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13th May, 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**

Wednesday, 13th May, 2009

The Senate met at 10.35 a.m.

PRAYERS

(The President in the Chair)

VOTES AND PROCEEDINGS

The President: Distinguished Senators, we have the Votes and Proceedings of Tuesday, 12th May, 2009 before us for approval: Pages 697, 698, 699, 700, 701.

Senator Dahiru A. Kuta (Niger East): Mr. President, on the second paragraph, the Secretariat is still making the mistake of joining words together without a comma. Just before No. 9, nomination of Mr. Useni Gangum as a Commissioner in the Revenue Mobilisation, Allocation and Fiscal Commission. There should be comma after Revenue Mobilisation.

The President: Secretariat there is a comma missing there. Page 701, 702.

Senator Joy Emodi (Anambra North): Mr. President, I stand to move that we approve the Votes and Proceedings of Tuesday, 12th May, 2009 as amended.

Senator Anthony O. Agbo (Ebonyi North): Mr. President, I rise to second the Motion as moved by Senator Joy Emodi that the Votes and Proceedings of Tuesday, 12th May, 2009 be approved as amended.

Question put and agreed to.

Resolved: That the Votes and Proceedings of Tuesday, 12th May, 2009, be approved as amended.

MESSAGE FROM MR. PRESIDENT

The President: We have a letter from Mr. President, Commander-in-Chief and the letter reads:

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May 5, 2009

*Distinguished Senator David Mark, GCON
President of the Senate,
Senate Chambers,
National Assembly,
Three Arms Zone,
Abuja.*

Dear Brother,

**GRANT OF US\$10 MILLION SOFT LOAN TO
THE DEMOCRATIC REPUBLIC OF SAO
TOME AND PRINCIPE (DRSTP)**

The Senate President, and the Distinguished Senators may kindly wish to note that the Government of the Democratic Republic of Sao Tome and Principe (DRSTP) through its Prime Minister, Dr. Patrice Emery Trovoada, made a request for a soft loan of US\$30 million from the Federal Republic of Nigeria in March, 2008. The loan is to assist the government address some socio-economic difficulties in the country.

I directed the Management of the Dept Management Office to evaluate the request and it has advised that the soft loan could be considered based on the following reasons:

- i. Nigeria's assistance to Sao Tome and Principe, a strategic maritime neighbour, which is anchored in the framework of the Joint Development Zone (JDZ), will strengthen and consolidate the security in the Gulf region, taking into account the geopolitics of international oil crises and economic interest of Nigeria.*
- ii. By the nature of the request, especially emergency that the DRSTP faces and considering the relationship between Nigeria and DRSTP, the soft loan would be interest free, while the loan would be repaid within four to six (4-6) years*
- iii. The DRSTP has a previous record of prompt repayment as was evidenced in the case of a similar loan of US\$15 million, granted between 2002 and 2004. The loan was fully repaid according to the terms of the loan in April, 2007.*

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- iv. Repayment will be from the Production Sharing Contract (PSC), in respect of the JDZ oil concessions, in which there are revenues from signature bonuses, sales of seismic data, royalties, taxes etc.

From the above, a memo was presented to the Federal Executive Council by the Honourable Minister of Finance in June 2008 and the FEC was favourably disposed to granting the loan requested by the DRSTP. In endorsing this request, the FEC took into account Nigeria's strategic and economic interest, as well as security considerations. Subsequently, following the outcome of meetings with the Government officials from the two countries, and the official visit of the President of Sao Tome and Principe, we agreed that the loan amount would be reduced to US\$10 million in the first instance, with additional tranches at the appropriate time, based on a separate consideration.

The Senate President and Distinguished Senators we wish to note that Section 25 of the DMO (Establishment, etc) Act, 2003 states inter-alia, **that application for grants or loans to a foreign State may be submitted by the President to the National Assembly and may be approved subject to such terms and conditions as may be prescribed by a resolution by the National Assembly.**

In line with the above requirement, may I request the Distinguished Members of the Senate to kindly consider and approve the sum of US\$10 million soft loan to the Democratic Republic of Sao Tome and Principe. The amount will be sourced from my Contingency Vote.

It is my sincere hope that the cordial and cultivated working relationship between the Legislature and the Executive will continue to flourish as we proceed with the task of national building.

Please accept, Distinguished President of the Senate, the assurances and my warmest regards.

Yours sincerely,

Signed)
UMARU MUSA YAR'ADUA
PRESIDENT

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ANNOUNCEMENTS

Return of the Quick Wins Project Forms to the Ad-hoc Committee on Millennium Development Goals

There is a letter from the Ad-hoc Committee on Millennium Development Goals and it reads:

May 12, 2009

The President of the Senate,
Senate of the Federal Republic of Nigeria,
National Assembly,
Abuja.

ANNOUNCEMENT

Further to our previous appeal for the return of the completed 2009 Quick Wins Project forms, I wish to remind my Distinguished colleagues to complete and return the Forms for onward transmission to the Office of the Senior Special Assistant to the President on Millennium Development Goals (OSSAP).

Your expedited action on this matter will be highly appreciated.

Yours sincerely,

(Signed)
Senator Mohammed Kanti Bello.
Chairman

Meeting of Northern Senators Forum

There will be a general meeting of the Northern Senators Forum today immediately after the Session at Hearing Room 1. Members are kindly requested to attend please.

(Signed)

Senator Bala Mohammed
Secretary Northern Senators Forum

Closed Session

There will be a Closed Session tomorrow with some Ministry officials, which we agreed would have held yesterday. We did not hold it yesterday. It will take place tomorrow at 12 noon.

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I will urge all of you to please, be present because we raised the issue on the Floor here and we agreed that we should hold that Session.

Senator George Thompson Sekibo (Rivers East): Point of Order, Mr. President!

The President: Sorry, Senator Sekibo, before your Point of Order let us take petitions.

PRESENTATION OF PUBLIC PETITIONS

Petition of Alhaji Babagana Ibrahim and Alhaji Babagana Ali Against Wrongful Disengagement from Service

Senator Kake Mallam Yale (Borno Central): Mr. President, Order 41 and with your permission may I read that Order:

The President: Yes, read it.

Senator Kake Mallam Yale: The Order says: *A petition may only be presented to the Senate by a Senator, who shall affix his name at the beginning thereof.*

The President: It is all right. The Order is sustained. You do not need to read the Order.

Senator Kake Mallam Yale: Mr. President, I wish to present two separate Petitions against wrongful disengagement from Service of Alhaji Babagana Ibrahim by National Insurance Commission and Alhaji Babagana Ali a retired Assistant Comptroller-General of the Nigerian Customs Services.

In the case of Alhaji Babagana Ibrahim, the criteria purportedly used for downsizing exercise were educational qualification and service record. Alhaji Babagana Ibrahim holds B.SC and Masters Degrees in Business Administration from Ahmadu Bello University, Zaira in 1980 and 1984 respectively. He has a very clean record of Service. He has never been queried or subjected to any form of disciplinary action.

The case of Alhaji Babagana Ali is that of arbitrary disengagement from the Service of the Nigerian Customs. He has put in only 25 years and has not reached the mandatory retirement age to warrant this action. He, too, has never been found wanting in the discharge of his duties.

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In a nutshell, none of the two petitioners has put in 35 years of service or has attained the mandatory retirement age of 60 years. Consequently, I wish to submit these two Petitions to the Senate for further consideration.

The President: I believe you have read all the conditions that Petitions are supposed to fulfill? That is Order 5(a) to (e).

Senator Kake Mallam Yale: Yes, Sir.

The President: Then lay the Petitions on the Table.

(Petitions accordingly laid on the Table)

Matter of Privilege

Senator George Thomson Sekibo: Mr. President, I want to raise an issue on Privileges. I want to read Orders 14(a) and (c), 15 and 18. May I crave your permission to read them, Sir?

The President: Please read.

Senator George Thomson Sekibo: Order 15 says:

Any Senator may rise at any time to speak upon a matter of Privilege suddenly arising, and he shall be prepared to move, without Notice, a Motion declaring that a contempt or breach of privilege has been committed, or referring the matter to the Committee on Ethics and Privileges, but if the matter is raised in Committee of the Whole Senate, the Chairman shall leave the Chair to report progress.

Order 14(a) says: *Privileges are the rights enjoyed by the Senate collectively and by the members of the Senate individually conferred by the Legislative Houses (Powers and Privileges) Act Cap 208 Laws of the Federation 1999 and other statutes or by practice, precedent usage and custom.*

Order 14(c) says: *In cases where adequate provision is not made in these Standing Orders, the Senate shall by resolution regulate its procedure.*

Order 18 says: *Any Senator complaining to the Senate of a statement in a newspaper, book*

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or other publication as breach of privilege shall produce a copy of the newspaper, book or other publication containing the statement in question, and shall be prepared to give the name of the printer or publisher.

On 11th May, 2009 that is two days ago, I read from a newspaper publication, *The Punch Newspaper* published by the Punch Nigeria Limited, *Oil Firms Bribe Lawmakers: Labour to Oppose Reform*. That is in the front page of the paper. When you go to the story proper, if you permit me I will read two or three paragraphs where it affects me and the entire Senate collectively.

Oil companies operating in Nigeria might have compromised Members of the National Assembly and the Labour Union to shoot down the reforms planned for the Oil and Gas Industries, the Federal Government alleged on Friday. The Special Adviser on Petroleum to Mr. President Umar Yar'Adua, Dr. Emmanuel Ekpoga made this allegation in an exclusive interview with our Correspondent.

I will leave that and go to the next paragraph.

He said the oil companies are carrying campaigns taking the Senators to Ghana to feed them, going to Labour people to bribe them and saying that this reform is going to kill you and all that is nonsense.

I will go down to another paragraph:

One of the Senators who participated in the OTC Forum, where reforms were deliberated upon had confessed that the oil companies took them to Ghana and lobbied them against the Petroleum Industry Bill that is currently being considered by the two Chambers of the National Assembly.

I see this as a breach of my personal privilege as a Senator of the Federal Republic of Nigeria and collectively as a hallowed Chamber. If there is a Reform Bill that is coming to the National Assembly from the Executive that will improve the governance of this country, this Senate has committedly stood behind such reforms, such Bills and such requests. So, for us to see such a publication indicting Senators, it is important that this matter be referred to the Committee on Ethics and Privileges, to look at it and confirm if there are

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such real issues that money, something or whatever was given to Senators in terms of lobbying them or to shoot down what would enable the Executive run the government effectively.

I have the newspaper, if you permit me; I would lay it on the Table.

The President: No, that is not right yet. You do not go that route yet. You have to move a Motion. You have not moved any Motion yet. You have just complained. What is your Motion now?

Senator George T. Sekibo: Mr. President, my Motion is that there is a breach of privilege on me as a Senator and the entire Senate and I want the Senate to confirm properly if these allegations are true. The Senate should investigate so as to find out if there is truth in these allegations.

I so move.

Senator Victor Ndoma-Egba (Cross River Central): Mr. President, I wish to second the Motion ably moved by Senator George Thompson Sekibo. In seconding the Motion, permit me to make a few remarks.

First, I saw the publication and I was utterly scandalised by what I saw because I am a Member of the Committee on Petroleum (Upstream) and to the best of my knowledge no oil company has spoken with me, invited me anywhere to eat or drink or do anything, so, I was totally embarrassed and scandalised.

There has been some persistence and consistency in the last few days and what is happening is that certain people somewhere are looking for scape goats for their inability to do what they ought to do. Where I come from, we do not produce goats, not to talk of scape goats, so I will not be available to be anybody's scape goat or his excuse for not doing what he ought to do.

This Senate must give the Special Adviser to the President the opportunity either to clarify what he means or to substantiate the allegations that he has made. This is because it is a matter that touches on our integrity as an institution and as Members of this hallowed Chamber. I neither own a farm or a factory. I only own my integrity and I guard it very jealously. So, the Special Adviser to the President must be given an opportunity to substantiate

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those very grave allegations or to clarify his position.

I second the Motion.

Senator Lee Ledogo Maeba (Rivers South-East): Mr. President, I also read the publication (*Interruptions*)

The President: Senator Lee Maeba, I asked you to talk in your capacity as the Chairman of one of the Committees in the petroleum industry and as a Senator and not as a Whip. Do not combine the two.

Senator Lee Ledogo Maeba: Mr. President, I read the publication and I was completely shocked when I read these comments. About a month ago, I received a correspondence from the organised Petroleum Training Sector of the oil companies, requesting that they want to have audience with some Senators of the relevant Committees to make some comments about the proposed Petroleum Industry Bill.

There is nothing wrong, because the Petroleum Industry Bill affects the entire petroleum industry because it is a global industry. If a section of the people who a Bill is supposed to be affected approach us that they want to brief the Senators on issues about the Bill, which I also believe was even rushing, based on what the Ministry of Petroleum and NNPC have taken as proactive action on this very Bill, they are turning this very laudable Bill on reform from Mr. President to be controversial.

I discussed with the Committee Members that anybody who has chance to attend should attend because I did not see any ill motive in attending. I did not attend because I was not available but they went to Ghana and when they returned from Ghana, I discussed with distinguished Senator Barigha-Amange how it was. I have not received an official brief from the people who went to Ghana because we have been very busy. Senator Barigha-Amange even lamented of going there because there were issues of estacodes not paid to them and lot of other issues. They had to return a day earlier than they were supposed to return. I believe, if that forms part of the financial compendium of that trip, then the Senators were very disappointed for not being paid estacodes for being taken out of this country. That is aside.

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The Ministry themselves have taken the Bill before the Senate (*Interruptions*).

The President: When we finished with this matter there is going to be a serious Public Hearing on it. So, you should reserve these detailed comments until that time. They cannot just blackmail us and get away with it the way they want to do things. For one week now we have seen consistently bad publications emanating from the same group of Federal Assistants to the Presidency in one form or the other. We are not going to take it. We should take this very seriously. We should not be holding private discussions when this matter is being deliberated. You should reserve all other talks because this matter is going to be referred to one of the Committees and the Committee will conduct a Public Hearing and invite Nigerians so that if there are problems, we should be able to find out where the problems are. So, let me take more comments before I put the Question.

Senator Sekibo, please lay the Newspaper on the Table.

(*Copies of The Punch Newspaper laid on the Table*)

Your Motion is that we refer the matter to the Committee on Ethics and Public Petitions for proper and thorough investigation. I will now go ahead and put the Question.

Question put and agreed to.

Resolved: That the Motion brought by Senator George Thomson Sekibo be referred to the Senate Committee on Ethics and Public Petitions for proper and thorough investigation.

This will be done in the glare of the public. Every body involved will be called publicly to state exactly what he knows. As far as I know, the Petroleum Reform Industry Bill, up till now, the Minister is not prepared to have that Bill before us. Even though it is before us, they are not prepared for us to take it because they are still going through it. So, it is very unfair for anybody to wake up and begin to accuse the National Assembly of delaying the Bill. We are anxious like any other Nigerian to have that Bill passed. I think that what is happening now is very unfortunate. (*Interruptions*)

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Senator Teslim Kolawole Folarin (Oyo Central): Mr. President, there is problem with the recording system.

The President: I hope this is not a deliberate sabotage?

ORDERS OF THE DAY

MOTION

The Death of a Titan: Chief C. C. Onoh (1927 – 2009)

Senator Teslim Kolawole Folarin: Mr. President, the first Order of the day is a Motion standing in the name of the Deputy Senate President, Senator Ike Ekweremadu (CFR), on the death of a titan, Chief C. C. Onoh, 1927 – 2009.

You may now invite Senator Ike Ekweremadu to move his Motion.

Senator Ike Ekweremadu (Enugu West): Mr. President, I seek your leave to move a Motion in respect of one of my Constituents, Chief C. C. Onoh, who died sometime last week. The Motion reads:

The Senate:

Notes the demise of a foremost politician, Elder Statesman, former Member of the National Assembly, a former Governor of old Anambra State, a Lawyer, an author and a businessman; His Excellency, Chief Christian Chukwuma Ani Nefungwu Onoh, who died in his country home at Ngwo in Enugu State at the ripe age of 82, on Monday, the 4th of May, 2009.

Notes also that this charismatic and controversial C. C. as he was called by his admirers and foes alike, had a very rich resume of engagement in politics, public service and business.

Observes that in 1958, at the age of 31, he was elected into the House of Representatives to represent Enugu Urban Constituency and in 1960, C.C. Onoh became the first Nigerian Chairman of the Board of the Nigerian Coal Corporation. He also served on the Board of the Nigerian Railway Corporation from 1961 to 1966. Under the administration of the late Dr. Anthony Ukpabi Asika, C.C. Onoh served as the Chairman of the

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East Central State Marketing Authority; that was between 1973 and 1974.

Observe further that Chief C. C. Onoh, as a founding Member of the National Party of Nigeria which is now defunct, was the Party's National Vice Chairman for the old Anambra State. In 1983, he became the Party's flag bearer for a very successful, yet titanic Governorship fight against the then incumbent Governor, Senator Jim Nwobodo of the Nigerian Peoples' Party (NPP).

Further observes that Chief C. C. Onoh was a man of means, a fearless fighter, an enthusiastic and dogged promoter of any cause he believed in. His unrelenting fights, though at times misunderstood, were mainly about equity, justice, transparency and fairness.

Notes that in all, C. C. Onoh was a good man, a great man who lived the good life and died accomplished and fulfilled at a ripe old age.

May his soul rest in peace. We shall surely miss him.

I, therefore, move that this Senate accordingly resolves:

- (i) That this distinguished Senate do observe a minute silence in his honour
- (ii) That a delegation of the Senate be sent to commiserate with his family, the people and the Government of Enugu State.

Senator Jibril M. Aminu (Adamawa Central): Mr. President, I would like to second the Motion ably moved by the Deputy Senate President and I endorse all the recommendations made in his Motion about honouring the late Governor C. C. Onoh.

Governor Onoh was a great Nigerian. I got to know about him long ago during the Constituent Assembly of 1977/78 which was very acrimonious. I know he played a very great mediating role. In fact, it was one of my friends who was in the Assembly introduced him to me as the future Governor of the old Anambra State and he turned out to be a great leader.

In his short time as Governor, he served his country and he also experienced personal tragedy as

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he lost his daughter in an air crash around that time. He still soldiered on and his term was ended through no fault of his, but he continued to play the role of a great Elder. Everybody would agree that C. C. Onoh played a very positive role in this country. He lived to a ripe old age and I am sure the people of Enugu State would miss him a lot.

He was known as the Greatest Champion of the Wawa people and he was very unabashed about it to support the Wawa people whom he felt were marginalised in that very highly educated area. He lived a life of service, a life of honesty, a fulfilled life and this country and the Senate should mourn him. I support the Motion by the DSP.

Senator Nuhu Aliyu (Niger North): Mr. President, is doing the right thing by asking the elderly to speak on the demise of Chief C. C. Onoh.

This was a man I knew within 1974, 1975 and 1976 when I was in Enugu during my service in the Mobile Police. He was a great gentleman; a man that was very resourceful, very kind and had a lot respect from the people he was representing. I totally agree with what the Deputy Senate President had said about him in his Motion as well as the contribution of my friend, Senator Jibril Aminu. I believe that the other elderly gentleman from Lagos State who has clocked 70 is not around; maybe, you would have asked him to comment.

The President: What is happening on the Floor of the Senate today? I asked Senator Lee Maeba to talk and he took over the job of the Whip. Now, I asked Senator Nuhu Aliyu to talk he is now appointing those who would talk. (*Laughter*)

Senator Gregory I. Ngaji (Cross River North): Mr. President, fortunately, I was in the University of Nigeria, Enugu Campus, 1970-74 when Chief C. C. Onoh was the Chairman of the Enugu Municipal Authority. We called him The Mayor then. He was a very nice man and we had the opportunity of meeting with him when I was in the University. I support this Motion in its entirety. The man deserve the honour that we are about to give to him.

Senator Anyim C. Ude (Ebonyi South): Mr. President, in my younger days as a Public Servant in the Government of Eastern Nigeria, C. C. Onoh was regarded as Enugu himself. He was Enugu and Enugu was C. C. Onoh. Some people who did not

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understand him thought he was controversial. He was a man that believed in what he perceived to be wrong and he would fight injustice at any level. That was why when he was fighting the cause of Wawa People, Wawa in ordinary translation means *I no go agree*. Whatever he did not like, he would fight to the end and that was why when he wanted the Wawa State, he went all out for it. In the end the new state was named Enugu State.

Chief C. C. Onoh as one of the giants in Igboland, made a lot of contributions in what we call *Ohaneze Ndigbo*, a group of people who were out to fight for themselves and for the growth of Nigeria.

At the national level, he made his contributions at different levels, either as a Lawyer, a Politician or a Businessman. For him to go at this time is a big loss, not only to his people in Ngwo, the people in Enugu State, but also the business community where he was a mogul and also Nigeria.

May his soul rest in perfect peace.

Senator Uche Chukwumerije (Abia North): Mr. President, I feel an acute sense of bereavement over the death of C. C. Onoh on many grounds. Personally, he has been a mentor and a close personal friend and each time I was at Enugu, I always spent every evening in his house discussing national issues.

On the national scale, he has been one of the leading lights for our struggle for Independence. He was noted throughout the struggle for his courageous and fearless stand on national unity and truth. A very clear example of this was the crisis in the NCNC in 1957, provoked partially by C.C. Onoh over the candidate for the Mayor of Enugu State.

Chief C.C. Onoh urged the NCNC to feel sorry that if it really believed in one unity and detribalised, it should fill someone who was not an Igbo and who was not from the South and he supported Umaru Atineh from the North. He and Mbasike Amechi and others formed what they called Association of One Nigeria within NCNC. Then the Opponents formed a counter group which they called Udi/Nsukka/Ogwu Front who were bent to fill an indigene of Enugu for the Mayor position. Eventually, of course, C. C. Onoh's group won and he later showed the same trait in the struggle to get

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one John Umaru, a non Igbo from Auchi to become the representatives, a Member of the Eastern Nigeria House of Assembly representing Port Harcourt. Of course, there also he won.

The point being made here was that C.C. Onoh had always believed that Nigeria's Unity must be practised both in spirit and in letter. This lust of Nigeria and truth inspired C.C Onoh later since the end of the Nigerian Civil War in his very many fearless articles to take stand for or against issues as they affected Nigeria's Unity and democracy. For us, we will remember that during the fight against Third Term, he was one of the most eloquent voices criticising that plot as a major trait to democracy.

We would also remember that consistently, C.C. Onoh had opposed until his death what he saw as subtle consistent marginalisation and degrading of Igbo Ethnic Nationality in the Nigerian Federation in spite of official talks about reconciliation and rehabilitation. In fact, that alone made him a major voice of that ethic nationality and that ethic nationality would miss him very much as a voice standing for truth and Nigeria would also miss him very much as a fearless voice pointing out the dangers to the nation ahead.

I support the Motion ably moved by the Deputy Senate President and all the Prayers therein.

Senator Simeon Olasunkanmi Oduoye (Osun Central): Mr. President, I have some little knowledge in respect of the deceased. I happened to have met the deceased in 1973 and 1974 when he was the Chairman of the Enugu Market Authority and we were able to use him properly in maintaining law and order within his area of authority. He was a good businessman and a politician of high repute. I have very little to say about him.

Senator Ahmad Rufa'i Sani (Zamfara West): Mr. President, I want to join my Colleagues in supporting this Motion because I met late Chief C.C Onoh personally in 2006 here in Abuja and we had very lengthy discussion and I found him to be a lover of Nigeria, a supporter of the unity of this country and a very nice gentleman. I, therefore, support all the Prayers in this Motion and urge my Colleagues to support it as well.

The President: Distinguished Senator Ahmad Yerima spoke on behalf of those who are not in his

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age group; that is his generation. I should read the Prayers now.

Prayer No.(i) says: *That this distinguished Senate do observe a minute silence in his honour.*

Question put and agreed to.

Prayer No.(ii) says: That a delegation of the Senate be sent to commiserate with the family, the people and the Government of Enugu State.

Question put and agreed to.

Resolved: That this Senate –

- I. Observe a minute silence in his honour.
- II. A delegation of the Senate be sent to commiserate with the family, the people and the Government of Enugu State.

Let us stand up and observe Prayer I. *(A minute silence accordingly observed in honour of late Chief Christian Chukwuma Onoh)*

The delegation to Enugu to commiserate with the family would be made up of:

1. Distinguished Senator Victor Ndoma-Egba as the Leader
2. Distinguished Senator Uche Chukwumerije
3. Distinguished Senator Adefemi Kila
4. Distinguished Senator Zagi Caleb
5. Distinguished Senator Anthony Manzo
6. Distinguished Senator Zaynab A. Kure

You can say that this is a mixed grill. They would represent us and they would liaise with the Deputy Senate President on the movement.

CONSIDERATION OF A BILL

Gurara Water Management Authority (Establishment) Bill, 2009

A Bill for an Act to Establish the Gurara Water Management Authority with the Responsibility Among Other Things to ensure sustainable Operation and Maintenance of the Gurara Multipurpose Water Project and for Matters Connected Therewith, 2009 (SB.176)

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Senator Teslim Kolawole Folarin: Mr. President, the second Order of the day is the Second Reading of the Gurara Water Management Authority (Establishment) Bill, 2009.

This is an Executive Bill which was read the First Time in this hallowed Chamber on Tuesday, 14th October, 2008. I want to seek your permission to lead the debate.

The President: Please, lead us in the debate.

Senator Teslim Kolawole Folarin: Mr. President, I thank you once again for the privilege to lead the debate on the general principles on a Bill for an Act to Establish the Gurara Water Management Authority with Responsibility Among Other Things to Ensure Sustainability and Maintenance of the Gurara Multipurpose Water Project and for Matters Connected Therewith, 2009.

This is an Executive Bill which was read the First Time in this Chamber on 14th October, 2008. The Gurara Water Project is an ongoing Multipurpose Dam Water Project for water supply, hydropower, irrigation and other ancillary uses. The project is built on River Guarara and it is Nigeria's largest and pioneer water transfer scheme when fully developed by the Federal Government of Nigeria. It is a system of a large dam which is a tunnel of 75km which runs through Kaduna and Usman Basin of Kaduna State and the Federal Capital Territory.

The purpose of the project is:-

- (i) To enhance the use of the Gurara River by storing, regulating and controlling the flow of Gurara River in order to effect the delivery of specified quantities of water to designated outlet points for the Federal Capital Territory;
- (ii) The system will generate at least 30 Megawatts of hydroelectric power in conjunction with the water transfer to be fed into the national grid;
- (iii) The project is also to develop, at least, 20,000 hectares of irrigable land downstream of the dam to be used for both dry and wet seasons farming;

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- (iv) The project will also implement Environmental and Social Management Action Programmes to enhance the socio-economic well being of the population living in the project area. (i.e Kaduna State, Niger State and the FCT).

:

In addition, the passage of this Bill will -

- (i) Provide a source of sustainable water supply to the increasing number of the residents of the Federal Capital Territory (FCT), for both domestic and industrial uses;
- (ii) Help to generate hydroelectric power to complement the one already being supplied by the Power Holding Company of Nigeria. This will further boost the country's power supply for sustainable growth and development;
- (iii) Generate water to irrigate irrigable land for increased food production to feed the country's increasing population and surplus food for export;
- (iv) Promote general infrastructural development and the livelihood of the catchment areas of the project in the States of Kaduna, Niger and the Federal Capital Territory (FCT).
- (v) Ensure sustainable Public Private Partnership (PPP) driven operation and maintenance of the Gurara Multipurpose Water Project to effectively contribute to the socio-economic development of Nigeria.

This is a very good Bill, in my view, especially for the residents of the Federal Capital Territory (FCT) and its environs. I urge you all to support and accelerate the passage of all this all important Bill into law.

Senator Iyiola Omisore (Osun East): Mr. President, you would recall that yesterday, we discussed at length the details of Nigeria's Integrated Water Resources Management Commission Bill and for Other Matters Connected Therewith, 2009. That Bill is supposed to capture all the dams and water projects in this country. The Gurara Management Authority is also coming to this Senate at the same time and they are set to address the same issue. I want to appeal that this

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Bill be taken along with others since we are eventually going to refer it to a Committee to look at wholesomely. There is no point wasting time talking on one thing. It is exactly the same in principle the difference in them is the titles.

Gurara Management is good for dam construction, water supply and effective water distribution for Public/Private Participation (PPP) and others. I implore that we look at it in conjunction with that of yesterday and come up with a common Bill to solve the purpose.

Senator Ayogu Eze (Enugu North): Mr. President, I want to first of all, say that I support what this Bill seeks to achieve. I also support what my distinguished Colleague, Senator Iyiola Omisore has pointed out. He should have been a bit more pungent in trying to bring out the points that this Bill highlights especially, coming against the backdrop of the accusations from the Executive that they have inundated us with Bills which we have been unable to process.

These are some of the Bills that are being talked about when they write in the newspapers that we have 60 or 70 Bills.. This is just like a Clause in the Integrated Water Management Commission Bill which we discussed extensively here and even asked for more time so that we build in more things to make it comprehensive. We now have a Clause from that Bill coming as a separate Bill. This will also be counted by Nigerians among the Bills that were sent to us that were not passed.

As I told some Journalists when I spoke to them, the process of passing Bill, is not just about passing it for the sake of passing it. It is not just any piece of paper you throw at us we pass it because it has come from A or B. We pass Bills based on our perceived understanding of its relevance to the people, its relevance to deepen our democracy and its relationship to other body of laws that exist in the country. This is because all the laws should flow like a stream. Each Act ought to collocating into the other without one clashing against the other.

We have highlighted during one of our discussions about what we found out with the Bill setting up Solid Minerals Ministry, the Nigeria Inland Waterways, the NIMARSA, and NNPC with regard to who has right to the sand that is in the waterways. The Waterways belongs to NIWA, but

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the sand they dredge out to make the waterways navigable now belongs to the Ministry of Solid Minerals. That means they need to get permission from the Ministry of Solid Minerals before they can make their waterways navigable. These are some of the confusions created when laws are passed in a hurry.

I want Nigerians to understand that the issue of making laws is a very serious matter. We have taken a comparative study on how laws are made in other lands. In America, they generate thousands of Bills but in two years, maybe, one of them would see the light of day, which may just be an Amendment of an existing Act. That does not mean that the American Congress is not productive or they do not love their people. It just means they know what it takes to make a law and law making is a serious business. It is not a perfunctory assignment that you just throw a paper and bring it out and create confusion tomorrow.

I support what the Bill intends to achieve but I suggest that it should just be a Clause in the Integrated Water Management Commission (Establishment) Bill which we discussed yesterday.

Senator Mohammed A. Makarfi (Kaduna North): Mr. President, there is no doubt that this is a worthy and important Bill. I share the concerns that have been raised about overlaps in legislations. To my understanding, this is not about waterways but more like a river basin. It is just the name. Looking at what it is supposed to do, it is more like a river basin, and there is none like it in Nigeria.

Apart from Libya, I do think there is anywhere in Africa that has this kind of project of transferring water 75 kilometers from one point to the other as well as generating power and providing for irrigation. I want to bring out that distinction.

The argument my Colleagues have proffered even though supporting the Bill, that we should exercise caution cannot be said to be strictly apply to this. In supporting this Bill, I would like to urge my distinguished Colleagues to look deep into the purposes that the Gurara Multipurpose Water Authority is supposed to achieve such things as irrigation, power generation and, of course, transfer of water from one point to the other and support the Bill so that it can achieve the purposes for which the President of the Federation has forwarded it to us.

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Senator Caleb Zagi (Kaduna South): Mr. President, I rise to talk in favour of this particular Bill. While I agree totally with what the Leader of the Senate has said that this is a good Bill especially for the residents of the Federal Capital Territory and its environs, I also want to support this Bill because it is as well good for the residents where this dam is to be established and that is Kachia Local Government in my Senatorial District.

First and foremost, I know why the Federal Government wants to establish an authority to manage the Gurara Water Project. It is simply because Federal Government believes that the entire water supply into the FCT lies on the continuous functioning of the Gurara Water Project.

Over 80 *per cent* of the support need of water into the Usman Lower Dam, where it is treated for supply into the FCT is from the Gurara Water Project. I see a situation where if this multipurpose project is not given due attention, there is likelihood that this City would go for quite some time without adequate water supply. You can imagine the residents of FCT living without adequate water supply. The reservoir in Lower Usman Dam is usually not sufficient for the treatment of water for the residents of FCT and Gurara Water Project was meant to augment that and that is supposed to be done throughout the year. On that basis, I strongly support that the Gurara Water Management Authority should be established for purposes of managing this dam.

In addition to that, from what the Senate Leader has said and I have personally visited the dam and I saw this mass piece of land that is being prepared for irrigation purposes. Twenty thousand (20,000) hectares is large expanse of land for commercial agriculture in this country. Now, with the recently released ₦200 billion Agricultural Development Fund and you want to support an authority like this which would oversee the development of the large expanse of agricultural project in irrigation form. I want to believe that this is one of the cardinal points of this administration. I want to call on people to support the establishment of this particular Gurara Management Authority.

To the residents of Gurara Dam where it is situate, we have held several meetings with the Management of Federal Ministry of Agriculture and Water Resources on matters relating to the

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compensation and the development of infrastructures of the Communities living within the Gurara Dam. The Senate Leader in its lead debate simply mentioned that this is going to promote the general infrastructural development and the livelihood of that environment. As at today, in the plan for the Gurara Water Transfer Project they are supposed to construct two feeder roads one from Ganyi to Gurara and the other one from Darko to Gurara Dam. This is to secure the area so that we do not have only one point of entrance or exit out of this multipurpose project. There is another one which is supposed to be from Katari to the Dam.

Three or four weeks ago, the youths from the area took to the streets and stopped the Contractors working on the Gurara Dam for the simple fact that some of these infrastructures that are supposed to be developed are not done. I want to believe that an Authority like this giving the importance of this project would be able to relate properly with the Communities and allow for the smooth functioning of the dam as well as take care of the needs of the Communities where this dam is situate.

That is not all, the Senate Leader mentioned that over 20,000 hectares of land is being put in place and that is true. The Communities are supposed to benefit from this land that is being prepared for irrigation. If you do now have an Authority that would sit close to these Communities and ensure that this is equitably distributed. If most of the Communities who have surrendered their land for purposes of the construction of this dam are not compensated, it is likely that you may not have the dam functioning and providing the kind of facilities that the Federal Government envisaged. Therefore, I support that the Gurara Water Management Authority would certainly be able to liaise and ensure that these Communities are well compensated.

Lastly, this dam is likely to generate good economic activities and there is no way you will leave a multipurpose project like this that spans over ₦50 billion for people to just move in and out and do transaction without being regulated. An Authority like this, I believe would be in a position to regulate most of the economic activities that are likely to arise as a result of the establishment of this Gurara Dam. It is because of this that I want to call on the Senate to really give this Bill the required support it deserves.

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Senator Anyim C. Ude: Mr. President, I certainly do not support this Bill. One, although it is a very big project that has already gulped about N38 billion and we were told that the first phase will cost about N102 billion. It is not the only one that has the same purposes that have been listed on Page 2. We have a similar dam somewhere in Ondo State around Akure; there is also similar dams somewhere in Gombe State and in Kogi State providing exactly the same thing. At the moment, the River Basin Authorities in those areas are managing these projects.

Yesterday, we discussed the issue of Water Resources Commission. We made our positions clear. This one is another unnecessary Bill; unnecessary bureaucracy, which would not achieve anything different from what the other bureaucracies we are talking about would achieve. I do not support it because I believe that when we determine the issue of Water Resources Commission *vis-a-vis* the River Basin Authorities, they would also take care of these issues.

The President: Yes, I want to listen to those against Bill. I have listened to those for the Bill, I am now taking those against. After which I will come back to those for.

Senator Smart Adeyemi (Kogi West): Mr. President, I rise to oppose this Bill on the ground that passing this Bill will amount to a duplication of the proposed Bill that we discussed here yesterday.

Yesterday we discussed the proposed Water Management Commission and I want to believe that that Bill is supposed to be an all-encompassing Bill in the act of water resources and its management in Nigeria. It will amount to waste of resources to set up another Authority for Gurara Dam Project.

We have so many Dams in this country and I believe that the River Basin Development Authorities were established basically among other reasons to harness the water resources for agriculture, for irrigation and then possibly for hydro powers.

I want to believe that the Presidency must be told in clear terms that there is need for them to coordinate the kind of Bills they send to the National Assembly. Bills must be scrutinised and screened in such a manner that when we come here

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we would not waste our time discussing Bills that are interwoven and interlocking with each other. The Bill they brought yesterday, to me, was good, the concept of Gurara Bill is good and it can be accommodated in the proposed Water Management Commission Bill.

There are other areas begging for attention. There are other Bills that we are looking forward from the Executive not just bringing Bills and at the same time working against those Bills. We should honourably return this Bill to the Presidency and tell them that we look forward to better Bills that will help in improving the well-being of Nigerians.

The President: I take it that the hands that are up now are against. Senator Sulaiman Nazif I have been saying against and you are raising your hand and shouting for. Please, let us listen to those against the Bill.

Senator Andrew A. O. Babalola (Oyo North): Mr. President, I speak in the same vein in which some of my Colleagues have spoken because there is a general Bill already in the oven, which is to address Nigeria Water bodies. You will recall that recently a Committee was set up on the Food Crisis in Nigeria and we went round the whole of Nigeria, I will tell you that there are more than 20 Guraras in Nigeria as I am speaking. I do not know why somebody is picking out Gurara among the many Guraras. Gurara currently is not as if is a fallow land. It is being managed under a River Basin Development Authority.

As part of our tour, which I mentioned the River Basin Development Authority took us to Gurara which means they are in-charge. I am also aware that the water distribution aspect of Gurara is presently under the management of the Federal Capital Territory (FCT). So, I do not see the need for this Bill at all. We should go to the all-encompassing Bill, which was discussed yesterday and then take it from there and Gurara would be involved.

If we decide to look at this Bill then we should have a Bill also on Ikere Jam Dam. We should also have one on Kaura Namoda and for the one in Kogi State and yet another one for Bakalori Dam in Sokoto State. So, I do not think this Bill is necessary at all. We are taking everything together as bodies of water in Nigeria in the Bill that was brought yesterday.

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Senator James Ebiowou Manager (Delta South): Mr. President, I have nothing against the intendment and the wisdom behind this Bill. Yesterday we had opportunity to talk about another Bill on water. I had opportunity to contribute to that debate and I spoke very robustly in favour of that Bill. The title of that Bill is Nigeria Integrated Water Resources Management Commission Bill. It is about regulation and management of water in Nigeria. This Gurara Dam is about water and it is in Nigeria. I want to believe that there is another Bill on water that has passed through Third Reading in this Senate. It is about Hydro Electric Power Producing Areas Development Bill.

Again, as was cited by Senator Smart Adeyemi, we have River Basin Development Authorities, anybody who is in favour of this particular Bill from the Executive on the Floor of the Senate now, if you want to convince me and my people back there in Delta South Senatorial District of Delta State, Nigeria, you need to draw the difference between what we are talking about and what is there in the Bill of yesterday and with all the Clauses together with the River Basin Development Authorities and the HYPADDEC Bill that was facilitated by Senator Kuta.

As was pointed out by previous speakers, this is an Executive Bill, the Presidency must have somebody or knowledgeable team of persons coordinating these Bills that are emanating from the Office of the Presidency to the National Assembly because this is 109 carefully selected, powerful Nigerians, elected Nigerians we are not here for small things we are here for serious business on behalf of our people.

So, I sincerely believe that this Bill, if it is being counted as one of those Bills that is in the National Assembly to be considered which we have not considered then that person is not serious. As far as I am concerned, this Bill is wasting our time.

The President: Any more against, please. I am going to take information and more people for but let me just see the hands of those against. Senator Mohammed Mana, are you against or information.

Senator Mohammed Mana (Adamawa North): I am for both against and information.

The President: All right, you are against, Senator Victor Ndoma-Egba.

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Senator Victor Ndoma-Egba: Mr. President, you recall that about three weeks ago this Senate debated an Amendment Bill proposed by the Deputy Senate President, Senator Ike Ekweremadu on the River Basin Development Authorities Act. When we debated that Bill proposed by the Deputy Senate President, we were looking essentially at issues of equity. I support the objectives of the present Bill but like Senator James Manager, I am confused about the difference in those objectives as specified in the River Basin Authorities Act and also the Nigeria Integrated Water Resources Management Commission (Establishment, etc) Bill that was extensively debated yesterday. I believe that the objectives captured in the Gurara Bill are sufficiently captured in the Nigerian Integrated Water Resources Management Commission Bill that was extensively debated yesterday.

At the very worst, this is an irritating duplication of what has been debated because two things we could do: The first is to amend the Schedule to the River Basins Development Authority Act to include Gurara.

A Distinguished Senator: It is already there.

Senator Victor Ndoma-Egba: If it is already there, then we are wasting our time this afternoon. But, if it is not there then what we can do is to amend the Schedule to the River Basins Development Authorities Act and include it. Or as suggested by Senator Ayogu Eze, make this a Clause in the Bill that was debated yesterday. But to go around duplicating bureaucracies in the water sector for whatever reason is totally unnecessary. I think that this Bill is a bad Bill and should be thrown out.

Senator Mohammed Mana: Mr. President, thank you for giving me the chance to speak against the Bill. I really sympathise with the Presidency. You can see that from yesterday. I think there is a genuine attempt by the Executive to harness the water resources of this country for the good of the country, but from the way they have submitted this Bill, they followed the wrong way as has been said.

If you look at the River Basins Development Authority Act, 1979 the River Basins were listed out and the areas they are looking after have also been listed out in the Third Schedule of the 1979 River Basins Development Authority Act.

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Although they have brought this Bill to us, what we should do would be to refer this Bill to the Committee on Water Resources meaning that the work that was not done by the Ministry of Water Resources should now be done by the Senate Committee on Water Resources so that they will now amend the River Basins Development Authority Act 1979 and put it under the Upper Niger River Basin Development Authority so that FCT that has not been properly looked after will be taken care of. You know that when the River Basins were established as I said yesterday, in the 70s, FCT was not in existence. Therefore, the water resources requirement of the FCT has not been properly captured and has not been properly looked after by the River Basins.

After the explanation by my distinguished Colleague, Senator Caleb Zagi, I really think that the need to harness the water resources of Gurara is very important. As at now Abuja is not served with water. I live in Asokoro and I have never opened my tap and get water from the public water works. So, there is need to actually harness the water resources of Gurara for the good of Abuja and for the good of all of us.

The Committee should be able to determine either we establish Gurara River Basin Development Authority and amend the Third Schedule of the 1979 Act, or we include this Authority under the Upper Niger Development Authority.

The President: Let us again listen to those for the Bill.

Senator Ahmed Ibrahim Lawan (Yobe North): Mr. President, let me attempt to make a distinction between the Bill we debated yesterday on the Integrated Water Management Commission and the Bill we are debating now, which is on the Gurara Water Management Authority.

The Integrated Water Management Commission is specifically targeted at ensuring coordination of development, management and utilisation of water resources across the country. This particular Bill is specifically looking at harnessing of the Gurara River for specific location which has not been captured in the 1979 River Basins Act. Therefore, every resident of Abuja and, indeed, the FCT knows that we do not have potable water in Abuja and its environs.

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We know that this particular Authority will be in charge of ensuring that there is a coordinated effort at providing water for everyone besides the other primary responsibilities of ensuring hydroelectric power being generated, and of course, for irrigation.

I refuse to emphasise on irrigation simply because this is a function that the Lower Niger River Basin Development Authority could easily do, but specifically, the provision of potable water for Abuja and its environs, is one function that this Authority will do. No other Basin could do that more appropriately.

I urge my Colleagues to support this Bill. I want to also take this opportunity to urge the Executive that when they send Bills to the National Assembly, they should send sufficient information detailing what the Bill stands for otherwise, it is not the number of Bills that are sent to the National Assembly that determines that the Executive has performed better than the National Assembly.

So, I urge my Colleagues to support this Bill.

Senator Mahmud Kanti Bello: Mr. President, in supporting what my friend said, I am sure my Colleague James Manager probably, could educate me more. I am referring to Section 299 of the Constitution because I know that the provisions of this Constitution apply to Federal Capital Territory Abuja as if it is one of the States of the Federation and accordingly.

All the legislative powers, the Executive powers and the Judicial powers vested in the House of Assembly, the Governor of a State and in the Courts of a State shall, respectively, vest in the National Assembly, the President of the Federation and in the courts which by virtue of the foregoing provisions are courts established for the Federal Capital Territory, Abuja.

My worry, is that I feel that this particular Bill is like State Government is putting something like Gurara. They are bound to prepare a Bill and send it to the State House Assembly for the approval of that establishment. I believe that this is exactly what is being done now because we are the House of Assembly of Abuja. If that is the case this particular project must be managed by the National Assembly with regard to law. As I said I am a

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simple Engineer and I believe it is our duty to legislate on this particular Bill for the management of this Dam.

The President: I want to get you right. You are saying that this Bill should be regarded as coming from the Federal Capital Territory.

Senator Mahmud Kanti Bello: Exactly, Sir.

The President: But it is not coming from the Federal Capital Territory. This is a Bill emanating from the Executive as opposed to one coming from the Federal Capital Territory that requires the administration and passage by the National Assembly. That is not exactly that.

Senator Jibril M. Aminu: Mr. President, my own contribution is very brief. I think the points made by distinguished Senator Ahmed Lawan are very cogent but I will also like to give example of something I know.

We have a lot of educational institutions and we also have overriding Commission which was set up. Every university has its law in addition to the law of the National Universities Commission. The way I look at it, is that every River Basin Development Authority could have its own law and the Executive could decide in this case even if there was a general law for all of them to pick out one because of its special nature and give it its own law.

The President: The Whip of the National Assembly there are too many private discussions going on, please.

Senator Jibril Aminu: There is nothing wrong that they have done here, it is just that they have picked one River Basin Development Authority and give it its own law because of its peculiar statutes to have its own Board, engage in contracts, borrow and accept money and invest and do all sorts of things. I think there is nothing wrong with that. I do not believe, with all due respect to my friend Senator James Manager that we are deliberating wasting time here. I think it is a special case and Senate should treat it like that. There is really nothing.

Senator Mahmud Kanti Bello: Point of Order, Mr. President.

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The President: Point of Order, Senator Kanti Bello.

Senator Mahmud Kanti Bello: Mr. President, my Point of Order is simply that when I made my contribution, it was stated that the Bill was not from the FCT but you should look at Section 301 of the Constitution.

The President: Your Point of Order is from Section 301 of the Constitution.

Senator Mahmud Kanti Bello: Yes, Sir. I will read it. *Without prejudice to the generality of the provision of section 299 of this Constitution, in its application to the Federal Capital Territory, Abuja, this Constitution shall be construed as if –*

- (a) *References to the Governor, Deputy Governor and the Executive Council of a State (howsoever called) were references to the President, Vice President and the Executive Council of the Federation (howsoever called) respectively.*

So, in this regard I believe that even though the Bill comes from the Executive with this particular Section we should treat it like it comes from a State of Abuja.

The President: Senator Kanti Bello, the Chief Whip of the National Assembly, I thank you very much. Now could we suddenly be switching from Mr. President to FCT and switching from FCT to Mr. President? Otherwise, what stops us from saying that yesterday's Integrated Water Resources Management Commission (Establishment, etc.,) Bill 2009 is from FCT. *(Interruptions)*

Senator Kanti Bello you have raised a Point of Order and you cannot engage in a private debate in it. You must listen to me. An Executive Bill clearly is an Executive Bill. If it is sent on behalf of the FCT it will be clearly spelt out that way. We cannot begin to manoeuvre it and assume today it is from FCT and tomorrow it is from the Presidency. That is a wrong interpretation. Your Point of Order in Section 301 is a correct Point of Order but it is not applicable here and where it is not applicable obviously, I rule you out of Order.

I want more contributions from those who are in favour of the Bill.

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Senator Tawar Umbi Wada (Gombe South): Mr. President, I have five points for and three points to dislodge those whose opinions are against this Bill. My first point is that if you take statistics of water needs of the FCT, we will find out that the current water needs of FCT has not even been met by one third and we know that Gurara Project which from the lead debate is linked to Lower Usman Dam. If you take away Gurara project there would be no other source of water to FCT. So, anybody in his right senses given the fact that City is growing at a geometrical rate, I expect that the person should support that the only source of water to FCT.

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

The President: Point of Order, distinguished Senator Lee Maeba.

Senator Lee Ledogo Maeba: Mr. President, it is Order 53(6). If you allow me I may read, Sir.

The President: Please read.

Senator Lee Ledogo Maeba: Order 53(6) says: *It shall be out of order to use offensive and insulting language.* The comment just made by Senator T. U. Wada that anybody out of his senses which means that the people who have spoken against the Bill are out of their senses. I think we should watch the language we use here. Senator T. U. Wada saying that anybody who has spoken against this Bill is out of his senses should be called to order.

The President: You came by Order what, Senator Lee Maeba?

Senator Lee Ledogo Maeba: It is Order 53(7).

The President: Well, you earlier said Order 53(6). I think the sentence made by Senator T. U. Wada does not input any offensive or insulting language. He has used that only figuratively and he did not really refer to anybody specifically. But having said that, Senator T. U. Wada your construction has to be carefully done so that it does not become ambiguous in the process. Senator T. U. Wada you may continue and Senator Lee Maeba I rule you out of Order.

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Senator Kanti Mahmud Bello: Point of Order!

The President: Did you say Point of Order?

Senator Kanti Mahmud Bello: Yes, Sir. In order to ensure that this distinguished Senate operates within the rule of law, it is very important for us to call Senator Lee Maeba to order. This is because Order 8 states that: *No Senator shall impute improper motives to any other Senator.* The truth of the matter is that, it would be very difficult to be debating or putting your words here with people like Senator Maeba around. This is because he is imputing improper motive to what Senator Wada has said and I think he should be called to order.

The President: Senator Kanti Bello, I rule you out of Order. Senator T. U. Wada, you may wish to continue. *(Interruptions)*

Senator Andrew Babalola: Point of Order!

The President: What Order is that?

Senator Babalola: Mr. President, I rely on Order 15 which states that:

Any Senator may rise at any time to speak upon a matter of privilege suddenly arising and he shall be prepared to move without notice, a motion declaring that a contempt or breach of privilege has been committed, or referring the matter to the Committee on Ethics and Privileges, but if the matter is raised in Committee of the Whole Senate, The Chairman shall leave the Chair to report progress.

I want to move a Motion that my privilege has been breached by Senator Wada when he said that *those of us who are opposed to this Bill were not in our right senses.* *(Interruptions)*

The President: That is all right. Senator Babalola, I would like you to read Order 15 in conjunction with Order 25(1)(h). Can you read it out, please?

Senator Babalola: I withdraw my Order, Sir.

The President: All right, your Order has been withdrawn.

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Senator Tawar. Umbi Wada: Thank you Mr. President and my distinguished Colleagues for having understood that I do not mean evil to any one.

My first point having been lanced with copious point of orders, I would want to rest it there on the simple note that the entire FCT needs plenty water and we are all urged to support that need.

Senator Mujitaba Mohammed (Jigawa South West): Point of Order!

The President: By our Rule, as soon as you call for point of order I must take it immediately but I think this is a very important debate unless you are sure that I am likely to sustain your Point of Order, you should not take the risk. Is it Order what?

Senator Mujitaba Mohammed: It is Order 56(9) and (10)

The President: Please, read.

Senator Mujitaba Mohammed: Order 56 (9) states that: *When a Senator is speaking, no Senator may converse aloud or make any noise or disturbance to interrupt him.*

Order 56 (10) says: *During a sitting all Senators shall be silent or shall confer only in undertones.*

I am of the opinion that Senate being the highest legislative Chamber, full of men and women of integrity, we are supposed to strictly adhere to the Rules that guide our proceedings otherwise, our proceedings would continue to be rancorous.

The President: Your Point of Order is sustained. The Chief Whip, I have been drawing your attention to this. I think it is absolutely right. Senator Mujitaba Mohammed, I sustain your Point of Order.

Senator Smart Adeyemi: Point of Order!

The President: What Order?

Senator Smart Adeyemi: Mr. President, Order 53(4) states that: *A Senator must confine his*

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observations to the subject under discussion and may not introduce matter irrelevant thereto.

Senator Wada was to talk about the establishment of the Gurara Water Authority and against the background of those of us who are opposed to the Bill, talking about the fact that there was a Bill we discussed yesterday which was more encompassing, he left the issue and was telling us that FCT is in need of water. That is not the issue we are discussing now. We are discussing whether the Authority should be established or not.

The President: Senator Adeyemi, it is not you who determine what is irrelevant and what is relevant. I have asked before whether there is something happening on the Floor here which I am not aware of. Why do you want to begin to interpret the Rules? Senator Adeyemi, I rule you out of order. In the point he made, FCT is reflected in the lead debate here. So, there is nothing irrelevant about the comment he has made.

Senator T. U. Wada: My second point is on the specific usage of the Gurara Water Authority. It is expected to provide 30 Megawatts of electricity. We all know that electricity has been the albatross of this country. We have been unable to provide enough electricity. So, any element of government activity that is geared towards meeting that need, we need to sincerely support it.

If we kill this Bill today, we are unwittingly killing the provision of 30 Megawatts of electricity. One of the reasons for establishing Gurara Dam is the provision of 30 Megawatts of electricity. *(Interruptions)*

I still maintain that killing this Bill unwittingly kills the 30 Megawatts. Those who are opposed to this Bill want to kill 30 Megawatts into our national grid.

The President: Senator T. U. Wada, why are you insisting that it is 30 Kilowatts when it is 30 Megawatts when the Paper is saying Megawatts?

Senator T. U. Wada: I agree with you that it is 30 Megawatts. My third point is that anybody who has gone to the Gurara Dam, the site of that Dam is a very glorious Tourists' Site. If an Authority is created to add value to that site, it would become one of the most glorious tourists'

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sites, which to my mind, is going to add value to tourism in the country. (*Interruptions*)

The President: Senator Lee Maeba, you must allow him to make his contribution, please. You are becoming disruptive to him. Senator, Wada, please, carry on.

Senator T. U. Wada: I also think in terms of provision of electricity that if we put our acts right, we should try at the stage of development the generation and distribution of electricity. Assuming the 30 Megawatts of electricity is consigned to Niger State or FCT alone; it would go a long way in solving the problem of electricity. There is the need to increase the tourist attraction of the City.

Finally, the general water policy now is for the Federal Government to provide the infrastructure for irrigation. The States will reticulate those waters for irrigation and the Local Governments should also reticulate it for the purposes of water supply. Any attempt by the Federal Government to provide one of the needed infrastructures in terms of creation or enhancing of a dam should not be opposed at all.

One of the reasons why I urged my Colleagues to discountenance the argument against the Bill was that are we saying that the Bill that was passed yesterday, *ipso facto* intends to abolish the River Basin Development Authorities Act? It does not. The Bill that was discussed yesterday does not, *ipso facto*, repeal River Basin (Establishment) Act. If the two can go concurrently, I do not see any reason why this one cannot along side with the River Basins. Let us not miss the point. The Bill that was passed yesterday was for the management of waterways. It is for integrated management and it could have been for a certain purposes. There was no specific purpose mentioned in that Bill that was discussed yesterday. Any water that is identified for a particular purpose should be maintained for that purpose. This water is identified for electricity and irrigation and it should be so maintained.

Again, this water has not been specified. There is what we call user Clause; the Bill of yesterday does not contain any user Clause at all. If we make the mistake that we would not consider any other Bill because we have considered a generic Bill yesterday, to my mind, we would be failing in our duties in providing the necessary social services for our people. This Bill provides specifically two or

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three major user Clauses, which is necessary for us to articulate and adopt.

On the question of those who argued that it should be either in Amendment or addendum. That argument is neither here nor there because if it is an Amendment, an Amendment of an existing law must take the same processes of legislation. It concerns First Reading, Second Reading and Third Reading to get it amended. The question of waste of time does not arise.

If it is an addendum to that of yesterday, the Bill itself cannot jump and add itself to that of yesterday until this House agrees that it should be an addendum to that. Unless it is passes the Second Reading and referred to the Committee, the Committee may thereafter, decide to merge the two together and make it an addendum. That is the process. We cannot run away from the truth. Definitely, whether or not we agree, whether it is an Amendment or an addendum the same procedure must follow. We must take this Bill at the Second Reading and thereafter forward it to a Committee. On these very good reasons, I urge all of us to support the Bill and get it read the Second Time.

The President: For the avoidance of doubt, the issues that have been raised by those who are against it, is not really the process. The issue of process of how the Bill will go, is not really the issue here; that is the trivial issue. It is not an important issue in this whole subject matter. The important point which they have raised and those who supported the Bill must addressed are that yesterday's Bill, which went through the Second Reading, the River Basin Development Authority Act, are also addressing the same issues that the Gurara Water Management Authority and Matters Connected Therewith is addressing. Thirdly, there are many other areas like Gurara. Are you going to pass the same Bill for them? Those are the issues that we want to address. It is not a matter of whether Abuja needs more water or not. That is truly not an issue here. Abuja definitely needs water. Cogent issues have been raised and should be addressed properly. That is what I want us to get right.

Senator Mujitaba Mohammed: Mr. President, I want to thank all my Colleagues who have contributed for or against this particular Bill. This is because that is the essence of parliamentary

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debate. You can express your opinion for or against any Motion or Bill on the Floor of the Senate.

Having said that, I want to draw the attention of my Colleagues, and at the same time seek their support for this very important and crucial Bill. Ultimately, whatever we say the issue will meltdown to that of supplying water to the Capital City of Abuja. From available facts, the Capital City of Abuja draws more than 80 *per cent* of its water from Gurara Dam. Gurara Dam feeds the Lower Usman Dam with water through a transfer which traverses about 85 kilometers, which they process and pass to the City of Abuja for domestic use.

You would all agree with me that it does not augur well for Nigerians to be seeing water hawkers traversing the length and breadth of the City of Abuja. Obviously, there is a need for a concerted effort to address this malaise because it will impact negatively on the image of Nigeria in the international community. The drastic move by the Executive to arrest the persistent water shortage in Abuja Municipality should be given support.

If we say that because there are other dams elsewhere, we have to treat them equally or align this particular Bill with other existing Bills, we would be delaying the process of making water available in the Capital City of Abuja. It is my recommendation and appeal to my Colleagues that we should allow the Bill to get to Committee stage, so that the particular Standing Committee can seriously scrutinise it, make out any defects and alignments and determine how it could be in line with all relevant legislations earlier passed. That is to do a sort of panel beating on the Bill.

Finally, I want to appeal to both the proponents and the opposers of this Bill to allow it sail to the Committee level so that enough panel-beating could be done to make it fall in line with other people's observations.

Senator Bala A. Mohammed (Bauchi South): Mr. President, sometimes when some of my Colleagues like Senator Mujitaba speak I often feel there is no need for me to talk because they usually express my opinion. But I want to make two distinctions on this particular Bill and the previous one that we considered yesterday.

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The Bill we considered yesterday was for the establishment of a Commission and a Commission has its character and other peculiarities. It is mostly a regulatory framework. This particular Bill is geared towards addressing a service delivery to a targeted area, which is the Federal Capital Territory (FCT) of which we have a very serious challenge to provide water on sustainable basis. The technical framework of the service machinery requires an institutional and administrative framework, which is an authority. Of course, I agree that this could have been harmonised within the context of the River Basin, but the River Basin Development Authority Act was established in 1977 when this challenge was not here. Government is a dynamic process.

The only thing we can do if we do not want it as my distinguished Colleague has said is to allow the Committee to harmonise them so that it can come out as an addendum under the River Basin Act. But we cannot kill or stifle the initiative of the Executive to address the problems and challenges of the FCT, which is a national problem and a national pride. We just have to support them to provide water with the technicalities involved, that is the transfer of water that is not being done anywhere in the country. That is a transfer within 75 kilometres.

There is no authority in this country that would have the technical capacity to manage this outfit. We do not have it. Is it the Ministry of Water Resources or the Commission that we have not established? I agree with those who spoke against, but they must look at it that their apprehensions are not misplaced, because they do not want proliferation of Agencies, but this is a problem that is a challenge to the nation with the Executive initiating a solution.

Senator Maina Ma'aji Lawan: Mr. President, thank you for given me this opportunity at last. Let me say that I stand to support this Bill and in doing so, I want to appeal to my Colleagues, particularly those who do not come from areas where dams are very fundamental to the livelihood of the people, apart from the potable water needs. This is a very sensitive issue and we should try not to throw the baby with the bath water. I do understand some of the undercurrents that are charging up the atmosphere.

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That notwithstanding, the Bill primarily deals with Gurara and the whole concept of the Gurara Water Project was to supply water to FCT. I do remember that when the contract was awarded in 2003/2004, the anticipation and the chorus then was that in six to eight months time, the issue of water supply to Abuja would be a thing of the past through the transfer of water from Gurara to Lower Usman Dam. So, we cannot run away from the fact that this is primarily to address the water needs of Abuja.

I am very happy that today, that is several years later, the issue of additional 30 megawatts of electricity and that of irrigation are now coming fully to the fore in addition to its original conception. No matter our feelings, no matter the technicalities for which I do not even see the conflict between yesterday's Bill and today, we only need to look at it with less emotion and see the far more overriding need to address the essential needs of the residents of the FCT and Nigeria at large.

I, therefore, fully associate myself with the contributions, in particular, of Senator T. U. Wada that we should be very careful and very determined to address the needs of Abuja and the larger needs of Nigeria in terms of power and food security.

With this few remarks, I support the Bill and I urge my Colleagues to look at it very objectively with a view to saving whatever needs to be saved and as far as I am concerned, it should be saved *in toto*.

Senator Anthony George Manzo (Taraba North): Mrs. President, I am rising to support this Bill and in supporting this Bill, I want to draw our attention to Order 82 of our Rules. With your permission, Mr. President, I would like to read the whole Order 82.

The President: Yes, read it.

Senator Anthony Manzo: Order 82 says:

Any Committee to which a Bill is committed shall have power to make such amendments therein as they shall think fit, provided that every amendment shall be relevant to the subject matter of the Bill and to the subject matter of the clause to which it relates; but if any such amendment shall not be

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within the title of the Bill, they shall amend the title accordingly, and shall report the same specially to the Senate.

I stated this Order to draw attention to the fact that in allowing this Bill pass through the Second Reading, it gives opportunity to those of my Colleagues that are fundamentally opposed not the intent of the Gurara Fall, but the fact that other additions can be made to the Bill. This is because nothing says that we do not have the powers to add all those other areas as Clauses to this Bill and even change the title of the Bill. It would be very unfortunate if we allow the Bill to die.

Most of our Colleagues that have spoken against the Bill are not against the idea of Gurara itself. They are, perhaps, against the fact that we are going to create another administrative entity. Laws can never be too many. So, there is no duplication of anything as some of my Colleagues have said. The Commission Bill that was looked at yesterday is entirely different from this administrative entity and other dams in other parts of the country can be put as an attachment to this Bill.

With this few remarks, I want us to support this Bill so that we are on the same wave length with the Executive. I know that, perhaps, there are issues behind the scene that have caused some pains, but let us look at the larger picture.

Senator Joseph I. Akaagerger (Benue North-East): Mr. President, today, this Senate stands on the threshold of destiny for Abuja of today, Abuja of tomorrow and Abuja of the future with respect to this Bill.

It is very important at this point as has already been emphasised, that the water issue affecting Abuja, particularly with the Bill for an Act to establish (*Interruptions*)

The President: I am very sorry for interrupting you, distinguished Senator, because there are many hands up, issues that have been raised already that Abuja needs more water has been captured sufficiently and there is no extra emphasis now that will make any difference on that particular issue anymore. So, if there are new issues that have not been raised in the debate for or against, then I would take those new issues, please.

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Senator Joseph I. Akaagerger: May I refer the Senate to Section 20 of the Constitution, which says: *The State shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria.* That is what is before us to do now. Again, if I may refer this distinguished Senate to the Second Schedule of the Constitution, Part 1, Items 60 and 64. Item 60 of the Exclusive Legislative List states that: *The establishment and regulation of authorities for the Federation or any part thereof:*

- (a) *to promote and enforce the observance of the Fundamental Objectives and Directive Principles contained in this Constitution;*

Item 64 of the same Exclusive Legislative List says: *Water from such sources as may be declared by the National Assembly to be sources affecting more than one State.*

So, we are not talking only about Abuja here. One point I wish to stress is to draw analogy from the State of Emergency which the President declared in the area of power, which is that there was a regulatory agency that is the Nigerian Electricity Regulatory Commission. The Commission is distinguished from Rural Electrification Agency and other components in that sector. It would, therefore, be necessary to distinguish between the Commission and the Authority, which is to put together the activities to address the water problems of today and the future.

I would, therefore, urge my distinguished Colleagues to support this Bill to go through in order to address issues of today and the future.

Senator Annie Okonkwo (Anambra Central): Mr. President, first of all, we realise the importance of water and we have debated about it yesterday. For me, I believe that the most important thing is for us to think about what is going to benefit this country and not a section or a particular state or zone. The issue is how we can make laws for the benefit of all Nigerians and also to save money for this country.

By establishing this very special Management Board is more or less creating a job for the boys. I believe that the Executive is, perhaps, duplicating Bills. They may not be aware that they had already put up a Bill that is going to take care of all the problems of water which we had debated. This Bill,

honestly, I believe is a duplication of yesterday's one.

I believe it is better for us to leave this Bill as some of our Colleagues have mentioned because the Bill we debated yesterday which was referred to a Committee would definitely capture this Gurara Water Project. The essence of that Bill is to take care of our water resources, not only in Kaduna or Abuja but also Nigeria as a whole. This is because we need to take care of our water resources. It is not only Abuja that does not have water, other cities in this country do not have water. So, we need to look at our water problem and have a solution to tackle it. I believe that creation of this particular Authority is a waste of time.

Senator Lee Ledogo Maeba: Mr. President, there is a lot of misconception. We are very happy about Gurara Water Project. Gurara Water Project has come to stay. Work is going on there but the issue is that we should avoid setting up so many Commissions because there is no money to run these Commissions. There is no money to run the government. Oil price is falling, and there is global meltdown. In fact, Agencies are being merged on a daily basis.

You realise that a question was put to you when we were talking about the Hydro Electric Power Producing Commission. When we were listing areas that are covered under that Commission, some one asked about other dams in the future? As a result of that question we inserted a Clause, I think it was 3(d) that *any other dam to be constructed in the future must automatically become a Member of the Hydro Electric Power Producing Commission.* Now Gurara is a dam. That Hydro Electric Power Producing Commission Bill was passed by this Senate with that Clause. So, the Gurara Dam is already a member of that Commission.

Furthermore, the issues raised here by people that if there is no Management Agency created specifically for Gurara Dam that it would not be managed properly. That argument is neither here nor there. We are arguing for the reduction in administration set ups. We cannot have Commissions for everything.

Somebody mentioned about managing water resources, if you want to manage water resources by creating Commission, you will end up creating

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Commissions for every river in this country. You must create, for example, Bonny River Commission, Calabar River Commission. There are so many rivers in our area and there is no Commission taking care of them. Do you tell me there is more water in a dam than in a river? These are rivers that supply water to the Atlantic Ocean.

So, we do not go into that. We go into issues. As a responsible Senate we take issues based on our ability to manage and finance them. The budget is already getting bogus. Nobody is talking against this Authority but what we are saying is that, it can be managed by an existing agency of government. It can be managed by a River Basin Authority. As at now it is already a member of the Hydro Electric Power Producing Commission.

My argument is that we cannot form another Commission because there is no money. If we have about 20 dams created in another two years, we would have 20 Dam Commissions, so we would become a country of constructing dams around Commissions. That is not correct. We should not make our arguments on tribal or sectional basis. We should make our arguments based on the issue of proper management and adequate funding. The issue of making sure that we do not create a precedent where when another dam is created tomorrow we rush into establishing another Commission.

In conclusion, I want to submit that we are part of Managers of the National Resources, and a part of the Managers of this Government. This Government belongs to us. The fact that there is global economic meltdown, agencies of government of the United State are collapsing. So, it is also happening everywhere. We should allow Gurara Water Project to be managed by an existing agency instead of creating a Commission so that we do not create a precedent that anywhere a dam is constructed, then a Commission will be established for it. I rest my case.

Senator Awesu Dahiru Kuta (Niger East): Mr. President, I am in full support of this Bill. We are aware that a lot of efforts and funds have already been spent on this project. Apart from that, some of you that are coming into the Federal Capital Territory, day-in-day-out, are increasing the population of Abuja far beyond what we anticipated. *(Laughter)* As a result we require a project with specific attention. This Gurara Water

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Transfer Project is going to be the answer to this problem.

Secondly, most of our people have been thrown out of job and by providing infrastructure like irrigation facilities, our people will get job to do. It will also provide jobs for those coming into Abuja.

Therefore, I am in full support of this Bill. Let us ensure that we give support to the Bill because it is specifically addressing the problem of water supply in the Federal Capital Territory.

The President: Distinguished Colleagues, we have had sufficient debate on this but before I put the Question, let me make a few comments.

The issue really is not what this body is going to do. The duplication of functions is the central issue here. That was why I raised the issue that those who are supporting the Bill should address. I am afraid that saying Abuja needs more water, does not really address the issue.

Having said that much, I want to tow the line of the debate and presentation by distinguished Senators Mujitaba and Bala Muhammed that this being an Executive Bill and we already have a Bill on that area, it is probably better for us to send it to the Committee and let the Committee take a passionate and an objective look at the two Bills. If they feel strongly that they should be combined, they will recommend to us. If they do not feel that way, then, they can let the Bills go independently.

But let me make a point very clear. It is obvious that there is no coordination from where these Bills are emanating. They cannot just be sending Bills that obviously address the same issue. If you look at the River Basin Development Authority Act, Cap R9, it specifies exactly what they are saying that the Management Board should do. It is those functions that are the crucial issues in these two Bills.

When it goes to the Committee let the Committee also look at the functions of the River Basin Development Authority. The argument that you cannot fault here is that there are so many dams that can also generate power. Are you going to set up an Authority for them? We are talking of Abuja, what of Abuja Municipal Water Board? That is their responsibility. The Federal Government

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cannot begin to set up a management for Abuja water supply. That notwithstanding, it is still necessary that this Bill is sent to the Committee and let the Committee that will have more time to go for Public Hearing, determine and decide what to do with the Bill.

On these few remarks, I now put the Question on the Second Reading of the Bill.

Question put and agreed to.

The Bill is hereby referred to the Committee on Water Resources to be returned within four weeks.

Bill read a Second Time and referred to the Committee on Water Resources to be returned within four weeks.

CONSIDERATION OF REPORTS

Report of the Committee on Finance on the Customs Excise Tariff Etc. (Consolidation) (Amendment) Bill, 2009

Senator Teslim K. Folarin: Mr. President, the third Order of the day is the consideration of a Report of the Committee on Finance, on the Customs and Excise Tariff etc. (Consolidation) (Amendment) Bill, 2009.

The Bill was referred to the Committee on Tuesday, 5th February, 2008. The Report is now ready. You may now invite the Chairman of that Committee, distinguished Senator Mohammed Ahmed Makarfi, to move the Motion for the presentation and consideration of the Report.

Senator Mohammed Ahmed Makarfi (Kaduna North): Mr. President, I rise to move the Motion that the Senate do consider the Report of the Committee on Finance on the Customs and Excise Tariff etc. (Consolidation) (Amendment) Bill, 2009.

Senator Abubakar D. Sodangi (Nasarawa West): Mr. President, I rise to second the Motion ably moved by distinguished Senator Ahmed Makarfi, to present his Report.

Question put and agreed to.

Senator Ahmed Mohammed Makarfi: This Report was submitted and even debated in this

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hallowed Chamber but for clarity purpose, it was referred back to the Committee on Finance to properly put it in a form that would be easily understood.

The essence of this concurrence Bill which has already been passed by the House of Representatives is essentially to make the Executive exercise of power to impose any form of levies or taxes subject to the approval of the National Assembly before such levies or taxes come into force. You will recall that, early in the life of this administration, there was a problem in this country because of increase in VAT (Value Added Tax) and this country went through a lot of problems. Importers and exporters have also been talking about how sometimes levies were altered or added thereby making business difficult in Nigeria.

This Bill seeks to amend that, by making the National Assembly kept informed and the consent of the National Assembly by resolution is obtained before any new levy is introduced or old one altered in any way by the Executive.

In a nutshell, this is basically a one Clause Amendment. What exist now is that the President takes that decision and once it is gazetted it becomes applicable. What this Bill seeks to make is that the President's wish should be subjected to the approval by Resolution of the National Assembly so that all matters connected to it could be discussed and if in the national interest, then consent is given before any additional levies or taxes are imposed in the country.

This is the summary of the Report which we had to redo because of the confusion which arose the first time it was tabled for discussion.

I so submit.

Senator Teslim K. Folarin: Mr. President, I now move that this Senate do resolve into the Committee of the Whole to consider this Report.

Senator Maina Ma'aji Lawan: Mr. President, I rise to second the Motion that the Senate do resolve into the Committee of the Whole to consider the Report of the Finance Committee on this very straightforward Bill and give it expeditious passage.

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The President: We will see how straightforward it is when we read it Clause by Clause.

Question put and agreed to.

Report of the Committee on Finance, on the Customs and Excise Tariff, etc (Consolidation) (Amendment) Bill, 2009 – CONSIDERED IN THE COMMITTEE OF THE WHOLE.

The Chairman: What we are doing essentially is the Clause by Clause consideration but before then, has anybody got any comments on the Report?

Senator Mahmud Kanti Bello: I want to know from the Chairman before we go into details, what is the difference between revocation and rejection? They are all English words but I am confused.

The Chairman: Is there no dictionary around. The Chairman could only explain if he consults a dictionary. To rejection means you did not accept it *ab initio* and if something exists you can revoke. I hope that Senator Kanti Bello is all right with that?

Clause 1 – (AMENDMENT OF CAPS 88 LFN 1999, 1990 NO. C49 LFN 2004)

Senator James Ebiowou Manager: Mr. Chairman, just by way of curiosity, when you look at the remarks on the right hand side for Clause I, the commencement date of the Act is 1st March, 1995, I am really confused. What is it really talking about?

The Chairman: Senator Ahmed Makarfi, why is it 1995?

Senator Ahmed Mohammed Makarfi: The provision of the Bill which indicates 1990 was what the House of Representatives had passed. In the initial Committee's recommendation which we brought to this Senate, we recommended for the retention but when it was referred back to us and we did more work, we found out that the Act actually came into effect on 1st March 1995 and not 1990. So that was amended and that was why 1990 was crossed to indicate that what would be passed here would be the Amendment of the 1995 Act.

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The Chairman: But that cannot be the commencement date of the Amendment. The Act itself is 1995 and the commencement date is the commencement date of the Amendment.

Senator Abubakar Danso Sodangi: Mr. Chairman, we have to correct it. With due respect to the Chairman, we cannot amend an existing Act and say that the commencement of it is with retrospective effect. That is not allowed in the legal jurisprudence. We should please, as a matter of necessity, put 2009 and it would not have any other effect rather than to make it effective and I believe that is the correct thing. It does not matter if it first came into being in 1990 or 1995 we should reflect it now as we are making Amendment to 2009.

The Chairman: What he said is that the Act we are amending came into effect in 1995. The commencement date of the Act is 1st March 1999. Your remark is truly unnecessary. It is superfluous and that is where the confusion is. This is because, if you do not put that remark, then we are not interested in the commencement date of the Act that we are amending. It is the commencement of the Amendment date that we are interested in. Senator Idris, you are one of the lawyers who started all this confusion.

Senator Audu Idris Umar: Mr. Chairman, you are right. I do not really see the need for that remark on the commencement date; commencement date for what? Is it the commencement date of the principal Act or the Amendment Bill we are seeking to pass? The reference to the Act, the Customs Exercise Tariff etc (Consolidation) Act 1995 that is the point the Chairman is trying to point out. That Act took effect in 1995 but the Amendment is taking effect from 2009.

The Chairman: So we can ignore that remark. Can we not?

Senator Joseph Iorshagher Akaagerger: Mr. Chairman, I do not much agree with retrospective legislation but I wish to draw the attention of this Senate to Section 4(9) of the 1999 Constitution. It is on the powers of the Federal Republic of Nigeria. If I may read, it states thus:

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Notwithstanding the foregoing provisions of this section, the National Assembly or a House of Assembly shall not, in relation to any criminal offence whatsoever, have power to make any law which shall have retrospective effect.

I do not know what was working on the mind of the Committee but to the best of my knowledge this is not a criminal offence. So, the issue of retrospective legislation does not come in.

The Chairman: What you have said, is there any difference from what we have arrived at? It is another surplus again which has not helped the matter.

Senator Iyabo Olusola Obasanjo-Bello (Ogun Central): Mr. President, just to avoid confusion, the reason that remark was there is to explain the cancellation of the year 1990 and I think it is necessary so that anybody looking at it will know that happened. The only thing that needs to be changed in the remark is the commencement date of the Act was 1st March 1995. The remark is to explain why 1990 was cancelled. That is just why that remark is necessary. This is because somebody can ask why the date is being removed. That remark can clarify it. The actual word should be *was* and not *is*, that is to say, *the commencement of the Act was* 1st March 1995. That now explains why they felt it necessary to remove 1990.

The Chairman: I am sorry I have not followed that explanation. I am not saying you are wrong, it is simply that I did not understand the explanation.

Senator Obasanjo-Bello: Can I repeat myself?

The Chairman: Yes.

Senator Obasanjo-Bello: The reason that remark was put there was because the only change between the Committee's recommendation and what was in the Bill is that they cancelled 1990. So, they are explaining the cancellation by saying that the reason is because the Act did not start in 1990 but in 1995. Therefore, what it should be is *the commencement date of the Act was 1st March, 1995* that explains that cancellation of 1990. This is because without that explanation it does not make sense while the date 1990 was removed.

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The Chairman: If you see where they say *Clause 1*, it is already Laws of the Federation 2004.

Senator Obasanjo-Bello: That was another Amendment.

The Chairman: That would explain the point you are trying to make because it is already Cap 49 Laws of the Federation 2004 which still does not help the issue of 1st March, 1995.

Senator Mujitaba Mohammed Mallam: Mr. Chairman, my understanding is that we are having two different Customs and Excise Tariff Acts in this case. We have that of 1990 and that of 1995. What the Committee is essentially saying is that they only amended the 1995 Act instead of 1990 as amended by the House of Representatives.

The Chairman: Senator Mujitaba can you explain that again?

Senator Mujitaba Mallam: I am just a simple Chemist but what I said is that, maybe, we have two Acts in operation, the 1990 and the 1995 Acts. That is my simple understanding. I do not know if the Chairman can shed more light on it.

The Chairman: Anyway the Act is a 1995 Customs Act. That is what the Act here is saying. My understanding of that is that you are drawing our attention to the fact that the commencement date of the Act you are amending was 1995. That is the point you are raising. I am saying that if we remove that remark which is causing the confusion, does it subtract anything?

Senator Jibril Mohammed Aminu: In my understanding, honestly, I thought this was a five minutes job but it is taking longer than I ever dreamt. If you look at the provisions of the Bill, they said *Customs Excise Tariff 1990* and then the Committee in its wisdom cancelled 1990. I believe they put 1995 there while they cancelled. At the remark they are giving you the reason why they canceled 1990 which was on the provision of the Bill. Their reason is that this Act actually came into force in 1995, therefore, in the provision of the Bill they should have put 1995. That is all they are saying.

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If the Committee insist to cancel 1990 and put 1995 then the Senate need to agree with them. But if the Senate says this Act was made in 1990, please leave it as 1990 then there would be no need for this remark of theirs and the cancellation of 1990 would be annulled and will put 1990 there. That is all and I think that was what is happening there.

The Chairman: I have become more confused now. The extant Act is not a 1990 Act, it is a 1995 Act. If you see the first column, provisions of the Bill, the Customs Excise Tariff, etc (Consolidation) Act 1990 in this Bill referred to as the Principal Act is hereby amended as set out in this Bill and the Amendment is what they have cancelled the 1990 there. The 1990 on the first column where has that come from?

Senator Ahmed Mohammed Makarfi: That is how it came from the House of Representatives. The first column – the provisions of the Bill - that was as it came from the House of Representatives. That Act was amended in 1995. So, the extant Act as at now is that of 1995 and not that of 1990.

The Chairman: But we are not going to amend theirs. They have brought their own. We will do our own Amendment and then we go for Conference. You cannot amend the Bill that comes from the House of Representatives. Do you get the point I made?

Senator Ahmed M. Makarfi: Mr. Chairman, I suggest that we can take it back and put it properly.

The Chairman: Thank you for the short debate that has gone beyond expected five minutes. I told you that when we began that until we go Clause by Clause we would not know how long it will take. I agree with you Senator Makarfi that you need to take it back. Please, if I may just add, whatever has come from the House of Representatives you do not touch it rather you make your own recommendation on it. Even if there is a minor difference like this issue of date, which could just be a typographical error from them we still have to go to Conference to correct it because we cannot correct their own recommendation here.

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Senator Teslim K. Folarin: Mr. Chairman, I move that the Chair reports progress.

Senator Maina Ma'aji Lawan: Mr. Chairman, I second the Motion that the Chair do now report progress.

Question put and agreed to.

(Mr. President resumed the Chair)

The President: The Senate in the Committee of the Whole considered the Report of the Committee on Finance on the Customs and Excise Tariff etc., (Consolidation) (Amendment) Bill and re-committed the Bill to the Committee for further legislative action. Is this a true reflection of what transpired in the Committee of the Whole?

Several distinguished Senators: Yes.

Senator Teslim K. Folarin: Mr. President, for time constraint I want to move that we stand down the last item on the Order Paper.

Senator Maina Ma'aji Lawan: Mr. President, I rise to second the Motion that we stand down the last item on the Order Paper to another legislative day.

Question put and agreed to.

Resolved: That the last item on the Order Paper be stood down to another legislative day.

ADJOURNMENT

Senator Teslim Kolawole Folarin: Mr. President, I move that this Senate do now adjourn till tomorrow, Thursday, 14th May, 2009 at 10.00 a.m.

Senator Maina Ma'aji Lawan: Mr. President, I rise to second the Motion that this Senate do adjourn till Thursday, 14th May, 2009 at 10.00 a.m. prompt.

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ANNOUNCEMENT

Reminder on the Closed Session Tomorrow

The President: Before I put the Question please, do not forget that tomorrow at 12.00 noon we have briefing in a Closed Session.

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Question put and agreed to.

Resolved: That the Senate do adjourn till Thursday, 14th May, 2009 at 10.00 a.m. prompt.

The Senate adjourned accordingly at 1.40 p.m.