not violate the Exclusive List.

Senator Tawar Umbi Wada: Mr. President, further to what distinguished Senator Sola Akinyede has said, Exclusive List is for the purpose of legislation, not for the purpose of operation. Matters that affect aviation can only be legislated upon by the National Assembly but it does not stop the states or private persons from operating airports. I do not think the question of Exclusive List can stop this recommendation.

Senator Ike Ekweremadu: Mr. President, I disagree with my learned Friend completely on this. First of all, let me say that aviation is the third item in the Exclusive List and Item 3 of the Exclusive Legislative List states: *Aviation including airports, safety of aircraft and carriage of passengers and goods by air.* It is the National Assembly that is empowered to make laws in respect of items contained in the Exclusive List as well as Concurrent List.

Further to what he said, you cannot set up an airport without an enabling law. So the House of Assembly of a State cannot legislate on it anyway; there is no way, they can handle arrival and departure at the airports. If they do anything of the sort, then it would contravene this part of the Constitution.

Some distinguished Senators: No.

Senator Nicholas Yahaya Ugbane (Kogi East): Mr. President, if you read this sentence on Recommendation (xvi) it is very clear. The issue of Exclusive List or whatever does not even arise. We are asking the Federal Government to re-assess the present position. It is left for the Federal Government to look at it, re-assess and take whatever decision it likes but what has been pointed out is the need to re-assess the present position.

The President: I agree that it is in the Exclusive List but I think the sentence there does not offend the issue on the Exclusive List except that my own personal advice to the Federal Government would be that if they build the airports they should either manage them or just close them down but that is for them to reassess. When they reassess they will decide what to do.

I will put the Question on Recommendation (xvi) once more.

Question put and agreed to.

Is there any other additional prayer?

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Resolved: That the Senate:

- (i) Notes recommendation (i) of the Committee.
- (ii) Urge EFCC to investigate the source of this fake Due Process Certificate said to have been issued by the Bureau of Public Procurement for the award of N6.5 billion Tower Project.
- (iii) Urge the Federal Government to set up a Contract Review Panel to review all the contracts awarded with the Intervention Fund with a view to recovering all moneys on inflated contracts and prosecuting guilty and incompetent ones, while settling legitimate outstanding payments to ensure that all the contracts properly awarded are completed within a prescribed period in the interest of Air safety.
- (iv) Urge the Federal Ministry of Aviation to set up a Management Restructuring Committee –
 - (a) To review all severance payments to former staff of FAAN so as to resolve the duplicated payments, unmask and recover the sum of ₦7,773,376.07 from the beneficiaries suspected to be ghost workers.
 - (b) To also look at the rightsizing of the work force of both FAAN and NAMA.
- (v) In order to save FAAN from collapsing under the weight of a crushing debt burden of refunding \$222 million monthly to commercial banks up to year 2010, the Federal Ministry of Aviation should arrange the liquidation of the outstanding balance of the loan of \$6.5 billion either through the BASA Fund; now wrested from the Presidency or Bonds raised through the Debt Management Office.
- (vi) Urge the Federal Government to revisit and implement the recommendations made by the Air Marshall Paul Dike Committee on critical issues in aviation industry.
- (vii) Urge Federal Government to re-assess the need to hand-over unviable Airports said to have been constructed for political reasons to State Governments or private companies to manage instead of using funds generated from four viable airports to run the other seventeen unviable ones.

Some distinguished Senators: No.

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The President: Distinguished Senators, I would like to commend the courage of the Members of the Committee. This certainly was not the easiest of Committee assignments.

You have done it well and I just want to urge you that there is really no need for any extra Motion on it because this Senate will not sweep anything under the carpet. We have all agreed on that. It is a covenant that we have with Nigerians. Once we have the courage to set up a Committee, we would have the courage to discuss the Report of that Committee and that is precisely what we have done.

However, we are aware of the fact that every Nigerian should be protected and be given fair hearing in whatever we do because we cannot judge people in absentia. The aspects that we have not taken are as a result of the fact that there are cases pending in law courts on those aspects. I want to thank you for your contributions and also thank the Committee for having submitted a very courageous and good Report.

CONSIDERATION OF BILLS

Tobacco Control Act (Repeal and Re-enactment) Bill, 2009

A Bill for an Act to Repeal the Tobacco (Control) Act, CAP 1990 T.6, Laws of the Federation and to Enact the National Tobacco Control Bill, 2009 to provide for the Regulation or Control of Production, Manufacture, Sale, Advertising, Promotion and Sponsorship of Tobacco or Tobacco Products in Nigeria and for Other Related Matters –

Senator Teslim K. Folarin: Mr. President, the second Order of the day is the Second Reading of the Tobacco (Control) Act (Repeal and Re-enactment) Bill, 2009.

You will recall that this Bill was read for the First Time in this hallowed Chamber on Tuesday, 13th January, 2009. Therefore, you may now invite Senator Adeleke Olorunnimbe Mamora to move the Motion for the Bill to be read the Second Time.

Senator Adeleke Olorunnimbe Mamora: Mr. President, I rise to move that this Senate do grant me the indulgence to present the lead debate on a Bill for an Act to Repeal the Tobacco (Control) Act Cap 1990 T.6, Laws of the Federation and to Enact the National Tobacco (Control) Bill, 2009 to provide for the Regulation or Control of Production, Manufacture, Sale, Advertising, Promotion and Sponsorship of Tobacco or

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Tobacco Products in Nigeria and for other Related Matters.

Senator Uche Chukwumerije (Abia North): Mr. President, I rise to second this Motion that Senator Adeleke Olorunnimbe Mamora be allowed to present the lead debate on the National Control Bill.

The President: Actually, Senator Mamora, it would not have been a Motion because it is a lead debate, is it not?

Some distinguished Senators: Yes.

The President: You are the one that caused the confusion. You should have just started on the lead debate. I call on you to start on the lead debate, Senator Mamora.

Order for Second Reading.

Senator Adeleke O. Mamora: Mr. Senate President, on a note of advice to our Colleagues before I go on, I discover that some of our Colleagues, in trying to push their position for nays or ayes, shout so much. I just want to say that a rise in intra-abdominal pressure can increase your tendency to develop hernia. So, when people shout *nay* so much, it raises the intra-abdominal pressure and can increase their tendency to have hernia.

Thank you for allowing me to present this lead debate on the National Tobacco Control Bill. It is an established fact both scientifically and legally, that tobacco is dangerous to health as it contains over 4,000 potent toxic and cancer inducing chemicals. The World Health Organisation (WHO) and several other organisations are unanimous that tobacco consumption is a scourge and failure to control its spread would have serious consequences for citizens of the world.

I do not want to bore this august body by enumerating the problems associated with tobacco but if I may just mention a few, we have the problem of lung cancer, mental disorder, earing loss, brain damage; of course, what we call sudden infant deaths syndrome, abortion, addiction and all the likes. These are some of the problems associated with tobacco to the health of the people.

I also want to say that when a cigarette smoker takes in the smoke, he emits what we call toxic tobacco smoke. I want to say that it is not in the plan of God that we should inhale polluted air. The plan of God for us is that we inhale clean, fresh and unpolluted air. The increasing hostility and regulatory restrictions from western and more developed nations have caused

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tobacco companies to flock to developing countries in order to increase their business and profitability. Countries like ours, with drawbacks of illiteracy, corruption, weak institutions and regulatory incompetence with teeming populations are increasingly becoming targets of the exploitative and deliberately deceptive strategies of marketing by these profit driven companies.

Let me say that the tobacco industries have very powerful marketing strategies and gimmicks that they will continue to unleash on the population particularly the younger ones and in the process lead them to their untimely death. Where death is not involved the level of morbidity that is involved; if I may borrow from Senator Sodangi, is of cataclysmic proportion and because of these devices a lot of people are pushed into cigarette smoking and such attitude may compromise their health.

WHO promoted the framework Convention on Tobacco Control (FCTC) which is a model legislation that many health-conscious countries have signed and ratified? It is important to say that Nigeria is a signatory to the Convention and as such has an obligation to enact the required legislation for controlling the distribution and consumption of tobacco products.

I make bold to say that like the HIV virus which has a legendary capacity to change its behaviour within the human body; the tobacco companies have this behaviour of wanting to change when it is confronted with serious statutory provisions that regulate and control tobacco manufacture. Some of the greatest success stories in tobacco control both legally and health-wise have been due to legislation.

Tobacco is the only product that when used as designed by manufacturers will surely kill or harm the user. Therefore, legislation is required to compel tobacco manufacturers to take responsibility for their actions to secure and safeguard our future by curbing the consumption by our youth and children.

Current statistics show that in Nigeria:

- i. Smoking and exposure to smoke has gone up to 20 *per cent* from 2 *per cent* in the 1980s;
- ii. Smoking rate amongst young women under 18 has increased by 16 *per cent* in the last 10 years;
- iii. 90 *per cent* of cocaine, hemp and other drug users begin such habits from smoking cigarettes; and

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- iv. Most armed robbers, rapist and cultists admit to either smoking or using drugs before embarking on their nefarious activities.

From the health stand point alone, the reality of escalation of tobacco consumption and its adverse effects in our midst is staggering. For example, in Lagos State, reports from 11 out of 26 public hospitals where research was conducted show that about two people die everyday from tobacco related diseases.

The goal of this Bill essentially, if supported which I crave the indulgence of my Colleagues to support, will succeed in providing a framework for:

- i. Protection of the nation's public health by enhancing public awareness of the hazards and dangers associated with tobacco use; and
- ii. Protection of young persons and others from the inducement to use tobacco and tobacco products;

This is very important to what we call passive smokers, that is, those who do not smoke but who are in the environment of smokers. They are liable to greater dangers than the actual smokers

- iii. Protection of the rights and health of non-smokers, endangered through environmental tobacco smoke whilst also protecting the environment;
- iv. Controlling and restricting the sale of tobacco in sticks and in public places;
- v. Providing effective warnings in graphics and languages spoken in Nigeria, such measures being most beneficial to the illiterates of our population;
- vi. Restricting the promotion of tobacco products, adverts and sponsorship which particularly target minors and promote industry-funded awareness, campaigns and education.
- vii. Affording us with the appropriated legal mechanisms to assist government and injured persons to seek redress against tobacco industries for injuries caused as a consequence of tobacco consumption; and
- vii. Making the profit-driven tobacco industries responsible and accountable for their activities, as they currently remain oblivious of the adverse effects and concerns that emanate from the consumption of their harmful products.

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Before I take my seat, let me say as a student of literature that when the *Wired Sisters* in Shakespeare's Macbeth lured Macbeth into his calamity through their gimmicks and it was too late in the day for Macbeth to realise this and when he did he said: *Be this juggling finds more belief that palter with us in double sense and give us the word of promise to our hope to betray us in deepest consequence.* In essence, what tobacco does is to betray its users in the deepest consequence.

Therefore, on a final note, our Constitution under Section 14(2)(b) specifically states and I quote: *That the security and welfare of the people shall be the primary purpose of government.* Government has a duty to protect the citizens from what I called merchants of death in our midst. These are the tobacco industries. It is on this note that I urge my Colleagues to look critically into this Bill before Senate and give it the necessary support so that it can be seen to have fulfilled the obligations put on us by the Constitution that we all swore to uphold.

Senator Mohammed Mana (Adamawa North): I want to sincerely congratulate Senator (Dr.) Mamora for this important Bill. The vogue all over the world is that cigarette smoking is banned in most places.

The Bill has spelt out all the areas of concern. It is unfortunate that manufacturers of cigarette deliberately put some items in cigarette that makes one addicted to it in such a way that you can hardly stop smoking. I thank God that I never smoked in my life.

The President: Thank you for clarifying that, too, because they wanted to know whether you are talking from experience.

Senator Mohammed Mana: That is why I have made it very clear. With due apology to my Colleagues in the Senate that smoke, right from the local tobacco that is chewed before the advent of modern cigarette, it is dangerous and it has killed millions of people all over the world. This Bill must be supported because if we do, we will be saving the lives of millions of Nigerians. I do not know between cigarette and auto-crash which one kills more people in Nigeria, but in my opinion, I feel that cigarette kills more people. I have many friends that have died as a result of tobacco smoking.

I will add that we must discourage developed countries from dumping cigarettes in our country. That aspect must be put in this Bill. I have gone through the Bill and I did not see that. We must discourage people from dumping cigarette in our country. World over factories manufacturing cigarettes are closing down and the manufacturers are looking for easy places to dump

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their cigarettes. We should go further to suggest strict penalties. We should impose taxes in such a way that manufacturers would find it difficult to establish cigarette factories in Nigeria. Those who want to import will also find it very discouraging to import. If we do this, we would safe-guard the lives of our citizens.

Senator Anthony G. Manzo (Taraba North): Mr. President, let me quickly lend support to the Bill ably presented by my very Senior Colleague, Senator Mamora. In all my over 20 years of practice, and in all the books, literatures and journals I have read, I am yet to come across one conceivable beneficial effect of tobacco. Senator Mamora has listed a lot, and there are several others.

The only supposed benefit of tobacco or cigarette smoking is probably the assumed prevention from DVT during surgery. DVT means cloth in the legs. Apart from that, all the negative energy is generated through tobacco smoking.

This Bill must, therefore, seek in addition to restricting the way we manufacture tobacco in this country, educate people that cigarette smoking is harmful to health. Already under the able leadership of late Prof. Olukoye Ramsome-Kuti of blessed memory, we have cigarette monitoring signs in all the packets. The down side of this Bill, perhaps, is also to say that some of the jobs that this cigarette companies generate in the country would go. But at the end of the day, it is better to live and remain jobless than to have a job that would cut down your life expectancy.

The thing about the Bill is that the regulatory framework has to be looked at the Committee stage. Forming the Tobacco Control Commission is an area that we would look into at the Committee. Maybe, the Ministry of Health should be in a position to do that instead of setting another Commission.

Besides, the dangers of cigarette smoking affect the young, the old and even the unborn. We are aware that babies of women that smoke when they are pregnant tend to be small. Cigarette is not the only drug in these entire league, we also have alcohol. Perhaps, in future, we have to look at that because alcohol does a lot more than smoking.

The President: The issue before the Senate is tobacco.

Senator Kamorudeen Adekunle Adedibu (Oyo South): Mr. President, reading through the preamble, there are certain things I noticed that made me think that what this Bill is seeking to do is either to close the

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companies down or to regulate them. With all due respect to distinguished Mamora, I believe this Bill is necessary, I believe the awareness of non-smoking is necessary, but I do not think this is the time. If you look at the preamble on page one, in paragraph two, it says: *Consequently there is an urgent need to enact legislation to curb this preventable scourge, with appropriate modalities for holding the industry accountable for the injuries it causes.*

Holding the companies accountable for injuries they cause is going to do more harm than good. People have been smoking for over 200 years, and closing down the industries in Nigeria would not stop people from smoking. People drink alcohol which also has health effect on them; people use a lot of sugar which has effect on them so should we go ahead and close down all the sugar and beer factories in Nigeria? Should we go ahead and punish all the industries for the fact that people choose to do the wrong thing? Take sex for example, people have been encouraged to have intercourse with condom. If you have sex without condom you cannot, five years later you want to sue the company for having intercourse with no condom of which you were warned not to. Of course, there is warning on each pack of cigarettes telling you not to smoke because it causes cancer and it can kill you.

If we have all these companies punished where do we stand? Nigeria today, with the economic crunch does not need any industry to be closed down. We have two industries in Nigeria producing cigarettes; one in Ibadan, which is in my Constituency and the other in Zaria. Each one of these companies is employing over 2,500 Nigerians directly and over 300,000 indirectly which include suppliers and those engaged in supply of cigarettes.

I am not saying that smoking is good for people or smoking does not have any effect on people negatively health wise. It does but if we have to look at everything that has negative effect on the health of the people of this country then we have to close everything down and will not be looking at the Seven Point Agenda in the right way or Nigeria becoming one of the 20 largest economies in the world by the year 2020.

Senator Joel Danlami Ikenya: Mr. President, I wanted to raise a Point of Order to stop Senator Adedibu from speaking but as a democrat I allowed him to speak because the Chair has the power to interpret the Rules. So, I was very conscious of that.

I am for this Bill. I have never smoked and I do not have an associate that smokes. In fact, what this Bill

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seeks to do is to give awareness and making sure that you go by the rules of the game.

The Bill also seeks to educate the people as distinguished Senator Adedibu said on the issue of condom. What this Bill seeks to do is to educate the people about the danger they are exposed to by smoking and the fact that they are on their own when they indulge in it.

Looking at the whole proposals in the Bill, they are timely because even all over the world certain areas are designated for smoking. Public places are not meant for smoking again. Nigeria cannot be moving in the opposite direction with what is obtainable in developed countries of the world. Even a highly populated country like China has realised that tobacco smoking accounts for many of the untimely deaths in that country. If you walk along the streets of Nigeria, you will notice indiscriminate smoking everywhere. I recall the sponsor of this Bill saying that those who inhale the smoke are more in danger than those who smoke.

I urge my distinguished Colleagues to support this Bill because the health of our Constituents is our concern. We should ensure that this Bill is passed as it will impact positively on the health of our people; that is why we are here. It has been mentioned clearly that the welfare and security of our people is very paramount and that is why we are the representatives of the people. We are responsible for their security and welfare.

A distinguished Colleague whispered to me that the Bill does not have a compendium. I wanted to raise a Point of Order but on a second thought I said this is an existing law. I do not think there is any need for any compendium. I know he will sheath his sword by not raising his arm and opposing the Bill.

I urge every Senator to support this Bill. Give it a very deserving and positive criticism so that at the end of the day, Nigeria would be among the countries that are working against smoking. I believe that even those of us who are smokers will know that penalty is coming and will be able to adjust.

Senator Kabiru Ibrahim Gaya (Kano South): Mr. President, I commend Senator Mamora for initiating this Bill. Being a doctor he knows the effect of it all. I also wish to commend him for raising this issue.

I would like to say that in the Bill he did not mention that factories should be scrapped. He said penalty measures should be taken. To me, tobacco is the only product that when used as designed by manufacturers will surely kill or harm the user. The

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pertinent question is; why are we encouraging our citizens to be killed. Why are we encouraging an increase in our health bills because when our citizens are sick we end up having problems with our health bills or paying more for our health bills. Most of these tobacco companies are leaving developed nations and relocating in developing nations. That is why they are dumping their products here.

So, I suggest that the government should impose a high tariff on the importation of tobacco and if possible close down these companies. We have only two tobacco factories in Nigeria; one in Zaria and the other in Ibadan and the total workforce is about 2,000; we should be able to find jobs for them.

Senator Patricia Naomi Akwashiki (Nasarawa North): Mr. President, cigarette smoking is a matter of choice. We all know that an individual has the choice of deciding whether or not to smoke and whether or not to live, but it is also the responsibility of government to highlight the dangers inherent in this. I believe the government has done that because on the pack of cigarettes is a warning that you are likely to die from smoking.

I commend Senator Mamora for initiating this Bill and in particular for drawing our attention to the new trend whereby young girls are going into cigarette smoking which is very harmful to their health. One of the effects of cigarette smoking is the development of cancer. Also when a woman who smokes becomes pregnant smoking harms the unborn child. When women smoke close to little babies, it causes health hazard for the children. Even though we cannot stop these companies from operating, we must compel them to operate within health-approved laws.

In developed countries there are regulatory bodies charged with monitoring what goes into cigarette smoking. It is very true that over 400 items are included in cigarettes to make it addictive which is very harmful. Therefore, it is very essential for us to have a legislation that will compel our agencies from inspecting and monitoring what goes into cigarette even if we cannot stop our citizens from smoking it. There is no doubt that this Bill is essential.

In conclusion, let me say that we are trying to make companies to be socially responsible to the people. Yes, they bring these things to our country; they provide jobs for our citizens but they have a social responsibility in ensuring that they do not unnecessarily cause harm and death to our citizens. So, it is essential that they take their social responsibility with the seriousness it deserves. If there is legislation it would force them to do

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what they are supposed to do and do it right. If we cannot stop people from smoking, the best we can do is to warn them of the hazards inherent in smoking. At least, they should not import harmful substances into tobacco which would make it very dangerous to our people.

Senator Uche Chukwumerije (Abia North): Mr President, permit me to commit this Bill to you for your full support. The argument really is not about whether or not tobacco is dangerous; that has already been accepted by an existing Bill; but the last speaker referred to the one restriction on cigarette. Why this Bill commends itself to all of us is that it updates the existing Bill and it is a vast improvement upon the existing Bill in the following ways.

Firstly, it offers a wider and more comprehensive control of the sale, the purchase of every aspect of cigarette especially with regard to protection of the right of vulnerable social groups like youths and the girls referred to earlier. Somebody argued with some passion about freedom and choice. What choice has a young fellow who, because of his up-bringing in a very tender age had socialised into the pressures of smoking, say at the age of five or six or through peer groups? He did not smoke out of choice. Or what choice has third party smokers, who are not smokers but because they are near people who are smoking and they inhale the smoke? It does as much damage to the person as it does to the smoker himself. What choice have you? In other words, it gives you no choice whatsoever. The law as it is now, is superior to the existing law of 1990 because it is more comprehensive in the kind of control it imposes on every parameter of manufacture and the consumption of cigarette.

Secondly, the law also gives paramount protection to third party smokers. Third party smokers means those unwilling inhalers; who are not smokers but suffer the consequences of smoking. The law now is far more comprehensive in protecting their interest. It is not just limited to any particular restricted area but to wider areas that you cannot smoke or if you smoke the owners of such places would have legal right to ask you to go away.

Thirdly, we have mentioned about the additional cost of this Bill. I read through this Bill very carefully and all it recommends is a Supervisory Committee and not a Commission and the Members of that Committee are sourced from the existing stakeholders. In other words, the new Bill imposes minimal additional burden on taxpayers.

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Lastly, the Bill is comprehensive in another way. Unlike the existing Bill, this Bill holds manufacturers responsible for the direct and collateral damages their product is doing to the public. We refer to it as corporate social responsibility.

There is one beautiful sentence in that Bill, I will like to quote. It says: *Tobacco is the only product that when used as designed by manufactures, will surely kill or harm the user.* If this is what tobacco is, the manufacturers must be held fully responsible for the consequences of their product. Remember the statement in the lead debate that says: *The increasing hostility and regulatory restrictions from Western and other more developed nations have caused tobacco companies flock to developing countries in order to increase their business and profitability.* Nigeria as a consumer society is a dumping ground for international monopoly capitalism and this is part of things that this Bill is trying to correct.

Finally, permit me to recommend this Bill written as a model, with all due respect for all of us, to have this presented; in clarity of presentation and in a unity of thought, I must say that the presentation of Bill is a model. I commend this Bill.

Senator Adegbo Eferekaya (Delta Central): Mr President, I rise to support this Bill for the simple adage that says: *Health is wealth; and a healthy nation is a wealthy nation* and probably, *prevention is better than cure.* There is no doubt that many people may not be aware of the danger tobacco poses to health, especially of the young ones. Today, it is said that the young ones are the future of this country; if they are damaged or killed just by smoking, then there would be no future for this country. Therefore, everything must be done to protect these young ones.

Maybe, as expressed, it is good to give you some examples of what cigarette smoking or tobacco smoking does. Many people know about the cancer of the lungs; the incidence is increasing; cancer of the bladder, the pancreas and mental retardation in children. I also want to tell you that cigarette smoking decreases the capacity of the blood to carry oxygen which you know is very essential. A smoker has about 15 per cent carboxyl haemoglobin; a non-smoker in a smoking environment has about 10 and that is what is really called tacit smoking; second hand smoking or as somebody has referred to it as third party smoking. You should also know that those who are smoking would have stopped because they are addicts; there is addiction in smoking. An addiction is compulsory use of drug or any other substance and because you are afraid of the withdrawal

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syndrome, you continue to smoke even though you know it is to your detriment.

So, it is very important that people know, especially children whose parents smoke and those children have no choice but to remain in the same room with them. A newly born child is easily affected by smoking. How do we do this? The only way would be to control the manufacture, the sale and the advert as already enumerated by this Bill.

I strongly support the Bill and I urge my Colleagues to do the same. It is not telling manufacturers not to do so but telling you what you should not do; nobody likes to eat poison especially the young ones.

Senator Ayogu Eze (Enugu North): Mr. President, I join my Colleagues in commending distinguished Senator Mamora for putting this Bill together and so eloquently. Of course, one is not surprised because he is talking of an area of his professional competence. Being a doctor of repute, we have no doubt about his capacities.

The issue he has brought is one that almost commands the support of all of us because it is crucial. One area that the law has tried to address, which Senator Uche Chukwumerije pointed out, is the issue of collateral damage that people who are not willing smokers are exposed to. Nobody has ever done anything about that area till now.

I am aware that some years ago, there was a law attempting to ban smoking in public places but that law was not strong enough as to prescribe certain controls that this Bill has now tried to bring into being.

I also want to think that one of the reasons why tobacco industries have succeeded in growing in leaps and bounds in spite of the hue and cry about the damage caused by their products worldwide, is hypocrisy on the part of international organizations. Even the World Health Organisation that came up with the framework of the Convention for tobacco control, cannot truly say that they are sincere. You cannot blame them because tobacco manufacturers have the most organised and powerful lobby groups all over the world and they are ready to buffet, lobby, twist and do everything to stop legislations or attempts to control the way they push their trade.

We should do everything we can to bring about this law. This is because the health of our children and the nation is involved. As Senator Adegbo Efereyaya said, a healthy nation is a wealthy nation. We cannot close our eyes when we know the inimical effect of the open sale

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and fragrant disrespect of the rights of our people by tobacco companies. The relevant Committee to which this Bill would be referred should be mindful of the fact that tobacco companies have international and very powerful networks that would do everything under the book or outside the book to ensure that their wings are not clipped.

The World Health Organisation had required at a point that when you put out a tobacco advert, you should put a line that tobacco smoking is dangerous to health. But that is neither here nor there because we know that the major component of tobacco is nicotine which is an addictive substance. When you have exposed somebody to something that takes over his life and makes it almost impossible for him to pull back, the issue of whether or not you have written a very non-legible signal that tobacco smoking is dangerous to health, is neither here nor there.

We must support this Bill and ensure that the Committee that would work on it do everything including Public Hearing to ensure that we integrate the views of relevant experts and Nigerians so that we have an enduring tobacco control law in this country. I know that in a place like United Kingdom and I think United States of America also, no longer see very fragrant tobacco adverts as they were in the past. I am sure it is as a result of some legislative control.

It is on this note that I join my Colleagues to support the Bill that has been articulately put together.

Senator Annie Okonkwo (Anambra Central): First, I congratulate distinguished Senator Adeleke Mamora for coming up with this Bill. I know that with the kind of cartel we have in tobacco industry, there may be a lot of pressure on him to stop this Bill. For him to submerge all the pressures and today this hallowed Chamber is able to present this Bill for Second Reading, I say to him, a very big congratulations.

He has already enumerated the causes of smoking and, of course, he has made vital points which all of us know. We are the people's representatives; we represent our respective Constituencies and the major thing is to protect their lives. We must not lose sight of it, and how do we do that? We are a developing country and even the developed nations are fighting smoking, therefore, we must fight it with two hands including our legs because that is the only way we can demonstrate that truly we care for our people. It is dangerous for people to continue smoking and for non-smokers to be inhaling the smoke.

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Of course, today, life expectancy in Nigeria is lower than what you find in developed countries. They have good healthcare system; they have everything working 24 hours to control heart attack. In our case, we do not have that system at all. People can survive with smoking in developed country but in Nigeria, it is practically impossible for you to survive. I sincerely and wholeheartedly support this Bill and urge my Colleagues, no matter the investment of all the companies, to do the same. The investments the companies have made are minute to what we are going to save in terms of lives saved. We cannot fail to realise the dangers in smoking. I support this Bill.

Senator Chimaroke Nnamani (Enugu East): Mr. President, I certainly welcome this opportunity to talk about tobacco on the Floor of the Nigerian Senate.

I salute my Brother and professional Colleague, Senator Olorunnimbe Mamora for bringing this Bill. It is apt and he crafted this Bill being a physician. Senator Mamora had certainly carved a niche for himself in the State Legislature and he is now doing that in the National Legislature. In my book I recognise him as one of the few principled Opposition Politicians in this country.

Historically, reports of the ancient Myer civilisation show that tobacco use dates back to 1400 B.C. and certainly around 2000 B.C. Christopher Columbus exported tobacco from North America to Spain and subsequently tobacco was spread throughout civilization.

Tobacco itself, with due respect to Senator (Professor) Eferakeya's nicotine biological term and the one that causes so much problem; *nicotiana tabacum* or cultivated tobacco is presented in the form of cigarettes, cigars, pipes and gas chamber.

I support this Bill cognisant of the fact that over one billion and one hundred million people in the world smoke. In Africa, the population is about 29 *per cent* of men and 4 *per cent* of women. I support this Bill because of the mortality data. Over 100 million people died from tobacco usage in the 20th Century. It is expected that over one billion people will die in the 21st Century. For those who smoke less than ten cigarettes a day, their mortality rate is over 40 *per cent* compared to the general population. The mortality rate of those who smoke between ten and nineteen cigarettes a day is about 70 *per cent* and those who smoke between 20 and 39 cigarettes a day, their mortality rate is over 120 *per cent*.

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I also recognise why some people smoke; there are casual smokers; these are people who smoke for pleasure. There are those who smoke because they are addicted to nicotine and are also addicted to the process of smoking itself and there are those who smoke for ritual reasons and also due to peer pressure. There are also reports of medicinal use of tobacco, the feel-good syndrome. It provides people with mental problems like schizophrenia.

I certainly support this Bill because of the public health devastation of tobacco. We know that it is said to increase directly lung cancer, throat cancer and cancer of the tongue and indirectly affects cancer in other parts of the body; bladder, pancreas and all the other systems.

It also causes lung disease; what is called chronic obstructive pulmonary disease emphysema, chronic bronchitis. Smoking induces asthma and also exacerbates asthmatic attacks. Smoking causes heart attack or what is called myocardial infraction. Smoking increases the level of blood cholesterol and you know we have protective cholesterol and non-protective cholesterol. So, smoking decreases the ratio of protective cholesterol compared to non-protective cholesterol.

On the blood vessels, smoking damages the blood vessel leading to what is called arterial sclerosis or the hardening of the arteries. Smoking increases the level of blood clotting factors so that the blood is apt to clot; what is called *venous rhombosis*.

It is also clear in cases of second-hand smoking, so called involuntary smoking, third-party smoking, environment smoking or passive smoking. It causes the same thing it causes in the general population due to nicotine, carbon monoxide, hydrogen sulphide, hydrogen cyanide and other aromatic hydrocarbons. In children and infants, smoking causes lower respiratory tract disease and middle ear infections. It also induces and exacerbates asthma. In women who are pregnant, smoking causes low birth weight.

I support this Bill that is of utmost public health importance because we do know that smoking, not only increases medical cost but has deleterious effect on productivity. I hope that certainly by the time this Bill is over, confirmed and approved, it is going to delineate clearly the parameters to control and decrease tobacco usage possibly using taxation, age restriction, advertising and outright smoking ban.

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Once more, I thank Senator Mamora for certainly placing his footprints on the sands of time as it were.

The President: Is any distinguished Senator against the Second Reading of this Bill?

Senator Mujitaba Mohammed (Jigawa South-West): Mr. President, I am not against the Bill. I want to express my full support to this Bill presented by distinguished Senator Mamora. The health risk of this Bill is really enormous and I believe distinguished Senator Chimaroke Nnamani has done justice to that. So, I do not need to go over it again.

I want to draw attention of this Chamber to some vital facts relating to some tobacco legislations across the world. One, we should bear in mind that, indeed, international tobacco companies are having a safe haven in Third World countries today mainly because of the absence of tobacco legislation or less stringent tobacco legislation in these developing countries. So, they are finding a safe haven here infecting our people with all the health effects of tobacco smoking.

Secondly, I want us to bear in mind that tobacco control legislation is usually very difficult to pass in most of the parliaments across the world mainly because as distinguished Senator Ayogu Eze said, the tobacco companies have a formidable lobbying structure in the world.

So, I support this Bill and I do urge this distinguished Senate that we would surmount all obstacles and make sure that we pass this Bill for the betterment of our country and citizens. Of course, it is a moral duty upon us to enact this legislation so that we can make it clear to the international tobacco companies that Third World countries like Nigeria are also conscious of the health implication of tobacco smoking to our citizens.

Senator Umar Abubakar T. Argungu (Kebbi North): Mr. President, I would like to join my Colleagues in commending Senator Mamora who came up with this Bill.

A lot had been said on the implications of smoking; how dangerous, injurious and poisonous smoking is. I will not want to go into those areas but what I want to say here is that when I went through the Bill I found that there are extreme measures and control and regulations in the Bill. If these measures are passed as they are, they may likely force tobacco manufacturers to shut down their businesses in Nigeria and where that is done, a vacuum would be created and there would be a gap in demand and supply. Of course, where legally regulated

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businesses are shut down, illegal businesses would come up which means that we will give room for smugglers to smuggle in tobacco products; products that were not regulated.

Tobacco industries in Nigeria for now are being regulated by NAFDAC, Standard Organisation and so on and so forth. If for whatever reason these factories stopped production and we allow unregulated products to wit, so much level of nicotine to be smuggled into the country, we will cause more harm than good to the citizens of this nation. So, we have to be very cautious in passing this Bill.

I am not saying that the little benefit of employment we are getting from tobacco industry would be equal to its health implications, but we should note that this regulated tobacco industries are employing, just like Senator Adedibu said, more than 2,500, Nigerians and indirectly about 300,000 Nigerians, taking into account the tobacco farmers, marketers and distributors of cigarettes. We should also not forget that today, tobacco industry in Nigeria, are the highest payers of excise duty to the Federal Government of Nigeria. We have to take all these into consideration so that we have a balanced proportionate and accountable legislation of tobacco manufacturing; tobacco products and tobacco marketing in this country.

The President: Although, I said the last comment would come from Senator Argungu, I am sure that distinguished Colleagues will allow me to give one of our Elder Statesmen an opportunity to speak because he has been raising his hand.

Senator Hosea Oladipo Ehinlanwo (Ondo South): Mr. President, first of all, I have to commend the sponsor of this Bill because it requires a lot of courage. In fact, there had been efforts in the past by some people to present a Bill on this but they failed. Here in this Chamber; we are not representing ourselves and other Nigerians. We do not have to look at things that are really beneficial to us; we have to look at things that are beneficial to our electorate. If we go back to our Senatorial Districts to say that we are speaking in favour of tobacco smoking, majority of the people will really frown at us. They would tell us to our faces that we are not representing them at all because it is the minority of the populace that engage in smoking.

One time, when I was in London, somebody, sent me to buy tobacco; I do not smoke myself but when I bought it, I saw that they said that one should not smoke tobacco. Why did they put that write up? I looked at the body of the snuff, though it was hidden, even in advanced countries, they said: *Tobacco is poisonous*

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and injurious to health. Except, somebody wants to commit suicide; when something is injurious to your health, your sound body must be very important to you; but we do not realise that because some people are addicted to it.

A medical doctor representing the company where I worked was a chain smoker. I went to him and said: *Doctor, but they said that cigarette smoking is not good, why are you smoking?* He said: *Though I am a doctor, I know that cigarette smoking is not good for my health.* He went further to say that he had been addicted to it and that one day it would kill him. He was a much younger person than me, but after sometime I heard that he has died. I may not know if it was tobacco that killed him.

I want to lend my support to this Bill. Things we know that are not good for us, for the populace and for anybody in this world should be avoided. If we want to increase the span of our lives and we usually use drugs that would increase our life span, why should we turn round to use the one that would decrease that life span?

I lend my support to this Bill and when it is referred to the Committee, they should look at it and go into the nitty-gritty of the Bill and bring it here for us to support and pass.

The President: Distinguished Colleagues, I know that so many people would have loved to contribute but I am sure that we have had a very positive discussion on it.

Senator Lee Ledogo Maeba: Mr. President, I have a Point of Order.

The President: Point of Order, Senator Lee Maeba?

Senator Lee Ledogo Maeba: Mr. President, I am coming under Order 77(3), as it concerns Clause 47(1)(a) of the proposed Bill. Order 77(3) says: *A compendium of the background information and financial implications shall accompany every Bill.* I want to refer that Order to Clause 47 of this proposed Bill.

Clause 47 of this proposed Bill says: *Tobacco control fund is creating a fund* and Clause 47(1)(a) says: *Such funds as may be appropriated by the National Assembly.*

I know that you will interpret the rule, the issue now is; if a fund the Tobacco Control Fund is to be created from this Bill, and the fund is to be used for

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research and all that, people who would use that funds are not listed here.

I really want to see how a fund could be created when we do not have the background of how that money would come about. I would like to appeal that Senator Mamora should do some more work and bring back this Bill inasmuch as it has been agreed by everybody that a fund is being created and we are here talking about creation of multiple funds and this is a serious fund; the Tobacco Control Fund. I want to know if we have any right to know where this money will come from and the volume of money that would be prepared for this fund; more so, when it said it shall be appropriated by the National Assembly.

I support the Bill, but this is my concern.

The President: Thank you very much, Senator Lee Maeba, for your contribution. Your contribution came through a Point of Order and that is the only problem your contribution has. However, this Bill is just repealing an existing Act. He is not presenting a new thing. The Second Reading of any Bill is just on the general principles of the Bill. Since your contribution is valid it is taken but your Point of Order is not in order. So, I rule you out of order.

I thank you for your contributions and as I said, they have been very useful contributions. The resolve we must ensure is not the courage to go through this Bill; but the time factor involved. When it is referred to the relevant Committee, the Committee should bring the Bill back within a week. It is when this Bill stays long with a Committee that we are going to run into crisis. All the very powerful lobby groups that everybody has spoken about would begin to exert some influence. So, when it goes to the Committee, the Committee should exhibit the same courage that Senator Mamora has exhibited and the same courage that every contributor here has exhibited either in support or against and bring it back in time. May I now put the Question?

Question put and agreed to.

The Bill is referred to the Senate Committee on Health to report back within two weeks.

(Bill read the Second Time, and referred to the Senate Committee on Health, to report back in two weeks)

Senator Teslim Folarin: Mr. President, for time constraint, I move that the last item on the Order Paper be stood down till another legislative day.

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Senator Adeleke Olorunnimbe Mamora: Mr. Senate President, I thank you all. I rise to second the Motion moved by the Senate Leader that the last item on the Order Paper be stood down till another legislative day.

Question put and agreed to.

(By the leave of Senate, the last item on the Order Paper stood down till another legislative day)

ADJOURNMENT

Senator Teslim Folarin: Mr. President, I move that the Senate do adjourn Plenary Session till Tuesday, 17th February, 2009 to enable Committees complete work on all outstanding Reports for submission to the Senate.

Senator Adeleke Olorunnimbe Mamora: Mr. President, pursuant to the reasons adduced by the Senate Leader, I rise to second the Motion as moved.

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The President: Before I put the Question, distinguished Senator Mamora raised an issue that shouting ayes or nays has medical implications. In place of ayes and nays, what do we do?

Senator Adeleke Olorunnimbe Mamora: Mr. President, I was only saying that our Colleagues do not have to shout because it increases the intra-abdominal pressure which can predispose them to hernia.

Question put and agreed to.

Resolved: That the Senate do stand adjourned till Tuesday, 17th February, 2008 at 10.00 a.m. prompt.

The Senate accordingly adjourned at 2 p.m.