

VOL. 2
No. 46



Thursday
14th May, 2009

FEDERAL REPUBLIC OF NIGERIA

NATIONAL ASSEMBLY DEBATES

FOURTH REPUBLIC

THIRD ASSEMBLY
(SIXTH SENATE)

SECOND SESSION

THE SENATE OFFICIAL REPORT

CONTENTS

Votes and Proceedings
Announcements
Presentation of Bills
Presentation of Reports
Consideration of Report
Adjournment

1667

**SENATE OF THE FEDERAL
REPUBLIC OF NIGERIA**

Thursday, 14th May, 2009

The Senate met at 10.30 a.m.

PRAYER

(The President in the Chair)

VOTES AND PROCEEDINGS

The President: Distinguished Senators, the Votes and Proceedings of Wednesday, 13th May, 2009 is before us for approval: Pages: 703, 704, 705, 706, 707 and 708?

Senator Adefemi Kila (Ekiti Central): Mr. President, I rise to move the Motion that the Votes and Proceedings of Wednesday, 13th May, 2009 after the death of Christ be approved.

The President: Senator Adefemi Kila because this is being recorded, is it after the birth or after the death of Christ? Which of them is right? *(Laughter)*

Senator Adefemi Kila: It is AD, after the death of Christ.

Senator Mohammed A. Mohammed (Bauchi Central): Mr. President, I rise to second the Motion that the Votes and Proceedings of Wednesday, 13th May, 2009 be received and adopted.

The President: There are new styles today.

Senator Mohammed A. Mohammed: It is, *be approved*. I am talking in a boardroom language. I am sorry, Sir.

The President: Actually, you dress as if you are going to boardroom meeting today.

Question put and agreed to.

Resolved: That the Votes and Proceedings of Wednesday, 13th May, 2009 be approved.

1668

ANNOUNCEMENTS

**Flight Schedule to the Conferment of
Chieftaincy Title on the Deputy Senate
President, Senator Ike Ekweremadu**

The President: Flight schedule to the ceremony for the conferment of chieftaincy title on the Deputy Senate President, Senator Ike Ekweremadu, CFR in Orlu, Imo State on Saturday, 16th May 2009. Departure is Friday, 15th May, 2009 on Arik Airline to Owerri at 2.30 p.m. or Saturday, 16th May, 2009, Arik Airline to Owerri at 9.00 a.m. Return from Owerri to Abuja will be at 5.00 p.m. on the same Saturday.

(Signed)

Senator Osita B. Izunaso.

Senator Osita Izunaso is saying that the village is Orlu but actually the village is via Orlu. It is Obinugwu which is not on any map. *(Laughter)* But when you get to Orlu they will direct you to the place.

Report on Legislative and Oversight Activities

This is an announcement from the Chairman, Committee on Rules and Business and it says: Distinguished Senators are hereby reminded to direct their Committee Clerks to submit through the Committee on Rules and Business their reports on Legislative and Oversight Activities for the Second Session of Senate ending on the 4th of June, 2009. It should be in soft copy in flash drive.

Such reports should not be more than two typewritten pages. All reports should be submitted on or before Tuesday, 2nd June, 2009.

Though passport pictures of Senators are already available for Senate publications and calendars, Chairmen and Vice Chairmen who have favourite passport pictures are requested to submit them through their Clerks to the Rules and Business Committee. The above are for coloured publication of Senate Legislative activities for June, 2008 to June, 2009.

1669

Senator Aloysius Etok, in a democratic regime, unless by sheer association with Senator John Shagaya on that side, you do not restrict people to do things in such a rigid and jacket manner. They should submit their reports, and if they want to submit 10 pages they should be allowed to do so. The restriction to two pages is undemocratic.

Invitation to Coronation Ceremony

There is an invitation from Senator (DR.) Gyang Dantong, Plateau North Senatorial District. The letter reads:

13th May, 2009
The Senate President,
National Assembly,
Abuja.

My Dear President,

INVITATION TO THE CORONATION
CEREMONY OF THE NEW GBONG GWOM
JOS, HIS MAGESTY, DA ELDER JACOB
GYANG BUBA.

Following the selection of the new Gbong Gwom Jos, Da Elder Jacob Gyang Buba, the Kingmakers have selected this week for the coronation.

I, therefore, invite you to attend this historic occasion, which is scheduled as follows:

Date: 16th May, 2009.

Venue: Rwang Pam Township Stadium, Jos.

Time: 10.00 a.m.

In case you are unable to attend the Deputy Senate President's chieftaincy installation, the Beron Nation and the entire peace loving people of Plateau State will be glad if you grace the occasion.

Please accept the assurances of my highest regards..

(Signed)
Distinguished Senator (Dr)Gyang Dalyop Dantong

1670

Condolence Visit

This is to inform the Distinguished Senators on the condolence visit to the family, people and Government of Enugu State on the death of Chief C.C. Onoh that the delegation is leaving for Enugu on Monday, 18th May, 2009 by 7.30 a.m. flight on Arik Airline and to return the same day. All concerned Senators should be at the Local Wing of the Abuja Airport by 7.00 a.m.

(Signed)
Senator Victor Ndoma-Egba (SAN)
Leader of the Delegation.

Recognition of Visitors in the Gallery

On behalf of all of us, I wish to acknowledge the presence of members of Business Education Examinations' Council, Lagos, Staff and Students of Wesley Junior Secondary School, Wuse, Abuja and Staff and Students of Legal Private Montessori School, Karu, Nasarawa State. They are all in the Gallery to observe the Senate Proceedings. (*The Visitors Stood for Recognition*)

We wish all of you a very fruitful observation of our proceedings today.

PRESENTATION OF BILLS

Independent National Electoral Commission Act, (Amendment) Bill, 2009 (SB. 273)

Senator Teslim K. Folarin (Oyo Central):
Mr. President, the First business of the day is the presentation of an Executive Bill standing in my name on the Independent National Electoral Commission Act, (Amendment) Bill, 2009.

You may invite the Clerk of the Senate to read the S

hort Title of the Bill.

Independent National Electoral Commission
(Amendment) Bill, 2009 (Executive Bill) - *read the First Time.*

1671

Electoral Offences Commission (Establishment, etc) Bill, 2009 (SB. 274)

The second business of the day is the presentation of an Executive Bill standing in my name on the Electoral Offences Commission (Establishment, etc.) Bill, 2009.

Again, you may invite the Clerk of the Senate to read the Short Title of the Bill.

Electoral Offences Commission (Establishment, etc.) Bill, 2009 (Executive Bill) - *read the First Time.*

Political Parties Registration and Regulatory Commission (Establishment, etc.) Bill, 2009 (SB.275)

The third business of the day is the presentation of another Executive Bill standing in my name on the Political Parties Registration and Regulatory Commission (Establishment, etc) Bill, 2009.

You may invite the Clerk of the Senate to read the Short Title of the Bill.

Political Parties Registration and Regulatory Commission (Establishment, etc.) Bill, 2009 (Executive Bill), 2009 - *read the First Time.*

Centre for Democratic Studies (Establishment, etc.) Bill, 2009 (SB.276)

The fourth business of the day is another Executive Bill standing in my name on the Centre for Democratic Studies (Establishment, etc.) Bill, 2009.

You may invite the Clerk of the Senate to read the Short Title of the Bill.

Centre for Democratic Studies (Establishment, etc.) Bill, 2009 (Executive Bill), 2009 – *read the First Time.*

1672

Constitution (Second Amendment) Bill, 2009 (SB. 277)

The fifth business of the day is the presentation of another Executive Bill standing in my name on the Constitution (Second Amendment) Bill, 2009.

You may invite the Clerk of the Senate to read the Short Title of the Bill.

Constitution (Second Amendment) Bill, 2009 (Executive Bill) - *read the First Time.*

Police Act (Amendment) Bill, 2009 (SB.278)

The sixth business of the day is the presentation of another Executive Bill standing in my name on the Police Act (Amendment) Bill, 2009.

You may invite the Clerk of the Senate to read the Short Title of the Bill.

Police Act (Amendment) Bill 2009, (Executive Bill) - *read the First Time.*

The President: All these Bills that have been read the First Time are all published in the Journal and they distributed the Journal this morning. Please, remember to bring the Journal everyday until we are through with these Bills.

PRESENTATION OF REPORTS

Report of the Committee on Finance on the Public Procurement Act (Amendment) Bill, 2009 (SB.125)

Senator Teslim K. Folarin: Mr. President, before going on to the next Item on the Order Paper, to add to what you have just said, we intend to start the Second Reading of these Bills next week.

The seventh business of the day is the presentation of a Report of the Committee on Finance on the Public Procurement Act (Amendment) Bill, 2009.

1673

You may invite the Chairman of that Committee, Senator Ahmed Makarfi to move the Motion for the Senate to receive the Report.

Senator Ahmed Makarfi (Kaduna North): Mr. President, I rise to move the Motion that the Senate do receive the Report of the Committee on Finance on the Public Procurement Act, (Amendment) Bill, 2009.

Senator Felix Kolawole Bajomo (Ogun East): Mr. Senate President, I rise to second the Motion that the Senate do receive the Report of the Committee on Finance on the Public Procurement Act, (Amendment) Bill, 2009 as ably moved by my Colleague, Senator Ahmed Makarfi.

Question put and agreed to.

Resolved: That the Senate do receive the Report of the Committee on Finance on the Public Procurement Act (Amendment) Bill, 2009.

The President: Distinguished Senator Ahmed Makarfi, please, lay it on the Table.

(Report accordingly laid on the Table)

Report of the Committee on Judiciary, Human Rights and Legal Matters on the National Human Rights Commission Act, (Amendment) Bill, 2009 (SB.73)

Senator Teslim K. Folarin: The eight business of the day is the presentation of the Report of the Committee on Judiciary, Human Rights and Legal Matters on the National Human Rights Commission Act (Amendment) Bill, 2009.

You may wish to invite the Deputy Leader of the Senate who is the Vice Chairman of that Committee, Senator Victor Ndoma-Egba (SAN) to move the Motion for the Senate to receive the Report.

Senator Victor Ndoma-Egba (Cross River Central): Mr. President, may I move that this Senate do receive the Report of the Senate Committee on Judiciary, Human Rights and Legal Matters on a Bill for an Act to amend the National

1674

Human Rights Commission Act, 1995 and for Other Matters Connected Therein.

I so moved.

Senator James Ebiowou Manager (Delta South): Mr. President, I rise to second the Motion ably moved by the Senate Deputy Majority Leader who also equals as the Vice Chairman of the Senate Committee on Judiciary, Human Rights and Legal Matters that the Senate do receive the Report of the Committee on the National Human Rights Commission Act 1995 (Amendment) Bill, 2009.

Question put and agreed to.

Resolved: That the Senate do receive the Report of the Committee on Judiciary, Human Rights and Legal Matters, on the National Human Rights Commission Act (Amendment) Bill, 2009.

The President: Please lay the Report on the Table.

(Report accordingly laid on the Table)

ORDERS OF THE DAY

CONSIDERATION OF REPORT

Report of the Committee on Gas, on the Gas Flaring (Prohibition and Punishment) Bill, 2009

Senator Teslim K. Folarin: Mr. President, the first Order of the day is the presentation and consideration of the Report of the Committee on Gas, on the Gas Flaring (Prohibition and Punishment) Bill, 2009. The Report of the Committee was laid in this hallowed Chamber on Tuesday, 12th May, 2009.

You may now invite Senator Osita Izunaso, Chairman, Senate Committee on Gas, to move the Motion for the presentation and consideration of the Report.

Senator Osita B. Izunaso (Imo West): Mr. President, I rise to move that the Senate do consider the Report of the Committee on Gas, on the Gas Flaring (Prohibition and Punishment) Bill, 2009.

1675

I so moved.

Senator Gyang Dalyop Dantong (Plateau North): Mr. President, I rise to second the Motion ably moved by my Chairman, that the Senate do consider the Report of the Committee on Gas, on the Gas Flaring (Prohibition and Punishment) Bill, 2009.

Question put and agreed to.

The President: Are there any comments from any distinguished Senator?

Senator John Nanzip Shagaya (Plateau South): Mr. President, I have only an observation. In this particular Bill that the Senate is going to consider, it is not stated here whether it is the Second or the Third Reading.

The President: Consideration is for Third Reading.

Senator Osita Izunaso: Mr. President, this is the Report of the Senate Committee on the Bill for an Act to Prohibit the Flaring of Natural Gas in Nigeria and for Matters Connected Therein.

The Senate at its sitting on Tuesday, 7th October, 2008 read the Gas Flaring (Prohibition) Bill for the Second Time and referred same to the Committee on Gas for further legislative action. It was transmitted to the Senate Committee on Gas on October 2008. (*Interruptions*)

The President: Distinguished Senator Osita Izunaso, you are reading a paper that you have not distributed. I thought you should have simply said that we are going into the Clause-by-Clause consideration of the Bill.

Senator Osita Izunaso: Mr. President, I advise that we move into the Clause-by-Clause consideration of the Report.

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

Senator Ahmad Rufa'I Sani (Zamfara West): Mr. President, I rise to second the Motion that the

1676

Senate resolves into the Committee of the Whole to consider the Report.

Question put and agreed to.

Report of the Committee on Gas, on the Gas Flaring (Prohibition and Punishment) Bill, 2009 and for Matters Connected Therein –
CONSIDERED IN THE COMMITTEE OF THE WHOLE.

The Chairman: Is there any comment before we start Clause-b-Clause consideration of the Bill?

Senator Joel Danlami (Taraba South): Mr. Chairman, if you look at the Committee's recommendation *vis-à-vis* the provisions of the Bill, it was not numbered.

Again, if you take a look at Clause 2 of the Bill there are new provisions which has sub-Clauses (a) and (b) but that were not indicated. I feel that it should not be like that. The new provisions by the Committee are not numbered.

Senator Osita Izunaso: It is numbered.

The Chairman: Senator Joel Danlami, is your own copy not numbered?

Senator Joel Danlami: Yes, Mr. Chairman.

The President: Is there any other Senator with the same copy like Senator Joel?

Several distinguished Senators: No.

The Chairman: So, give him the copy that is numbered.

Senator Joel Danlami: Mr. Chairman, what I am saying is that if you take a look at Clause 2 of the Bill and the Committee's recommendation, you will not find all that. In the provision, they said: *No company engaged in the production of oil and gas shall after 31st December, 2008 flare natural gas produced whether in association with oil or not.* If you look at the Committee's recommendation, if the provision is all right, it should be reflected as a new provision which should also be numbered.

1677

Senator Osita Izunaso: Senator Danlami, look at the left hand side of the document for the numbering.

Senator Danlami: All right, I have seen it but I am not yet convinced, maybe, in the process as we go along, I would understand it better. Meanwhile, let us continue.

The Chairman: We would now go for the Clause-by-Clause consideration of the Bill.

Clause 1 – (PROHIBITION OF GAS FLARING) – ordered to stand part of the Bill.

Clause 2 – (CESSATION OF GAS FLARING)

Question proposed.

Senator Ike Ekweremadu (Enugu West): Mr. Chairman, I have a problem with Clause 2. The provision in the Bill appears to me to be better than the Amendment suggested by the Committee. The provision in the Bill says that: *No company engaged in the production of oil and gas shall after 31st December, 2008 flare natural gas produced whether in association with oil or not.*

I am suggesting that that provision be amended to read: *No company engaged in the production of oil and gas shall after 1st January, 2010*, instead of what we have here as the Amendment suggested by the Committee because they are saying: *that the Minister shall, upon the commencement of this Act, set annual gas flare reduction target with the objective of a gas flare-out target date of January 1st, 2010.* This is 2009 and we do not know when this Bill would be signed into law.

If we are talking of annual target we have less than eight months to 2010 so, it does not make any sense. I would rather that we amend the original provision to read thus: *No company engaged in the production of oil and gas shall after 1st December, 2010 flare natural gas produced whether in association with oil or not.* This is because they are saying that, at any rate, even if you set an annual target, it would end in January 1, 2010. We can as well indicate that it will end by January, 1st 2010 by amending the original provision.

1678

Senator Andrew Abidemi Babalola (Oyo North): Mr. Chairman, if you take a look at Clauses 1 and 2, they do not work into each other. As the Deputy Senate President said, Clause 1 says that: *Natural gas shall not be flared in any oil or gas production operation, block or field, onshore or offshore or gas facility, processing treatment plant, etc., which shall commence operations after the commencement of this Act.* If this Act, for instance, is signed in two or three months from now, what will happen to 1st January, 2010? We need to synchronise the date of the two Clauses so that they could agree with each other.

The Chairman: What would happen is that Clause 2 would be the commencement date of the Act while Clause 1 would still remain as it is. There is no problem with Clause 1 which says that: *Natural gas shall not be flared in any oil or gas production operation, block or field, onshore or offshore or gas facility, processing treatment plant, etc., which shall commence operations after the commencement of this Act.*

Senator John Shagaya (Plateau South): Mr. Chairman, as a follow up to what the Deputy Senate President has said by way of correction. I support it because that runs concurrently with Clause 9, the punishment date. So, as we approve this, it will also affect Clause 9 which gives about the same date that the Deputy Senate President has suggested, that is, 31st December, 2010. If it is not done so then there is no consistency. They should amend that to read October or December to tally with the effective date from when punishment starts.

Senator Ayogu Eze (Enugu North): Mr. Chairman, I want to also emphasise that this new Clause that has been inserted by the Committee is like giving a license to the Minister to be play around with flare out date. We had also noted sometime ago when we discussed this matter that, all over the world, there are very rigid regimes for gas flare. So, I do not know why our own would become fluid and then give the Minister the opportunity to decide who flares and at what quantity. Therefore, I support the Amendment made by the Deputy Senate President.

1679

The Chairman: If you support that Amendment, there would be no need for further debate and I would just put the Question. I want to get an additional Amendment to Clause 2.

Senator Sylvester N. Anyanwu (Imo North): Mr. Chairman, my own Amendment is that, we should have a particular date when gas flaring would be completely out of this system. That is possible. This particular Clause allows the Ministry and the operators, knowing what this country is all about, to manoeuvre and play around with it. We should insert a particular date when gas flaring should cease.

The Chairman: Distinguished Colleagues, the Deputy Senate President has suggested an Amendment to the provision of the Bill and he has given a date. So, forget the Committee's recommendation. What we are looking at now is the provisions of the Bill with a date of December, 2010.

Senator Lee Ledogo Maeba (Rivers South-East): Mr. Chairman, I am in sharp disagreement with the issue of date. Our business here is well enshrined in Clause 1. Clause 1 is saying, *from the commencement of this Act*. It is not proper to set up a date. This Bill may be passed here and sent to the House of Representatives where it may probably be passed by January next year. We cannot dictate what happens there. I think Clause 2 is invalid to the extent of Clause 1. Clause 1 says; *from the commencement of this Act*. If you look at Clause 3, it is setting number of days. It states: *90 days after the commencement of this Act* when certain things would happen. So, to set a flare out date becomes a policy. It is only in policy that you put date. This is not a policy but an Act. So, to do the right thing, Clause 2 should be completely deleted because Clause 1 stands firm on its own and Clause 3 now becomes Clause 2. I believe that is what should happen. The issue of setting a date in an Act is completely not the convention.

The Chairman: Every Act has a commencement date. That is a fundamental principle and it is basic. Every Act has a commencement date. That is the standard form. You can take a look at all the Acts. We cannot just because we are debating a Bill concerning gas flaring we do it differently. Every Act has a commencement date.

1680

Senator Lee Maeba: The commencement date has passed.

The Chairman: That is not correct. Read any Act, commencement date is specified in the Act itself.

Senator Gyang Dalyop Dantong (Plateau North): Mr. Chairman, the basic problem with gas flaring out is that these dates have always been shifting. They have been shifting the date. Flaring out is a process. It is not just like a tap that you put on the gas. It is a process and that is why the Committee in its wisdom felt that they should add some explanation. That is why we said that immediately after the commencement of this Act, the Minister must make sure that there is a process that should be carried out up to that date; that is, by 1st January, 2010, gas would be flared out. So, it is just an explanation so that no one would have any excuse any more.

The Chairman: That explanation is what Senator Ike Ekweremadu covered in the Amendment. It is just that it is not as lengthy as the explanation you have made.

Senator Abubakar Umar Gada (Sokoto East): Mr. Chairman, anybody who is conversant with the operations of our gas facilities and then the reality of today would agree with Senator Lee Maeba's suggestion to the effect that there is no apparent contradiction between the position of Mr. Chairman that every Act has a commencement date with the issue of not setting a date for the purpose of stopping gas flaring. For the purpose of gas flaring, the issue of date may not be necessary. Clause 1 has already taken care of the commencement date. This is because it is only when the law is passed that the date of commencement becomes an issue.

We are now in the process of passing the law and since we are in the process of passing the law, we should run away from the bad public relations image created by the oil sector; namely, the NNPC and the Executive on the unrealistically putting date for gas flare out for academic purposes only. Now, we are passing a law it should take cognizance of the limitations of those dates that are absolutely unnecessary.

1681

I maintain that there is no any contradiction between the position of Mr. Chairman and the requirement of the commencement date of any Act or any Bill to be passed into law.

The Chairman: Senator Gada, when would this Act come into effect? So, if you are a Lawyer and you go to court with it, you have the one with the President's signature on it. This is because you have to show in the court when an Act came into effect. That is the commencement date. So, I do not understand what the argument is about.

Senator Patrick E. Osakwe (Delta North): Mr. Chairman, the matter has been made clear by the intervention of the Deputy Senate President and I personally agree with his argument and other arguments that the Minister should not be involved in this Clause.

The change of date to 2010 is accepted by the Committee. Let us accept the Amendment made by the Deputy Senate President and proceed.

The Chairman: That is not the point Senator Lee and Senator Gada are raising. The point they are raising is different. The point they are raising is that we should not put a commencement date. You did not comment on that. I thought that was the point you were going to comment on.

Senator Ikechukwu John Obiora (Anambra South): Mr. Chairman, the legislative power usually involves anticipation and giving of time for persons to retool and present themselves in order to take either benefit or to comply with a particular legislation.

In the Gas Flaring Industry, they have some sort of tool which makes them flare gas. The idea of putting a commencement date is to forewarn them that even if we pass this Bill now, you still have a legal period from now to 2010 to retool and bring in new equipment that would make gas flaring a thing of the past. Therefore, the insertion of the date as rightly suggested by the Deputy Senate President for 2010 is appropriate. Assuming we pass this Bill and it goes to the House of Representatives and is passed and signed by the President it then comes into force, but it still allows the industry time to retool and bring in equipment that would make them comply with the legislation.

1682

Senator Jibril M. Aminu (Adamawa Central): Mr. Chairman, every Act must have a commencement date but the commencement date for the Act does not have to necessarily be commencement date for the stopping of flaring. It could be commencement of the power given to the Minister to set target.

I strongly recommend that the Senate must put that date for stopping flaring in this Act. Please, do not leave it to anybody else. The oil companies are very powerful, they do not want to this, they will waste time and even if you fine them, Nigeria pays 60 *per cent* of the fine because of our Joint Venture Agreement with them. They do not really mind. You can fine them a billion dollars and Nigeria would pay six hundred of that billion dollars. They do not really mind. So, we must put a date and if it becomes necessary to alter the date, they have to come to Parliament again for this date to be changed. This is a very serious matter and it concerns the environment and economy of this country. So, we have to do sometime about it and we have to put the date. I strongly support putting the date.

What then should be the exact date? With all due respect, the date shown there is too near because of what I know is involved in harnessing gas. They have to mobilise the resources which may not be there. If you ask the Ministry of Petroleum with the Federal Government to mobilise their 60 *per cent* share in the Joint Venture to be able to start the project to handle the gas, they may not be able to find that money. So, this date is a bit too soon in my view and I would recommend that we give them one more year after that.

If you really want to stop flaring, you do not just stop flaring. You have to use it for LNG and for powering. In taking the gas, you have to clean up the gas. They have to do so many things which would take a lot of money and I do not think they would be able to do all that within the time shown in this draft Bill.

Therefore, I would recommend that we give them one more year but we must set a date. If the National Assembly does not set the date, it would not be done because they would always find a way to extend it, using their charms on the government side of the oil industry.

1683

The Chairman: Distinguished Senator Osita Izunaso, what is the programme for the final date for the flaring to stop? You have come here with a programme before. Have you not?

Senator Osita Izunaso: Yes.

The Chairman: What was that final date in the programme?

Senator Osita Izunaso: Your Excellency, I have to explain it very well so that this Senate will understand it.

The issue of date for stopping gas flaring is something that the oil companies have always taken advantage of. In fact, when we started with them they were proposing this 2010 that we are talking about. Later on along the line, they shifted the goal post to 2013. We brought in NNPC and NNPC, too, shifted it to 2011. We said, fine, based on what we have done in the Senate where we gave you a programme to follow that we believe that by 2010 gas flaring should stop and they agreed with us.

As a middle way out, if we do not make it tight for them gas flaring will never stop. If you allow the oil companies they will keep shifting from 2013 to 2015 to 2020. Therefore, there must be something tight because they will all conform to it. As I speaking, certain oil companies have already minimised flaring by up to 80 *per cent* because of the pressure we are mounting on them. They know what to do.

Therefore, I strongly recommend that we go by the date of January 1st 2010 as amended by the Deputy Senate President.

The Chairman: December 2010, was what the Deputy Senate President proposed and I think that is long enough for them to really minimise and stop it completely. I will then put the Question on the Clause as amended.

Amendment put and agreed to.

Clause 2 – (CESSATION OF GAS FLARING)
– as amended, ordered to stand part of the Bill.

1684

Clause 3 – (OPERATORS TO SUBMIT GAS UTILISATION PLAN WITHIN 90 DAYS OF THE COMMENCEMENT OF THIS ACT)

Question proposed

The Chairman: Is there any Amendment to Clause 3?

Senator Patrick Osakwe: Mr. Chairman, on Clause 3(2)(d) which says: *All gas which remains unplanned...* the letter *s* should be deleted from the word; *remains*. It should read, *all gas which remain* and not *remains*

Amendment put and agreed to.

Question on the Main Clause as amended put and agreed to.

Clause 3 – (OPERATORS TO SUBMIT GAS UTILISATION PLAN WITHIN 90 DAYS OF THE COMMENCEMENT OF THIS ACT) – as amended, ordered to stand part of the Bill.

Clause 4 – (PROHIBITION OF DIRECTIVE OR AUTHORISATION TO FLARE GAS)

Question proposed.

Senator Victor Ndoma-Egba (Cross River Central): Mr. Chairman, I have a problem with Clause 4, particularly sub (2) of it. The whole intention of this Bill is to prohibit gas flaring at a certain date. I believe that intention is absolute. Looking at Clause 4(2), we are reversing the whole intention of the Bill by giving the Minister so much power to allow flaring in certain circumstances. We should stand committed to outlawing the flaring of gas absolutely. Therefore, Clause 4(2) should be deleted..

Senator James Ebiowou Manager (Delta South): Mr. Chairman, I support the argument put forward by the Deputy Majority Leader, distinguished Senator Victor Ndoma-Egba that whatever we are doing here is to stop flaring. But while doing that we give power to somebody to do something else, it is likely to be abused and the purpose may not be achieved. Therefore, it has to be absolute.

1685

We must be clear in all issues. There is a phrase added to the provision in the original Bill which is *Vent Gas*. I do not really understand the purpose of that addition to the original Bill.

If you take a looking at the dictionary meaning of the word *vent*, if you allow me to read, there are so many meanings of it, but for the purposes of this Bill, it may mean, a hole for the escape of gas or air. That is the meaning of vent but what we have here is vent *gas*. It is a law that we are enacting, therefore we need to be very clear.

The Chairman: Distinguished Senator James Manager, what are you suggesting then?

Senator Grace Folashade Bent (Adamawa South): Mr. Chairman, I speaking in tandem with the Amendment made by the Deputy Senate Leader that we cannot vest the power to permit gas flaring totally in the hands of the Minister. It is either the same National Assembly that is outlawing this flaring that should be responsible for that or the President himself. For the Minister to be solely given the responsibility, to me, will be too much. It is either given to the President himself or it is shared between them. I think it is too much power to be given to the Minister alone.

Senator Lee Ledogo Maebea: Mr. Chairman, in answer to distinguished Senator James Manager's question, in engineering, if you do not vent the gas you cannot flare it. That is the first point. To be able to flare gas, you must vent it. What this Bill is saying is that do not vent it so that you do not even flare it. All gases must be enclosed in chamber and utilised.

I have an Amendment to Clause 4. The Bill is saying something very serious about the start off of equipment. For instance, in several countries flared gases are converted to power. But before hooking the power equipment to the gas that you intend to use, you have to first flare it. Therefore, we must be specific about flaring in the cases of start off. We can fix it for two weeks or thirty days. We must insist on the number of days to which that start off can last so that the gas flaring stops immediately. This is because when you are installing new equipment that would even utilise gas, before you hook up and to test that the gas is coming on the line, the gas has to be tested, either it is being flared or it is being vented before it is hooked up.

1686

Before hook up in start off, we can say that not more than fourteen days, so that any company the Minister gives permission for that kind of operation would know that the permit is for fourteen days, seven days or even twenty-four hours. We must allow the operation sometime for trial and error and for that we can say, not more than seven days, so that the Minister gives a permit that lasts for only seven days assuming that the work could be completed within twenty-four hours,

My proposal for Clause 4(1) is that the Minister may grant a permit to flare or vent gas in cases of start off not exceeding seven or thirty days of the operation. But seven days is appropriate. It is very important.

Senator Kanti Bello (Katsina North): Mr. Chairman, what we need to do instead of having all these long debate is very simple. We should just remove Clauses 4(2) and (3) completely. The question of putting time frame with regard to Clause 4(1) is very unnecessary because we should give the Minister some little bit of leverage. When we are making laws, we should not make it very difficult. We should leave Clause 4(1) and expunge Clauses 4(2) and (3).

The Chairman: Let me tell you the Amendment so far. First is to delete Clause 4(2) and if Clause 4(2) goes then Clause 4(3) goes automatically because 4(3) is dependent on 4(2) unless you want to relate (3) to (1). Clause 4(2) and (3) would go.

I do not know how many people support giving dates but the feeling here may be that the Minister is left to use his discretion.

Senator Ikechukwu John Obiora: Mr. Chairman, you have hit the nail right on the head. There must be some discretion allowed the Executive in the management of the affairs of the nation because we cannot make these laws in absolute terms. What if we are at war and we needed to flare some gas to win the war. Of course, we are human beings and laws are made for us and by us. What I propose is to strengthen the sanction in Clause 4(2) and that is that: *Any person who flares gas without the permission of the Minister in the circumstances mentioned in Sub-Clause (3) above shall be liable to pay a fine, which shall not be less than the cost of the gas at the international*

1687

market: Provided that any such fine shall not be less than \$10 million. In this way, we would have added potency to the sanction and we would have retained the discretion of governance for the Executive.

Senator Teslim K. Folarin: Mr. Chairman the point I wanted to make had been made by my very good Friend, the Chief Whip of the National Assembly which is very clear that Clause 4(2) and (3) be expunged from the Bill because it is very contradictory to the whole intention of the Bill.

Senator Joy Emodi (Anambra North): Mr. Chairman, I feel that it would be absolutely necessary to have time limit for the start off and I am suggesting 30 days. It is rather dangerous to give that discretion to the Minister because it may be subject to abuse. I feel that it is important for us to be specific for the number of days allowable for the start off.

The Chairman: Really, I want to ask out of curiosity. There is no real discretion here. What is discretionary, in my opinion, which was not good enough, was to allow him to extend the time indefinitely. But for a start off, a short down or equipment failure, if we set the number of days, the Minister would be responsible enough not to just allow the company to begin to flare gas as if he was doing it ordinarily. That is my own opinion. Once you are not allowed to flare gas, you know you are doing it illegally and that was why we removed Clause 4(2) completely. But Clause 4(3), if you relate it to sub-Clause 1 above, then it would prescribe the penalty for flaring gas because I cannot see in the whole Bill anywhere it has prescribed punishment apart from this one.

Some several Senators: There is.

Senator Ayodele Sylvester Arise (Ekiti North): Mr. Chairman, my contribution is in relation to safety flaring which is being deleted altogether and we have companies that actually, as a safety requirements, must flare gas, that is not the major one. If we ban it, they would not be able to operate because I observe that in the Indo Factory.

The Chairman: Senator Osita, I would suggest that you do not engage in private conversations because Senator Arise raised a point

and you did not listen to him, hence you would not be able to answer. Senator Arise, please, could you make your point again? This is a Clause-by-Clause consideration, if you raise your hand it is important that I call you but please do not insist that because you made a correction here it must be taken. If it is not the majority view, it would not be taken.

Senator Arise, could you, please repeat what you said.

Senator Ayodele Sylvester Arise: My point is on the safety flaring. There is this Polythene Industry at Onne that we visited during our oversight function. It is a requirement for the safety of their operations for them to flare gas but this is at a very minimal level. It is not the one that we are looking at. If we do not include such operations in this Clause, then we would create problem inadvertently. Therefore, I would suggest that we include safety flaring in Clause 4(1) as part of those to be exempted.

Senator Paulker Emmanuel (Bayelsa Central): Mr. Chairman, I rise to support what Senator Arise proposed. During operations even in drilling, there is no way you cannot flare some amount of gas. There should be some flexibility, at least, to assign some number of days. If we lose that aspect, then it would affect even the quantity of crude during exploration. Therefore, I would suggest that little flexibility of allowing some amount of gas to be flared should be included for safety purposes.

The Chairman: How would you frame Clause 4(1) now? There is no point in just making a comment. If you want to amend it, do so and we put it down.

Senator Jibril M. Aminu: I want to make Amendment

The Chairman: Professor, are you making an Amendment?

Senator Jibril Aminu: Yes, with your permission, on safety flaring. I do not think that is an issue because a refinery, for example, will always flare gas, sometime small, sometime large. So, I do not believe that is something which should come into a law to allow them to flare gas.

1689

Everybody knows that a refinery or a petrochemical plant do flare gas and that is how people know that they are working. I do not think that is a problem.

So, the point raised by Senator Arise arises in other to make an exception in the Law. All of this argument is because we have not got used to conserving gas. If the culture of conserving gas is established the companies themselves would not want to flare gas because they are wasting money. So, I think we should leave these things as they are but expunge Sub-Clause (2). It is a very good Law and we should not really be shaking.

The Chairman: Senator Andrew Babalola is it still Amendment?

Senator Andrew Abidemi Babalola (Oyo North): Mr. Chairman, Clause 4(1) should end after the word; *gas*. I say so because that is the one that is telling us that no person shall direct, permit or otherwise flare gas. Then we can move the other part of that Sub-Clause into Sub-Clause (2). There is what is called, essential and non-essential flaring which is what Senator Arise and other Colleague are referring to. Essential flaring means that there is certain flaring that must be done and we have to give the Minister the flexibility to do that. I think that should be reflected in Clause 4(2) instead of deleting Clause 4(2) entirely. In Clause 4(1), after the word, *gas* the remainder of that sub-Clause should be merged with Clause 4 (2) and that will make a lot of sense.

The Chairman: Once more, distinguished Colleagues, after your explanation you tell me the sentence, not just the explanation. We can all explain but we are amending the Bill, so you tell me exactly what the sentence should be.

Senator Andrew Babalola, it is not compulsory that it must have Clause 4(2), it says you cannot do it, provided you can do for a start off for this and for that. If what Senator Arise mentioned is essential then all we need to do is to add the words; *essential flaring*. That is all. If that is what you want us to add to Clause 4(1). However, I do not know how ambiguous that would be.

Senator Hosea Ehinlanwo (Ondo South): Mr. Chairman, my Amendment is to Clause 4(1). As Senator Arise proposed for essential flaring we

1690

have to be specific about the power we are giving to the Minister. Therefore, I would propose that it should be done within 30 days, and the Minister will have the chance to say it should be done within two, four or seven days as the case may be but it should not be more than 30 days.

So, when we put that he would not have had wild powers, to give unlimited time and they would continue to flare for more than 30 days. The Minister should then specify the time for start off which should not be more than 30 days. If there is any problem later, they can still call. So, I propose we put specific days and 30 days should be the maximum days to be allowed for start off by the oil companies and then the Minister can act within that period.

The Chairman: We have gone passed restricting the number of days that you want for a start off, equipment failure, or short down. We have passed that one now. We debated that for quite a time.

Senator Lee Maeba, what is the question for Senator Osita .Izunaso?

Senator Lee Ledogo Maeba: Mr. Chairman, you rejected my proposal for Sub-Clause (1). My proposal is also tied to Sub-Clause (2). If there is a turbine that has a break down there are two things, the gas must be shut in to effect a repair or the gas must be flared so that the gas does not escape to disturb the workers.

It is very necessary if you are not carrying restriction on Sub-Clause (1). But my proposal is that if you want to remove Sub-Clause (2), you have to take safety flaring and non-continuous production flaring and put to Sub-Clause (1) because those are basic oil field conditions.

There must be safety flaring for the case of repair on a system and at the same time, there must be non-continuous production flaring on the case of effecting repair on either a flow station or any gas recycling plant. So, Sub-Clauses (1) and (2) are very necessary. But my fear is that if a company brings faulty equipment for start off and you give them an unconditional flaring and the equipment breaks down then the company continues to flare

1691

because the Minister has given them permission to flare for start off.

Whereas the problem of start off is the faulty equipment they have brought. So, even if you put 90 or 180 days the company must work around the clock, and after that period they must shut down the equipment and forget about the project till when they can restart. But to give them unconditional flaring, we are back to what Senator Victor Ndoma-Egba was saying, the Minister can say go ahead. This is Nigeria, we should not give room for the Minister to be compromised by saying go ahead.

Therefore, we should be careful if we are deleting Sub-Clause (2) because Sub-Clauses (1) and (2) are very necessary. Sub-Clause (2) is completely a good condition for safety flaring. You cannot remove Sub-Clause (2) because if you do, a whole flow station could be burnt.

Finally, my question is that, if you remove Sub-Clause (2) what do you do? If you do not put time from on Sub-Clause (1) how do you ensure that the Minister does not abuse his power?

The Chairman: Senator Lee Maeba, what is equipment failure? Is it not when something goes wrong in the industry? You are proposing 30 days, if within 30 days they do not repair their equipment, what happens? If they repair their equipment and it fails again, what happens? We should to some extent, assume that the people involved will be responsible. That is my assumption. We should not assume that we can legislate on the responsibility of every individual in the industry. That is the presumption here. If any one of us, assuming is made a Minister, we will assume that he will be responsible and if you are flaring we will give you enough time to flare for a start off of equipment failure or for shut down that would ensure that it is done.

Sub-Clause (2) is giving the Minister the permission and in Sub-Clause (1) it says: *Provided the Minister may grant a permit to flare or vent gas in cases of start off, equipment failure, or shut down.* You may add; *or safety* and that should cover everything.

Senator Simon Ayogu Eze (Enugu North): Mr. Chairman, I want to propose an Amendment which

1692

will to take care of some of these apprehensions. Senator Arise has spoken about essential flaring and Senator Obiora has spoken about a situation where the country will require flare of gas; maybe in a war or a difficult situation. There is apprehension that we should not give the Minister a limitless licence because it can be abused. So, I want to suggest that we bring in a Clause that will tighten the process of granting such opportunity by amending the original Sub-Clause (2) to say that: *Any person who flares gas in contravention of Clause 4(1) above, shall be liable to pay a fine which shall not be less than the cost of gas at the international market except such flaring is with the approval of the National Assembly. (Interruptions)* We need to tighten it to avoid abuse.

Senator Sidi Ali (FCT): Mr. Chairman, the difference between the original Bill and this one, is just the word; *vent*. I am recommending that Clause 4 reads: *No person shall direct, permit or otherwise aid, empower or authorise howsoever, any company engaged in oil and gas operations to flare gas provided that the Minister may grant a permit to flare gas in cases of start off, equipment failure, shut down or safety flaring.*

The Chairman: They explained the terminology *vent* that it is a technical word, so to remove it is not the appropriate thing to do.

Senator Sidi Ali: Do we now say, *flare or vent gas*?

The Chairman: The only thing you have added is safety.

Senator Sidi Ali: I added safety flaring which is important and that will take care of Sub-Clauses (1) and (2).

The Chairman: That is what I have been saying; equipment failure or safety flaring.

Senator Sidi Ali: If we must bring in *vent* then it should read in part: Any company engaged in oil and gas operations to flare or vent gas.

The Chairman: I think that is all right because it has taken care of safety flaring.

1693

Senator Anyim C. Ude (Ebonyi South): Mr. Chairman, in all this, if we do not add time limit to it, the Minister will exploit it. The oil people are very powerful. They can do many things. Let us limit the Minister to duration of time that he must grant this permit. This is why in line 4 of Sub-Clause (1), after the word; *permit*, we should say; *of not more than 30 days*. Let us give him some time limit. We should put a time frame.

The Chairman: Is it a popular opinion that we should have a time limit?

Several distinguished Senators: Yes.

The Chairman: All right, read it as you have suggested.

Senator Anyim Ude: Clause 4(1) to read thus: *No person shall direct, permit or otherwise aid, empower or authorize, howsoever, any company engaged in oil and gas operations to flare or vent gas, provided that the Minister may grant a permit of not more than 30 days to flare or vent gas in cases of start-up, equipment failure or shut down and safety.*

Senator T. U Wada (Gombe South): Mr. Chairman, in legislative drafting, you do not put two provisos in one Clause. If you say that, *no person shall direct, permit or otherwise aid, empower or authorise howsoever, any company engaged in oil and gas operations to flare or vent gas, provided that the Minister may grant a permit to flare or vent gas in cases of start-up, equipment failure or shut down provided that the Minister can grant the permit within 30 days*. That is two provisos in one Clause which is not correct in legislative drafting.

The better thing to do would be to break the Clause into two. Now that we have done away with the old Sub-Clause (2) we can now put it this way. Sub-Clause (1) will stop with the word, *gas*. Then Sub-Clause (2) will read: *The Minister may grant, permit to flare or vent gas in cases of start-up, equipment failure or shut down provided that the Minister cannot grant such a permit for more than 30 days or 60 days*. I am suggesting that 30 days is too small. We can make it 90 day because in the case of equipment failure, you may not be able to repair the equipment within 30 days. Even in the

case of a start-up, how do you determine it? I am of the opinion that we extend the period to 60 days or 90 days which is reasonable enough period. Let us break the Sub-Clause into (a) and (b) and extend the timing. If that is accepted I can take it all over again.

The Chairman: This is precisely where the problem is. We have reluctantly after a long debate added 30 days. Now, you are saying we should increase it to 90 days. If there is equipment failure for such a long time, the company will be losing money. Which company is going to have 90 days doing nothing at all? I believe that the companies will be anxious to get the equipment working so that they can make money. In my candid opinion, even the 30 days is too long. I am not in the oil industry, Senator Lee, is the person there, I think the companies will minimize the amount of time they will spend to repair equipments. They will do it as quickly as possible so, 30 days is enough.

The other issue which you have raised which may be technical and the lawyers can address it is that we cannot put two provisos in one Clause. So, what is the (1) (a) and (1) (b) going to be?

Senator T. U. Wada: Clause 4(1) will read thus: *No person shall direct, permit or otherwise aid, empower or authorise howsoever, any company engaged in oil and gas operations to flare or vent gas*. That is Sub-Clause (1). It is a complete directive saying that no company shall allow this and it stops there.

Sub-Clause (2) will now says that: *The Minister may grant a permit to flare or vent gas in cases of start-up, equipment failure, shut down or safety flaring, provided that the Minister cannot grant such a permit for more than 30 days*. That is what I am saying and it becomes Sub-Clauses (1) and (2).

Senator Wilson Asinobi Ake: That is a problem with that drafting. Safety flaring is a continuous thing. There are some essential flaring that are always allowed to go on.

Several distinguished Senators: No.

The Chairman: I think there would be people supervising this, would they not know the

1694

1695

difference between safety flaring that will be continuous and flaring that is just for wasting now? Would they not know the difference? How are we going to legislate this? We should not go into administrative arrangement, please. There will be organisations that will write out from this Act all the administrative instructions. That is clear. If it is safety flaring as Senator Jibril Aminu and Senator Arise Ayodele had said, that is understandable and it would go on. We cannot put it here. How would you construct it?

Senator Ayodele Sylvester Arise: I am sorry to take you back on the 30 days issue but it is important that we realise that some of this equipment will have to be shipped and shipment sometimes take 45 days. Some experts coming and Visa process takes about two weeks and I want you to look at that again

The Chairman: The way there is that the Minister would give the permission. If you are going to ship your equipment you would go to the Minister. Are we going to write in the law that if you are going to ship your equipment your own should be longer? So, 30 days is all right. If you are going to ship your equipment, you write to the Minister, he gives you the first 30 days and if it does not work, he will give you another 30 days.

Senator Andrew A. O. Babalola (Oyo North): On what Senator T. U. Wada suggested, if we are going to have Sub-Clause (a) and (b), we cannot without reference to the first Sub-Clause. So, that Sub-Clause must start with the phrase: *Notwithstanding the position of Sub-Clause 1(a).* That is what I want to add to his suggestion.

The Chairman: I want to put the Amendment as proposed by Senator T. U. Wada and further amended by Senator Babalola.

Amendments put and agreed to.

Question on the Main Clause as amended put and agreed to.

Clause 4 – (PROHIBITION OF DIRECTIVE OR AUTHORISATION TO FLARE GAS) – as amended, ordered to stand part of the Bill.

1696

Distinguished Senators, there is a problem in lawmaking. That problem is that everybody's opinion has to be taken into consideration and every line must be read. You cannot wake up overnight and get a piece of paper and pass it as if it is a letter from one person to another. You can see that we all have different views and opinions that appear very cogent and very important. I want to emphasise the fact that we are not going to be stampeded into passing any law only to find out tomorrow that we have done the wrong thing.

Senator Teslim K. Folarin: I now move that this Senate do suspend further consideration of the Bill on the Gas Flaring to enable Mr. Chairman to report progress.

Senator Ahmad Rufa'i Sani (Zamfara West): Mr. Chairman, I second the Motion that the Chair do report progress.

Question put and agreed to.

(The President resumed the Chair)

The President: The Senate in the Committee of the Whole considered the Report of the Committee on Gas on the Prohibition on the Gas Flaring Bill, 2009 and approved as follows:

Clause 1 as recommended,

Clause 2 as recommended,

Clause 3 as recommended, and

Clause 4 as amended.

Further consideration of the Report is deferred for another legislative date. Is it a true reflection of what transpired in the Committee of the Whole?

Several distinguished Senators: Yes.

Senator Teslim K. Folarin: Mr. President, I now move that this Senate do suspend proceedings and resolve into the Committee of the Whole to receive briefings from the Ministers of Foreign Affairs, Interior and Defence as well as the Security Adviser to Mr. President.

1697

Senator Ahmad Rufa'i Sani: Mr. President, I rise to second the Motion.

Question put and agreed to.

(Senate resumed in the Closed Session)

Sitting suspended: 12.20 p.m.
Sitting resumed: 1.50 p.m.

(The President in the Chair)

The President: Distinguished Senators, the Senate in the Committee of the Whole discussed issues that we think is important to our workings in the Senate. Is that a true reflection of our discussions?

Several distinguished Senators: Yes.

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

Senator Ahmad Rufa'i Sani: Mr. President, I rise to second the Motion that the Senate suspends other items on the Order Paper to another legislative day.

1698

Question put and agreed to.

By the leave of the Senate other items on the Order Paper stood down to another legislative day.

ADJOURNMENT

Senator Teslim K. Folarin: Mr. President, I now move that this Senate do adjourn till next Tuesday, 19th May, 2009 at 10.00 a.m.

Senator Ahmad Rufa'i Sani: Mr. President, I second that the Senate do adjourn till Tuesday, 19th May, 2009 at 10.00 a.m.

Question put and agreed to.

Resolved: That the Senate do stand adjourned till Tuesday, 19th May, 2009 at 10.00 a.m.

The Senate adjourned accordingly at 2.25 p.m.