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**Tuesday
24th February, 2009**

FEDERAL REPUBLIC OF NIGERIA

NATIONAL ASSEMBLY DEBATES

FOURTH REPUBLIC

THIRD ASSEMBLY (SIXTH SENATE)

SECOND SESSION

THE SENATE OFFICIAL REPORT

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**SENATE OF THE FEDERAL
REPUBLIC OF NIGERIA**

Tuesday, 24th February, 2009

The Senate met at 10.10 a.m.

PRAYER

(The President in the Chair)

VOTES AND PROCEEDINGS

The President: The Votes and Proceedings of Thursday, 19th February, 2009, pages 489, 490, 491, 492, 493, 494?

Senator Grace Folashade Bent (Adamawa South): Mr. President, Sir, I rise to move that the Votes and Proceedings of Thursday, 19th February, 2009 be approved.

Senator Chris Ngozi Anyanwu (Imo East): Mr. President, I rise to second the Motion that the Votes and Proceedings of 19th February, 2009 be approved.

Question put and agreed to.

Resolved: That the Votes and Proceedings of the Thursday, 19th February, 2009 is hereby approved.

ANNOUNCEMENTS

Messages from Mr. President

The President: I have some letters from Mr. President. The first one reads:

*Distinguished Senator David Mark,
President of the Senate,*

Dear Brother,

***Bill to Amend the Land Use Act, Cap
L.5 LFN 2004***

I forward herewith for your kind consideration and passage into law the attached draft Bill for an Act to Amend the Land Use Act. It is my hope that the distinguished Senate of the Federal Republic of Nigeria will consider and pass the Amendment Bill in your usual expeditious manner.

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Please accept, Mr. Senate President, the assurance of my highest consideration.

Yours sincerely,

(Signed)

*Umaru Musa Yar'Adua
President*

This is the second letter from Mr. President which reads:

*Distinguished Senator David Mark,
President of the Senate,*

Dear Brother.

***Recommendation for the Re-Nomination of
Mr. Nimi Temboifar Danbo***

Recommendation for the re-nomination of Mr. Nimi Temboifar Danbo as member from Bayelsa State in the Revenue Mobilization, Allocation and Fiscal Commission. The Revenue Mobilization, Allocation and Fiscal Commission is one of the Federal Executive bodies established under Section 153(1) of the 1999 Constitution of the Federal Republic of Nigeria.

By the provision of Part 1, Sub N of the Third Schedule of the 1999 Constitution, the Commission shall comprise a Chairman and one Member representing each state of the federation and the Federal Capital Territory, Abuja. In this connection the first tenure of Mr. Nimi Temboifar Danbo, the Bayelsa State representative in the Commission expired on the 16th of September, 2008.

I have, therefore, in the exercise of the powers conferred on me by Sections 154 (1) and 156(3) of the 1999 Constitution of the Federal Republic of Nigeria, decided to re-appoint Mr. Nimi Temboifa Danbo for a final term of five years in line with the provision of Section 154(1) of the 1999 Constitution which states that the re-appointment shall be subject to confirmation. I hereby present the nomination of Mr. Nimi Temboifa Danbo whose C.V. is attached herewith for confirmation by the Senate.

I look forward to your usual kind expeditious action.

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Yours sincerely

(Signed)

Umaru Musa Yar'Adua
President

Senator Bob D. Effiong (Akwa Ibom North-East): Mr. President, I have a Point of Order.

The President: Distinguished Senator Bob Dickson Effiong, what is your Point of Order?

Senator Bob D. Effiong: My Point of Order is under Order 43 on Personal Explanation, and with your kind permission I will read it.

By the indulgence of the Senate and the leave of the President of the Senate, a Senator may make a Personal Explanation although there may be no question before the Senate and no controversial matter may be brought forward nor may debate arise from 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.

I come to this distinguished House this morning to inform this Senate that on 15th January, 2008, a Motion was unanimously carried in this Chamber to the effect that the very important exercise conducted by INEC that is to say delineation of Electoral Wards and Constituencies was supported by this Senate and, indeed, unanimously carried.

The Committee on INEC was by the Resolution of this august House mandated to liaise with INEC to know what they were doing, the extent they had gone and then brief this Senate from time to time. In fact, the Resolution was to the effect that and I quote: *The Senate do direct its Committee on INEC to ascertain the level of the preparedness of INEC to conduct the exercise and to report back within four weeks.* From the information we heard INEC is liaising with the State Electoral Commissions and creating Wards and Units but we have not been informed as to the extent they have gone.

I, therefore, urge that the INEC Committee of this House should be directed to liaise with INEC on this very important exercise and be briefing Senate from time to time so that we know what is going on otherwise, we will be taken unawares. As

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the representatives of the people we are entitled to know what is going on in our Constituencies, the creation of Unit, Wards, and Constituencies before whatever would happen so that we would not be taken unawares.

The President: You realise that you said that no controversial matter may be brought up nor may any debate arise upon it.

Senator Bob Effiong: It is just for the information of the Senate and for the Senate to continue to direct the Committee to do what it supposed to do.

The President: I allowed you to make your point but the issue you have raised, first of all, in my very candid opinion, is an issue that would generate a lot of comments. The second bit of the whole thing is that this is not exclusively personal to you as Bob Effiong. We had a Motion on it on the Floor here and that Motion was unanimously carried, so it is not really a personal issue to you as Bob Effiong.

Senator Bob Effiong: But it is of national importance.

The President: No, you came under a Point of Order and I am just trying to explain that Point of Order. However, we have listened to the synopsis of the issue that you raised but the Order under which you come is where my problem is because I have to either sustain or not sustain your Point of Order and I really cannot sustain your Point of Order under Personal Explanation.

Senator Bob Effiong: Mr. President, I can also in the alternative come under Privilege or even Constitutional Order Sections 71, 72, 73, and 74 of the 1999 Constitution.

The President: All right, let me rule on Order 43 first. *(Laughter)* Well, I have never had this experience of either Order this or in the alternative this before. The lawyers are very familiar with that. Let me just help you. Thank you. I rule you out of Order. *(Laughter)* But we have heard your explanation though.

Senator Nimi Barigha-Amange (Bayelsa East): Point of Order, Mr. President.

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The President: Yes, Point of Order, distinguished Senator Nimi Barigha-Amange.

Senator Nimi Barigha-Amange: I want to come under Order 42 dealing with Matter of Urgent Public Importance. I seek your leave to read it.

The President: You may read.

Senator Nimi Barigha-Amange: Order 42 reads:

(1) The matter for discussion shall, if possible, be referred to the President of the Senate before commencement of the day's sitting and the President of the Senate shall refuse to allow the claim unless it is satisfied that the matter is definite and urgent.

(2) If the claim is allowed by the President of the Senate and the leave of the Senate is given by, at least, one-fifth of all the Senators, the matter shall stand over till the next legislative day;

(ii) Not more than one or first motion may be made at the same sitting.

On Saturday, 21st February, 2009 whilst some supporters of Ocean Boys Football Club were going to Ughelli for a league match between Ocean Boys of Brass and Bayelsa United both of them from Bayelsa State. Unknown attackers attacked them and killed six of them on the spot and several of them injured and they are now lying in an hospital in Ughelli. This is the synopsis of the Point of Order I am trying to raise, if I am allowed to continue.

The President: You know I have to seek the consent of the Senate. Is it the wish of the Senate that he be allowed to raise the issue of the death of the supporters and players who were going for a tournament and they were attached on the road?

Question put and agreed to.

It would stand over to the next legislative date.

Senator Suleiman Adokwe (Nasarawa South): Mr. President, Point of Order!

The President: Point of Order, Senator Suleiman Adokwe.

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Senator Suleiman Adokwe: Mr. President, my Point of Order is Order 43 on Personal Explanation, if I may be permitted to read.

The President: You can read but be sure that what you are raising is personal to you.

Senator Suleiman Adokwe: It is very personal.

The President: All right, you may read.

Senator Suleiman Adokwe: Order 43 says:

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.

I had approached you earlier to bring to the notice of my Colleagues that the Nasarawa State University in my State is conferring on the President of the Senate the Honorary Doctorate Degree of Science, (Honorary course of the University) This occasion is scheduled to coincide with the 3rd and 4th Convocation of the University at its Keffi Campus, in Nasarawa State.

Beyond the fact that the Senate President has his kith and kin in Nasarawa State, which I am one, his immense contributions to educational development, sports and youth's social scheme and skills have endeared him so much to my state that this honour is deservedly conferred on him.

Last year, the President flagged off an Open University Study Centre in Lafia and promptly built the most sophisticated one in Oturkpo. His Scholarship Scheme goes beyond his immediate Constituency, to cover the whole of Benue State and hopefully Nasarawa State and other states in future.

The Senate is, therefore, invited to note this singular recognition that is conferred on our dear President. I also pray that the Senate would wish our dear President successful ceremony, come Saturday, 28th February, 2009. We wish him more meritorious recognition in future. By this Personal

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Explanation I am also inviting my distinguished Colleagues to join me to honour the Senate President on Saturday, 28th February, 2009 at Keffi by 10 O'clock in the morning.

The President: Your Personal Explanation is noted.

ORDERS OF THE DAY

MOTION

Alarming Increase in the Use of Sub-Standard Refilling Gas Cylinders in the Country

Senator Teslim Kolawole Folarin (Oyo Central): Mr. President, the first Order of the Day is a Motion standing in the name of Senator Osita Izunaso, on the Alarming Increase in the Use of Sub-Standard Refilling Gas Cylinders in the Country. You may wish to invite Senator Osita Izunaso to move his Motion.

Senator Osita Izunaso (Imo West): Mr. President, I rise to move the Motion standing in my name, on the alarming increase in the use of sub-standard refilling gas cylinders in the country, which is very germane to the existence of life and property.

This Motion has been in the Committee for the past seven months but we thank God that it is coming up today. It is very important that we address this issue because of the security of lives and property of our people.

Nigeria, as we all know, was a world class producer of an estimated four million tons of liquefied petroleum gas in 2003. Today, our consumption rate has collapsed from the Olympian height of about four million tons to barely about 50,000 tons. Despite the huge natural energy resource, many Nigerians still do not have access to quality and modern energy services particularly in the issue of liquefied natural gas. This is because of the non-availability of gas cylinders in our country and even where they are available, they are not protected enough to safeguard lives and property.

In fact, it is shocking that a country of over 140 million people the gas consumption in our neighboring country like Cotonou is far higher than that of Nigeria. It is estimated that Nigeria does not have up to one million gas cylinders available in the

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country today. Even the few that are in existence are not well protected to cater for the lives and property of our people. The Motion reads thus:

The Senate:

Notes that the consumption of gas in our homes for domestic purposes is carried out only by means of gas cylinders, because we do not have gas pipe to our homes as it is done in other parts of the world like in Europe and America. The only way we consume gas is through gas cylinders in our homes.

Notes that gas cylinder specifically meant for domestic use must conform with Nigerian Industrial Standard (NIS) any where and anytime before it is used;

Further notes that refilling gas cylinders have expiry dates but most of our people are not aware that gas cylinders have expiring dates. If you use a gas cylinder that has expired, the tendency of exposing yourself and your family members to risk is almost 100 *per cent*;

Observes that Nigerian markets have been flooded with sub-standard refilling gas cylinders and accessories. In fact, what our people do now is to go to other countries to import gas cylinders that do not conform to our own standard here and there is nobody checking these activities;

Notes that exposure of gas cylinders to the weather conditions cause wear and tear to them thereby making them susceptible to danger in our homes through latent leakages;

Concerned that sub-standard gas cylinders and accessories lead to explosion thereby causing fire incidents and loss of lives;

Concerned also that the use of sub-standard refilling gas cylinder by Nigerians has been a major source of fire incidents in our homes with grave human and material consequences;

Concerned that the dealers in domestic gas engage in fraudulent practices against Nigerian consumers through false scaling and refilling.

I want to also inform the Senate that there is a Bill that has passed through the First Reading in this Senate by the LPG Association. Why these things are going on is because the Association that

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is in charge of LPG in Nigeria does not have charter and has not been properly formed and gazetted by an Act of Parliament. That Bill has already passed through its First Reading in this hallowed Chamber and I am sure that any moment from now, having sensitised our Colleagues, that Bill will come for its Second Reading.

The Senate accordingly resolves to:

- (i) Urge Liquefied Petroleum Gas (LPG) Refilling plants to test gas cylinders brought to them before refilling them;
- (ii) Urge the Standard Organisation of Nigeria (SON) to intensify efforts in its fight against sub-standard products in Nigeria by carrying out enlightenment campaign to dealers and the general public on the inherent danger of using sub-standard cylinders and accessories and invoke its bye law to punish erring members of the public;
- (iii) Condemn fraudulent practices by domestic gas dealers against Nigerian consumers;
- (iv) Condemn the importation and the use of sub-standard gas cylinders in the country by marketers.

Senator Jibril M. Aminu (Adamawa Central): Mr. President, I support this Motion moved by distinguished Senator Osita Izunaso. We must always continue to emphasise safety when it comes to liquefied petroleum gas. This programme is known as buternisation. That is, getting petroleum gas for domestic purposes. As Senator Izunaso quite rightly said, we have not reached the situation of having gas piped for domestic use. That is the ideal thing to aim at. Until that is done, we are reduced to using gas cylinders which are not safe and they are very dangerous. They leak at homes and when the cook comes in the morning, the moment he/she lights the fire, they could get blown off by the gas which has leaked and has filled the ambiance of the kitchen. So, it is something that requires a lot of care and I am afraid that it does not always happen. I remember at one time we were working on a scheme to get these cylinder heads made in Nigeria and standardised in Nigeria. I do not think, like all things in Nigeria, we have gone very far.

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I support his Motion. I will like to add that gas is petroleum and it comes under the purview of the Department of Petroleum Resources and by extension, Petroleum Inspectorate. They have the responsibility to inspect all petroleum related appliances in addition to what the Standard Organisation of Nigeria does. Therefore, apart from the Standard Organisation of Nigeria, the Motion should reflect that the Department of Petroleum Resources should rise up and take interest in this matter to ensure safety. They are more professionally competent on this matter than the Standard Organisation of Nigeria. So, I support this Motion with these few comments.

Senator Justina Nkechi Nwogu (Abia Central): Mr. President, I associate myself with this Motion calling for the stoppage of this horrible act by our people introducing and using sub-standard gas cylinders. I commend the mover of this Motion for bringing it to the attention of Nigerians and most importantly, this Senate.

The use of sub-standard gas cylinder has been with us and we mothers and wives and those involved with domestic chores know what we go through and the horror that we are faced with and the concern we express when we go into the kitchen and perceive the emission of gas. Every one knows how highly combustible gas is and the way it is being utilised in Nigeria has at times recorded very disastrous consequences.

About two years ago in my Constituency, a domestic gas explosion occurred on 31st December in the kitchen of a building and a whole family perished in the ensuing inferno.

I have always wondered where the Standard Organisation's work begins and ends. I do know that in other parts of the world gas is not consumed the way it is consumed in Nigeria. The act of going to a roadside domestic gas dealer to have gas cylinder refilled without any standard means of doing it leaves much to be desired. Most times you take your empty brand new gas cylinder for refill and it ends up being exchanged for gas cylinder that has been in use for upwards of ten years.

Therefore, I commend the mover of this Motion for bringing this issue to the attention of this Senate and for us to come up with the Resolution that would help save lives of innocent Nigerians. The time has come when we must

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introduce in our system a centrally piped gas for our domestic consumption. A situation where everybody becomes domestic gas dealer by the roadside is not the best. Having had gas at out disposal for many years, we ought to have developed beyond how we are using it today.

I am, therefore, urging this Senate to, please, support this Motion; bring it to the attention of the relevant authorities for us to develop further from where we are today. We cannot continue to recycle expired gas cylinders and gas cylinder heads. There are too many types of gas cylinder heads. All the big eight oil companies have their own type of cylinder heads. I do not think it is the best.

Consequently, because the bottles are standard, the gas heads are different depending on the oil company you buy from. When you go to another company if they do not have that they just make do with whatever. When you buy that and go to your house you will find out that it will immediately begin to leak.

I am urging my Colleagues to support this Motion in its entirety and bring this to the attention of the Standards Organisation of Nigeria to ensure that we have a standardised gas cylinder with expiry date that will be known to the dealers so that when a gas cylinder expires it should not be brought out for use again. I, therefore, support this Motion in its entirety.

Senator James Ebiowou Manager (Delta South): Mr. President, I view with very grave concern the exposition made very clear by this very Motion ably moved by Senator Osita Izunaso and I support the Motion in its entirety.

Not many people are aware of this gas cylinder and its expiry date. Of the over 140 million people of Nigerians, I doubt if 10 *per cent* is aware of the expiry date of gas cylinders. This Motion is very important.

Of course, I want to believe that the Committee has a very big job to do because it is not enough to condemn or urge. We must perform our oversight functions very seriously, particularly those who must enforce these things because we are talking about the Standards Organisation of Nigeria and, of course, the Nigerian Industrial Standard.

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If there is a Committee that must perform oversight functions related to gas and the use of cylinders, I believe that the Committee on Gas has direct function to perform here. We must do it very well because as this Motion has exposed, the danger in using sub-standard and expired cylinder is great. Therefore, when we come to the Prayers, we must go beyond just urging. We have to direct the Committee on Gas to do a lot more than merely urging those who are supposed to enforce this.

Senator Grace Folashade J. Bent (Adamawa South): Mr. President I rise to lend my voice to this very important Motion moved by Senator Osita Izunaso.

I would like to bring to the attention of this hallowed Chamber that the practice of using sub-standard refillable gas cylinders has been with us for a very long time. I have witnessed this very despicable act by local sellers of gas cylinders in the last twenty years if not more than that. I have witnessed on a number of occasions when we went to have our empty gas cylinders refilled, the sellers refilling cylinders with crude local instruments and in the process gave us half-filled gas cylinder. By so doing they made more gains at the expense of people's health and life.

I often wonder whether the state of lawlessness in which we have found ourselves today is a problem that we cannot surmount. Why and how long will Nigerians be more concerned about their own pockets than the lives of their fellow brothers and sisters in the country.

As my distinguished Colleague has said, what role is the Standards Organisation of Nigeria playing? You seldom hear about their activities. You only randomly hear, maybe, the performance of SON in any sphere of life. I wonder if they are there as a ceremonial organisation or they are really there to protect the lives of Nigerian People. One would have expected that the Standards Organisation of Nigeria would have nib this sort of thing in the bud. It is not a recent development; it has been on just like we have the problem of fake kerosene exploding in lanterns in various homes. This thing has taken the lives of many Nigerians. This thing keeps happening repeatedly and when it happens, it would have media hype and people will sympathise with the victims, and the government

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will condemn it and we will go back to square one. Are we saying that there cannot be an end to this development?

We must look inwards. The situation in which people take the laws and the Nigerian people for granted is becoming an issue that is totally unacceptable. We cannot continue to allow this sort of thing rearing its ugly head in this country. The LPG that is the sole organisation responsible for ensuring certification of gas cylinders for safety is doing little or nothing. What are they there for? We should go beyond the Prayers we have here. If possible we can even recommend capital punishment or more stringent sanctions for those creating the problems of sub-standard refilling gas cylinders for us. I think we should do it. They do it and nothing happens. When the police arrest them, they will give the police money and it becomes business as usual. He who takes another person's life must not be spared. Therefore, capital punishment or stringent sanctions must be among our Prayers otherwise, we would not be seen to be doing much in arresting the situation. Therefore I support this Motion and I urge my Colleagues to please, ensure that we act on this as early as possible.

Senator Nimi Barigha-Amange: Mr. President, I support the Motion and I also thank the mover of the Motion.

There is one key issue that we are missing out. As far as gas is concerned, it is in abundance in Nigeria. If we are a serious nation, we would have used this opportunity to find area that we can exploit to our benefit. How can a City like Abuja be using gas cylinders in houses after nearly 50 years of Independence. We do not know that we can pipe gas to our houses and then use meter to calculate the amount of gas each household is using.

This is a major problem. We cannot accuse the users of sub-standard gas cylinder. They are novices and they do not know about expiry date or non-expiry date. What they know is to get gas, if possible, the cheapest one. Well, if the cylinder explodes, then the household would go. It is the government using its agency like SON to be able to monitor producers of gas cylinders, and stamp every cylinder of gas. They should let the public know that if you want to buy a gas cylinder, ensure you buy the one with SON stamp.

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What are we doing? We are blaming the poor people who are looking for a way. Gas is very expensive and scarce though God has given us enough gas for even the 140 million Nigerians to use as we want, but we are only flaring it away. Well, I sympathise with the users. When we get to the Prayers, I will add one or two.

Senator Lee Ledogo Maeba (Rivers South East): Mr. President this is one serious aspect of our negligence as a people. God gave us abundant gas and oil but you will be surprised that sometimes Nigerians do not have even fuel to drive their cars yet we are sitting on billions of barrels of oil and gas.

I have always said that we have fundamental problem within ourselves and we should ask ourselves, what is wrong with us? In some smaller countries like Cote D'Ivoire, gas is being sent to houses by pipes. They develop a standard which is working. This is a country where people participate in businesses any way they want. There is no standards, regulation, improvement or uniformity and so, business is done as usual and anyone can start his or her own.

There is provision in the Petroleum Act that has to do with LPG. There is regulation and the law is there. But the DPRA has not one day tried to ensure conformity with the law. The Petroleum Act and the regulations are there but nobody looks at them.

If you look at the regulation on gas cylinder head, in every country, it is one type of head they use that is uniform. But, in Nigeria if you buy Total gas cylinder and your gas finished, if you go to NNPC or Agip, you would discover that the gas cylinders are not the same. It is just like a kangaroo business; everybody does his own and create his own standard when there is already laid down standard that must be followed.

I have looked through the Motion, what surprised me is that the Committee seems to be exonerating itself from further action that will stem all these things and put the enforcement of the regulation in place and talking about Standards Organisation of Nigeria which is like passing the bulk. I do not agree. The Committee is funny by saying that Standards Organisation this and that. I believe that this is the work of the Committee. The Committee has sensed that things are not going the

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way they should; that gas dealers are not adopting the regulations, therefore, the fundamental burden is now placed on the Committee to reach out to all stakeholders and bring them together to ensure that this business is done in a way that is safe for gas users. If the gas cylinders are unsafe, the lives of people are unsafe; the lives of neighbours are also unsafe and the life of the nation itself is equally unsafe. So, to ensure regulation, there must be standard that an LPG refilling plant must keep to. There must be a standard that somebody who is distributing gas bottles must keep to. It is not good for somebody to just start a new gas business and pick gas cylinders that have been over used.

There is something that we do not know. When they said cylinder has expiring date, the use of liquefied gas inside the cylinder has a corrosive effect on the bottle. Therefore, the bottles may already be leaking from inside because they are exposed to rain and all sorts of aggressive corrosion elements. This standard must be kept and I believe that the Committee must do its work by ensuring that standards are kept so ensure that gas cylinders are safe for users.

Senator Gyang Dalyop Dantong (Plateau North): Mr. President, I would like to align myself with all the intentions and purposes of this Motion as moved by Senator Osita Izunaso. It is so sad and worrisome that Nigeria that has huge deposits of gas and is exporting so much gas, yet she has very little for domestic use. Even the domestic gas that is being used in Nigeria it is being presented in cylinders that are sub-standard. Is it not enough that we do not have enough? Must we add problems upon ourselves? It looks like Nigeria is the only country that is so insensitive to her citizens.

What worries me most is the fact that if people are allowed; just as we see in *tokumbo* cars, some people may go ahead to even panel-beat the gas cylinders. It is so sad that these things are happening.

The issue is not sub-standard gas cylinders but the gas cylinders are not sufficient in circulation. How many gas cylinder producing companies do we have in Nigeria? That is the crux of the matter. We need to look into that. Government needs to encourage companies to produce gas cylinders because if there are not enough, people would do all sorts of things to gas re-cycle cylinders over and over again and we would never stop using them.

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So, I would strongly suggest that gas cylinder producing companies in Nigeria must be encouraged to ensure that we have enough gas cylinders that would go round the country. We must leave stop the usage of expired cylinders. With this few remarks, I intend to support the mover of this Motion with all the Prayers attached to the Motion.

The President: We will go to the Prayers now.

Accordingly the Senate resolves to:

1. *Urge Liquefied Petroleum Gas (LPG) refilling plant to test gas cylinders brought before it before refilling them;*

Is it the LPG people that you are worried about or the road side workers? Is the LPG not the official government one?

Senator Osita Izunaso: LPG means Liquefied Petroleum Gas. They have a body now called LPG Association but that body has not passed through all the legal crucibles; that Bill is pending. All the markets are members of the LPG body. So, the purpose of this particular Prayer is to advise LPG body to ensure that all cylinders brought for refill with gas are accurate and not expired.

The President: What is the difference between the LPG and the road side people who refill gas cylinders?

Senator Osita B. Izunaso: All of them are supposed to be members of LPG Association but they are not. So, what this particular Prayer is seeking is that before you can engage in the business of refilling cylinders with gas, you must belong to that Association which would regulate what you do. If they are not members, the Association cannot regulate what they do. By law they are supposed to be members of the LPG Association.

Senator Lee Ledogo Maeba: Mr. President that is why I keep saying that the Committee has more work to do. Every gas cylinder must have certification. The DPR has a Department that certifies the safety of gas cylinders. So, what this Prayer ought to aim at is that every gas cylinder to be refilled must be certified. It must carry on its body a certification sticker from the DPR. That certification sticker must indicate the expiry date or the certification period. If this is done, there will be

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a lot of regulation. That is why I said that the Committee has to call stakeholders and discuss on how to ensure the achievement of safety standard that have been set in the law. This safety standard is in the law.

So, I propose that the Prayer should be amended to read that: *Every gas cylinder to be refilled has to be certified by the Department of Petroleum Resources*, which is the regulator. There is no Safety Organisation of Nigeria. The DPR works in collaboration with the Safety Organisation of Nigeria. Every Department that ensures safety works in collaboration with the Safety Organisation of Nigeria. The certification they are doing for safety has to be approved by the Safety Organisation of Nigeria. I will re-write the Prayer to read that: *All gas cylinders to be refilled must be certified safe by the Department of Petroleum Resources*. That will solve the problem.

The President: Let me get the whole thing right. Senator Osita, does every gas cylinder have an expiry date? I am a bit not clear of what you are asking for because the road side person who is filling gas cylinder is the one we are worried about that he is doing the wrong thing. First that the gas cylinder in my house that I am taking to him, may or may not have expired and when it gets to him, of course, he does not fill it up properly and all the rest of it. So, who are we referring to here?

Senator Jibril M. Aminu: Mr. President, I basically agree to what Senator Lee Maeba has said, but it needs to be recast to show where responsibility lies. In other words, I would say that: *The Department of Petroleum Resources must ensure that every gas cylinder satisfies the legal requirement of currency and safety and it must be certified by that department*. With that you know that the responsibility is being given by Senate by law to the Department of Petroleum Resources. If you just say, every cylinder must have been certified; who is to ensure that? That is why I think we should recast it to say: *The Department of Petroleum Resources which is the body legally in charge of this must ensure that every gas cylinder throughout the country satisfies the legal requirements of currency, safety and all other safety standards*. We should leave it that way.

The President: The DPR is to certify that all gas cylinders meet with safety requirements and standards. Is that all right?

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Senator James Ebiowou Manager: Mr. President, I agree to the Amendment proposed by Senator Lee Ledogo Maeba and supported by Senator Jibril Aminu. There are *gurus* in this industry. My worry as a layman in this field is; what about the gas cylinder that I have at home, and I take it to the man who fills the gas on the road side; and if I do that for upwards of six years and the cylinder does not have any problem whereas the cylinder has expired, who will ensure that the cylinder meets the required standards? This must be captured. What role does the Standards Organisation of Nigeria play in all these things?

The President: Senator Nkechi Nwaogu, are you going to address the issue raised by Senator James Manager?

Senator Nkechi Nwaogu: Yes, Sir.

The President: He has raised a fundamental issue which is the one I have been asking. I have a gas cylinder, at what point do we get DPR to certify it?

Senator Nkechi Nwaogu: It is time we begin to have proper regulation and monitoring. For instance, the road side gas dealers are not controlled by anybody. The importation of this important domestic product has no regulation of any kind. People just buy them. If you are lucky you may get a brand new one. Even those producing it, they produce it at the road side with very weak and locally fabricated metal which is very dangerous.

There should be regulation of the domestic gas dealers on the road side. Somebody cannot just stand up in the morning and decides that the business he would do is domestic gas dealing by the road side. They go at the road side and fabricate weak gas cylinders. When you buy your gas cylinder from Nigerian National Petroleum Corporation (NNPC), which is a good one and you go to road side dealers to have it refilled, they will exchange your good one with their locally made one. The only time you could guarantee the use of your own cylinder is when you go to gas refilling companies. When you go there you mark your own cylinder, so that even if it takes a day or two to refill they would give you your own cylinder. Again, you are guaranteed that you are having a full 12.5 kilogramme or 50 kilogrammes as the case may be.

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If you go to the road side dealers, the question is, should we not regulate these road side dealers and bring them to formal business under the DPR and at the same time, regulate the importation of gas cylinders? They can be registered so that we know what type of cylinders we push into the market.

The President: We went through this explanation before. Regulation of the road side dealer is a different business. We are actually talking of the gas cylinder. That is the point Senator James Manager made. He has his own gas cylinder which he has been using every time he takes it to the road side gas dealer for refilling. He wants to know at what point his own cylinder has expired even though it still performs well. There are two issues here. The road side gas filler whose business you want to regulate so that he does his business to standard, fills the gas to capacity, and so on and so forth. That is just one side of the issue.

Senator Lee Ledogo: It is very simple, Sir. It is like when the Central Bank of Nigeria brought out new Naira notes, it allows it to circulate and then they have a method of withdrawing the mutilated notes. The same thing applies to this refilling process. We are saying that there is a Law that says all gas cylinders must adhere to some safety standards set out by the DPR but this has not been enforced.

The issue Senator Nkechi Nwaogu is raising is that if you take your gas cylinder to the refilling plant and you insist you need it back, it will go back to the certification process and if the refilling plant is adhering to regulation set by the DPR, they will test it and if it is discovered to have expired or no longer safe, they will not return it to you. This is the way the road side dealers are to be regulated. The cylinder you are recycling, if you take it to the refilling plant they will seize it if it is no longer good for use, and you lose it.

So, the Prayer is simple. The Committee working with DPR will ensure that any cylinder that goes to the filling plant is certified and if it is no longer safe will be seized. By so doing all the unsafe cylinders will be out of circulation in no distant time. The roadside dealers would be encouraged to go for only cylinders that are certified. It is just simple.

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The President: I will put the Question on Prayer 1 as amended.

Question put and agreed to.

Prayer 2 says: *Urge the Standards Organisation of Nigeria (SON) to intensify efforts in its fight against sub-standard products in Nigeria by carrying out enlightenment campaign to dealers and the general public on the inherent dangers of using sub-standard cylinders and accessories and invoke its bye laws by punishing erring members of the public.*

Senator Lee Ledogo Maeba: My proposed Amendment is: *Urge the Committee on Gas to ensure that the DPR and all Stakeholders adhere to laid down safety rules and regulations in the distribution of gas cylinders.*

The President: Well, it is our policy not to tell our Committees to do their duty. They ought to do it without being told. If it is part of their duty they must brace up and do it without being told. So, if this is not relevant I will put the Question.

Question put and agreed to.

Prayer 3 says: *Condemn fraudulent practices by domestic gas dealers against Nigerian consumers.*

Question put and agreed to.

Prayer 4 says: *Condemn the importation and use of sub-standard filling gas cylinders in the country.*

Question put and agreed to.

Senator Gyang Dalyop Dantong: Our basic problem is the fact that these cylinders are not enough in circulation and Nigerians must be encouraged to have more cylinder plants in order to get rid of these sub-standard cylinders in circulation. I wish, therefore, to add an additional Prayer that: *Urge the Federal Government to encourage establishment of gas cylinder plants in Nigeria.*

The President: Is it not a private business? Or are you urging the government to built one?

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Senator Gyang Dalyop Dantong: It is both private and public business.

The President: I will put the Question in favour of the additional Prayer.

Question put and agreed to.

Accordingly resolved to:

- i. *Urge the Department of Petroleum Resources which is the body legally in charge of this to ensure that every gas cylinder throughout the country satisfies the legal requirements of currency, safety and all other safety standards.*
- ii. *Urge the Committee on Gas to ensure that the DPR and all Stakeholders adhere to laid down safety rules and regulations in the distribution of gas cylinders.*
- iii. *Condemn fraudulent practices by domestic gas dealers against Nigerian consumers.*
- iv. *Condemn the importation and use of sub-standard filling gas cylinders in the country.*
- v. *Urge the Federal Government to encourage establishment of gas cylinder plants in Nigeria.*

CONSIDERATION OF BILLS

Economic and Financial Crimes Commission Act (Amendment) Bill, 2009

A Bill for an Act to Amend the Economic and Financial Crimes Commission (Establishment) Act, 2004 (SB. 205)

Senator Teslim K. Folarin: Mr. President, the second Order of the Day is the Second Reading of the Economic and Financial Crimes Commission Act (Amendment) Bill 2009. The Bill was read the First Time in this hallowed Chamber on Wednesday, 22nd October, 2008.

You may now invite Senator Sola Akinyede to move the Motion for the Bill to be read the Second Time.

The President: Distinguished Senator Sola Akinyede, you have the Floor.

Order for Second Reading.

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Senator Sola Akinyede (Ekiti South): Mr. President, I thank you for giving me the opportunity to lead the debate on the Second Reading of this Bill. This Bill was read the First Time on the Floor of this distinguished Senate on Wednesday, 22nd October 2008.

Jurisdictional Overlap

The first issue I would like to address is jurisdictional overlap. There was a time that it was proposed that both the EFCC and ICPC should be merged. One of the reasons for this suggestion was because it was believed in some circles that both bodies were doing the same thing. ICPC was established to fight corruption while EFCC was established to combat economic and financial crimes as well as money laundering. While naturally there must be areas of overlap, the two are not the same.

Furthermore, in view of the fact that Nigeria is such a large country, it is not possible for one body to investigate and prosecute cases of corruption and financial crimes all over the country, particularly in all the 774 Local Government Areas in the country. I strongly believe that merging of these two bodies will not be a good idea.

However, there areas of jurisdictional overlap and they are too wide. One of the purposes of the proposed Amendment is to streamline the jurisdictions of the two bodies and reduce the areas of overlap which have resulted in the two organisations sometimes investigating and prosecuting the same person. I believe this is a waste of public fund.

What is being proposed under the Amendment is that EFCC should concentrate and specialise in prosecuting indicted elected or appointed public office holders while ICPC concentrates and specialises in prosecuting indicted career public officers.

With regard to the Special Powers of the Commission under Section 7 of the Act, the EFCC Act does not specifically confer on the Commission the power to prosecute individuals or corporate bodies. The Act merely empowers the Commission to investigate with a view to identifying individuals, corporate bodies or groups involved. This lacuna in the law may be exploited by defence lawyers in the near future. One of the Amendments

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being proposed is to empower the Commission by specifically conferring the power of prosecution on it as is provided in the ICPC Act.

Another Amendment being sought in this area is the deployment of officers to the Commission. The objective of this Amendment is to preserve the independence of the Commission and its officers from undue influence.

Under the present EFCC (Establishment) Act, 2004, particular Section 8(3) a law enforcement officer or other public servant may be seconded to the EFCC. Such a person who is seconded and who is doing a good job may be transferred out by redeployment by the seconding organisation under the influence of somebody whom the officer is investigating.

The proposed Amendment seeks to guarantee the tenure of office for the deployed officers for a particular period unless the Commission decides otherwise for incompetence, misbehaviour or other reasons.

What is being proposed, is that an officer who is seconded from another body like the Police, Customs or Central Bank to the EFCC should be guaranteed a tenure of four years except the Commission decides otherwise so that we do not have undue influence coming from outside.

Destination of Properties Recovered from Convicts

The other Amendment is in the area of destination of properties recovered from convicts. I believe that where properties are recovered from convicts, such properties should go back to the rightful owners, for example, state governments or individuals directly rather than going through the tortuous and time wasting process of being paid into the Consolidated Revenue Fund before it is then released to the rightful owner as is presently the case as provided by Sections 30 and 31 of the Act.

You will recall the case of Plateau State. There is still ongoing battle between the Plateau State Government and the Federal Government regarding some funds recovered from some indicted Plateau State officials. I believe it is most unfair for recovered funds to have to go through the process

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of going through the Consolidated Revenue Fund before it is released to the owners. The Amendment being proposed in this regard is that Section 32 of the Act should be amended to the effect that such properties or monies recovered should be returned directly to the rightful owners.

Fugitives

I now want to touch on the issue of fugitives, that is, people who have committed offences and have escaped from this country. One of the major Amendments being sought is in respect of situations where money, stocks, properties, real or personal that are suspected to have been acquired in breach of the provisions of the EFCC Act or the Money Laundering Act and the suspected owner of the property is a fugitive or a person that cannot be located despite the exercise of due diligence or a person who resides outside Nigeria or within Nigeria but efforts at locating the person are unavailing, impossible or unproductive or the suspected owner disclaims ownership of the property and no other person has come to lay claim to such property.

The Amendment is seeking to empower the Commission to apply to the Court to have such money, stocks or property forfeited subject to those who have legitimate claims being given a fair hearing. The idea behind these Amendments is to force those who claim to own properties particularly those who are fugitives or using fronts to come out and lay claims to these properties if these properties really belong to them and were legitimately acquired.

It is instructive to note that this type of provision exists in the laws of South Africa, the United States of America and the United Kingdom. The Fuji Islands also have the same provisions.

On the conclusion of the Second Reading of this Bill, it is proposed that there will be a Public Hearing where all stakeholders will be given the opportunity to make inputs.

Furthermore, we are all aware that a lot of people make false allegations against individuals to the EFCC. The fine for making a false allegation is just ₦10,000 which I believe is ridiculous. It is being proposed that that fine be increased to ₦100,000 so that people are discouraged from making false allegations against innocent people.

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Finally, as I said, we are going to have a Public Hearing so these Amendments are not set in stone; they are subject to change. As this Bill is an Amendment Bill the financial implication is zero.

Once again, I thank you most sincerely for this opportunity and I urge you to support the passage of the Bill into law.

Senator Umaru Dahiru (Sokoto South): Mr. President, let me comment the Committee and its Chairman for their effort which is rightly done at this given time to amend the Economic and Financial Crimes Commission Act. I will certainly support it.

Let me add that we should go far beyond the Amendments being sought. If we can go down the history of EFCC itself, you will discover that one cannot be out of context if he says when the EFCC Act was enacted in 2004 with all the subsequent Amendments it was done purposely for a given person. Unfortunately, that person became a victim of the law that was purposely made for him.

I vividly recall that at one time during the Fifth Senate when an attempt was being made to amend the Act in particular Section 2(1)(2) relating to the appointment of the Chairman, whether he could be a serving or a retired officer and another proposal was made that whoever should be the Chairman should be independent of any other organisation besides being EFCC itself. Unfortunately, because at that material time probably they did not like the man in charge not to be out of the Police Service or whatever, they decided to allow it to remain and that was the beginning of the problem. Of course, that Section was used to post him out and sent him for extra course as they mentioned and now he has become a victim.

So, in the course of our Amendment, we shall critically look at that particular Section and ensure that only those who are willing to serve in EFCC are certainly appointed as Chairman or Members of the Commission. To bring somebody outside with double loyalty, definitely, will not augur well for the Commission.

Again, the Amendment being sought is that we want to make the Commission independent in such a way that it would be able to prosecute. I hope and it is my belief that we should not try at all costs to make it in such a way that the Honourable

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Attorney-General of the Federation should not, as a matter of course, which is constitutional, in case he feels he should intervene and seize the case; we should allow him to do so because that power belongs to him and there is no way we can disallow him. It has happened in the past when an Attorney General decided to take over a case in public interest, the then Chairman said he had no power, and you could imagine the tussle.

I vividly recall that at one time, this Chamber tried to broker peace between the Commission Chairman and the Attorney General of the Federation. What happened underground was a show of ego. Ego was there because the issue of rule of law was not being followed. If there is a rule of law in the Commission itself; if the law was not meant for one person; he must respect the rule and the Constitution. I hope that since the Amendment is being sought now, we shall go all hog. We shall look at all the Sections of the Act itself and certainly define the Constitution.

Again, you know the Commission was not enacted to go only after financial crimes. I vividly recall issues of rent for tenancy is being prosecuted under the EFCC. A tenant could be brought, if the property owner has connection with the Chairman or whoever, to say look, this man refused to pay my rent. Is that an economic crime? The EFCC would certainly put the tenant in cell indifferently, until the man is probably to cough out the money.

Even, issues of land. Just of recent, somebody was forcefully detained just on land transaction, which has nothing to do with EFCC. Luckily enough, the man involved had the capacity to institute an action before the court of law, and happily enough, the court awarded him damages. I am happy to announce that EFCC complied because they have changed guards. That could be kudos to EFCC because the issue of rule of law is now being followed.

So, I hope that in the course of our Amendment, we shall go through all hog. In fact, we shall look at the Act itself completely. We shall define what financial crime is. We shall not make omnibus kind of Clause thereby allowing the Chairman or whoever in the Commission to go hunting individuals. I recall again that the Commission was used to go after political enemies or what not. I hope this time around we shall tame

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and limit it to the dictates in which the Act is being established.

Once again, I certainly commend the Amendment and as I mentioned I hope in the course of it, we shall go all hog and during the Public Hearing, we shall be able to call all the stakeholders and probably the views should be expressed and where Amendment is required we shall surely effect it.

Senator Victor Ndoma-Egba (Cross River Central): Mr. President, let me start by commending distinguished Senator Sola Akinyede, and Members of his Committee for this timely Amendment Bill to the EFCC Act.

The EFCC has become not just a Commission that investigates financial crimes, but also an institution by which Nigeria's seriousness at fighting corruption or adopting global public governance values is measured.

Today, the world sees Nigeria through the prism of the EFCC. If you recall, a few years back, it was a big burden to carry a green passport, and that was because the global perception of Nigeria at the time was that every Nigerian was a crook. With the advent of EFCC, part of our image has been redeemed. So, I believe that EFCC is beyond an organisation that fights financial crimes, but also, has become the measure by which we are seen by the rest of the world.

It is for that reason that I have been a fervent supporter of EFCC because I believe that the issue of corruption, financial crimes, our image and our perception have to be addressed from an institutional perspective. For once in a long time, Nigeria was seen to be seriously addressing the issue of corruption, of financial crimes, of 419, of our image and of our perceived values globally. Therefore, every effort to make the EFCC as independent as it can possibly be must be supported. It is under that premise that I support these Amendments and other Amendments that I am sure would become evident in the course of Public Hearing.

The Commission needs to have very clear prosecutorial powers because as it is now, those powers are not clearly stated in the Act setting up the Commission. It must be stated in the Act that the Commission shall have powers to prosecute. I

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do appreciate that even when you state that those powers will be subject to the powers conferred on the Attorney-General of the Federation by virtue of Section 174 of the 1979 Constitution. Those powers will still be subject to the powers of the Attorney-General. However, it is important that it is stated in the Act that they also have power to prosecute, so that we do not engage in the kind of argument that we saw not too long ago as to whether or not EFCC can prosecute. Let those powers be clearly stated.

I also agree with the proposal that upon conviction, whatever proceeds of financial crimes should go to the true owner as easily as possible. The process right now is too cumbersome. We have had cases of conviction, even the earliest convictions by the EFCC, I do not think that the properties recovered from those convictions were returned to the original owners I think that the process of those properties being returned to the original owners must be as easy and as less cumbersome as possible.

The other issue that I will like to mention is the issue of tracing. Very often in the course of investigations tracing proceeds from financial crimes get a bit bogged down and difficult. In the process of amending this Act, we should find a way of making the issue of tracing stress free.

I have been going through the Act to see the legal basis for that, but I have heard again and again that EFCC acts only the basis of petitions. We do know that petitions in this country can be used for a number of purposes. If I want somebody's job the easiest way to go about it would be to generate a petition against that person and if I am powerful enough, I should be able to get our institutions to pursue those petitions and give them the interpretation that suits my purpose. Inasmuch as we are trying to make EFCC as independent as possible, EFCC itself must continuously reassure the public through its actions that it is not available to be used as a tool for the powerful in our society to pursue their own personal agenda.

I want to stop at this because in recent times I have seen actions that begin to question the impartiality of EFCC. It appears that EFCC is lending itself to being used to settle either political or power equations and I want to say that for EFCC to enjoy the kind of support that it is enjoying from a lot of Nigerians, it must be seen at all times to be independent and above board. It must continuously

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reassure Nigerians that it is not available to be used for anybody's agenda.

Having said so, I support every move that will make the EFCC stronger and more independent. It is on those bases that I support these Amendments and I do hope that when we get to Public Hearing we will be able to identify even more Amendments that will make the EFCC stronger because EFCC more than any other organisation has helped the image of this country.

The President: Please, this is a Second Reading; there is no need to go into individual Sections that you think we should amend. Let it be just on the general principles, please.

Senator Joel Danlami Ikenya (Taraba South): Mr. President, some of my Colleagues that spoke before me have spoken part of what I intend to speak. If you had allowed me to speak first, I would have spoken like Senator Umaru Dahiru (SAN). *(Interruptions)* I just want to tell you that he and others had spoken on most of what I wanted to say.

However, I just want to add that in the area of property, the overall view is that the EFCC's role should be looked into deeply so that it would be seen as an independent organisation that is unbiased in terms of taking decisions and prosecuting which is very wonderful development. I believe in the course of the Public Hearing that should be done. We will not restrict ourselves only on those areas that the sponsor is seeking to amend.

I also want to quickly add that on the issue of property that the way and manner properties are being sold, I am aware that Russell are still in court because there have been a lot of petitions and adverts in the newspapers on the way and manner EFCC conducted itself in selling their properties. It is something that could be looked into, too. If property is being forfeited, due process should be followed to sell the properties. Some of the properties are under-valued and being sold to the cronies of those in the system which is very unfair. If they want to sell any property, the proper process should be followed.

I am also of the opinion that in the course of these proposed Amendments, those who are saddled with the responsibility, especially in the composition of the Board; I saw the Central Bank Governor and some other individuals as members

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of the Governing Board of the EFCC Commission; I believe that independent people who are not working for government should be appointed on the Governing Board. This is because when Mallam Nasiru El-Rufai was the Minister of FCT he set up an EFCC Office in his office and everywhere he went, they protected him.

When we carried out the FCT investigation we discovered that even a child of less than 15 months was given a plot of land in Abuja. This is because he has EFCC office in his Office. Sometimes somebody representing an organisation protects himself with the organisation. We should look at it very critically so that the organisation should be independent and everybody should face the consequences of what he or she had done or about to do.

Senator Garba Yakubu Lado (Katsina South): Mr. President, I rise to support the Amendments proposed by distinguished Senator Akinyede. I commend him for coming up with these sensitive Amendments that will make ICPC and EFCC to become very effective and efficient. I support all the proposed Amendments.

Let me also refer this Senate to the lead debate of Senator Akinyede on page 2, second paragraph. With your permission, I will read. *In view of the fact that Nigeria is such a large country it is not possible for one body to investigate and prosecute cases of corruption and financial crimes all over the country, particularly in all 774 Local Government Areas in the country.*

In view of this I want to suggest that Nigeria being a large country these two bodies cannot effectively cover the 774 local government areas in the country. So, I want to suggest that the State Houses Assembly should also establish such bodies that will check the activities of individuals in the various states. Once this is done, it will make the function of these two bodies very effective and efficient. In view of this I suggest that our various state Houses of Assembly should establish same bodies so that it will checkmate the activities of State Assemblies as well as the Local Government Areas within their states.

Senator Tawar Umbi Wada (Gombe South): Mr. President, I have about six points to make. First and foremost, I support the fact that ICPC and EFCC do not necessarily overlap and the two

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bodies should be kept separate. I support that point as enunciated in the lead debate.

The second point is the question of appointment of a Chairman outside service or a retired person. I have consistently argued against bringing in somebody who has retired back to service. If a person is retired, he should retire. He should go and relax. There is no point bringing a person who has retired to full active service unless he can take other jobs that do not require full active service like being a full time Chairman of an organisation like the EFCC and the reason is simple.

Most of these people that are retired have nothing at stake again; they have already paid their dues to the nation. Some of them might have in the process forgotten to make themselves a little bit comfortable. I am sorry to say that, but by bringing them back would be giving them a second opportunity that instead of them to serve properly, they would be serving with some ulterior motives to compensate for the lapses they made before. Fundamentally, I have always opposed that idea of bringing back to active service somebody who is supposed to be resting. He should only be involved in ad-ho jobs. Therefore, while we are considering who should be appointed as Chairman, I urge the Committee that will work on this Bill, to look critically into that.

Thirdly, I also support that there should be a clear definition of the functions of the EFCC. I remember vividly that there was a time we were faced with the problems of failed banks. Something that is contractual or a debt or something of the sort and EFCC would pick it up. There is lack of definition and if the functions of the EFCC are defined, I believe they would perform those functions effectively.

Fourthly, is the question of prosecution. I also support the lead debate to the effect that the EFCC should be given the powers to investigate and prosecute. This is because if you allow them to only investigate and a different body to prosecute, that different body may have some interests that run contrary to that of the EFCC and they could spoil the case in the process of prosecution.

EFCC should be allowed to conduct its case to a logical conclusion. Once they have concluded that a person has a case to answer, they should take him

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to court and prosecute him and secure a conviction in that circumstance.

Fifthly, is the question of secondment and deployment; it is time that secondment or deployment is removed completely from the law. It was put there at the time because it was a transitional period. EFCC was created as a new body; it never had enough qualified staff to man the organisation but today, they have a training school and they have stayed for some years and have recruited and trained staff over the years. They should be able to contain themselves now instead of bringing other people through secondment and later redeploying them back. That should be removed completely because it is no longer necessary. EFCC should be a body that should stand on its own, train its staff, retain them and people should make a career out of their employment rather than the epileptic movement that is going on right now.

Finally is the issue of reversion of property. While I agree with the speakers before me that properties should be reverted to the rightful owners, I do not agree with them completely. This is because in the various cases of 419, you would find that they collaborate with foreigners because they want to get cheap money. The moment it is discovered that they have lost money, you quickly start transferring their money back to them. That money should not go back to those people because they themselves had ulterior motives. Their intentions were not bonafide. They had a mollified intention to get some public funds. Why do you have to give them back their money? Confiscate that money as a punishment so that nobody would any more agree to connive with somebody who is trying to cheat. A sign of gullibility is what takes them into conniving with 419s.

So, I do not agree that all properties recovered should go back to the rightful owners. Once a person has been detected to have some mollified notion, his property should also be confiscated for the government to serve as a deterrent for others. These are my submissions.

The President: Would not the issue of the money or property recovered going to their owners be treated on individual merits? Simplisita. That should be taken on individual merits.

Senator Umbi Wada: That is what I said.

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Senator Ayaogu Eze (Enugu North): Mr. President, I want to thank Senator Sola Akinyede for coming up with this Amendment at this point in time. This is because as rightly observed by Senator Ndoma-Egba (SAN) at a point in the life of this nation, the EFCC became the symbol of best practice in governance. It became a symbol of the revival of our image as a nation, therefore, everything we could do to strengthen the law governing that body to ensure that the standard is not lowered, should be supported by every well meaning Nigerian. It is in that respect that I support this Amendment in its entirety.

I also will add that we need to do something about the power of appointment and removal of the Chairman. If we do not tie that end very properly all the apprehensions about the people not being independent or lowering the bar, would continue to be there. But if the person who is the Chairman and the Commissioners know that they have protection by law; if they go by the books nobody would tamper with them, they would be more likely to keep to the tenets of their jobs than otherwise.

In addition to the Amendments proposed, we should also find a way to put into the Bill that before a Chief Executive of EFCC is removed from Office, recourse must be made to the National Assembly, that is, if he is being removed before the expiration of the tenure of his or her office. That would also give the person a sense of security.

I support that properties recovered should go to their proper destinations but that will be subject to a surcharge. The EFCC is a Federal Agency that is using federal money to prosecute these matters, so it will not be entirely correct to repatriate every proceeds because they have to deduct the cost of prosecution. It is a very expensive thing to prosecute a case. It is after they have surcharged whatever was recovered that the rest could be returned to the real owners.

I also support the fact that the prosecutorial powers of the EFCC should be strengthened, as the Chairman of the Committee on Judiciary and the Deputy Leader has very eloquently articulated.

Some time last year, there were debates in this Chamber and there were apprehensions about the fact that the Attorney General's Office was trying to stop EFCC from doing certain things without first of all clearing with his office. These things

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arise because there are no clear prosecutorial powers recommended by law apart from the fact that the Attorney General is the Chief Law Officer of the federation. We must try to provide a kind of buffer for EFCC so that without having to look here and there they could go ahead and prosecute a case.

I do not know whether or not to support the idea that they should operate other than by petition because we have the Police, SSS and other security agencies. We cannot take away their jobs and give it to a body that is purely set up to fight financial crimes. Of course, there are instruments in the law setting up EFCC requiring reporting by the banks and financial institutions. The EFCC can pick up some of those alerts because they have the privilege to follow a person's trail whenever he makes a transaction. That should also give the EFCC some room to generate issues on their own but they should neither take away the job of the Police nor that of other established security agencies.

With these few observations I support the Amendments being proposed and suggest very strongly that we use the opportunity of this Amendment to strengthen the law; tie all the loose ends and give the EFCC the kind of bite that it really requires to do its job.

Senator Ibrahim Mohammed Ida (Katsina Central): Mr. President, before I start I want to say that most times I agree with my friend, Senator T. U. Wada but this time around I want to disagree with him particularly when he made references to retired people.

The President: He does not mean that retired people cannot come to the Senate.

Senator Ibrahim Mohammed Ida: Mr. President, this is a good Bill that needs to be supported but there are observations that one has to make. First of all, in spite of what has been said in the lead debate, I am sorry to say that I am still not satisfied with the differences between what ICPC does and what EFCC is supposed to do. I still feel there are overlaps and that the Amendments being proposed have not really addressed such overlaps. There is still need for it to be more glaring and clearer.

Secondly, I find it very difficult to appreciate the law *vis-à-vis* the Criminal and the Penal Codes we have. There seems to be pushing aside of such

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laws as provided in the Criminal and Penal Codes. These are state laws designed to address corruption and bribery. Most of the issues that EFCC is supposed to address are really criminal in nature. There is a need to expunge some areas of the EFCC law to give powers to states to apply their Criminal or Penal Codes as the case may be.

Thirdly, a law should not impinge on the purview of the Constitution and I say this with all the emphasis I can command. I have noticed that some aspects of the Amendments seek to remove certain privileges that are conferred on the citizens by the Constitution. Here I make reference to the fact that the Constitution allows for legal representation in suits or cases, but here the Amendment is saying that the action must be done by the person himself so there is no representation. I feel that this is unconstitutional and I believe that when it gets to the Committee level I will go there to make a very strong case against it.

Next is the issue of singling out federal and state public and elected officials. The Constitution provides for three tiers of government; the Federal, States and the Local Governments and we have elected and appointed officials on these three tiers of government. So, I see no reason a specific reference should be made to the first two tiers to the exclusion of the third tier.

We all know what happened before the election of 2007 where the institution was alleged to have been used to truncate the political ambitions of certain people, sometimes on the basis of no more than anonymous or spurious petitions. I believe that the law should provide that, first of all, the EFCC should establish the existence or identity of those who petition before really acting on it. I feel that if one has a good faith to petition against an act which one feels is injurious to the nation or to any individual then one should also have the leverage to identify oneself.

Where spurious or unsubstantiated accusations or petitions are made and it is later found to be so, the law should provide for redress because of the embracement the victims must have suffered. The moment one is said to have been picked by the EFCC nobody cares whether the allegation is substantive or it was maliciously done. In the end, when he or she is released the news is reported in a very small place whereas at the time of apprehension it was headline news. Therefore, the

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EFCC should ensure that petitions are made by *bona fide* people that they could establish before they act. Where there is a petition which is found to be based on false facts then not only should the petitioner be punished but the person against whom the petition was made should also be given means of redress.

A distinguished Colleague raised the issue of capacity building. If the EFCC is to survive, it should be set up in such a way that it establishes itself; sets up its own staff and train them variously to be able to achieve the objectives. But if it has to rely on secondments from the various arms of government what happens is that whatever problems there are in the institutions from where the person is deployed would be carried on to the EFCC. I believe that the institution should be allowed to grow and mature.

One can understand the necessity when it was taking off because at that material time it needed experience people but now that it has really grown, I believe it should be allowed to recruit its staff and train them so that it can set up the capacity it needs to perform its functions.

Aside from that, as I said, this is a very good legislation and I feel that we should support it. If the last recommendation I made as regards allowing the institution to develop its own capacity is approved, then I believe that the proposed Section 8(4) and (5) should have no place in the new law.

Senator Anyimchukwu Ude (Ebonyi South): Mr. President, I associate myself with the view that anything that could be done to make EFCC effective should be done. One way of doing so is to look at the laws holistically and see if we could recommend for the establishment of a Special Court that would try all cases that go to EFCC. A good percentage of Nigerians are carrying accused badges by EFCC and they have been on the road for more than one year because of adjournments in the regular courts. In this country, once somebody is accused of something, he is presumed guilty until that badge is removed through proper trial, he would be carrying it. I recommend for the establishment of a Special Court to deal with financial crimes instead of going to the regular courts to get adjournment all the time.

Secondly, I associate myself with the issue of secondment to be stopped. It is time they decide

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who among those seconded is prepared to stay there and make their career. By now, they should be recruiting their own people because those who were seconded from one establishment or the other usually have dual loyalty. They should determine those who were seconded at the initial time of establishing the organization and ask them to make up their mind either to stay there as permanent staff of EFCC or be returned to their original places of employment.

Nigeria requires to be fixed because we have too many problems and corruption is one of them. EFCC is one of the instruments of fighting corruption and unless we strengthen it, we would be paying lip service until corruption kills Nigeria. God forbid.

Senator Ahmed Mohammed Makarfi (Kaduna): Mr. President, I associate myself with all the arguments for the Amendment of the Act to make the agency as effective as possible and to streamline the operations of all the agencies, particularly, the EFCC and the ICPC.

However, I want to sound a word of caution. We must never be moved by any kind of emotion or sentiment, otherwise, we would end up coming out with another set of law that tomorrow some other people may be looking at it and saying that because we do not like this or that we have made a law to suit a particular purpose.

Distinguished Senator Ude has said it all. A law has to be flexible because a law provides for secondment does not mean that you should continue expanding secondment. However, the issue is for the management to take a decision to give time within which those seconded could choose to either make a permanent career there or opt out.

It would not be productive if an agency from where such personnel were deployed were made to have any kind of disciplinary power over the staff that they have seconded in respect of matters which have to do with their own terms of service, like the Police or the SSS. Therefore, we have to be very careful here. For me I look at it as a managerial issue. *(Interruptions)*

Senator Olorunnimbe Mamora (Lagos East): Mr. President, I have a Point of Order.

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

Senator Olorunnimbe Mamora: My Point of Order is Order 56(11).

The President: You may read.

Senator Olorunnimbe Mamora: Order 56(11) reads: *No Senator shall be allowed to smoke, chew or drink upon the floor of the Senate.* Mr. President, Senator Lee Maeba is chewing so you may wish to call him to order.

The President: Distinguished Senator Mamora your Point of Order is sustained. Senator Lee Maeba, you should swallow what you are chewing now. *(Laughter)* Distinguished Senator Makarfi, you may continue.

Senator Ahmed Mohammed Makarfi: We know the kind of society we live in so petitioners to be penalised for writing wrongful petitions against individuals by penalty of some sums of money. People can spend millions of Naira in order to ridicule somebody. I believe petitioners should be made to face the same penalty against the person they are petitioning if such petitions are found to be false. If you translate it to the issue of some kind of payment of money, let us say N100,000, somebody can spend N10 million in order to rubbish somebody. Therefore, there must be enough deterrent so that these agencies, not just EFCC but ICPC also are not turned to some kind of tools.

Even on the issue of delayed cases in courts is because Nigerians are abusing the institutions. Matters they should take to regular courts, they go to EFCC or ICPC. Matters that they should not take anywhere are taken to these agencies. We should look at what Amendment we bring in such a way that people do not abuse the establishment and the existence of these institutions in such a way as to affect their efficiency and eventually affect the quality of their jobs.

A lot of Amendments could be made to make them effective. I would suggest that when finally the Bill is committed it should be committed to both Committees on Economic and Financial Crimes Commission and the Judiciary. This will ensure that the totality of all of the Amendments could be looked together so that we would come out with one set up law that would streamline the

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operations of EFCC and ICPC and increase their efficiency in terms of how they go about discharging their functions.

Senator Olorunimbe Mamora: Mr. President, I want to join my Colleagues in commending Senator Sole Akinyede for coming up with this Amendment Bill. At this point in time, we are called to consider the merits, the demerits and the principles of this Bill. I do not have any problem in joining my Colleagues to say that the merits of this Bill are profound and the principle is sound well supported with sound logic as well.

I always say that the beauty of any Bill is in its ability to stand the test of time. If you look at the EFCC Act, as it exists now, you will see quite a number of things: An Act to repeal the Financial Crimes ... then Act 2002; Enact Financial Crimes Commission 2004, so it has been undergoing series of changes. Of course, we should expect that because society is dynamic and we need to take cognisance of the realities of power situation and determine what to do in the circumstance. But the goal is simple, which is to strengthen and fortify the Commission in order to make it responsive to the dictates of the moment.

I would recall that in the last Senate, some of us like Senator Dahiru and my humble self were part of an Ad-hoc Committee that was set up after the so-called indictment list which was released by the EFCC which to a large extent affected the 2007 General Elections because it had names of people who, to all intents and purposes largely were being hounded for one reason or the other. Of course, what we are harvesting from the pronouncements of the courts are the results of that situation.

Having said that, I want to appeal that the Committee when the Bill is committed to it should look at what we prepared then, which unfortunately, we were unable to take it through. There were Amendments that were suggested and I am happy that Senator Dahiru who is the present Chairman of the Senate Committee on Judiciary would remember and bring them on board so that they could be incorporated so that at the end of the day, we would have an Act that would serve the purpose of the moment.

Senator Uche Chukwumerije (Abia North): Mr President, permit me to join others in congratulating the authors of this Bill on the

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lucidity of their presentation and on the straightforward manner in which they explicated the five Amendments which they brought forward. My understanding of the whole thing is that it is all an attempt at enhancing the intuitional strength and independence of EFCC and seeing from that perspective, I will say that the Bill did not go far enough.

There are two aspects to institutional capacity of any organisation. First is the set of factors that impinge on the moral and professional depth of the staff of that organisation and second is the set of factors coming from outside. On the first set, the internal factors, these Amendments said nothing. The EFCC is not peopled by angels and something has to be done to look into the rules that govern the moral and professional behaviour of the operators.

In talking about that, there is another professional aspect that impinges on the corporate behaviour of EFCC; namely the aspect of its handling of cases of suspects. The EFCC daily violates universally accepted dictum of presumption of innocence. If you observe carefully, any case being handled by EFCC, it goes to the Press and start celebrating the victory. The last was the NERC (National Electricity Regulatory Commission) problem. As far as all of us are concerned, from what the Media had said, they are all guilty. If EFCC cannot respect this basic dictum, it just means that from the very beginning the whole trial is not fair; that is a major professional dismay.

That said, I will go to far more important issues. What is the main threat to the independence and virility of EFCC? The main threat to that is the veto power given to the Attorney General. I appreciate that there is a constitutional issue and the point I am trying to make on this is that getting EFCC to be independent involves more than tinkering with this little act of Amendment; it requires a constitutional Amendment. As long as the Federal Government has a veto power over what should or should not be charged, EFCC remains an instrument of political oppression and victimisation and we saw it in the last regime.

Obasanjo's regime used it to a very devastating scale as the last speaker was trying say. If they do not like your face and they breathe on you, you are locked up. We saw it in the cases of so many Governors where only four hon. Members of the

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State House of Assembly would impeach a Governor. If that is not corrected there is no person even the President as a human being can resist the temptation to use a powerful organ like EFCC for his or her partisan political ends. Therefore, when we are talking about the virility of this organisation, we must think about the possibility of a constitutional Amendment to take EFCC away from the hammer of Attorney General and the Federal Government.

The second point I had wanted to make had already been ably made by my Colleague, Senator Ayogu Eze on the issue of tenure, so I would not repeat it. (*Interruptions*) On that issue about employment and dismissal; the Senate should have the last say.

I want to end my contribution by referring to what the learned Senior Advocate of Nigeria, Sentaor Ndoma-Egba had spoken about that in discussing about EFCC let us always remember that it occupies a very pivotal role not only in determining the moral fibre of good governance but also in reflecting that internally and externally, this is why we must ensure that, in fact, outside the Federal Government, the second independent arbiter we have on these issues is the EFCC in the external world. The EFCC must be truly independent if we want it to be institutionally capable.

Senator Patricia Naomi Akwashiki (Nasarawa North): Mr. President, I stand to commend this Amendment Bill and to commend the Committee for this. A lot have been said about the EFCC, so I would summarise mine in brief points.

The ICPC and the EFCC should stand independently. It is very crucial that they operate independently. The most crucial point is the issue raised by Senator Uche Chukwumerije. That issue is so crucial because no matter the Amendment we make to the EFCC Act without amending the provision in the Constitution that gives enormous powers to the Attorney-General to veto cases or withdrawing them from the courts, would not work. Those powers of *nolle prosequi* of the Attorney General has been a source of frustration not only to the EFCC but also for some of us Nigerians who look at issues and wonder why at crucial point government would decide to withdraw from cases or ignore cases.

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So, it is so important that the people in the Constitutional Review Committee as well as the Senate Committee on Judiciary should take note of this. Anything that would hinder us from achieving what we want to achieve which is to fight against corruption should be removed from our Constitution. The issue of prosecution is the most crucial point. The EFCC should be allowed to prosecute their cases from beginning to the end without interference from government. This is because that is where we have all the political issues coming in. The human factor comes in here. People who want to protect people would use their powers to disrupt the process of prosecution.

The last point I want to make is on the issue of properties and confiscation or sale of properties. EFCC has come under severe attack because they have become liquidators of properties and valuers of properties. They appoint valuers and auctioneers. It is wrong. There is nowhere in the world that you would be fair if you confiscate somebody's property and you are the person to dispose it. In the Act we should remove that power from them. They should go after corrupt officials, take their properties but they should stay clear of the process of liquidation or auctioning of the property.

We should also deal with the issue of insiders where we find EFCC or ICPC officials collaborating with corrupt persons. There must be something in the Act that would deal with such behaviours. There must be discipline. It amounts to abuse of office when EFCC officials come into common disputes that can be settled in front of a police station. Instead of a disputant because he has connection in the EFCC, he drags the other person to EFCC. I have never been summoned by the EFCC but I have had course to go to EFCC for the simple fact that somebody paid for an accommodation and did not want the accommodation but wanted his money back; he was dragged to the EFCC all the way from Kaduna to Abuja. For such simple case they will keep you over-night for upwards of three days and at the end you would be told that the person has withdrawn; you should go and settle at home. There is so much abuse of power. I will appeal to Mr. President to just go there as ordinary person and see what is going on there.

The President: What should I go there to do? I am not too sure about that recommendation. (*Laughter*)

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Senator Patricia Naomi Akwashiki: It is just to see how they operate. You cannot even enter their gate, no matter who you are. If you say you are a Senator, a Corporal who does not know what you are talking about will ask you to stand outside. The place is very terrifying. There must be ways we should curtail the enormous powers they wield. Where they abuse their power there must be punishment for such abuses.

Senator Omar A. Hambagda (Borno South): Mr. President, there is one problem in Nigeria and it is the ingenuity God has given to Nigerians but unfortunately, we are using it wrongly. Make the Amendments today, the specialty of most Nigerians is how to exploit loopholes in the laws and not how to support and make the laws work. If we are to make Amendments every year it should not come as a surprise.

Secondly, I want to comment on the manner of petition. If you ask a petitioner to prove his allegation before writing to EFCC, you are saying that the EFCC should prosecute and not to investigate. Petitions are based on suspicion. By the time you begin to gag and control petitions, nobody would petition any more.

Thirdly, is the issue of staffing. Every aspect of it has its pluses and minus. If you second staff, you can afford to be removing and replacing, which means that inside the EFCC, some people would not turn themselves into institutions. There are occasions where some bad eggs in EFCC sponsor people to write petition so that they could use it to make up their own pockets. If you now have permanent staffers there, we would need to improve on the Code of Conduct of staff in the law if we advocate for long tenure in the EFCC otherwise, they become patrons because they have customers whom they service from inside the establishment. We need to look at the pros and cons of having permanent staff and secondment of staff.

Finally, is the issue of politicisation. Part of the problem of politicisation was because EFCC did not have direct power of prosecution. EFCC actually should not be heard. They should be seen, and judged by the number of people they prosecute and prove guilty. It should also be institutionalised that they are not supposed to be making noise like the politicians by prosecuting.

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I remember during the last attempt to amend the Constitution there was an attempt to talk on the independence of both the ICPC and the EFCC. ICPC prosecutes; they jailed one former Chairman of a Local Government in my State last two weeks. ICPC has power to prosecute and that aspect of ICPC Act should be looked into *vis-à-vis* the EFCC. If ICPC can prosecute, I cannot see any reason EFCC should not prosecute. I do not see how that will contradict the provision of the Constitution that gives the Attorney-General so many powers. However, the bottom line is that it should be independent. The Attorney-General is part of the Executive; it is the Executive that contains the political office appointees and if we are talking about financial crimes, it is partly from the Executive and if the Attorney-General has to say the final word, I am not sure anybody would be prosecuted.

Senator Ayodele Sylvester Arise (Ekiti North): Mr. President, I rise to support this Amendment Bill and to support most of the previous speakers. My comments would tend to lend support to the issue of independence of the EFCC and the little we could do within the ambit of the powers conferred on us.

I believe that if we are to approve the appointment of the Chairman of EFCC we should go a step further to ensure that the removal process is more difficult than it presently is. That way the Senate will have to play a role. We must try in this Amendment to put it in there that there must be convincing shortcomings on the part of the Chairman reported to the Senate. The Senate would have to vote with a stipulated number of ayes or nays and as the Senate President deems fit on such occasion allow the Senate to override a sack or acquiesce to the sack request from the Executive.

As it is now, the Executive appoints the EFCC Chairman and can sack him. So, there is always that fear there that they need to dance to some instructions from that side. We, Members of the Legislature, represent the people; we have divergent views here. If we leave that responsibility on the shoulders of one person it becomes possible for subjective thinking.

I have looked at the issue of who checks the EFCC in the event that it becomes compromised as well. They are Nigerians; we are all Nigerians and sometimes we try to be a little bit lenient on those

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we know; these are not based on facts and figures. In the event that we find an EFCC official wanting in terms of compromise, who checks them? This should be incorporated in this Amendment as well.

If we use the opportunity of playing the ICPC and the EFCC against one another to ensure that one is looking at the activities of some of its staff and vice versa it is something I would suggest that the Committee takes a closer look at. Most of the other points have been covered and I thank my Colleague, Senator Akinyede, for this very good effort.

The President: I should put the Question now because most of the points have really been covered. There is still enough time for us to make our contributions during the Public Hearing. Most of the information could be given during Public Hearing.

When the Public Hearing begins, please, find time to go there and make some contributions because the essence of this is to ensure that there is real independence in EFCC and to enhance their authority and capacity. Even its legal existence it should be made stronger in a manner that it is fair and just in its actions. With those few remarks I will now put the Question that the Bill be read a Second Time.

Question put and agreed to.

It is referred to the Committees on EFCC and Judiciary and to report back in two weeks.

Bill read a Second Time and referred to the Committees on EFCC and Judiciary, to report in two weeks.

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Senator Teslim K. Folarin: Mr. President, the third Order of the Day is the Second Reading of the Institute of Registered Safety Professionals of Nigeria Bill. This is very similar to the Bill I and Senator Chris Anyanwu have which is scheduled for tomorrow. I suggest that we go back and look at the Bills and if possible, marry them.

For this reason I move that this item on the Order Paper be stood down till the next legislative day being tomorrow.

Senator Adeleke O. Mamora: Mr. President, based on the submission of the Leader, I hereby second that Motion as moved.

Question put and agreed to.

By leave of the Senate, the next item on the Order Paper stood down till the next legislative day.

ADJOURNMENT

Senator Teslim K. Folarin: Mr. President, on this note I move that this Senate do now adjourn till tomorrow, Wednesday, 25th February, 2009 at 10.00 am prompt.

Senator Adeleke O. Mamora: Mr. President, I rise to second the Motion moved by the Leader that the Senate do adjourn till tomorrow, Wednesday, 25th February, 2009 at 10.00 a.m.

Question put and agreed to.

Resolved: That the Senate do stand adjourned till Wednesday, 25th February, 2009 at 10.00 a.m.

The Senate adjourned accordingly at 1.10 p.m.