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**Tuesday
21st April, 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, 21st April, 2009

The Senate met at 10.10 a.m.

PRAYERS

(The President in the Chair)

VOTES AND PROCEEDINGS

The President: Distinguished Senators, the Votes and Proceedings of Thursday, 2nd April, 2009 is before us for approval. We have pages 647, 648, 649, 650, 651.

Senator Zaynab A. Kure (Niger South): Mr. President, I rise to move that the Votes and Proceedings of Thursday, 2nd April, 2009 be approved.

Senator Chris N.D. Anyanwu (Imo East): Mr. President, I rise to second that the Votes and Proceedings of Thursday, 2nd April, 2009 be approved.

Question put and agreed to.

Resolved: That the Votes and Proceedings of Thursday, 2nd April, 2009 be approved.

MESSAGES FROM MR. PRESIDENT

The President: We have messages from Mr. President, the first one reads:

Distinguished Senator David Mark

Dear Brother,

Appointment of Alhaji Mahdi Bukar as a Member of the National Population Commission.

The National Population Commission is one of the Federal Executive Bodies established under Section 153(1) of the 1999 Constitution of Federal Republic of Nigeria. By the provision of Part I(J) of the Third Schedule of the Constitution, the Commission shall comprise a Chairman and one person from each State of the Federation and the Federal Capital Territory, Abuja.

In this connection, there is a vacant position of Commissioner representing Yobe State in the Commission following the expiration of the tenure of Office of Alhaji Mahdi Bukar, I have, therefore, in the

exercise of the powers conferred on me by Section 154(1) of the 1999 Constitution of the Federal Republic of Nigeria, decided to re-appoint Alhaji Mahdi Bukar whose CV is attached hereto, as the Commissioner representing Yobe State in the National Population Commission. In line with the constitutional requirement, I consulted with the Council of State at its meeting of Tuesday, 24th March, 2009 on the re-appointment of Alhaji Mahdi Bukar.

In accordance with the provisions of Section 154(1) and (3) of the 1999 Constitution, I hereby present the nomination of Alhaji Mahdi Bukar for consideration and confirmation by the Senate of the Federal Republic of Nigeria.

Yours Sincerely,

(Signed)

Umar Musa Yar'Adua

President

The second letters reads:

Distinguished Senator David Mark,

Dear Brother,

Submission of Bills for Acts to Amend the Federal Polytechnic Act, 1979 and the Federal Colleges of Education Act, 1986

I forward herewith one copy each of the attached documents on the above subject-matters for the consideration of the Senate of the Federal Republic of Nigeria. In the proposal Government has accepted the following recommendations:

- (i) The amendment of certain aspects of the Polytechnic Act Cap. F17 Laws of the Federation of Nigeria 2004, by increasing the retirement age of the Academic Staff in the Polytechnics and adding five (5) new Polytechnics to the list, namely; Federal Polytechnic Bali, Federal Polytechnic Ekowe, Hussain Adamu Polytechnic, Kazaure, Waziri Umoru Polytechnic, Birnin Kebbi and Auchi Polytechnic, Auchi.*

That academic staff shall retire from the Service of the Polytechnics on attainment of 65 years.

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That all properties moveable and immovable held by, on behalf of the above mentioned polytechnics shall, as from the commencement of this Act, vest in such institutions respectively.

Pursuant to the above, therefore, and in line with the powers vested with the National Assembly, I present the following Bills:

- 1. A Bill for an Act to Amend the Federal Polytechnics Act, 1979 and for Other Related Matters.*
- 2. A Bill for an Act to Amend the Federal Colleges of Education Act, 1986 and for Other Related Matters;*

to the Senate of the Federal Republic of Nigeria for its kind consideration and enactment.

Yours Sincerely,

(Signed)

Umaru Musa Yar'Adua

President.

The letter reads thus:

Distinguished Senator David Mark

Dear Brother,

Submission of 2009 Budget Proposal for the Niger-Delta Development Commission (NDDC)

Pursuant to Section 18(1) of the Niger Delta Development Commission (Establishment) etc. Act, No. 6 of 2000, I wish to submit the 2009 Estimate of the Expenditure and Income of the Commission for the consideration and approval of the National Assembly.

The Commission has submitted a Budget Proposal of Ninety-Six Billion, Six Hundred and Seventeen Million, Five Hundred and Seventy Thousand, One Hundred and Nine Naira only, as against the sum of Eighty-Nine Billion, Two Hundred and Four Million Naira only submitted in 2008.

This represents an increase of 8.31 per cent over last year's Budget. The proposed 2009 Budget is made up of Personnel Costs of Four Billion, Three Hundred and Ninety-Eight Million, and Nine Hundred and Twenty Thousand Naira only. Over-Head Expenditure of Four Billion, Sixty-six Million Naira only, and a

Capital Expenditure of Eighty-Eight Billion, One Hundred and Fifty-Two Million, Six Hundred and Fifty Thousand, One Hundred and Nine Naira only.

The expected revenue sources for the funding of the proposed budget are as follows:

(i) Federal Government Estimates:

₦29,503,373,617.

(ii) Excess Crude Arrears:

₦21,814,196,492.

(iii) Contributions from oil companies:

₦45,000,000,000.

(iv) Internally generated revenue:

₦300,000,000.

Total

₦96, 617,570,109.

Whilst requesting your usual kind expeditious consideration and approval, please accept the assurance of my highest regards.

Yours sincerely,

(Signed)

UMARU MUSA YAR'ADUA

PRESIDENT

ANNOUNCEMENTS

Appreciation

The President: I have announcements to make. On behalf of Patience and Bala, the Mark and the Yusuf families, I wish to most sincerely express my profound gratitude and appreciation to all of you my bosses, distinguished Senators of the Federal Republic of Nigeria for the uncommon love and solidarity shown by your presence in Oturkpo on Saturday, 4th April, 2009 during the traditional marriage ceremony of my daughter, Patience Alexandra and Bala Yusuf and also your presence at the Church wedding held on 18th April, 2009 and the Thanksgiving Service in Kaduna on 19th April, 2009.

I lack words to adequately express our appreciation for the show of love and brotherhood you demonstrated. Patience and Bala are grateful and would remain grateful for your advice and gifts. More importantly, they are most grateful for your prayers. I am humbled

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by your distinguished support without which the huge success would never have been possible.

May the Almighty God continue to guard and protect us all and reward you countless times over.

Thank you very much and God bless.

Birthday Wishes

We wish some of our very distinguished Colleagues happy birthday. Some celebrated their birthday whilst we were away on our short recess. The youngest Senator, Sulaiman Mohammed Nazif celebrated his 39th birthday on 12th April, 2009.

Distinguished Senator Tanko Ayuba also celebrated his birthday on 12th April, 2009 but I will not announce how old he is. More still, distinguished Senator Simeon Olasunkanmi Oduoye, who is an elder statesman, celebrated his birthday on 13th April and on 16th April former comrade, distinguished Senator Dahiru A. Kuta celebrated his 60th birthday.

We wish all of them happy birthday and more prosperous years ahead.

Letter from Senator Dahiru Kuta

The President: This is a letter from distinguished Senator Dahiru Kuta. It reads:

Birthday

To all distinguished Colleagues, compatriots and comrades.

With gratitude to God I wish to inform you that last Thursday was my birthday having being born on the 16th of April, 1949.

Mr. President, distinguished brothers and sisters, the general belief is that life begins at 60 and by the grace of God, this birthday marks the beginning of another phase of selfless struggle on the side of the deprived, the weak, the disenfranchised and the poor. It has not been easy but the consolation is that we are winning.

May God continue to be with all of you, Amen.

(Signed)

Senator Comrade Dahiru A. Kuta

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Senator Ibrahim Mohammed Ida (Katsina Central): Point of Order, Mr. President!

The President: What point of Order, Senator Ibrahim Mohammed Ida?

Matter of Urgent Public Importance

Senator Ibrahim Mohammed Ida: Mr. President, my point of Order is Order 42 of our Standing Orders 2007 as amended. With your permission, I read:

The matter for discussion shall if possible be referred to the President of the Senate before the commencement of the day's sitting and the President of the Senate shall refuse to allow the claim unless he 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.

3. Not more than one such motion may be made at the same sitting.

On 6th April, 2009 you graciously led a National Assembly delegation to visit our troops in Liberia. The trip was very interesting and fruitful. I want to table before this Chamber a Motion highlighting the visit and making such very important prayers designed to inform our Colleagues and also raise issues relating to the importance of Nigeria not only being part of peace in our sister countries but taking steps to also benefit economically and politically from such sacrifices.

The President: Distinguished Colleagues, actually Senator Ida discussed it with me. I think soon after the short recess we were a bit confused and I said Senator Ida could bring it up today but on a second thought, I think it can really come as a normal motion because there is nothing urgent about it.

Some distinguished Senators: Yes.

The President: As soon as you got up, I realised that. You spoke to me this morning and the excitement from the holiday is not over yet. So, you must pardon that my decision. Leader, I will rather you list it for normal discussion rather than coming by way of Point of Order. We have undertaken the visit already; it is not as if we are just preparing to go and we need some clearance. Let it come by way of a normal Motion tomorrow, please.

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

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

Senator Nimi Barigha-Amange: Mr. President, I am coming under Order 43 dealing with Personal Explanation. With your kind permission I read.

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 want to inform this Senate about a man who has passed away and yet to be buried. A Parliamentary Secretary in 1963; a Councilor of Brass Local Government Area in the old River State, (*Interruptions*)

The President: Senator Barigha-Amange, the problem is that you said the matter should not be controversial and you are dragging in the controversy. You should just name the deceased and tell us when he will be buried otherwise, you will make the matter controversial. You are not to do his oration here.

Senator Barigha-Amange: I wanted to explain the man in details so that every body will know but since you have directed otherwise, I will follow your direction.

Senator Okilo was the Governor of the old River State from 1979 to 1983. He was the Minister of Commerce under the regime of General Sani Abacha's administration. He was also a Senator from 1999 to 2003. He passed away in July 2008 (*Interruptions*) Mr. President, I need your protection.

The President: Senator Barigha-Amange, you are taking a risk of being ruled out of order. I know you are just coming back from recess hence the commission and omission here and there which I can forgive you but you must make it non-controversial topic.

Senator Barigha-Amange: Mr. President, I need your protection. If I am allowed to give explanation under Order 43, I would then give the details.

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The President: Senator Okilo's burial has been fixed for 1st and 2nd May, 2009. He was known as a fisherman or countryman and he was a very popular Senator. Senator Barigha-Amange will give us the detailed programme of his burial so that those who would be able to attend would know the dates.

ORDERS OF THE DAY

MOTION

Confirmation of the Nomination of Mr. Bako Abdullahi

Senator Teslim Kolawole Folarin (Oyo Central): Mr. President, the first Order of the day is a Motion requesting this Senate to consider the request of Mr. President, Commander-in-Chief for the confirmation of the nomination of Mr. Bako Abdullahi as a member of the Independent Corrupt Practices and Other Related Offences Commission (ICPC) in accordance with Section 3(6) of the Independent Corrupt Practices and Other Related Offences Act, 2000. The purpose of this Motion on the Order Paper is for the request of Mr. President, Commander-in-Chief to be referred to the relevant Committee for further legislative action.

I, therefore, move that the Senate do now consider the request of Mr. President, Commander-in-Chief for the confirmation of the nomination of Mr. Bako Abdullahi as a member of the Independent Corrupt Practices and Other Related Offences Commission (ICPC) in accordance with Section 3(6) of the Corrupt Practices and Other Related Offences Act, 2000.

Senator Maina Ma'aji Lawan (Borno North): Mr. President, I rise to second the Motion that the Senate do consider the request of Mr. President, Commander-in-Chief for the confirmation of the nomination of Mr. Bako Abdullahi as a member of the Independent Corrupt Practices and Other Related Offences Commission (ICPC) in accordance with Section 3(6) of the Corrupt Practices and Other Related Offences Act, 2000.

Question put and agreed to.

The President: The request is hereby referred to the Committee on Drugs and Narcotics to report back within one week.

Resolved: That the Senate do consider the request of Mr. President, Commander-in-Chief for the confirmation of the nomination of Mr. Bako Abdullahi

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as a member of the Independent Corrupt Practices and Other Related Offences Commission (ICPC) in accordance with Section 3(6) of the Corrupt Practices and Other Related Offences Act, 2000 and be referred to the Committee on Drugs and Narcotics to report back within one week.

Confirmation of the Nomination of Mr. Useni Ganagum

Senator Folarin: The second Order of the Day is a Motion again requesting this Senate to consider the request of Mr. President, Commander-in-Chief for the confirmation of the nomination of Mr. Useni Ganagum (Taraba State) as a member of the Revenue Mobilisation, Allocation and Fiscal Commission in accordance with Section 154(1) of the 1999 Constitution of the Federal Republic of Nigeria. The purpose of this Motion on the Order Paper is that the request of Mr. President, Commander-in-Chief be referred to the relevant Committee for further legislative action.

I, therefore, move that this Senate do consider the request of Mr. President, Commander-in-Chief for the confirmation of the nomination of Mr. Useni Ganagum (Taraba State) as a member of the Revenue Mobilisation, Allocation and Fiscal Commission in accordance with Section 154(1) of the 1999 Constitution of the Federal Republic of Nigeria.

Senator Lawan: I rise to second the Motion that the Senate do consider the request of Mr. President, Commander-in-Chief for the confirmation of the nomination of Mr. Useni Ganagum (Taraba State) as a member of the Revenue Mobilisation, Allocation and Fiscal Commission in accordance with Section 154(1) of the 1999 Constitution of the Federal Republic of Nigeria.

Question put and agreed to.

The President: The request is hereby referred to the Committee on National Planning to report back within one week.

Resolved: That the Senate do consider the request of Mr. President, Commander-in-Chief for the confirmation of the nomination of Mr. Useni Ganagum (Taraba State) as a member of the Revenue Mobilisation, Allocation and Fiscal Commission in accordance with Section 154(1) of the 1999 Constitution of the Federal Republic of Nigeria and be

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referred to the Senate Committee on National Planning to be returned within one week.

Confirmation of the Nomination of Hon. Justice S. A. Akintan as a Member of the Police Service Commission

Senator Teslim Kolawole Folarin: The third Order of the Day is also a Motion requesting this Senate to consider the request of Mr. President, Commander-in-Chief for the confirmation of the nomination of Hon. Justice S. A. Akintan as a member of the Police Service Commission in accordance with Section 154(1) of the 1999 Constitution of the Federal Republic of Nigeria. The purpose of this Motion on the Order Paper is for the request of Mr. President, Commander-in-Chief to be referred to the relevant Committee for further legislative action.

I, therefore, move that this Senate do now consider the request of Mr. President, Commander-in-Chief for the confirmation of the nomination of Hon. Justice S. A. Akintan as a member of the Police Service Commission in accordance with Section 154(1) of the 1999 Constitution of the Federal Republic of Nigeria.

Senator Maina Ma'aji Lawan (Borno North): Mr. President, I rise to second the Motion that the Senate do consider the request of Mr. President, Commander-in-Chief for the confirmation of the nomination of Hon. Justice S. A. Akintan as a member of the Police Service Commission in accordance with Section 154(1) of the 1999 Constitution of the Federal Republic of Nigeria.

Question put and agreed to.

The President: The request is hereby referred to the Committee on Police Affairs to report back within one week.

Resolved: That the request of Mr. President, Commander-in-Chief, for the confirmation of the nomination of Hon. Justice S. A. Akintan as a member of the Police Service Commission be referred to the Senate Committee on Police Affairs to report back within one week.

CONSIDERATION OF A REPORT

Report of the Committee on Ethics, Code of Conduct and Public Petitions on Premature Retirement of Mrs. Faith E. E. Umoh

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Senator Teslim Kolawole Folarin: Mr. President, the fourth Order of the Day is the consideration of the Report of the Committee on Ethics, Code of Conduct and Public Petitions on the Premature Retirement of Mrs. Faith E. E. Umoh.

You will recall that the Report of this Committee was laid on Wednesday, 5th March, 2008. You may now invite Senator Omar A. Hambagda to move the Motion for the Senate to consider this Report.

Senator Omar A. Hambagda (Borno South): Mr. President, I wish to seek the leave of Senate to present the Report of the Senate Committee on Ethics, Code of Conduct and Public Petitions on the Premature Retirement of Mrs. Faith E. E. Umoh.

The President: You do not have to move again because it is already on the Order Paper. I have invited you to present the Report.

Senator Omar A. Hambagda: Mr. President, this is the Report of the Senate Committee on Ethics, Code of Conduct and Public Petitions in respect of Premature Retirement from Service of Mrs. Faith E. E. Umoh.

The Senate at its sitting on Thursday, 10th July, 2008 received the petition from Senator Effiong D. Bob on behalf of Mrs. Faith E. E. Umoh of Nigerian Customs Service on the premature retirement from Service and referred same to its Committee on Ethics, Code of Conduct and Public Petitions for further legislative action.

The terms of reference were for the Committee to look into the matter thoroughly and take necessary legislative action and advice.

Following the Senate Resolution, the Committee immediately went into action and held a meeting to deliberate on the modalities of giving effect to the Resolution. To succeed in the assignment, the Committee resolved at its first meeting that it would be guided by the following:

- The Constitution of the Federal Republic of Nigeria
- The Senate Standing Rules
- Principles of Equity, Fairness and Justice

The Committee further resolved to invite the following people to testify before it.

- (a) The Petitioner – Mrs. Faith E. E. Umoh

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- (b) The Hon. Minister of Finance
 (c) The Comptroller-General of Nigerian Customs Service
 (d) Mrs. R. M. Ako – Secretary, Nigerian Custom Service Board.

Testimonies

In her submission, Mrs. Faith E. E. Umoh informed the Committee that barely four weeks of a new posting to Kaduna where she resumed and made significant changes in the Zone, she read her premature retirement on the pages of a newspaper. She explained further that she joined the Federal Service through a lateral transfer from Cross River Service in 1990 as an Assistant Comptroller of Customs making the date of her First Appointment to read 1st December, 1983. According to her, she had served meritoriously in various postings and commands during which period she was promoted first to the post of Deputy Comptroller rank in 1992 for four years, then to the post of Comptroller of Customs in 1996 and eight years after, she was promoted to Assistant Comptroller General of Customs in 2004.

She further stated that during the course of her service and transfers, there was never a time that she was queried, warned or reprimanded for misconduct. There was no allegation leveled against her in any form, neither had she objected nor frowned at postings even at the risk of her life as a mother and wife, rather she worked tirelessly and conscientiously making a lot of personal sacrifices to distinguish herself for the hope that those would enhance her lifting to the top level of her career and that she would become a role model to younger women in the Service and the society.

She said further that she had made sure she improved herself educationally through long distance courses to be able to face challenges of her aspiration to reach the top echelon of her Civil Service carrier as a Nigerian woman. That, in fact, presently, she is a Ph.D. Degree holder.

She explained further that her premature retirement was ignoble, unfair, unjust and humiliating to one who had served her fatherland whole heartedly, as she had not attained the age of 60 years which is the mandatory age of retirement or put in a maximum of 35 years in the service as stipulated by the Condition of Service of the Civil Service of the Federation.

Based on the above, she said that she had come to the Committee in faith and intrinsic fear of God hoping that the Committee would intervene in the matter. When

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asked what other action she took apart from presenting the case before the Committee on learning of her retirement; she responded that she wrote to the Executive Governor of Akwa-Ibom State, the Chairman of Nigerian Customs Service Board (i.e. the Hon. Minister of Finance), the Head of Service and Secretary to the Government. When asked whether she got any reply, she said no. She was asked again whether she made any attempt to see any of them, she replied in affirmative but that she could not see them

She was also asked whether she was retired along side with other officers, she said yes but that some of those people were due while some were not. She was then assured by the Committee that after listening to the other parties involved; the Committee will deal with the matter in the spirit of fairness and justice.

Secretary, Custom Service Board

The Committee told her to brief it on the recruitment and discipline of Custom Officers and the Condition of Service whether these are contained in the Civil Service Scheme or not. In her response, she told the Committee that the Nigerian Custom Service has a Board which is a creation of the Law (Nigeria Custom Service Board Act, 100) which spells out its powers to appoint, promote, transfer, confirm appointment and to dismiss.

When asked if there were guidelines for appointment and promotion or any rule that could cost the retirement, she said that she was not in a position to answer the question and that the Chairman of the Board is in a better position to answer it.

She was further asked what the reason was. She stated that the reason given in the letter of retirement was restructuring and reorganisation. She further explained that the person was appointed by the President of the Federal Republic of Nigeria, in 2004 as an Assistant Comptroller-General, which was a different thing altogether. According to her, with all uniform services, at the time a person gets to the rank of Assistant Comptroller-General, it has become more or less political.

When asked whether she was present at the meeting when the decision was taken, she said no, but that the anticipatory approval was brought to her by her Comptroller-General, which was later ratified by the Board. She was again asked who wrote the Report that was anticipatorily approved which was later ratified by

the Board. She responded that she was directed to write the letter.

The Comptroller General

In the testimony of the Comptroller-General, he told the Committee that in 2004, there was restructuring of the Service headed by the then Minister of Finance under a democratic system during which the former Comptroller-General retired from the Service and the Committee was set up to restructure the Service so that it would accommodate the modernization going on then. At that time all the remaining DCG and ACG were also retired; and that was when Mrs. Faith Umoh, was appointed as Assistant Comptroller-General and not promoted..

Whereas the rank of Deputy Comptroller of Customs up to the rank of Comptroller go by promotion, while the ranks of Assistant Comptroller-General and Comptroller-General are all by appointment. He further explained that Mrs. Umoh benefited from this and that officers were retired and she went to that position. He stressed that the system has always been like that even now.

He then referred to Section 5 of the Constitution which gives power to the President to appoint to back up his point. He also added that the Constitution also gives power to the Minister, the Head of Customs Service or any Ministerial Organisation to appoint. He also referred to the Nigerian Customs Service Act, which established the Nigerian Customs Service Board to buttress his point.

When asked whether this system is fair and in the best interest of the officers? He responded that the system is not fair, but that is how he met it; and it has also affected him so badly in the past, when some people he taught in the Local Government were transferred and placed above him in the name of restructuring.

According to him, this type of system can demoralise officers so much so that they would not be able to put in their best. He repeated again that the system is rotten, but that Mrs Umoh benefited from the rotten system.

When asked what can be done about the rotten system, he stated that the law appointing people has to be looked into for necessary amendment. According to him, this does not apply to Customs alone. It is in all the Para-military and even in the Military. He agreed

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that the whole system has decayed and there is need to amend the law in order to have a working regulation so that merit can be given to those who deserve it.

Observations

- (1) The Committee observed that the Petitioner is a victim of an old and unfair democratic system that gives room for people to be retired to allow others to be appointed and not out of any poor performance or other defensible reasons. The issue is that once there is a new Comptroller-General if he is appointed from a Comptroller or Assistant Comptroller, all those above him get retired.
- (2) That appointment to positions of ACG and above is political. Consequently changes in the leadership of the Service usually lead to premature retirement of some officers;
- (3) Given the circumstances of the retirement, the Petitioner cannot go back to Nigerian Customs Service.

Recommendations

- (1) Given the circumstances of this matter, the age of the petitioner, her qualification and her input into the Service, the Committee recommends that the Senate do appeal to the Federal Civil Service Commission to re-absorb her into the Federal Civil Service as a Director or Deputy Director especially if there is a vacancy for her state. We are making this recommendation because of some past experiences in the Immigration and in the Customs where people who were retired prematurely were reabsorbed into the main stream Civil Service. The system also should be reviewed.

Conclusions

The Committee has done its job to the best of its ability within the limits of the brief and testimony presented to it. It has remained guided by the relevant provisions of the 1999 Constitution and the Rules of the Senate 2007.

On behalf of the entire Members of the Senate Committee on Ethics, Code of Conduct and Public Petitions, I thank the Senate President and the entire Senate for given us the opportunity to render service of this nature.

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Thank you, Sir.

Senator Bob Dickson Effiong (Akwa Ibom North-East): Mr. President, I rise to sincerely thank the Chairman and Members of the Committee for taken this job very seriously and bringing this Report to this distinguished Chamber.

The Report looks comprehensive on the face of it, but what the victim of this premature retirement had passed through can only be imagined. A 47 year old mother and a PhD Holder in Service, without any query contrary to quality service, was retired and absolutely rendered homeless without any fault of hers.

Looking at the Report, No.1 observation of the Committee is that the Petitioner is a victim of an old and an unfair and democratic system. In fact, there is nothing democratic there. She is a victim of an old and an unfair system. The word, *democratic* should be removed. It should be undemocratic system that gives room for the people to be retired to allow others to be appointed and not out of any poor performance or other defensible reasons.

The victim had been traumatised by this premature retirement out of a bad system not out of her bad conduct.

I want to appeal to this distinguished Chamber, to treat this as one of those cases of an unjust retirement going on in this country. When somebody joins the Service, he has his or her own timetable to do well and within that period of time to reach the highest level in service and that was the aim and the aspiration of this woman but somehow she had been retired at the age of 47, with three children and without any benefit.

I want to appeal to you to reject this Report in that aspect of sending her to another place as a Director or Deputy Director. If the retirement was wrong, she has to go back. The question of forcing her back to the place does not arise at all. Let the Senate take the position that this retirement was wrong.

The question of political appointment does not arise at all because at the point of taking up an appointment, the law says that when you get to the level of Assistant Comptroller-General you should be a politician. That means, your appointment should be political. So, that anybody that gets to that position would know that he is by way of either election or appointment you now become a politician. There was nothing of such in the letter of appointment. So I feel

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that that recommendation should not come in at all. The Senate is to take a position by sending her back to that position to serve as a lesson against unjustly retiring or sending people out of service for no just cause.

I want to thank the distinguished Colleagues and I believe that this is a test case for Rule of Law, constitutionalism, fairness and justice.

Senator Andrew Abidemi O. Babalola (Oyo North): Mr. President, if you go to the bottom of this Report we are going to shake the foundation of the problems of this country. Mrs. Faith E. E. Umoh, became an Assistant Comptroller General of Customs (ACG) at the age of 28 or 29. The first question is, did she actually merit it in the first instance? So, as said by this Committee, she had benefited from a rotten system. From what this Committee is saying and what we need to look at is the system itself. We do not have the authority to say she should go back to Customs, to go and do what? The Committee has examined all the laws guiding the Customs appointment, promotion and every other thing. As far as those laws are there, she cannot go back to Customs. In the first instance, she was not qualified to get that post but she was posted there because of political reasons, exigency and she was removed for the same reason.

This is what we are saying about Nigeria; people in high places of power are given priority; they are given jobs they do not deserve and are doing things at the expense of other Nigerians. Let us go back to 1992, and see how many Customs Officers had been removed just for her to get the post.

So, I believe that this Committee has done the best they could do. The best they could do is to say all right, we agree she is a mother, she is 47 years old and she needs a job. We are making recommendation that she could go back to the Civil Service where they will be able to look for a place that her qualification can fit into. The Committee has done a very good job. The only problem I have with this Report is that I am not very satisfied with the way the Report had been written but the recommendations to me, should be satisfactory to this august Senate.

Senator Chris N. D. Anyanwu (Imo East): Mr. President, first of all, I want to say that I am pleased that for once we are considering a petition in this Senate. I have been wondering, at the root of this is an element in the rule book which we have to amend because thousands of Nigerians are suffering under injustice

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Let me make it clear that I will never be part of injustice and wherever I see it happening I would support anybody who wants to rectify it and this is an instance where someone has suffered injustice. Some of the things that come out here reveal Nigeria as a nation without a soul, a place where injustice has become norm. You wake up one day and you wipe away the career of people without strong justification and you consider it all right. These things happen everyday and it has become part of us we have been inured with despair, we do not feel the pain any more. We accept it, as all right, it happened yesterday to too many people, so we must accept it. No. There comes a time when we have to put a stop to this kind of practice and this is what this will lead to in the end.

Mrs. Faith Umoh was retired with a lot of people including some of my Constituents and I even had the opportunity of taking it up with the Head of Service and she did give me some explanations, which boils down to this long time old practices that never die. I am glad that this particular case is now going to be used as a test case and may be we would go back.

What is dangerous about it is that it is not a practice that is limited only to the Customs. It goes right across the ministries even the Nigeria Military. Only last week I told some officials here, the people I know in my Constituency who were never allowed to reach their peak in the Nigeria Military. They were prematurely retired. If you ask what is going on, you will not get any reasons. It happens all the time. With this we can go back and check these things.

In fact, there was even a case where some Naval Officers were retired and I had wanted to bring it here but I did not have the opportunity. Do you know that today those prematurely retired Naval Officers had been taken over by the US Government? We trained them at a high expense, gave them all kinds of exposure, just when they were ready to give good service to the nation, we retired them without any justification. Today, Americans have taken them and they are benefiting from the expense in the past. We cannot go on this way. Therefore, even as the Report has a few slips here and there, their conclusion is something that I share, that the system should recall all those people that were unjustly retired with this lady and given a place so that they can continue with their career.

I do not want to go into whether she was a beneficiary of injustice and the rest of it, what is important is that at the end of the day, she got what she did not deserve. All those people who were retired

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without justification with her must be recalled and put back in the system to give service.

The President: Senator Argungu or any other Senator from Kebbi here? Is any other State that produces so many Customs Officers?

Some distinguished Senators: None

The President: Kebbi is the main state. We should not truly lose sight of the issue that Senator Babalola made. If you benefit in an unjust manner, then it becomes difficult for you also to complain, but I am not saying that is the issue here. But truly he has made a valid point.

Senator Joel Danlami Ikenya (Taraba South): Mr. President, I thank you for giving me opportunity to speak on this matter. I hate injustice and unfair treatment. It has been very clear going by the testimonies of the woman and the Comptroller General of Customs. The Committee asked if the system is fair or is in the best interest of the officers. That is on page 3. The Comptroller General responded that the system is unfair. Anything that is unfair is unfair. That the system is not fair but that is how he met it. He meant that since he was a victim other people should also be victims. He went further to say that it also affected him so badly. That implies that it affected him and it must also affect other people.

Further on page 2 he said this type of system can demoralise officers. If a system can demoralise officers, it implies that those working there know they can be caught up with any system and anything can happen and the rotten system can still continue. If not for her petition nobody is thinking of reviewing the Customs Act.

The Committee observed that the petitioner is a victim of an old and unfair democratic system that gives room for people to be retired to allow others to be appointed and not out of any poor performance. This implies that something is seriously wrong. If this woman was retired basically on political ground, the question is, what does the Law establishing Customs says about appointment to certain positions such as ACG, DCG and CG? These are issues that have to be cleared since the Committee did not clear them.

In the third observation, the Committee said that giving the circumstances of the retirement the petitioner cannot go back to it. I am aware that it is only in the Military that if you are out Service for a certain period

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you become a civilian and cannot go back again. I do not understand the para-military aspect of it but I believe that if somebody is treated unfairly and we are sworn to uphold the Constitution of this country and the Constitution of the country frowns at injustice, unfair treatment, and of being fair to the people I am of the opinion that the recommendation of the Committee is defective. It is not the responsibility of this House to recommend somebody from a different Ministry to another Parastatal. I am of the opinion that the woman should go back there and that they should follow the due process in doing that. We are preaching Due Process. Re-branding Nigeria means making everybody equal before the law.

So, I am of the opinion that the woman should be admitted back into the Customs Service and that every due process should be followed. They gave condition that if there is a vacancy for her State. If there is no vacancy does it mean she should remain unemployed until there is vacancy? Are they expecting somebody to retire from her State? The Report is so watery that I do not stand by it.

The President: What do you stand by now?
Laughter)

Senator Umaru Dahiru (Sokoto South): Mr. President, let me join my Colleagues in commending the Committee for the work done. I found the Committee has not gone deep enough in addressing the issue at stake more so going through the provisions of both the Constitution and the Customs Service Act. I discover that the Committee should have gone further to look at the law establishing the Customs Service Act 100. Reading through that Act I discovered that by the provision of Part II, particularly Section 4 that dwells on the powers of the Board. Under Section 4(1) the Board can exercise all the powers given to the Immigration and Prisons Service Board that is to appoint, promote and exercise disciplinary control over staff of the Service.

Equally going through the ladder they have the power to recruit but in the event they happen to take somebody as in this case who was already a staff of Cross Rivers State in 1990, then they should go through the provision of Section 4(5) which states that a person seconded pursuant to Section 3 of this Section may elect subject to the approval of the Board to be transferred to the Service. They Committee should have gone further to find out how was this person recruited. If it was on secondment then we have to go by the rules of recruiting her going back to the service. Otherwise,

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simply because they have the power to take any disciplinary action and just the power to retire somebody at will, I feel the rule of fair hearing has not been applied in this instance.

The President: I am sorry Senator Umaru Dahiru, I followed the analysis but I did not follow the conclusion, fair hearing on whose part now? You are holding the Customs Act, and reading from it, you said they have the right to recruit her from outside, I followed that bit. But what you said next about her retirement, and how the issue of fair hearing comes in, I did not get that aspect.

Senator Umaru Dahiru: What they should have done is that in the event her services were no longer required they should have gone back through her letter of initial appointment because she was recruited in the first place from the Cross River State Service Commission. They should have sent her back. Going by the Report as contained on Page 1, her testimony, she explained further that she joined the Federal Service through a lateral of transfer from the Cross River State Service in 1990. In other words, she was a serving officer before. She was not recruited as a Customs Officer but transferred from the Cross River State Civil Service Commission to the Customs Service Board.

The President: No, that is not the correct interpretation. She was recruited as a Customs Officer but transferred her services from the Cross River State Service. That is a different thing. It is not secondment. She was recruited but transferred her services, which actually gave her the ranking, which she came in to the Customs.

Senator Umaru Dahiru: Even going by that provision, by virtue of the Customs Service Board in the event, as they claimed, any appointment in the senior rank either the Deputy Comptroller of Customs or the Comptroller General is political. I have not seen it in their Act. It is not there. I believe the issue of promotion comes by way of, either you are qualified for it on merit or whatever but certainly it is not political. It is nowhere in the Act. We cannot trace it.

Again the issue of quoting Section 5 of the Constitution which gives Mr. President the absolute power to do it, is not there in the Constitution. I have a copy of the Constitution here. If you go to Section 5 of the Constitution, which they claimed that Mr. President has an absolute power it is nowhere stated and at any event this is a rule of law we are applying. They cannot just wake up overnight and say dismiss this or demote

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that or transfer that. There is no such power. There must be a rule governing a system and we must work within the rule governing this system and they are governed by the Customs Service Act of 1990.

I feel this woman was unjustly retired or dismissed or whatever it is, so, I plead that we should ask them to go back to their rules and re-instate her. In the event they consider her appointment being political then she should go back to her former position and remain there until she is mature enough to retire when she is either 35 years in service or at sixty years of age. That is my submission.

Senator Grace Folashade J. Bent (Adamawa South): Mr. President, in my opinion, the crux of the matter is for us to look at the fundamental problem that the Nigerian Customs Service has in the discharge of its statutory responsibilities. Unfortunately for Mrs. Faith Umoh, she has been caught in the web of injustice that has been the order of the day. But that does not mean we should overlook all these areas. All things are lawful but not all things are expedient. The fact that this has happened to Mrs. Faith Umoh is a big eye-opener and it should be a case study for us in the Senate, to look inwards and understand that the Customs and Excise as an organisation, has a fundamental problem in the way it promotes its officers; whether by political affiliation or by ranking system.

The observations the Committee has made are fundamental. When the Comptroller-General of Customs came here to testify, he was asked about what happened to Mrs. Umoh and whether he sees it as being right. He said no, that it is not fair but that was how he met the system. For the fact that he met the system that way does it justifies what has happened to be right? No.

Therefore, inasmuch as I will desire a way out for Mrs. Faith Umoh, because she is still young and has a long way to go in the organisation, how we would achieve that is a matter before the Senate of the Federal Republic of Nigeria to think about. This is an opportunity for us to look at other officers also that have suffered the same faith as Mrs. Umoh.

Looking at the circumstances under which the petitioner was retired, it is imperative for us to re-visit the whole exercise that was carried out in the past. The Chairman, Committee on Finance, who has Customs under him, should be given this reasonability of having to review the previous exercise, because if we want to treat Mrs. Umoh's issue as just one out of others, I believe that at the time she was retired, she was not the

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only staff that was so retired. Some other officers must have been affected by this same retirement. Therefore, it would be better for us to treat the case holistically rather than singularly treating Mrs. Umoh's case that has brought the issue to the front burner of our discussion today. The organisation itself has fundamental problem which we must look into and find a way of resolving it and in that process we should suggest a way that Mrs. Umoh can be recalled back to the system.

Senator Aloysius Etuk Akpan (Akwa Ibom North-West): Mr. President, first of all, let me appreciate this wonderful work of the Committee and the unparalleled commitment to this onerous assignment.

I want to bring to the fore, as my other Colleagues have said, that we represent the people of Nigeria and what affects them, affects us. We are touched by their pains and sufferings; their good health is our good health. When they eat, we shall be satisfied. On this foundation, I want to state that looking at the Report and more importantly, at the observations, the wonderful work of the Committee was somehow punctuated by the general nature of their observations. The Committee, somehow, did not look at the pathetic circumstance of Mrs. Faith Umoh with reference to the fact that this is a committed officer. She showed all manner of commitment to her service including strategic input to the system. Mrs. Faith Umoh did not have a single query throughout. (*Interruptions*)

The President: Senator Aloysius Akpan, with all due respect, we should not write her Confidential Report here because we are not in a position to know. We should address the issues we know are clearly before us, which are issues of facts. Let us not play on sentiments because this is not peculiar to her. Whether she is good or bad, we are not in position to know but we know that she was not removed on grounds of inability. Let us leave it at that and be brief in your contribution so that many more people can contribute.

Senator Aloysius Akpan: That is well taken, Mr. President. I want to look at the first observation which we have accepted and it is fair. However, the third recommendation clearly contradicts the first recommendation. If after reading this Report and she was not found guilty in any way; she was not removed because of attrition within the Service, therefore, since we are here to right the wrong, there is nothing that stops the Senate from recommending this woman to be reinstated back into Service. I want to appeal to my Colleagues and Mr. President, that if we are to right the

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wrong, the first step is to ensure that she goes back to the Service. Age is on her side. She is only 47 years. She has a long way and she has enormous contributions to make to the Service.

Finally, this is a Legislature and if we are to take legislative action, it means to correct wrong doings by other organisations because we represent the conscience of the nation. Therefore, if we are recommending for this woman to be absorbed into the Civil Service, the last part of the recommendation is not fair. It is not even specific whether she is to be absorbed back into the system as a director or not. The recommendation goes further to say, if there is vacancy for her State. That means we are not helping the matter.

Please, let us take the decision that if she has been found to be unjustly treated, it should not matter whether there is vacancy for her State or not, because we want to heal an important wound. Let us say that she should be re-absorbed into the system at worst. I do not see anything wrong with her being asked to go back to the system because she has not been found to be of a terrible character that would cause problem within the system. I will rest my contributions here.

The President: I am going to allow many people to speak. But as not all of us have copies of the Customs Act before us, I want to read few Sections of the Act that may be relevant to this discussion. I am going to read the functions of the Board and it says:

The Board shall have power to:

(a) *appoint persons to hold or act in all the offices in the service including power to make appointments on promotion or transfer and to confirm appointments.*

(b) *to dismiss and exercise other disciplinary control over persons appointed pursuant to paragraph (a) of this Subsection.*

Section 3: If the Board thinks it expedient that any vacancy in the staff of the Service should be filled by a person holding office in the Civil Service of the Federation of a State, he shall notify the appropriate Civil Service Commission to that effect and thereafter, the Board may by arrangement with the Civil Service Commission concerned cause such vacancy to be filled by way of secondment or transfer.

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(4) *Where a person is seconded under Subsection (3) of this Section, he shall be notified of the terms and conditions of the secondment and the secondment shall be without prejudice to any pension rights which but for the secondment would still accrue to him.*

(5) *A person seconded pursuant to Section 3 of this Section may elect, subject to the approval of the Board, to be transferred to the Service.*

We should, please, avoid sentiments and bring the facts that are before us and really base our arguments on facts. It was not only Mrs. Umoh who was affected by this. We should be careful in presenting our arguments. This is because whatever decision we take on her today will affect others who have suffered the same fate.

If you recall, in the Report here, she was asked if she was the only one and she said no, there were others who suffered the same fate like herself, too. This is just to guide us in the discussion but this is a very important subject matter and I would ask as many hands as are up to speak so that we can take proper decision.

Senator James Ebiowu Manager (Delta South): Mr. President, injustice, unfair treatment in whatever colour or guise must be condemned by all right-thinking people. This is the Senate of the Federal Republic of Nigeria consisting 109 of us representing the good people of Nigeria. Whatever we do, we are very conscious of the people we represent.

I want to thank Senator Bob Effiong, a worthy representative of Akwa Ibom people, for presenting this petition before this Senate. Of course, the Committee headed by Senator Omar Hambagda has also done a good job. They must have gone through the laws and interacted with the people concerned before coming up with this Report before us.

When you are talking about re-branding Nigeria and you say *good people, great nation* there is no way a country and her people will be good and great when the system itself is rotten. In this re-branding exercise, we must re-brand everything in totality including the laws of this great country and that is what we have been elected to do.

You read out the Customs Act and Section 4 of that Act is very instructive. It says that anybody who is seconded would be bound by the terms and conditions of the secondment. I do not know the terms and

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conditions of this particular transfer as it affects Mrs. Umoh.

The point I am making is that we need to know more about the laws including the constitutional provision that is guiding everything that we are discussing as the Chairman, Senate Committee on Judiciary quoted. What is before us? Some distinguished Senators have talked about other persons who were also affected by this exercise. With due respect, what we are considering is one before us. If you sleep over your right, you cannot say you were not treated very well. The one that is before us is the one we are treating and we must confine ourselves to what is before us. I also agree that it has serious implications because once this is treated positively, the other persons will also wake up from their slumber and this place will be flooded with a lot of petitions flying from everywhere.

With respect to the Committee's recommendation that Mrs. Umoh be absorbed into the Federal Civil Service, they have a reason for doing so. This is because a restructuring has taken place and if the woman is to be absorbed into the Customs, maybe, it would create structural problems. Perhaps, that is the reason they recommended that the woman should be absorbed into the Federal Civil Service. The only thing I do not support there is the condition that if only a vacancy exists for Akwa Ibom State. This is an extraordinary case and it must be treated as such.

Therefore, I support the position taken by the Committee that it is a case of injustice and unfair treatment that the woman be absorbed into the Federal Civil Service.

Senator Anyim Ude (Ebonyi South): Mr. President, I think the crux of this problem, her problem and our problem is the second observation by this Committee that appointment to the position of Assistant Comptroller General (ACG) and above is political.

To enter the Public Service, you are either a career officer or a political appointee. From what we have on record, this lady had been a career officer until she entered into a certain position, that is, Assistant Comptroller General. Time was when it was only the Chief Executive of these organisations that were political appointees. We now have a situation where those below the Chief Executive are also regarded as political appointees and treated as such.

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If this lady were a career officer all through, the issue of due process in removing her would have been very relevant. Queries and disciplinary actions that follow queries after analysis would have been involved. The bottom-line is that as lawmakers, we have to get all the laws of these parastatals reviewed to the extent that people know who is a political appointee and who is a career officer. It is this kind of thing that has led to this massive corruption we are having in the society. This is because officers can no longer plan their retirement. It started with the days of *with immediate effect* by the Military. Suddenly, a Permanent Secretary is retired – *(Interruptions)*

The President: Senator Anyim Ude, Senator Mana and Senator John Shagaya are not here. *(Laughter)*

Senator Ayim Ude: The point is that this lady has been unfairly treated. The law should be reviewed to let those who are not political appointees retire properly as career officers. In that process, you cannot have this kind of thing. Before you remove a career officer who is a permanent appointee, it will take a number of days, months and years of queries and reading of regulations but the moment you are a political appointee, the man that appointed you can the next day wake up and decides that you should go and because she is a beneficiary of this bad law which requires review she has received this kind of treatment. It is not quite easy to say recall her because she is not a political appointee. At the same time we should not shy away from using that as a test case. In otherwise, cause her to be returned to that system and transferred to another sector of the Public Service and then embark on massive review of all the laws establishing all Parastatals so that people would know when they are political appointees and when they are career officers. By so doing, it would also indirectly reduce the effect of corruption in the system.

Senator Smart Adeyemi (Kogi West): Mr. President, I arise to submit that this is a very serious issue which we should be courageous enough to take a very decisive position. I said this against the background of some of the information available to me as it affects the Federal character principle and the Commission itself.

There would be cases of premature retirements and dismissals from service emanating from people who still champion sentiments in the diverse nation like ours. The Senate must be courageous enough to take a very decisive decision as it affects Mrs Faith Umoh. There

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are cases of people who were dismissed and who lacked courage to write petitions. There are cases of very capable hands that have been retired prematurely and nothing happens in this country.

If our nation is to attain the greatness that we all wish the nation, we must ensure that people who perpetrate these kinds of inexplicable decisions and discriminations in the system should be dealt with. We must expose them if our nation is to attain the greatness that quite a number of us are convinced we should attain.

I want to recall that there are similar cases of people who were prematurely dismissed and nothing happened. I recall a case of one Engineer in the NNPC which I wrote about in one of the national dailies. When you investigate these cases indiscriminate dismissals and premature retirements of very good hands some of them were as a result of discrimination. We should not pretend about it. There are still people in this country who do not see others as fellow Nigerians. There are still people who deliberately perpetuate discrimination and tribalism after almost 50 years of our independence. Such people should be exposed and we should take this as a very serious matter. It is not because of the woman who wrote the petition but because it is an issue that is capable of causing disaffection and destabilisation to our nation.

We must as Senators take this case with all seriousness and I do not think we should just pass this Motion and leave it at that. We must follow it to its logical conclusion so that those who are still in the system would appreciate that there is a new Nigeria that some of us want to champion. We need a nation where there will be freedom and we see ourselves as fellow citizens.

Unfortunately, quiet a number of people are talking about the need to expunging the federal character principle. Judging from what is happening in our nation, assuming we do not have the federal character principle entrenched in our Constitution, what would have happened to our nation?

I want to believe that those who actually drafted the Constitution were of the opinion that by now, we should have been able to be thinking of how to expunge the federal character principle but such development is a danger signal that we must insist that the federal character principle is respected but more importantly, we must equally appreciate that we are all Nigerians and everybody must be given the platform to excel

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irrespective of his tribe or religion. Unfortunately, today in Nigeria, there are people who are still perpetuating discrimination in the system. There must be a very drastic decision that should be taken at the end of this issue.

I feel that it is not just enough for us to accept the Report of the Committee but we must follow it to its logical conclusion and make sure that if anybody is found wanting in the course of this exercise, the person or group of people involved should be made to face the wrath of the law.

Senator Patricia Naomi Akwashiki (Nasarawa North): Mr. President, I support the Report of the Committee completely and my reasons are: If we are talking about services like the Military, the Police, the Immigration and other para-military services, once you reach a certain position, it is only one person that would head a Parastatal. If per chance they picked somebody below a certain rank, what it entails is that everybody who is above that rank has to go. It is normal.

Several distinguished Senators: No.

Senator Patricia Naomi Akwashiki: It is normal. It is not wrong for the simple fact that you as the senior would find it difficult to answer yes, Sir, to somebody who was formerly your junior. You must understand the principles of service. Once we are talking about the para-military and Military and this is a para-military organisation. I agree totally that it was an unjust situation.

If you had listened very well to the Committee Chairman's presentation, when the Comptroller General was asked a question, he responded that, yes, it was unjust but she also benefited in the sense that when her seniors were retired, she moved up and it is always true that once they picked a Comptroller from a group of Assistant Comptrollers, all the other ones had to go because they would not give him the required allegiance and cooperation. It is normal. It has happened and it has been in existence and it has been happening. In the military, assuming somebody is promoted above his course mates, automatically, you have nailed the careers of the other course mates. It is normal. I agree totally with the recommendation of the Committee that it would be almost impossible to take her back into the Service because her juniors must have been promoted. Nature is not static. Is she going to be answerable to her juniors now if you take her back? She was removed since 2004 and this is 2009, five years ago, her mates

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must have been promoted. Would she like it if she goes back to serve under her juniors?

I think the recommendation of the Committee, sentiments apart, is the most practical. People had been retired from the Civil Service and they came back as contract staff. Inasmuch as I agree that she was unjustly treated, I also agree that it is a system, and they have a reason for that system. I, therefore, agree that the recommendation of the Committee is the most practical and the most commendable.

Senator Uche Chukwumerije (Abia North): Mr. President, let me join others in commending this Report for its maturity and for being so balanced. What the Report says in effect is that the Petitioner was wrongly dismissed but because of the force of circumstances and convention, please, let it stay and let some solutions be found through her re-deployment to another Ministry.

I would have said, yes to this quite frankly, but two points are bothering me. The first is the cost of habit and convention to the nation and the second is the cost of premature retirements to the nation. With regard to the first point, there are many good points about tradition and convention. They help continuity and so on and so forth; but also there are so many negative points about convention and habit. Of all the negative points, the one that should bother all of us most is when a point is illegal or irregular, tradition or convention tend the perpetuation of such injustice and such practice of illegalities. When you find out what happens? You will find that in a given situation convention takes precedence over legality and that continues all along. When you look into Nigeria's system that is what is happening in various establishments.

Second is the cost of premature retirements and many has hinted on this. The on point that I want to make is that when you assess what is happening to this country in terms of competence, you probably could trace it mainly to the issue of premature retirements. It is not the issue of Civil Service on administrative fiats, it happens in Judiciary, Executive and even in the Legislature. Today, for instance, 85 or 90 *per cent* of legislators from the time of Senator Okadigbo are not back here. We have not quantified the cost it to the nation in terms of experience and finance.

With regard to this case, the immediate passed Comptroller General, if you noticed, was promoted from Controller up to Comptroller General and all those in-between were retired. In the military and everywhere

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all these things happen. Should we continue to say that this is inevitable? That this must continue and that it is the right thing to do?

While I very much appreciate the argument of Senator Babalola in particular, I want to say that there is a time in the affairs of a nation when you can say that enough is enough. Let us for once, take the right decision and then turn round to start handling the Pandora's Box that would follow. This is an opportunity given by this case, for us to take one single correct fearless decision and say that this is getting too much in this country, let us cut down our losses. Let us say that this person should be reinstated to the position she should be; whatever would be the complications on that, the system should handle it. This has two advantages.

1. It places legality over convention in every situation. Even from the Customs Act which you read, you could find that this action is illegal. What you read there told us about dismissal and other disciplinary measures and this is not a disciplinary measures, so it is not covered by this Act. So it is illegal.
2. The necessity of a beginning. The Chinese say that *a journey of a thousand miles must start with the first step*. We will start somewhere in addressing these issues. I do not totally agree with those who said that we should leave it as it is, it has happened. Let us remember one fact. convention and tradition have always been in history, the basis of all conservatism about all injustices and when you stick to that, nothing will ever change in the society. We shall start now to change the society from the simple example of this petitioner.

Senator Adeleke Olorunnimbe Mamowora (Lagos East): Mr. President, I want to thank those of our Colleagues who have made very incisive contributions on this issue. I also want to commend the Committee for the job even though there are some areas of reservation.

Without wasting much time it is obvious that we are dealing with a case of injustice arising from premature retirement. The perceptive I want to bring to the whole issue is the fundamental objectives and directive principles of state policy. We mouth this thing all the time, but we do not seem to pay any attention to it in the conduct of our affairs. When you look at Chapter II of the Constitution, these are the things that should guide the conduct of our affairs in government. It is like we do not care about it because if you look at Section 17 precisely, it says. *The social order is founded on the ideals of freedom, equality and justice*, and we

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are talking of justice in this instance, which is not there and that is why we are where we are now.

Again, if you look at that Report under the testimony of the Comptroller General; he said thus: *He agreed that the whole system had decayed and there is need to amend the law in order to have a working regulation so that merit can be given to those who deserve it*. Often times what we discover is that we sacrifice merit on the altar of quota, geographical spread or what have you and at the end of the day, we lose so much because the experience is wiped off by those who have over the years been in the system.

I want to agree with the last speaker Senator Uche Chukwumerije that we need to start from somewhere. I would have felt a bit more comfortable if the Committee gave us what the Prayers of these petitioners are. We need to know the Prayers so that we would know what we can give against the background of the Prayers because we would not give what has not been asked for. Even what has been asked for, we need to look at it within the limits of practicability of the exigencies of the moment. I would have been more comfortable because we are talking of premature retirement, whether petitioner is asking for re-instatement, compensation or whatever. All these would have helped us to take better decision. But in the time being, we have to look at what the Committee had recommended when we get to considering them.

Senator Julius A. Ucha (Ebonyi Central): Mr. President, the issue we are discussing is a very critical one in the sense that it affects the fundamental right of one of us, a Nigerian. I have listened with keen interest to the contributions of my Colleagues and what I have gathered appears to be very hazy, cloudy and uncertain.

The Report refers to Section 5 of the Constitution which actually does not contemplate a dismissal of a hardworking officer without due process. The Petitioner is calling on this hallowed Chamber, the utmost sacred temple of our democracy to do justice. We all know that at any point in time that justice is allowed to languish every one of us feels the pain.

There are two issues on this matter. Do we have the competence to guarantee the re-instatement of the Petitioner? Looking at Section 88(2)(b) of the Constitution, what we are doing is to expose corruption as it affects administration in Nigerian Customs. In view of that, we have the competence to expose the corruption and there it stops and the buck passes to the authority as provided in Section 5 of the Constitution,

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that has the responsibility either to hire or fire, that is, the Executive.

The most fundamental issue here is fair hearing. This is because from the Report, there was no time that our sister was invited by any panel for interrogation or questioning. To that extent, her fundamental right of fair hearing was completely violated. In any situation whereby one's fair hearing is violated, such person must be given the opportunity to be listened to. As I said, the situation appears to be hazy and cloudy. The question is, has this lady been given fair hearing? The answer is capital, No.

Another question is, is it right that in the Public Service of this country, once someone gets to a certain position, he or she should be sacked in order to create opportunity for others? To me, it is very unfair. As my distinguished Colleagues have canvassed, if it is a process that has always happened, shall we continue to allow it? The answer will also be a capital, No. This hallowed Chamber has the responsibility to deal with this very intricate situation to ensure that justice is done. When this issue is well handled, it will go a long way to solving the problems of the Civil Service.

It is my position that the Report of the Committee should be re-visited to ensure that it comes up with a more detailed and comprehensive analysis and position to enable this hallowed Chamber take decision on the matter that would be useful to the entire country.

Senator Nuhu Aliyu (Niger North): Mr. President, a lot of my Colleagues have made very useful contribution. I want to align myself most heavily on the contribution of Senator Uche Chukwumerije.

You and I know very well that in the Military as well as in the Police, premature retirements have continued for a very long period of time, simply by the Service writing an officer that his or her services are no longer required. From the investigation conducted by the Ethics Committee, it would appear to me that those who retired this young lady must have assumed, because there is no evidence that they had the authority to retire her prematurely. Something must have gone wrong somewhere and must be put right; and it can only be put right by this hallowed Chamber. We should go to the highest extent making sure that the mistake does not repeat itself any longer because the young lady of 47 years has been suffering for a very long period and there are many other organisations that pretend they could withdraw the service of an employee. The Act

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establishing the organisation has not given them that power because this case has exposed it.

At the conclusion of this discussion, I do not think it is right for us just to write the Customs Service, we should follow it up by inviting the Minister including the Secretary to the Government of the Federation, to explain to us where they got the authority or the right to retire a Civil Servant prematurely.

Senator Adegbo Erhiawarie Eferekaya (Delta Central): Mr. President, I did not want to speak on this topic because I am the Vice-Chairman of the Senate Committee on Ethics, Code of Conduct and Public Petitions.

The President: All right. I thought you raised your hand.

Senator George Anthony Manzo (Taraba North): Point of Order, Mr. President.

The President: Yes, distinguished Senator Manzo, what is your Point of Order?

Senator George Anthony Manzo: It is Order 41(7). With your permission I would read. But, before I read, I want to raise a few comments about the Report itself.

Some distinguished Senators: No! No.

The President: Yes, read the Point of Order.

Senator George Anthony Manzo: The Order says: *The Senate shall not receive any petition on any matter for which there is a judicial remedy.* The point I want to raise is that this is a case of a wrongful retirement from the Service of a Nigerian citizen and the courts can entertain that.

Some distinguished Senator: No! No.

Senator George Anthony Manzo: The point is that this Report is not signed and not dated at all. If you are to pick this on the street, you would not know from where it came.

The President: You are reacting to some comments there and I do not know whose comments you are reacting to because so many comments came to you at the same time and you reacted to one of them. Whose own did you react to now?

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Senator George Anthony Manzo: I stand by the Order, and I am waiting for your ruling.

The President: But, she has not gone to court. The matter is not before any court of law? There is no matter for which you cannot go to court. That there is judicial remedy does not mean we cannot listen to your case as long as it is not before any court of law. Let us save time. I rule you out of Order. It is a new day and I do not want to be hard on you.

The President: Senator Eferekaya since you are actually a Member of the Committee, do you want to make comments here? Is there anything new you want to tell us that is not in the Report?

Senator Ehriawarie A. Eferekaya: There seems to be a misunderstanding. If you look into the comments, some people are taking it as if the matter before us is a case that the lady has committed an offence. This is not the case.

The President: Speaker after speakers has said that the lady had not committed any offence. They have all emphasised that. So, where are you getting this idea from?

Senator Ehriawarie A. Eferekaya: I have listened to comments and some people tend to say; oh, fair hearing. I am sure that the President has heard of fair hearing. There is no question of fair hearing here. The Committee, before we came to give that Report has looked at it carefully. Therefore, what is really pertinent here, based on the convention, the convention may be wrong and that is why the Committee has recommended that at the end; let the Act be reviewed. Whether when it is reviewed it can be retroactive to affect this lady is another matter. So, what are we talking about? The lady cannot be asked to go back to the Customs Service.

A distinguished Senator: Why?

Senator Ehriawarie A. Eferekaya: It is because you should look at it. Do not just ask why? There are other people. This is her case. If we want to make case, it will apply to everyone that was affected. The Report made it clear and the Comptroller of Customs, made it clear that there were other people affected. Can we say now, she should be taken back to the Customs as a single person? No. That was why the Committee recommended the possibility and I have information that there are vacancies for Akwa Ibom.

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The President: But, Senator Eferekaya, why did you people not sign the Report? There is no signature here.

Senator Ehriawarie A. Eferekaya: That question should be referred to the Chairman.

The President: But, you got up to offer explanation without referring it to the Chairman. Now, you were asked why you did not sign, you said let the Chairman answer that (*Laughter*).

The President: Distinguished Senator Ibrahim Ida, we have to round this up.

Senator Ehriawarie A. Eferekaya: We all signed. I was surprised to see that the page signed was not included.

The President: The one I have is not signed. So, how many Members saw the one that was laid? Why commenting on the ones that was laid? But actually Senator Hambagda, why did your Members not sign the Report?

Senator Omar Hambagda: Sir, all the Members of the Committee signed the Report that was laid on the Table. Unfortunately, when the Secretariat was producing for circulation, they did not attach the signature page and I queried it. The Secretary was very sorry for the omission.

The President: Well, I accept your explanation. Your Secretariat is mischievous. It is totally unacceptable. You cannot present a piece of paper to us if your Secretary is such an inefficient character, then you should think twice about retaining him or her because your Committee is a very serious Committee. This is precisely the point we are making having an inefficient character in an Organisation, and he or she muddles up everybody else. It is not right. This piece of paper truly is not a valid paper before this Senate because it is not signed by anybody. However, we will ignore that because of the importance of the matter. You should caution your Secretary. This is the second time. One day when you were to present a Report you were seated here and at the time you were to present the Report we looked for you and we were told that you went out to look for your Secretary because he or she refused to bring the Report. That is getting out of control.

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After listening to distinguished Senator Ida, we would then listen to Senators Makarfi, Ndoma-Egba, and then the Deputy Senate President will wrap it up.

Senator Ibrahim Mohammed Ida (Katsina Central): Mr. President, I want to share the sentiments of those who spoke before me particularly, as it relates to the future (*Interruptions*)

The President: The Whip, there is too much noise.

Senator Ibrahim Mohammed Ida: Mr. President, as I was saying, I share the sentiments that it is very traumatic and psychologically disorientating for a person to lose his or her job suddenly. I also want us to be objective that if we set rules for ourselves, we should follow them.

If you look at this Report, you will see that in Paragraph 3, among those that the Committee resolved to invite was the Minister of Finance, who is supposed to play a very big role on the affairs of the Customs. Somehow, through omission or commission, there is no reflection of what he said before the Committee, if he was actually present at all. It is very important and it is conspicuously missing.

Secondly, if you look at the evidence of Mrs. Umoh herself, she said that she was a beneficiary of the same type of process. That is to say, some people were removed and she was appointed. Now, what disturbs me here is that in its own methodology, the Committee says that it was guided among other things, by the principles of equity, fairness and justice. I want to emphasise on the principles of equity and that is a two-sided issue. Whoever comes to equity should come with clean hands.

As a Lawyer, I know we have what we call the doctrine of estoppel. That means that if either expressly or impliedly you condone an action or a state of action because it favours your interest you cannot later invoke the same action when it is used against you. I say so because I want to tie it up to the first one that when she was appointed she knew very well that those who were removed before her were unjustifiably removed, she did not complain. Now, that she was subjected to the same type of treatment she is now complaining and I want to say that he who wants equity should come with clean hands. I want that point to be noted very strongly inasmuch as I sympathise with her but fair is fair and I believe that this Committee should have been guided by that having expressly stated that they were guided by the principles of equity it should apply to both sides, the

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side of the person concern and the side of the government..

Senator Ahmed Mohammed Makarfi (Kaduna North): Mr. President, I will just follow up on what Senator Ida mentioned, well presented, a member of the Committee on Finance that when the woman when she was promoted to Assistant Comptroller General, she was taken out of her own peers or other people that were senior to her and she was made Assistant Comptroller General. She did not see that as being wrong. She accepted that appointment and now that she has been removed as a result of reorganization, I did not see anywhere in the Report where they indicated that, that exercise was a complete reorganisation of the managerial structure of the Nigerian Customs Service which was approved by Federal Executive Council and subsequently approved by the Board of Customs Service.

So, many people were taken to positions in Customs to perform its job better and in that exercise management was effectively sacked. Now, one out of the management to come through the Legislature to say that she was unjustifiably retired is a waste of the time of the Legislature.

I believe in issues such as this the basis for such actions should be looked into. Maybe, if the Public Petitions Committee had consulted us, we would have given them some information that would have further guided them. For me, I do not see the need for asking the Committee to re-do the job. What are we going to talk about? An entire management was sacked, if we are going to say one out of them should be re-absolved or taken somewhere, what of the rest of the management? What of those reasons that led to the sacking of the management?

We should let this matter go by. It is unfortunate. When you are re-organising probably people that may not be as inefficient as others may suffer but they are part of the Management. It is the system that is the issue not an individual in this matter. So we should let this matter go by and actually, maybe, look into the future and what is that future?

Are we really going to look at the existing legislation and say that they should be so dogmatic that Executive cannot re-organise a Management when it is convinced that there is general incompetence in the management. That would be asking for too much and that is why when you get into managerial level you know that you have gotten to a level that you perform

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well, you excel and you can reach the end of your career and if there is generally a problem within the management you are likely to pay the price for non performance or failure of that management. So, we should be careful in how we try to look at this Legislation and how we tie the hands of the Executive in dealing with matters that may be very necessary in order to move Nigeria forward.

Senator Mahmud Kanti Bello (Katsina North): Mr. President, when I look at this Report briefly I was disturbed on two issues. The first one, of course, has been cleared by Mr. President that we should just accept what they did even without the Report being signed. But I am very disturbed by the fact that when you look at the Report at Paragraph 4.2 that is the interview they had with the Secretary of Customs Service Board, she clearly stated that the woman was appointed by the President of the Federal Republic of Nigeria in 2004 as Assistant Comptroller General which is a different thing all together. According to her, reading from the Report: *With all uniform services by the time a person gets to the rank of Assistant Comptroller General it becomes more or less a political appointment.*

Secondly, if you look again, at what the Comptroller General said, he referred to Section 5 of the Constitution about the power of Mr. President to appoint and to back up this appointment, he added that the Constitution gives power also to the Minister, the Head of Customs Services or any Ministerial appointing organisation to appoint. But the most disturbing aspect, is that even if we are thinking that the mistake was that this appointment was political then the political head of that Ministry that is the Minister ought to have been invited by the Committee to know what are the reasons behind the fact that she was prematurely retired.

Of course, the retirement is normal according to them because as a political appointment, they can give you a job, tomorrow and a day after they are tired of you, but courtesy demands that, perhaps, the Minister would have thrown more light, maybe, the woman was inefficient or he does not like her face, who knows what? We do not know. So, the Committee ought to have invited the Minister so that the Report of what the Minister says could have helped this body to decide what we should do. In the mean time, as far as I am concerned, this Report is inconclusive and the ideal thing is to return it to the Committee on Ethics to look at it again.

The President: All right. Senator Jibril Aminu has been raising his hand and discussing with Senator

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Effiong Bob and shaking his head (*Interruptions*) But he is the Whip of the National Assembly

Senator Aminu: I have my own whip here.

The President: I know. I saw you have been reading your text messages. Let me listen to Senator. Jibril Aminu, after that it would be Senator Victor Ndoma-Egba.

Senator Aminu: This has been a very brilliant discussion on a very important issue. I am only speaking because I believe we have still not approached the fundamental matter and I hope Senate will look at it. This is very uncomfortable day for me because my two young ones here said I should either support them or keep quiet. For those who spoke against, I have also heard the salient comments made about the third quarter allocation, so you should watch out. (*Laughter*)

Let me now come back to the issue. These things have been going on in this country for quite sometime. I will like to go back to history. Before 1975, we had a Head of State who was a Lieutenant Colonel but there were Admirals in his Council and nobody was asked to go. I am talking about retired General Yakubu Gowon and Admiral Way. Mr. Ayida was made Secretary to Government, and there were lot of people who were senior to him. They were not asked to resign. Late Ali Akilu at 34 years was made Secretary to the Premier of Northern Nigeria and a lot of his seniors did not resign. But from 1975, the young coup makers of those days would confirm; from 1975 they said, everybody equivalent or equal or senior in rank to the officer appointed, is retired.

What has happened is not peculiar to Customs Service. In NNPC last week, many Directors-General were retired in order not to impose any senior to the people who were in charge of the management at the present. This is becoming a culture and those who get these easy jobs have been enjoying the positions and they do not complain except once in a while.

The real issue that this Senate has, is not only about this woman; it is about what are you going to do when what is considered as injustice to an individual conflicts with the interest of the system? It is very important for us also as a Senate to take a position that from now on, the fact that somebody is appointed head of an establishment does not mean that those senior to him in the Service should go the moment the person assumes office. It is an important point for us to make. If we can make these two decisions, we would have gone some

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way. Then, we would not have to deal with individual cases.

Now, what do we do with this young woman? She could be used as a test case. We have to thank her for petitioning because she becomes a test case for the Senate. But, as for restoring her, I do not think we can restore her because just as Senator Akwashiki said, somebody is already sitting on her desk. Secondly, you really cannot force an employee on an employer. It does not happen. If you want the Nigerian Customs Service to be a profit making organisation and you take an employee and say, you must be there, it is not done. Even if that employee did not come by a regular means and it looks like she also came by a regular means; but you cannot really say, the Customs must keep this. The only thing you can do is to give them compensation; you work out a package to compensate them for this loss. If that is what she is asking for, it is all right.

Then we also have the problem of Federal Character. Federal character implies that you could be removed for reasons other than incompetence. In order to balance out, some people might have to give way. You cannot really say that because you are a Civil Servant, therefore, things should go by way of due process when, in fact, you did not come through due process. We have a very difficult issue here and Senators have made very brilliant contributions. My suggestion is that this lady should be allowed to go. We accept her case; she has acted as an important case study for us on which to take action to determine two issues: First, justice to the individual versus the interest of the system; and second, what you will do with somebody who has been removed and who does not want to go. What do you do for them?

I believe this country has to face the issue of, if you appoint some people to serve, should every other person senior to them leave? These are important issues for this Senate to decide and I appeal to the Committee, Mr. President and distinguished Senators, to look at these two points which I have made. If we take a stand on them, and they are accepted, it is all right.

Finally, it may not be so in Nigeria but I know it is through in the US, the President is in charge of the Executive and elected by the people and they have demanded certain things from him; he is free to ask somebody to stay or somebody to go. It is the same thing with a Governor. You cannot say to your President, I have elected you President and I demand this and that from you and you cannot determine who will work with you. You cannot do that.

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So, there are very serious complications about this particular case, and I am appealing to the Senate to kindly consider the humble remarks I have made.

Senator Victor Ndoma-Egba (Cross River Central): Mr. President, let me start by thanking the Chairman of the Committee on Ethics, the only authentic Comrade in this Senate. For once again he is re-affirming his credentials as a true comrade.

Let me go right away to also adopt in totality, the submissions of the forlorn comrades; Comrade Chukwumerije, and other golf playing, Champaign drinking and caviar eating comrades. *(Laughter)* What is confronting us today is a number of choices and Senator Chukwumerije put one of the choices very starkly. Do we choose unjust customs over justice just because we are used to doing things in a particular way? We are used to doing things in a wrong way; somebody benefited in the past, somebody lost in the past; that is the way it is done so let us continue that way? It is a choice we have to make.

The second choice we have to make is that, do we accept that the term democracy by itself is an incomplete term? Democracy is only complete when we say democracy and the rule of law. That is when it is a complete sentence. So, if we are in a democracy then we cannot say we are practicing democracy and ignoring the rule of law.

You were part of the Council that promulgated the Decree known as Decree 42 in the days of the Military that gave the then Military Head of State who was then a military dictator with absolute powers, but it still saw the need for a law to back him up in removing people in the interest of the country. There was a law. Even in the days of the military, it saw the need to provide a law for them to remove somebody from Service in the interest of the State. There was that law. We are saying today, in a democracy, that the President can do anything he wishes because he is re-organising. Why then do we have the Customs Act? We do not need it. We have elected a President. Under Section 5 of the Constitution, let him do whatever. Let him dissolve the Parliament because we have elected him to do what is best in the interest of this country. But if we have laws, the laws must be obeyed and discretions minimised.

The arguments I have heard here today are divided in two parts; those who said we must follow the law whether or not the heavens fall and those who said no; we do not need to follow the law, let us use discretion for as long as is convenient. It is what has been done in

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the past. Under a democracy we must follow the laws even if the heavens fall.

Why are we confronted with this difficulty? There is a mistake being made about career appointments and political appointments. The Public Service ordinarily is not the most attractive of opportunities but young men and women opted for the Public Service for one simple thing; that they had security of tenure; security in their careers and that they could start from the lowest level and rise up to the highest level.

If you take the Customs Act, there is no provision in that Act for any political appointment. It is the Board of the Customs and Excise that is political. It is not the staff of Customs; those are career people and they are entitled to the security of tenure that attracted them to join the Customs Service in the first place. So, you cannot midway begin to change the post for them that because you have attained a certain rank it is now political. I challenge my Colleagues to show me where in the Customs Act that at a certain rank your appointment becomes political. It is not there.

Senator Mahmud Kanti Bello (Katsina North): Point of Order, Mr. President!

The President: What is the point of Order, Senator Kanti Bello?

Senator Mahmud Kanti Bello: My Point of Order is constitutional. It is Section 5(1)(a) of the Constitution of the Federal Republic of Nigeria, 1999. I am very disturbed when a Senior Advocate of Nigeria said that Mr. President has no powers in a democracy. I think he is a little bit confused today because Subsection 5(a) is very clear when it says: *Subject to the provisions of this Constitution, the Executive powers of the Federation –*

(a) shall be vested in the President and may, subject as aforesaid and to the provisions of any law made by the National Assembly, be exercised by him either directly or through the Vice-President and Ministers of the Government of the Federation or officers in the Public Service of the Federation.

There is a Minister who was not even invited and we are saying that the President has got powers as enshrined in this Constitution but our learned SAN is telling us that it is not so.

The President: The Chief Whip, your Point of Order is to support what he is saying. Is it not?

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Senator Mahmud Kanti Bello: It is not exactly. My understanding of what Senator Ndoma-Egba was saying is that even during the military era, there was what we call Decree 42 and he tried to justify that. When we are saying that the President, as the Committee has said, acted according to the Constitution he is trying to debunk that and that is what I am saying that is wrong.

The President: It is all right. Your Point of Order was correct up to the point of supporting him but because your conclusion, in fact, is against your original argument, I rule you out of Order.

Senator Victor Ndoma-Egba: Mr. President, I do know as a matter of fact that the Chief Whip has been flying for a number of hours and he is jetlagged. If he had taken Senator Jibril Aminu's medical advice, he should be better for it *(Interruptions)*

The President: If you want to ask for any medical advice, let Senator Mamowora be the referral doctor here. *(Laughter)*

Senator Victor Ndoma-Egba: Thank you, Mr. President. I was saying that you cannot change the goalpost in the middle of the game. This lady entered the Customs knowing that she was entering as a career officer. She did not elect for a political appointment and there is no provision for a political appointment in the Act that governs her service; that is one.

Secondly, each time a person is employed, there are terms and conditions of employment. Did her terms and conditions say at any point that at some point in her career she will be a political appointee or considered a political appointee? The fact that something like that had been done in the past whether it is called reorganisation or not does not make it right. This Senate must have the courage to say so. It does not make it right; it is wrong. So, it is either we are electing for democracy and the rule of law or we just go back to your days, Mr. President, in the military.

The President: I said you should keep referring to Senator Mana who is sitting next to you. *(Laughter)*

Senator Victor Ndoma-Egba: There are two points for this lady. One is that she opted for a career, not a political appointment. Second, her terms and conditions are very clear. Third, her service is governed by law. So, we must look at the law.

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Every Nigerian has a right to petition this Senate. You recall that it is your mantra that this Senate must affect everybody in the streets. If our individual rights are infringed upon for as long as we have not chosen the court as a forum to address those rights, this Senate is available to every Nigerian. The only time that this Senate will not be available is when you have chosen another forum which is the court. This lady has not chosen that forum. We cannot compel her to go there. She has as much of a right to go to court as she has to come to this Senate and because we recognise that this Senate is available to every Nigerian who is aggrieved that is why under our Rules, we have a Committee on Ethics and Petitions. So, she has a right to come here just as she has a right to go to court. If she has chosen to come here then we must address her grievance.

There is a larger problem and I think it was Senator Anyanwu who talked about how frequently we dump people we have spent public funds to train. The implication of this is that if a person who opts for a career is no longer certain of how long he or she will be in that career corruption will be a consequence of that uncertainty. So, if we must address the issue of corruption in this country; if we must address the issue of re-branding Nigeria, then we must do things according to law. We must not do things according to convenience or exigency. Today, it is Mrs. Faith Umoh. It is convenient for us to hide under reorganisation, exigency and all of that. Tomorrow, it will be the next person.

In conclusion, if we want the democracy to thrive, let us follow the law even if the heavens fall and I recommend that in this case, we follow the law even if the heavens fall. We must stand up and say that Mrs. Umoh was wrongly retired and she should be reinstated. I so submit.

Senator Ike Ekweremadu (Enugu West): Mr. President, let me start by saying that I have a bit of problem with the first part of the recommendation of my fellow comrade, Senator Hambagda. Before I go into that, let me also assert that this is not about Mrs. Umoh it is about a system that has been unfair to so many people. When you entered a Service whatever so-called, you expect to get to the top of your career. If you join the teaching service, some day you hope to be a Principal, a Professor, a Headmaster or whatever nomenclature. If you join the Civil Service, you expect to end up possibly as a Permanent Secretary and if you join the Army, you expect that some day, you would be a General and maybe the Chief of Army Staff, Chief of Navy Staff or Chief of Defence Staff. If you have

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decided to join the Judicial Service, you expect to be a Judge and maybe, one day the Chief Judge of a State or the Chief Justice of the Federation. If you join the Police, you expect that one day you may be the Inspector General of Police.

This is confronting us today, because many careers have been truncated along the lines for reasons that are less than noble. Reasons that are petty that even diminished us all as man kind and as patriots. That is what is confronting us today. Even the petitioner herself, had benefited from the same injustice which we are talking about. What we need to do is to find a way out of this situation. I will give you an example of an organisation that has addressed this problem and that is the Judiciary.

Prior to 1999 what happened was that you had instances where lawyers were appointed to the Supreme Court straight from the Bar. I mean practicing lawyers were appointed to sit as Justices at the highest court of this country. Judges were appointed from States High Courts to the Supreme Court but since 1999, all that has changed and it changed for two reasons.

One, is that the Constitution of 1999 in Section 292 provides how you can remove a Judge. That Section reads thus: *A Judicial Officer shall not be removed from his office or appointment before his age of retirement except in the following circumstances.*

In the case of federal Judges it says towards the end of the provision: *... by the President acting on an address supported by two thirds majority of the Senate.* It goes further to say: *In any other case other than those which paragraph (a) of this subsection applies by the President as the case may be by the Governor acting on the recommendation of the National Judicial Council that the Judicial Officer be so removed for his inability to discharge the functions of his office or appointment (whether arising from infirmity of mind or of body) or for misconduct or contravention of the Code of Conduct;*

The point I am making here is that if you like, bring a two year old lawyer and put him in the Supreme Court that would not remove one single Justice from the Supreme Court. One would need to find a way of making sure that when people get into a career, they cannot be removed unless for special reasons that are provided by the law. Again, when they are considering people who would head Services the preference should be from those who are at the top of their career. That is the only way to solve this kind of problem. We can do

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that by the application of our functions here which is to make laws and amend them where necessary.

I would now come to the issue of the recommendation. As I said, I have a problem with the recommendation. The Committee suggests that the petitioner be reabsorbed by the Federal Civil Service Commission. I submit with respect, that in the first place, she was not a staff of the Federal Civil Service Commission. She was a staff of the Customs Board. So, there is no way she could be reabsorbed by the Federal Civil Service Commission.

Secondly, she cannot take contract appointment because that had since been stopped in the Civil Service. Her remedy in the circumstance and I say it with all due respect, is to go to court and probably get compensation. As it is, it is even difficult for the court to order her to be reinstated for the reasons some of my Colleagues have earlier advanced. It is difficult for us to make this kind of recommendation that the Federal Civil Service Commission do reabsorb her.

This Report did not tell us when she was retired but my Colleagues said she was retired in 2008. They did not tell us between 2008 and now whether or not she had been paid her retirement benefits. If she had received her retirement benefit, she cannot even talk about reinstatement. These are the facts that are not before us for the purpose of considering this recommendation.

I suggest respectfully, that we look at the second arm which is saying that the system should be reviewed and we are going to review it generally so that in various Services where people expect to get to the top of their career, they should have the opportunity of doing so. Instead of getting some younger people in the middle of their career and appointing them to head such Services and then retiring the rest of the people that are already trained with experience to take over as the heads of these Services. So, I do submit and I make this with every sense of responsibility.

The President: Distinguished Colleagues, this issue which appears rather simple on the face value, were found is not as simple and it is not straight forward. There is no doubt that the Committee tried to present a good Report but there are so many unanswered questions. There are so many issues that the Committee did not address.

Senator Hambagda, you are raising your hand. I do not know the ones you want to address among the ones

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that have been raised because I have got quite a number of them. I think it is better for you to wait.

We have a real difficult situation on our hands and that is the balance between justice and what we are regarding as convention. I do not know if we can sacrifice justice on the altar of political expedience or convenience or convention, particularly, against the background of rule of law.

I am a bit worried about the entire Report. If you look at page 3 of the Report where you asked Mrs. R. M. Akor, a question you stated that: *She further explained that the person was appointed by the President of the Federal Republic of Nigeria in 2004 as Assistant Comptroller General* That is a different thing altogether. What does that really mean? That she was appointed by the President. Is it the President who appoints Assistant Comptroller Generals? There are so many issues in the Report that are not very clear to me. Why did you not invite the Minister? That is important. In your introduction you said that those to be invited included the Minister and you ended up not inviting him.

The third issue, was it the whole management that was sacked? Or was it only herself and a few others that were sacked? Or was it the whole management?

Fourth issue, when she was appointed Assistant Comptroller General, did some of her colleagues had to go away? Otherwise, she was elevated because some had left or some left because she was elevated? This is because the two are not the same. Which of these are we really dealing with?

There is so much talk about Section 5 of the Constitution. Yes, the President has executive power, but if you look at Section 157 of the 1999 Constitution, that is dealing with the Boards and that is where the issue of her being appointed by the President becomes relevant. Section 157 of the Constitution tells you how the President can remove members of all those specified on the Boards on section 153 of the Constitution. If the President appoints you; he can remove you. I am not talking about the Board now but as an individual. If you are appointed by the President as an individual then he can remove you and that is where the whole sentence you put in there is rather confusing. I will give a typical example; the President could appoint the Inspector General of Police and he can remove him. The sentence here is saying that she was appointed by the President as an Assistant Comptroller General. That was why I asked

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whether it is the President that appoints Assistant Comptroller Generals?

A Distinguished Senator: No. It is the Board

The President: But this is not what he said in the paper here. You have not clarified that bit. I agree entirely that we should not be scared. I do not know who made the comment but somebody gave an impression that we have not been considering petitions. All petitions brought here and brought properly have been referred to the appropriate Committee. This Senate has never run away from petitions. If you do not bring petitions, it is not our business to go to your homes and ask them to bring petitions. We are to educate our constituents. We should tell them the mode and how petitions are to be brought before us. We do not have to review our Standing Rules just to enable anybody bring petition. As it is, it is adequate and it is proper. If petitions are brought here, we would really consider them.

Senator Hambagda, you need to clarify these issues before we go to the Prayers and recommendations.

Senator Kamorudeen Adedibu (Oyo South): Mr. President, I just want to clarify the issue about Section 157(1). Nigerian Customs is not one of those bodies recognised under Section 153(1) of the Constitution.

The President: No, you are missing the point. That was why I said that Section 157 specifies the mode that the President can remove anybody in Section 153 and that Customs Board is not there. But not being there means that if the President appoints you, he can also remove you. I referred you to page 3 of the Report where Mrs. Ako said: *She further explained that the person was appointed by the President of the Federal Republic in 2004 as Assistant Comptroller General.* That is what the Report says. I did not write it. I just read what is there. We are talking of her removal. I asked a question also because they raised the issue that it was the entire Board that was sacked.

Senator Omar Hambagda: Mr. President, first let me react to the invitation of the Minister. The Minister is the Chairman of the Customs Board. We set out to gather information that we felt would enable us reach some decisions. By the time we invited the Secretary of the Board, we practically had no information that would add value to our decision and that was why we did not invite the Minister.

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Secondly, the recommendation we made about the Federal Civil Service (*Interruptions*)

The President: The Minister is a policy maker and the Chairman of the Board and the political office head. There are allegations here about the appointment being political. If you did not invite the Minister then you would not get the political angle and the whole statement of the appointment being political or not, nobody can justify it because truly no serving person has a political appointment. Even the Comptroller General, though his appointment itself is political but his rank is a different thing. I do not know whether Assistant Comptroller General is a rank or just an appointment? If it is a rank, then it is not a political issue. That is where the whole problem is because there are statements in this Report that are not correct

Senator Omar Hambagda: In any case, I have given an answer to a statement and what we did. The reference to appointment by the President is that appointments from Assistant Comptroller and above, after the Board makes recommendation, the President approves. This is where the appointment by the President came in but the Board is the decision maker.

The question of whether or not the whole Board was sacked; it was not the whole Board that was sacked. What actually happened was that they picked a Comptroller General at the time the new Gbong Gwom Jos, Mr. Buba was appointed Comptroller General all the Deputy Comptrollers were retired. Some people in lower rank were moved to ACG and some were removed. Then the people from the Comptroller category where the Comptroller General was picked were moved up to ACGs and DCGs. When Buba was retired, the new man was appointed from ACG category and all the DCGs were removed and then some people in ACG were moved to DCGs; while the remaining one of whom was Mrs. Faith were retired. It was not the whole Management that was retired. Actually, there were levels of it. That is the answer to that.

The President: Let him offer this explanation before we begin to look for a way out. Senator Hambagda, I did not get the issue of her own removal and the movement of Buba up?

Senator Omar Hambagda: Her own movement into the category from the Comptroller was that Buba was appointed from Comptroller to the Comptroller General and all the Deputy Comptrollers General were retired. Then out of the Assistant Comptrollers, some were moved to Deputy Comptrollers while others were

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retired and those of them including her from the Comptroller category, moved into ACGs. When the next one was removed also, some of the ACGs were moved to DCGs and some of them were retired and then people from the CGs were moved to replace them. This was how it happened and that was why even the Comptroller General himself was saying that the whole process was messy.

The President: She was retired not in Buba's time. Was it in the current man's time or the man before this man?

Senator Hambagda: It was during Buba's time that she was moved to Assistant Comptroller-General. It was at the time of the man who took over from Buba, who lasted for only eight months that she was retired. It was not the entire management that was sacked. When it happened some people were moved from Comptroller to Assistant Comptroller-General and not all the Assistant Comptroller-Generals were accommodated in the DCG category. Therefore, the remaining were asked to go and she was one of those.

On the Federal Civil Service recommendation that we made was because there has been precedent to that effect. People had been retired from the Immigration and Customs and they were moved into the Federal Civil Service. A good example is a personal friend of mine who shared the same dormitory with me in the Secondary School. His name is Useni Mahuta from Katsina. He was ACG Immigration. He was also hopeful for the post of Comptroller General, but was not given. Someone else was appointed and he was to be retired but he refused and said he would move to the Civil Service. He moved to Civil Service and he is now a Director there.

That was why we said that it is not abnormal since there has been precedent. Someone with such qualification and experience and at that age we felt that there was need to accommodate her in the Civil Service since there has been a precedent. That is why we made the recommendation.

If you observe the tone of the recommendation, we are aware that the National Assembly will not do the job of the Executive. That was why we said, the Senate should appeal to the Federal Civil Service Commission to absorb her.

Looking at the ubiquity of the problem in the Military and Para-military Services, we suggested as many of our Colleagues have stressed, that so many

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trained manpower had been wasted by this country because of this kind of policy that the system should be reviewed. In this case the Senate may direct the appropriate Committee or an ad-hoc committee to look at these Services so that the country will not continue losing all her experienced citizens.

The second recommendation is about the system. We believe that the system is not working in tandem with the aspirations of Nigeria. We felt that it would be a big problem to say that she should go back to the Customs Service. We were sympathetic to her plight and we believe that she still has a lot more to contribute to this country, like others who have benefited in the past, we recommended that the Civil Service Commission should be appealed to, to accept her for deployment while the Senate sets up in motion to correct the system. so that an equitable and just system is evolved for this country.

The President: The analogy you gave on transfer is not the issue here. The analogy you gave was that the man was still in Service, he was going to be retired, he said no; because you promoted somebody who is junior to me, do not retire me, transfer me to the Civil Service. He transferred from the Customs to Civil Service, which is all right. But this is a situation where the person is already retired by Customs. The fact of the matter is that there is a letter retiring her any way. She is not in Service any more. That is not transfer of Service. That is not the correct analogy here.

You said you wanted a way out. One thing is very clear. This issue of just waking up and retiring people we have to find a way to stop it. So, that when people join a particular Service, at least, they can put their mind there and put in their best and aspire to the highest position in it. This is a peculiar case. For those who are saying put her back. I just want to ask a practical question. If we do and all those who have suffered similar fate come up with their own petitions what do we do? What is good for geese is good for the gander. We should be conscious of what we are doing, not because of an individual, we say, we must do this. There are so many people who are in the same category. We must be conscious of the fact that, she has brought up a case which is a test case for this country.

Senator George Thompson Sekibo (Rivers East): Mr. President, there are two recommendations I want to make as a way out. The first is on the Report itself. The first, second and third page of the Report were not numbered. The Chairman of the Committee has seen that this Report is not as comprehensive as it ought to be

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to enable us understand exactly what they are talking about. The first way out is that the Chairman should withdraw the Report and do further work on it and bring it back to us. This is because there are conflicting issues on it. .

The issue is not to re-number the pages. When a Report is brought to you and it is not signed by any person and we taking this kind of major decision on it and tomorrow something happens the Committee would say that the Report was not signed. What would you say? We are all having a document that is not signed. There is no Report before the Senate that is the truth, because what makes a document authentic is the signature on it. There was no signature on the Report.

Secondly, if something has happened to a citizen of this country because of the failure of a system and a similar thing had also happened to several other persons; if we say that if we solve the problem for one person, it would make others to come to us, for that we shy away from it, I think it is wrong. To me, whatever is the best recommendation should be given on the issue even if it is going attract others that had suffered the same fate. If it happens so, we must have done our work. That is no other way to solve the matter. We cannot bury this matter and say that the woman should be relieved of her appointment and let her suffer the pains because there are other people if you find a way of salvaging her, will come for the same problem.

The President: We do not want to bury it that is why we are discussing the matter. If we want to bury it, we would not discuss it.

Senator Andrew Abidemi O. Babalola (Oyo North): Information, Mr. President.

The President: Yes, Senator Babalola.

Senator Andrew Abidemi Babalola: Everybody is asking how we came about this. I do not know why we always want to run away from the truth in this country. In the Civil Service and Customs Service, they do not allow young men and women that joined the Service early to grow up. Along the line some people would come on the stage. *(Interruptions)*

The President: Senator Babalola, you know by our Rule you cannot contribute twice on the same subject matter. You made your contribution and I read from the Customs Act here that you can transfer or you can be seconded. If you transfer like she did and transferred her services, she cannot transfer and become

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an ASP in Customs when she has already reached certain level. If you transfer your services there you are given a rank commensurate to what your current position is. So, that is not additional information. We already know that and the Act provides for that.

Senator Nkechi Nwaogu (Abia Central): Mr. President, a lot has been said on this subject matter and it is very important. My suggestion for a way out for Mrs. Umoh on this very issue is one; it has been established that it is extremely and highly unlikely that she could go back as a Custom Officer. We were not told in the Report how many more years she has left before her retirement either on age ground or service years. This was not indicated in the Report.

I will suggest that we can begin from now to establish a compensation system. You cannot cut your nose to spite your face. Retirement from office is only when you are found wanting and it is established that she was not found wanting which means her period in the Service was prematurely terminated. Therefore, I suggest that Mrs. Umoh and others, not only her, should be compensated. There should be a compensation system whereby, in the event that an Agency, Parastatal, Ministry or the Government itself decides to reorganise for mistakes they made, they should have a built-in way out whereby they would pay those people whom they have injured because Mrs. Umoh can still go to court to... *(Interruptions)*

The President: Sorry, what you are saying is a reorganisation of the entire system. In any case, if you want compensation, this Chamber cannot order compensation. We can only do that through amending the existing Act but that does not affect Mrs. Umoh alone rather it would cover everybody. We have a case before us.

Senator Omar Hambagda, how many more years has she got to put in for her retirement? Let us know the number of years left for her first. How many years has she served?

Senator Omar A. Hambagda: She has served for 25 years.

The President: She transferred her service from Cross River State. You do not know?

Senator Ayogu Eze (Enugu North): As a result of a lot of unanswered questions and the time that we have spent on this Report and its significance for the health of this country and there is a general agreement by

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everybody for us to put a stop to a practice which has deprived the country of a number of well trained manpower and resources, I suggest that this is not a matter that we are going to treat in a hurry.

First of all, the Minister has not spoken. Secondly, because of the question that Mr. President has asked, nobody has a categorical answer on how many years she has to put in the Service. There are also a number of issues that have not been cleared that need to be cleared here. I strongly suggest that we return this Report to the Committee and ask them to invite the Minister some other people experienced on the issue. We are trying to draw a lesson from this. It is not just about Mrs. Umoh. From what we have discussed here the issue of her going back to Customs is statute barred but we want to establish a platform upon which this type of situation would not happen again. We need to take this matter back. Even the issue that was raised by Senator George Sekibo is not very trivial even though Mr. President has addressed it earlier. The fact that this Report was not signed, is very serious. It is true that it would go into the Hansard as documentation of the Senate but this Report was not properly treated because it does not have the signature of the Members not even Senator Omar Hambagda himself. The way out is to get this Report back to them, let them invite the Minister, we would give them a time frame and get all the facts in.

Senator Ahmed Ibrahim Lawan (Yobe North): Mr. President, I would not call it seconding what my brother and friend, Senator Ayogu Eze moved but let me say that the Minister of Finance is a critical witness or someone to be interviewed on this issue. I believe that he has more information and light to throw into this confusion. I would, therefore, support the position of Senator Ayogu Eze that the Minister of Finance be invited by the Committee and after he has given his information, the Committee can now represent the Report for consideration.

Finally, let me say that what we are discussing is so important to the future of so many people in this country, therefore, we must have this Report properly considered. When eventually pass the Resolution, even though it is only persuasive, must be followed to see that we have implementation, at least, that would make things better and convince those in Service.

What Senator Ndoma-Egba said about premature retirement entrenching corruption in Nigeria is right. This is because people would doubt whether they would be able to complete their tenure or not and therefore let them make hay while the sun shines

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So, I believe that the Committee should take back this Report, of course, our Colleague, our ranking friend, Senator Hambagda and his Committee have done a very good job but let them complete and tidy up the loose ends.

The President: All right. The way out is not in any way a means to sweep the Report under the carpet. The amount of time we devoted to it already is a clear indication of the seriousness we attach to this particular issue; premature retirement or retirement when people are not prepared for it is not right. People should settle on their jobs properly and do what is expected of them.

I will put the Question on whether or not this Report should go back to Senator Hambagda to first, invite the Minister and second, get more details from both Mrs. Umoh and the Board itself like when she is due to retire and the number of years she has put into the Service and all that.

Again, the gentleman, who is in charge of the organisation and who got up and probably said that the Organisation is rotten, what recommendations he has to redefine the organisation that is rotten. This is because I find that a bit strange for the Comptroller-General to say that the system is rotten and they are all beneficiaries of the rotten system. We should also ask Mrs. Umoh herself, if she is truly a beneficiary of a rotten system. She has to confirm that.

There are series of questions that need to be asked and bring before us and we would take this Report in all honesty. I put the Question in favour of referring the Report back to the Committee to do more work on it.

Question put and agreed to.

The President: Senator Hambagda, the Report is returned to you to do a little more work on it, give us more information and more details and bring it back with two weeks.

Resolved: That the Report be referred back to the Committee for more legislative work and return within two weeks.

Senator Olorunimbe Mamowora: Mr. President, I just want to bring the attention of the Senate to Section 41(6) and (7) of our Standing Rules

Rule 41(6) says: *The Senate will not receive any petition which ask for a grant of public funds unless the recommendation of the President of the Federal*

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Republic of Nigeria has been signified thereto, provided that petition for legislation to this effect may be received.

Rule 41(7) says: The Senate shall not receive any petition on any matter for which, there is judicial remedy.

I start to wonder as a way out whether we should not start thinking of what can be called A Bill for an Act for the National Compensation or anything of such. This is because what I am reading from this is that there is hardly any thing that does not have judicial remedy. In this circumstance it is because this lady cannot go to the court that is why she probably decided to come, maybe, as a way to fast track resolution of the matter. Seeking judicial remedy, of course, is possible, I am not saying it is not possible, but it may take 10 to 15 years. I am saying that, maybe, if we have an Act that says a kind of compensation can be provided under a circumstance that somebody is unjustly retired and established, maybe, that is a way out for us.

The President: We cannot pre-determine anything unless the draft is before us we cannot make any comment on such an Act. That is the one.

Secondly, as I said before she has not gone to court. As you rightly pointed out, there is hardly anything for which you cannot go to court with. Until you go to court we cannot assume that there is judicial remedy. She has decided to bring her petition here and we must look at her petition as it has been brought before us. We should not pre-empt what recommendation Senator Hambagda, is going to come up with in terms of Rule 41(6). We would not. If we do that now, we will be pre-

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empting him, but I think the points you made are valid. If you intend to bring a Bill on it, do so and if it gets support, it goes through and if it does not, of course, it will suffer the fate of all other Bills that have not gotten enough support.

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

Senator Olorunimbe Mamowora: Mr. President, I rise to second the Motion as moved by the Senate Leader, that the next Item be stood down till another legislative day.

Question put and agreed to.

By the leave of the Senate the last item on the Order Paper stood down to another legislative day

ADJOURNMENT

Senator Teslim Kolawole Folarin: Mr. President, I move that this Senate do now adjourn till tomorrow, Wednesday, 22nd April, 2009, at 10 a.m prompt.

Senator Olorunimbe Mamowora: The Senate President, I rise to second the Motion that the Senate do adjourn till tomorrow at 10. a.m.

Question put and agreed to.

Resolved: That the Senate do adjourn till Wednesday, 22nd April, 2009, 10 a.m prompt.

The Senate adjourned accordingly at 2 p.m.