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**FEDERAL REPUBLIC OF NIGERIA**

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**Thursday  
2<sup>nd</sup> July, 2009**



# **NATIONAL ASSEMBLY DEBATES**

## **FOURTH REPUBLIC THIRD ASSEMBLY (SIXTH SENATE)**

### **THIRD SESSION**

#### **SENATE OFFICIAL REPORT**

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**SENATE OF THE FEDERAL  
REPUBLIC OF NIGERIA**

*Thursday, 2<sup>nd</sup> July, 2009*

*The Senate met at 10:20 a.m.*

**PRAYERS**

(The President in the Chair)

**VOTES AND PROCEEDINGS**

**The President:** Distinguished Senators, we have with us for approval the Votes and Proceedings of Wednesday, 1st July, 2009. Pages 21, 22 and 23.

**Senator Dahiru A. Kuta** (Niger East): Mr. President, second to the last paragraph titled *Confirmation of Nomination*; on the Question, before the phrase *Honourable Olabimtan Victor Adekanya*, delete the word *on*.

**The President:** Thank you very much former Comrade. We are now on page 24.

**Senator Mimi Barigha-Amange** (Bayelsa East): Mr. President, the name of the person who signed the Votes and Proceedings should be consistent. Here, it is stated *Dr. David A.B Mark, (GCON)*, while the correct name is *Senator Dr. David A.B. Mark. (GCON), FNIM*. It should be consistent.

**The President:** It is either way. It is noted; but I thought you were going to spell out all the names like *Benjamin Mimi Barigha-Amange*. Usually, when they put my name at the end for Votes and Proceedings, they do not put the word *Senator*. I think that has been the tradition in all of them. If they did not put Doctor now they would have just put *David A. B. Mark (GCON)*. When I asked, I was told that is the Parliamentary way of doing it. I asked once, myself.

**Senator Eme Ufot Ekaette** (Akwa Ibom South): Mr. President, I rise to move that the Votes and Proceedings of Wednesday, 1<sup>st</sup> July, 2009 be approved.

I so move.

**Senator Adegbo Erhiawarie Eferakaya** (Delta Central): Mr. President, I stand to second the Motion ably moved by Senator Eme Ufot Ekaette that the Votes and Proceedings of Wednesday, 1st July, 2009 be approved.

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*Question put and agreed to.*

*Resolved:* That the Votes and Proceedings of Wednesday, 1st July, 2009 be approved.

**ANNOUNCEMENTS**

**Meeting of ANPP Caucus**

**The President:** There will be a meeting of ANPP Caucus at 10:00 a.m. Please, all Senators of ANPP and Members are invited to this meeting.

Yours Faithfully

(Signed)  
Minority Leader

**Visit of Councilors from Jos**

**The President:** I wish to acknowledge the presence of Councilors from Jos East, Jos North and Bassa Local Government Councils Plateau State, who are in the Gallery to observe the Senate proceedings.

I wish them fruitful observation of our proceedings. You are welcome. Senator John Nanzip Shagaya, Senator Gyang Dalyop Dantong and Senator Satty Gogwim, are the sponsors.

**Elders Committee of PDP**

**The President:** The Elders Committee of PDP was inaugurated yesterday the 1<sup>st</sup> of July, 2009. The Senate representative in the Committee is Elder Anyim Ude (MON). On behalf of all of us we want to congratulate him.

The PDP Senators who have problems in their respective Senatorial Districts, should please note this. He is a true elder and has also been inaugurated into the Committee of Elders.

**Representative at Senator Lamai's Burial**

Before we finish I will announce the names of the Senators who would attend the burial ceremony of the last of the first set of Senators, Senator Lamai, which will take place in Fugar, Edo State. The Deputy Leader will bring the names and I will announce them.

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## PRESENTATION OF REPORT

### **Report of the Committee on Health on the Nigerian College of Medical Physics (Establishment, etc) Bill, 2009 (SB. 71)**

**Senator Victor Ndoma-Egba** (Cross River Central): Mr. President, the first business of the day is the presentation of the Report of the Committee on Health on the Nigerian College of Medical Physics (Establishment, etc) Bill, 2009 (SB. 71).

You may wish to invite the Chairman of the Senate Committee on Health, Senator Iyabo Obasanjo-Bello or her Vice to move the Motion for the Senate to receive the Report.

**The President:** In the absence of distinguished Senator Iyabo Obasanjo-Bello, I call on distinguished Senator Dantong to present the Report.

**Senator Gyang Dalyop Dantong** (Plateau North): Mr. President, in the absence of my Chairman who has mandated me to present this Report, I, therefore, wish to seek your indulgence to allow me present the Report by laying it on the Table. It is the Report of the Committee on Health on the Nigerian College of Medical Physics (Establishment, etc) Bill, 2009.

With your kind permission, I will lay the Report on the Table.

**Senator Anthony G. Manzo** (Taraba North): Mr. President, I rise to second the Motion ably moved by Senator Dantong that the Senate do receive the Report of the Committee on Health on the Nigerian College of Medical Physics (Establishment, etc) Bill 2009.

*Question put and agreed to.*

*Resolved:* That the Senate do receive the Report of the Committee on Health on the Nigerian College of Medical Physics (Establishment, etc) Bill, 2009.

*(Report accordingly laid on the Table)*

## ORDERS OF THE DAY

### MESSAGE FROM MR. PRESIDENT

#### **2009 Budget Proposal for the Niger-Delta Development Commission (NDDC)**

**Senator Victor Ndoma-Egba:** Mr. President, the first Order of the Day is an Executive Communication from Mr. President, Commander-in-Chief on the 2009 Budget Proposal for the Niger Delta Development Commission (NDDC).

You will recall that this Executive Communication from Mr. President was read on Wednesday, the 21<sup>st</sup> day of April, 2009.

With your permission, I wish to move that the Budget Proposal be referred to the relevant Committee, the Senate Committee on Niger Delta for further legislative action.

**Senator Adeleke Olorunnimbe Mamora** (Lagos East): Mr. President, may I seek clarification on whether it goes to NDDC or the Appropriations Committee.

**The President:** Senate Leader, you were busy explaining to Senator Jibril Aminu while Senator Adeleke Mamowora asked a question. He has not seconded you yet because he is seeking a clarification.

**Senator Victor Ndoma-Egba:** Mr. President, first of all, the bulk of the budget of the NDDC has already been debated when we were debating the 2009 budget.

Secondly, the budget of the NDDC is not a Bill, therefore it is not signed into law. It is merely approved by this Senate in plenary. Therefore, it is different from the FCT Bill because by the Constitution, the National Assembly sits as a State House of Assembly for the FCT and that is a law. The NDDC budget is not signed into law.

**The President:** I am sorry, Senator Mamowora, you cannot second it. Leader the problem is that you have done the referral already. He cannot second the referral. What he can second is for us to receive it. The man who can do the referral is distinguished Senator David Mark.

**Senator Victor Ndoma-Egba:** Mr. President, may I amend my Motion that we now receive the budget proposal of the NDDC.

**Senator Adeleke Mamowora:** Mr. President, I thank you for your timely intervention and having been given this clarification and as appropriate, I rise to second the Motion that this Senate do consider the

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request of Mr. President on the 2009 Budget Proposal for the Niger Delta Development Commission.

*Question put and agreed to.*

**Resolved:** That the Senate do consider the request of Mr. President, Commander-in-Chief on the 2009 Budget Proposal for the Niger Delta Development Commission.

*(The 2009 Budget Proposal is referred to the Committee on NDDC)*

**The President:** We did for FCT, but I think the difference between this and that of the FCT is because this has not come as a Bill and it is not going to go out as a Bill even though it is a budget. I tried to seek that same clarification this morning.

**Senator Joel Danlami Ikenya** (Taraba South):  
Point of Order!

**The President:** Distinguished Senator Joel Danlami, please raise your Point of Order.

**Senator Joel Danlami Ikenya:** Mr. President, I have several Orders here. Orders 53(6), 98(10) (a) - (e) and 9 (4)(a) - (b).

Order 53(6) states that:

*It shall be out of order to attempt to reconsider any specific question upon which the Senate has come to a conclusion during the current session except upon a substantive motion for rescission*

Order 98(10)(e) states thus:

*(e) all other matters related to Appropriations (Budget Matters);*

*(f) annual budget estimates.*

What we are talking about is Appropriations. Order 92(4)(a) & (b) states that:

*(a) When the bill has been read the second time it shall be committed to the Appropriations Committee. The Standing Committees of the Senate shall for this purpose be deemed to be sub-Committees of the Appropriations Committee and*

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*shall consider estimates for the Ministries, Departments and Agencies, which come under their charge.*

*(b) After consideration, the sub-Committees shall report back to the Appropriations Committee. The Appropriations Committee after deliberating on the report of the sub-Committees shall then report to the Committee of the Whole Senate to be known as Committee of Supply.*

I believe that after all the processes, we would still come back to report but my worry is that the sub-Committees of the Senate have no direct access to bring in Appropriations report direct to the Senate. Just like we did for FCT just this week, the matter has been referred to Committee on Appropriations and the Committee on FCT was asked to join in order to work out the modalities and to submit their report yesterday. This is Money Bill. Whether it was signed or not, it is about Money Bill and we should not reverse ourselves quickly. That is my view.

**The President:** That was my view, too, before I was convinced; but you have come by Point of Order.

**Senator Abubakar Danso Sodangi** (Nasarawa West): Mr. President, I concur to all the submissions of Senator Ikenya. The Standing Orders are there to guide us in carrying out our duties as Senators. We should also be consistent in execution of such assignments. That is the emphasis.

Secondly, during the previous years, whenever FCT budget comes, it is taken to the Committee on FCT directly. In your own wisdom and with the approval of the Senate, when it came last week, it was debated and agreed to be Money Bill; and it was therefore referred to Committee on Appropriations. Virement is Money Bill. Somebody has emphasised it. Whether it is Money Bill or Budget, it should go to Appropriations Committee. The NDDC and the FCT were creation of statute. The only difference is in Section 299 of the Constitution where it was stated that FCT should be taken as one of the States of the Federation and, of course, the Constitution vested the powers of legislation for FCT on the National Assembly. By extension, the NDDC which is a creation of this National Assembly, the Standing Committee, like what we have in FCT, we should also be seen as being consistent. That is the emphasis.

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**The President:** Senator Ikenya, your Order 53(6) is out of it because I have not banged the Gavel yet. No decision has been taken on that one. This one is not FCT, but NDDC. Your Point of Order is valid and needs to be considered.

I would like to hear a counter to what Senator Ikenya has said because truly, that was my stand this morning. People tried to convince me.

**Senator Heineken Lokpobiri** (Bayelsa West): Mr. President, I am of the very firm view that this is not a Bill although it has to do with money or budget of the NDDC. Outrightly, it was initially said by a Learned SAN and the Senate President. It is my very candid view that even from the precedent we have had so far, this matter has always been referred to the NDDC Committee. Distinguished Senator Osakwe was the Chairman, I remember very well from the records we have that he has been the one handling all the NDDC estimates.

I believe that one of the most important things we need to note in any Parliament is the issue of precedent. Precedents are things that we should be able to guide ourselves with. I do not think that there is any precedent in this Senate where the NDDC budget has ever been referred to Appropriations.

I am a member of the Committee on FCT and remember very well that when the FCT budget was presented, it was referred to the FCT Committee and I participated in the consideration of the FCT budget. So I am, therefore, surprised to hear from the Chairman that the FCT budget was referred to Appropriations. It was not referred to Committee on Appropriations. It was referred to FCT Committee; and as a member, I participated actively.

I want to associate myself with the views of the Learned SAN that this is not a Bill in its strict sense; it is an Executive communication. What Mr. President needs to do is to exercise his prerogative to refer the matter to the NDDC Committee?

**Senator Ahmed M. Makarfi** (Kaduna North): Mr. President, we should use this as an opportunity to streamline issues. I recall that the NCC budget was also referred to the Communication Committee and observations were raised. For me, there is really not much difference if we adopt a uniform pattern that we are going to adhere to. If all budgets - whether they are in form of a Bill or they are in a form of a request for approval - have to be treated and reported by Appropriations.

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The procedure would be that Appropriations Committee itself would not deal in detail with the budget. If it has to do NDDC, when it goes to Appropriations, it will send it to the Committee on NDDC and the Committee on NDDC will finish with the budget and report back to the Appropriations Committee who report back to the Senate. This will apply equally with the NDDC or any other Agency. This will streamline operations and there would be no confusion with the procedure to adopt. Still, the Committees will exercise the primary responsibility of going into the details of the budget, agreeing or disagreeing and amending and then report to the Appropriations Committee. The Appropriations Committee should not amend their Report, but adopt it and report back to the Senate.

On the issue of virement for FCT which went to the Committee on Appropriations, for example, Appropriations Committee sent it to Finance Committee because there was a component on financing. That is where the money for the budget is going to come from. But the totality of the Appropriations Report could tally and then submit to Senate.

So I suggest that we use this as an opportunity to streamline issues, but whatever we adopt, the primary Committees, in my opinion, would have to end up doing the detailed treatment of the budget by reporting either through Appropriations or directly to the Senate.

**Senator Osita B. Izunaso** (Imo West): Mr. President, this is a very serious matter that needs to be sorted out once and for all so that it does not keep re-occurring in this Senate. I want to align myself totally with what Senator Lokpobiri has said. There has always been precedent in this Senate. Since 1999 till date the NDDC budget has normally been referred to the Committee on NDDC because it is an Executive communication. It is the same way we refer the NCC budget to the Committee on Communications.

I do not think that the Committee on Appropriations should have any major role to play in a developmental budget like that of NDDC. The NDDC budget is not only about Naira and Kobo; it is about putting projects in various NDDC states. This is what is being done over the years but if this year the budget is taken to Appropriations Committee, how are they going to know what happened in the past years in terms of the money that went to various states of the NDDC and where those projects were located.

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So, I think the budget should be referred to the Committee on NDDC because that has been the precedent and I do not think Appropriations Committee has anything to do with this particular budget. I so submit.

**Senator Mahmud Kanti Bello** (Katsina North): Mr. President, whatever we do, we should always make sure that we do it in the interest of prudence and transparency. For the avoidance of doubt, every Committee of the Senate, when it comes to budget, is a Sub-Committee to the Appropriations Committee.

As it was rightly pointed out by Senator Ikenya, the fact of the matter is that, 92/4 is very clear because the NDDC Committee would look at the budget itself, do whatever corrections they want, and then forward it to the Appropriations Committee for transparency. Even on the question of transparency, this ought to be after the Committee has finished its work as a Sub-Committee and this has been the standard practice. So, I strongly suggest that this should be referred to the Appropriations Committee.

**Senator Satty Davis Gogwim** (Plateau Central): Mr. President, I want to align my thinking with that of yours, Senators Ahmed Makarfi and Joel Ikenya. If you look at Order 98(10) of our Standing Orders and with your kind permission, I will read. Order 98(10) states that: *There shall be a Committee to be known as Committee on Appropriations appointed at the commencement of the life of the Senate.*

**The President:** Senator Ikenya has read that Order already.

**Senator Satty Davis Gogwim:** Mr. President, on this matter, if we have done an oversight by wrongly approving that of the FCT which should go to the Committee on FCT without involving the Committee on Appropriations, we should not continue that mistake. This time around, for posterity and correction, we should always involve the Committee on Appropriations when these things are taking place.

**The President:** This is taking more time than I expected.

**Senator Olorunnimbe A. Mamowora:** Mr. President, no amount of time taken on this issue would be wasted because we need to resolve it once and for all. I am persuaded by several arguments of some of my Colleagues on this issue. It appears to me that the case of FCT is a bit different in the sense that the National

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Assembly is the lawmaking body for the FCT. The Constitution says the FCT shall be treated as if it were a state. It is like referring the budget of a state by a Governor to the State House of Assembly. If we refer the FCT Budget to the Senate or the National Assembly as a whole, it would be in order.

I seem to be persuaded by the fact that the Budgets of NDDC and NCC were all part of the entire budget presented to the National Assembly. In this instance, we are now being asked to just give some kind of approval. As submitted by Senator Heineken Lokpobiri and two other of my Colleagues, it seemed to me that it would not be taken as a Bill.

Again, on the issue of precedent, that is, how we did these things in the past. This is because precedents and conventions are very critical in legislative practice. I also want to draw your attention to Order (1)(b) of our Standing Orders and with your kind permission that Order says: *In all cases not provided for hereinafter, or by sessional or other orders or practice of the Senate, the Senate shall by Resolution, regulate its procedure.*

I am saying that if there is a conflict as to whether this particular issue has been addressed by the provisions of these Orders *vis-à-vis* practice, convention and precedent in this Senate, then we would have no other choice than to go by way of resolving the matter through a Resolution in order to put it on ground.

I am saying that if we are not persuaded by the precedent that we have established in this Senate, then it would not be out of place for us to go by way of Resolution of this Senate in order to resolve this issue once and for all.

**Senator George Anthony Manzo** (Taraba North): Mr. President, my submission is that we should look at the Budget itself not as a matter of money alone. If it is a matter of money, it should go to Appropriations, but budgeting goes beyond that and it is for that reason that we have several Committees in the Senate. I believe that the Committees that are in charge of the oversight areas could do a more detailed job. If we say that every money matter should go to Appropriations, perhaps, that Committee would be inundated. The ideal really, in my own opinion, is that if we only see budget as a matter of money, it should go to Appropriations Committee. But this has to do with developmental issues in the Niger Delta and other Sub-Committees. My submission is that we should follow the precedent and allow this to be as it used to be.

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**The President:** Let me take the last contribution from Senator Ayogu Eze, please.

**A distinguished Senator:** Mr. President, I have a point of Order.

**The President:** I cannot take another Point of Order because the issue I want to rule on is on a Point of Order. I have not ruled yet. I am just taking opinions so that I can rule on the Point of Order.

**Senator Ayogu Eze (Enugu North):** Mr. President, I think that the argument seemed to have converged at a point when Senator Ahmed Makarfi made clarification because the issue being raised on both sides have already found a convergence. The Budget of NDDC when referred to the Appropriations Committee would be treated by the relevant Committee which is the NDDC Committee and then passed to Appropriations Committee for final submission.

The issue of whether we had set a precedent or not does not arise because the precedent has gone against Order 92 which has made every Committee a Sub-Committee of the Appropriations Committee. If we have been doing it wrongly in the past, it does not mean that we will persist in doing it wrongly. Brutus-Brutus Ghali, the former Secretary-General of the United Nations says that: *It is only a fool that does not say I am sorry at one point or the other in his life.* This is because when you realise that the road you have been travelling is against your rules or that it is not what you are supposed to follow, you retrace your steps.

Appropriations Committee is like a Clearing House. It is true that a lot of people have some misgivings at this point in time about a number of things happening in Appropriations Committee, but it would not always continue to be so. We have to look at the overall structures that we are establishing for the National Assembly now and in the future.

In doing so, we should be guided by not what we, as individual Senators are doing right now, because we are all protecting our Committees. I am defending Information, she is defending Woman Affairs and other people are defending different locations. I think that we should be able to bequeath to this Senate a centralised structure that would make for easy administration. This is because if anybody says that Appropriations is not just about money, that the issue of Niger Delta Budget is not about money but projects; that is just trying to say something that is very obvious. The budget that we treat for the whole country is also about projects; it is not just about money. If it is money matter we would be talking about Finance Committee.

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This is budget, and we are talking about suitability of projects and what amount of money should go to where. I know that if we have a central Clearing House, FCT brings its budget and we treat it at the sub-Committee level and pass it on to Appropriations Committee, I am sure that if the FCT Committee works with the Appropriations Committee what would come out would be basically a reflection of the input from the members of the FCT Committee who are the people manning the particular assignment.

We must decide at this point in time to do what is right and return to the Order Book that we wrote for the Senate. I support that NDDC Committee should have a greater say about what happens in this Budget because they are the ones who would do it in the field. However, it should pass through the Appropriations Committee.

**The President:** I am going to devote more time on it but let me just clarify something because I am the one who will rule.

Is it a Money Bill? Those who are going to speak next should please make sure they give specific answer to that. Is it a Money Bill? That is the first thing.

Secondly, if it is not a money Bill, then what is it? Thirdly, at the end of the day whether it is the Appropriations Committee or NDDC that handles it, it is consistency that we are interested in. But if in the course of our consistency, we found that what we are doing is not correct, then, there is no harm in retracing our steps and doing the right thing and remaining consistent with what we think is right.

The point Senator Makarfi raised which was the point I raised earlier in the morning is, does it really matter whether it goes to Appropriations Committee, would the NDDC not be the main Committee here? There are so many other places where people are just going and approving Budget for them. The NPA is one of them and all the rest of them. They are generating and spending money and nobody is bringing it to the Floor here. It is not considered by anybody at all. We cannot carry on that way because no Agency can generate funds and then go ahead to spend it without authority from the Senate. So, we should be careful when we say this thing.

I know that NCC Budget was referred to the Committee on Communications. Now, supposing there is a letter asking for money for FERMA, what do we do with it? Would we just give it to Committee on Works and it brings it back and we pass it? So, we should look at all the possible cases before we take a decision.

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I agree with Senator Mamowora that we should spend enough time on this, then take a decision and remain consistent on our decision.

What has happened to our Order 92(1)(b) here is, we have been having one practice; and that was how the FCT one came. Usually, the Ministry of FCT will just give it to the Senate Committee on FCT and they will bring it back; but we said No, it is a Money Bill, it should go to Appropriations Committee. But Appropriations Committee in its wisdom, of course, knows that it has to be Committee on FCT that would do the bulk of the work. Theirs is just to append their signature and report back. I do not believe that Appropriations Committee would be in a position to begin to alter figures or adjust anything. Even, if it is referred to Appropriations Committee, the correct thing would be that NDDC would do the bulk of the work and the matter of reporting would be done by the Appropriations Committee.

Please, I have asked some cogent questions which you should all address properly.

**Senator Bassey Ewa-Henshaw** (Cross River): Mr. President, in going through our Order 92(1) I have read it over and over again. I believe that the framers of these Orders intended the definition of the Money Bill to refer to the Bill presented to us by the President of the Federal Republic during his budget address that affects Ministries, Departments and Agencies that are covered in that address.

There is no suggestion whatsoever that any budget or estimates coming from anywhere at any time must always be referred to as a Money Bill. We have to be very careful in setting a very dangerous precedent. We are making the Appropriations Committee an unnecessarily and overwhelmingly too powerful. That is my view and people are free to disagree with me. We need to democratise our Appropriations system in the Senate. When the President presents his Annual Budget, it is rightly referred to the Appropriations Committee. After that, other Agencies that come later should go to the various Committees that have oversight responsibilities for those Agencies. This is what the intendment of our Order is. There is no suggestion here. With your kind permission, I will read, Sir:

*During each year there shall be introduced into the Senate, an Appropriations Bill; not Bills, which shall contain the estimate (Budget) financial requirements for expenditure on revenue accounts on all the services of the government for the succeeding financial year.*

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There is no suggestion there that talks about the multiplicity of Bills from other areas and we should be guided by what the original intentions of our Orders are and what we have been adhering to as a practice in this Senate and democratise our Appropriations process.

**The President:** May I quickly make a comment on that. What we are trying to do is not to make Appropriations Committee any more powerful than any other Committee. That is not the essence. That is why I gave an example of NCC and the Communications Committee. We referred their budget to the NCC Committee. All along the FCT has been handled by FCT; it is only this year that we asked Appropriations Committee to handle it. I gave example of FERMA and I thought you would have addressed that.

**Senator Bassey Ewa-Henshaw:** The point I was trying to make was that I am not suggesting that we are deliberately trying to make the Appropriations Committee overwhelmingly powerful. I am suggesting that we should not inadvertently do so. That was the point I was trying to make

**The President:** No, I raised the issue of FERMA and I think you should address it. If there is a letter from Mr. President now saying so much money should be given to FERMA; what do we do?

**Senator Bassey Ewa-Henshaw:** I believe that FERMA is an Agency under the Federal Ministry of Works. If FERMA under the Federal Ministry of Works has to be given money, it will come in Mr. President's Appropriations at the beginning of the year. If it comes after that, it comes as a Supplementary or Amendment or whatever, which is related to the President's Appropriations that was presented at the beginning of the year.

The point is that at the beginning of each year, the President of the Federal Republic submits an Appropriations Bill for all the Departments, Ministries and Agencies, (*Interruptions*)

**The President:** Including NDDC.

**Senator Bassey Ewa-Henshaw:** It is not at the same time, Sir.

**The President:** No, no. The Annual Budget includes NDDC also. The President's Annual Budget reflects NDDC also.

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**Senator Ewa-Henshaw:** The point is that Mr. President's presentation of his budget address that comes to us is what our rules are referring to in this matter. That is my belief and that is the proper interpretation of these rules.

**Senator Nicholas Y. Ugbanne** (Kogi East): Mr. President, we are here to tell the truth; we are here to defend the integrity of this Senate; we are here to make comments and contributions that are realistic. I am a Member of the Committee on NDDC, but my views are that for the purpose under consideration, the way I understand it, the *Money Bill* here is a Bill that has Naira and Kobo denominations and if it is so then it has to pass through a process and the process, in my humble view, is to go to Appropriations Committee of the Senate that will refer this same Bill to Committee on NDDC to work upon. Why this is important is because the insinuation that a Committee would only sit down to do anything and it would be passed would disappear completely. The responsibility would rest squarely on the Appropriations Committee and anything that comes out of the Appropriations Committee and is approved by this Senate is the responsibility of the National Assembly.

I submit that it should go via Appropriations Committee and ditto for other Committees such as NCC, Aviation, etc. that send Estimates directly to Committees to route such Estimates to the Senate via the Appropriations Committee.

**Senator Adamu Sidi Ali** (Federal Capital Territory): Mr. President, to answer your question, in my opinion, this is Money Bill; and it is international practice that even for record purposes, every Money Bill should go through the Appropriations Committee. But my problem is, if for instance the Committee works on this NDDC Bill judiciously, to what extent would the Appropriations Committee interfere or meddle with the work of Sub the Committee? What limit does the Appropriations Committee have? Should they or should they not? Would there be no confusion between the Sub Committee and the Appropriations? We must streamline where the Appropriations Committee stops and where the Sub Committee starts. In my opinion, whatever the Sub Committee does should be final. *(The Principal Officers consulted with the Senate President)*

**The President:** Is there anymore persuasive argument?

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**Senator Patrick E. Osakwe** (Delta North): Mr. President, the problem I have with this matter is that the Senate took a position not too long ago. Apart from that, if you look at the provision of our Rule as it relates to 98 (45); with your permission I will read. It states:

*There shall be a Committee to be known as Committee on Niger-Delta appointed at the commencement of the life of the Senate. The jurisdiction of the committee shall include:*

- (a) *Niger-Delta Development Commission;*
- (b) *Matters affecting the Niger-Delta; and*
- (c) *Annual budget estimates.*

Why I am reading this section is that if you remove the annual budget estimates from the Committee on Niger-Delta, who would be performing the oversight function? I feel that it is the estimates which you approve as a Committee that you will go and oversee to find out whether the money you provided have been effectively used for what you provided it for.

My problem is that, just last week, we reversed ourselves on FCT; maybe we are improving or we are correcting a mistake. Apart from that, it is the Committee that does the Budget that does the oversight function because the Committee on Appropriations will not do oversight function on NDDC because I do not know where they will start.

My position is that the Senate Committee on NDDC will have a major role to play in the annual budget of NDDC. Having done that, I cannot see how Appropriations Committee standing alone can effectively perform oversight function or do the annual budget alone. My position is that the Committee on Niger Delta should be allowed to play the role just like they did in FCT. Appropriations Committee did not do anything; it was the same Committee on FCT that did the budget and brought it to Committee on Appropriations.

Incidentally, I am a Member of the two Committees. I am a member of Committee on Appropriations and also a member of Committee on NDDC. The constituency is important and if it is a mistake, let us correct it once and for all.

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**The President:** If we reduce the argument to small groups, we would not get it right. It is better that we listen to what is happening on the Floor. For the avoidance of doubt please, it is not that the Appropriations would take over and do everything; that is not the point we are making. With FCT, it did not do that.

Senator Osakwe, if you look at our Standing Orders, all the Committees are responsible for annual budget estimates; so that one does not come into play here. Since time is not on our side in this particular budget, I would suggest that I suspend the ruling on the Point of Order raised by Senator Ikenya today, refer what is before us now to the Committees on NDDC and Appropriations and they will report back on Tuesday so that we can pass it.

I will suspend the Ruling on this. I have given examples which nobody is addressing. Everybody is concentrating on NDDC. There are so many organisations apart from NDDC such as the Nigerian Ports Authority (NPA), Nigerian Communications Commission (NCC), NITEL, Central Bank of Nigeria, *et cetera*. So, it is not something that we can do in haste today.

My suggestion would be that this is referred to NDDC and Appropriations Committees. They should work together and bring the Report back on Tuesday. Then, I would allow time for Senator Ikenya's Point of Order before we would be able to take a decision on it because this is one decision that I would not want to take sitting on the Chair here all by myself. This is because it is a collective decision. This Point of Order is a unique one and because of the unique nature of it, we should do more consultations and more research work over the weekend. Let it be more holistic in approach rather than the narrow approach that we have taken on NDDC.

All the arguments raised from the Floor so far have asked cogent questions. If it is a matter of just Annual Budget presented by Mr. President, NDDC is also there. But that is not persuasive enough for those who are arguing on the other side. Either way, there are a lot of valid points that we must look at critically.

So, I will suspend the Ruling on Senator Ikenya's Point of Order and the referral would be to NDDC and Appropriations Committees and it must be reported back on Tuesday

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**Several distinguished Senators:** Let them report back on Wednesday.

**The President:** It is all right. They will report back on Wednesday. My ruling is that it is referred to the Committees on Appropriations and NDDC.

*(Report accordingly referred to the Committees on appropriations and NDDC to report back on Wednesday)*

Chairman, FCT, this last virement that was given to you, was it hijacked by Appropriations Committee? This is because that also is a genuine fear if that is what is happening.

**Senator Abubakar Danso Sodangi:** It was referred to the Senate Committee on Appropriations and they sent a letter to us and we worked on it. Later, the Appropriations Committee called on us and we jointly finished the job. *(Interruptions)*

**Senator James Manager (Delta South):** Point of Order.

**The President:** Senator James Manager, you can raise your Point of Order.

**Senator James Manager:** Mr. President, the whole thing is about me, therefore, I have been very quiet. Now that it has been referred to the two Senate Committees *(Interruptions)*

**The President:** The whole thing is about NDDC.

**Senator James Manager:** Between the two Senate Committees, who is going to present the Report, Sir?

**Several Senators:** It is you.

**The President:** Senator Manager, I do not know the answer that you got but when the Report comes out we would see who will present it.

**Senator Nimi Barigha-Amange:** Mr. President, my Point of Order is from Order 98 (45). It reads:

*There shall be a Committee to be known as Committee on Niger Delta appointed at the commencement of the life of the Senate. The Jurisdiction of the Committee shall include:*

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(i) *NDDC*,

(ii) *Matters affecting Niger Delta*

(iii) *Annual Budget Estimates*.

There is no Committee in this Senate known as NDDC. I have listened carefully to all the speeches. My distinguished Colleagues are using *NDDC Committee*. There is no Committee in this Senate that is known as Committee on NDDC. The Committee's name is Niger Delta. That is my Point of Order.

**The President:** Senator Barigha-Amange, I will like you to read our Standing Order 1(b).

**Senator Nimi Barigha-Amange:** Thank you Mr. President. Order 1(b) states:

*In all cases not provided for hereinafter, or by Sessional or other Orders or practice of the Senate, the Senate shall, by Resolution, regulate its procedure.*

**The President:** So, we have regulated ourselves to accept NDDC as a Committee. *(Laughter)*

**Senator Nimi Barigha-Amange:** I am not aware.

**The President:** Now you are aware. And because you were not aware of what you ought to have been aware, I rule you out of Order.

#### CONSIDERATION OF REPORT

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

*(Adjourned debate on Motion Tuesday, 19<sup>th</sup> May, 2009)(Second Allotted Day)*

*Motion made and Question again proposed that the Bill be read a Third Time*

**Senator Victor Ndoma-Egba:** Mr. President, our second Order of the day is the resumption of Consideration of the Report of the Committee on Gas on the Gas Flaring (Prohibition and Punishment) Bill 2009.

You will recall that further consideration of the Report was deferred on Tuesday, 19<sup>th</sup> May, 2009 to another legislative day. With your permission, I move that this Senate now resolve into a Committee of the Whole to resume consideration of the Report.

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**Senator Nimi Barigha-Amange:** Point of Order!

**The President:** Senator Amange, you can raise your Point of Order. I think that your oil well truly has dried up, so there are lots of problems now. Can you dig a new one? Think of a new one, please.

**Senator Nimi Barigha-Amange:** My Point of Order is on Order 90.

**The President:** Order 90? Please, read.

**Senator Nimi Barigha-Amange:** Order 90 states:

*More than one bill of the same subject matter may be introduced but when the Second Reading of a bill has been agreed to or negatived, the question shall not be proposed for the Second Reading of another bill of the same subject matter during the same Session. On the Order of the day relating to such a bill being read the President of the Senate shall direct that the bill be withdrawn.*

**The President:** Senator Amange, we started reading this Gas Bill before this PIB Bill that came up yesterday. I know where you are going to. You want us now to stop this because it ought to be part of the PIB Bill. Is that correct?

**Senator Nimi Barigha-Amange:** That is correct.

**The President:** Is this covered exclusively by the PIB Bill.

**Senator Osita B. Izunaso:** Senator Amange, yesterday you opposed the Bill and today you are saying it is covered, what a level of inconsistency. Mr. President, when I was making my address yesterday, I made it very clear that the PIB Bill was only complementing this. There was no aspect of stoppage of gas flaring in the PIB Bill. They were only complementing what we are doing. Senator Amange is not right.

There is nothing about stoppage of gas flaring in the PIB Bill. We have read it in and out, analysed it yesterday and there is no where in that Bill that they talked about stopping gas flaring. What they only talked about was to utilisation of more gas; which was what I commended them yesterday for by saying that it is complementing the effort that we are making. This is because if we do not have a specific legislation to stop gas flaring in Nigeria, all that we are talking about would result to nothing because the oil companies must find a loophole to continue to flare gas.

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This Bill is timely and in order and this is the time to save our country and guarantee our future.

**The President:** But can it be incorporated?

**Senator Osita Izunaso:** The answer is, No. I am sure that it cannot be incorporated. It is a separate Bill on its own. It cannot be incorporated, Sir.

**Senator Ahmed Mohammed Makarfi:** Mr. President, I remember that yesterday Senator Heineken in his contribution drew our attention to the fact that 16 Bills which have to do with oil and gas and taxation came up and were being repealed and harmonised. I do not know why we should be repealing 16 Acts and at the same time, enacting another set of Bills and say that they cannot be harmonised with an existing single legislation. I believe the reference to the three Committees is to incorporate whatever may not be incorporated in the Bill that is before us.

I submit that in order to meet the objectives of the PIB Bill the Committees charged with this responsibility should harmonise these Bills so that we have a single PIB Bill which will streamline and avoid duplication and multiplicity of Bills that have to do with the oil and gas industry in Nigeria.

**Senator Nkechi Nwaogu (Abia Central):** Mr. President, we must be very careful in what we are doing here. Yesterday we saw a 500 Clause Bill that was presented to this Chamber from the Executive. Already, some Members debated against having one single Bill to contain all the problems in the petroleum and gas industry.

Inasmuch as there is need for harmonisation, already about 16 Acts have been identified as being sort to be repealed. Let us not cut our noses to spite our faces. For instance, this country has been talking about gas wastages, gas flaring, implication on environment and all that. Yes, it can be incorporated in the PIB Bill, but can you think about how voluminous or how bogus this Bill would be.

Therefore, I am saying that this Gas Flaring and Punishment Bill should be retained. There is no way we can have one Bill that would be expected to capture all that are required. Already, there was omission on the Ecological Environmental aspect, they were all missing. Already, we did not talk about host communities' involvement in the harmonisation we are talking about.

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It is my opinion that we should go ahead with the Gas Flaring and Punishment Bill because it deserves to be treated separately; it deserves to be given a different Act. It deserves to be given its own section if incorporated in the PIB Bill. I am of the opinion that the importance of this Bill would be definitely lost and we would continue to cry about gas wastage. I support that the Gas Flaring and Punishment Bill be continued if truly we want to save our nation, Nigeria.

**Senator Anyim Ude:** Mr. President, this Gas Flaring Bill has 18 Clauses. We have almost gone half-way, we are on Page 8. If we had continued, by now we would have been over and if any other one had come in and referred to a Committee, we would have been talking of how to merge the two.

The problem of gas in Nigeria begins with the losses we have been suffering over the years through gas flaring. This has been pushed forward and backward, yet we are losing. We should proceed with what we have already started. We cannot stop half-way. When we finish we will pass it on to the Committee with the other one and they would decide and advise us on what to do. I was not here yesterday and I do not know how the other one was resolved. I do not want to comment on that. But this is something we have started a long time ago and we are almost half-way through. Let us continue and see it through.

**The President:** Senator Anyim Ude, this would not go to the Committee again. It has passed that stage.

**Senator Mohammed Kabiru Jibrin (Kaduna Central):** Mr. President, the world of gas is a very novel introduction in the processing of hydrocarbon around the globe. We have noticed that the Petroleum Act, as it were in Nigeria, has been moulded with so many lapses and over the years the country has seen and suffered so much as a result of the lapses included in the Bill.

The gas issue which is very new to the entire world is being looked into very carefully from a lot of angles. The Committee on Gas has made efforts to go round seeking knowledge on the subject in order to ensure that the Nigerian nation does not fall into the pitfalls that it has suffered through the implementation of the Petroleum Act.

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It is true that one could consider merging the Petroleum Industry Bill with the Gas Flaring and Punishment Bill. But the important thing that we must note is that from 1979 to date, this country has had so many regulations and some legislations as well, with respect to gas flaring in an effort to stop or drastically reduce it without success at all.

If you take a look at the Petroleum Industry Bill, regard has not been made specifically in the area of gas flaring prohibition or punishment. Therefore, it is necessary to consider that aspect in its own respect so that the country will benefit from its gas resources.

Up till tomorrow and until any time you attend a meeting of the petroleum industry most operators in the industry refer to gas as a second fiddle to petroleum. But now the world has seen that it has the same or even more leverage in terms of economic gains as much as petroleum. I do not see how we can simply close our eyes to the idea of wasting our huge gas resources to innumerable flaring which has affected the entire world in terms of green house emissions. Nigeria is, perhaps, the second or third largest country in the world that emits hydrocarbon to the atmosphere due to gas flaring.

To say that the Gas Flaring and Punishment Bill should be dropped or simply be abandoned because the Petroleum Industry Bill has been introduced, even though they have not been compared to see whether there are similar provisions in both is to say the list, unreasonable.

I hope and urge all my Colleagues to consider continuing the consideration of this Gas Flaring and Prohibition Bill so that we could save the country from the enormous loss of this beautiful resource that will generate so much economic activities for us in the country.

**Senator Eme Ufot Ekaette** (Akwa Ibom South): Mr. President, I rise to say that I looked through the Bill we had yesterday; and it is intended to change the regulatory agencies in the petroleum industry. I looked at some of the objectives for some of those departments, they were not very specific. We need laws for them to operate especially when it has to do with gas because we know what we have lost as a nation and the effect of gas flaring on the environment, the people and the communities.

So, I believe that having gone far with this Bill that will not only address the issue of gas flaring, but also gives room for punishment and enforcement which will

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help the regulatory bodies in their assignment, we must continue with it and take it to the end and make it a law that will help the petroleum industry. It is not just harnessing the gas but to know what is happening to the communities and the environment. That is what we are talking about.

The Bill of yesterday sought to change the regulatory bodies and give them so many names. It did not give specific assignment. It is only when the Committees that will look into it will identify the objectives of each of those departments that came on the Petroleum Industry Bill (PIB), which we addressed yesterday.

I believe that we should continue and finish up with this and make it a legislation to be able to enforce things. I know that the operators in the oil industry are resisting and are not too happy with this regulation. They would like to continue with the flaring. It is easier for them but as a country, we have an obligation to save our resources, protect our people and environment.

**Senator Jibril Mohammed Aminu** (Adamawa Central): Mr. President, in my view there is no reason to discontinue the consideration of the Gas Bill because there is nothing in the Gas Bill that is inconsistent with any other legislation we are considering. Indeed, the Gas Bill will complement the provisions of the PIB when that Bill is passed and is being implemented and enforced.

The Gas Bill gives authority by law to the oil companies to do certain things and demand operators and investors to do certain things. They require the law to do it and there is no such law now in the PIB. In the process of enforcing the PIB there will come occasionally a time when it will be necessary for them to look for authority of Parliament to do certain things. Let me give you an example. If an environmental issue arises and they cannot do it because they do not have the power under the law, they will come here and look for a power and the law. Therefore, it is the same thing with gas flaring and how to handle gas. Even in the matter like the Joint Venture, there is nothing in the Gas Bill that will run counter. Take the Authority, the Minister is mentioned in the Gas Bill and the Minister is mentioned in the PIB, it is the same authority we are dealing with, yet as distinguished Senators have said, every hour wasted is a great loss to the country and to the environment.

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I, therefore, think that this Senate should continue with the Gas Bill. If at anytime and I doubt; that any issue arises, where there is need to amend that law, the provision is always there and it can be done. In the mean time, our job is clear and we should continue with the consideration of the Gas Flaring Bill to the Third Reading.

**Senator Umaru Dahiru** (Sokoto South): Mr. President, I just want to give support to what the last speaker has said. In the current Bill we are considering, the topic is Prohibition of Gas Flaring 2009 and we have targeted 2010, if I can understand it. All this while, we have been making pledges. Gas companies have been making promises saying that by 2008 gas flaring will come to an end; but here we are, it goes on and it continues, the environment and the nation is suffering for it.

The current Bill being considered is targeting 2010 and it is empowering the Minister to make sure that the target is achieved. The companies that are involved, in case of a default, we have a way of punishing them and imposing a penalty on them and I do not think they will play with it.

I will urge us to equally consider this Bill and take its intendment with the last Bill we discussed yesterday. So, by and large, the Minister will decide which one to apply in the event of non-compliance. So, I am in concurrence with those who support the continuation of the consideration of this Bill.

**The President:** May I just clarify that the issue we are discussing came by Point of Order. So, let us not overlook that. He is saying that this is dealing with nearly the same subject matter and the question that I want clarified is whether this could be incorporated in the Gas Bill. We all accepted the merits of the Gas Bill, but whether it could be incorporated in the PIB or not is why we are asking this.

**Senator Heineken Lokpobiri:** Mr. President, I want to contend very strongly that Senator Barigha-Amange's Point of Order is very timely, valid and should be sustained. My reason for saying so is that yesterday's PIB was seen by most Senators to be a Bible; one law that would regulate the entire petroleum and gas industry. If anybody is arguing to the contrary let the person say it. Yesterday's Petroleum Industry Bill (PIB), the idea was that we should repeal every other existing petroleum and gas Act so that we can have one law that would be a Bible for the entire petroleum industry. That was the essence why the

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Senate yesterday gave an overwhelming support despite the fact that there is no point repealing all the 16 existing gas and petroleum Acts in the country.

Apart from that, if you look at Clauses 15 and 16 of the Bill under consideration, some of the laws sought to be repealed in the PIB are the ones seeking for amendments here. Clause 15 has consequential amendments. You have the Associated Gas Rejection Act Bills, CAP A25 is sought to be amended. But in the PIB it is sought to be repealed.

If you go to the next page we have the Petroleum Drilling and Production Regulation Act Cap. E10, Laws of the Federation, 2004 that one too is sought to be amended here. Meanwhile, in the PIB which this Senate sought to be a Bible, is seeking to repeal it.

So, I believe that nobody is talking about the merits and nobody is saying that this Bill is lacking merit but what we are saying is that since the Senate feels that we should have one single law that should regulate the entire gas and petroleum industry, it is also imperative that whatever relevant Clauses in this Bill should be incorporated into the PIB, otherwise we would be seen to be probating and reprobating at the same time. That is my submission.

**Senator Lee Ledogo Maeba** (Rivers South-East): Mr. President, we are one step forward and one step backward. We are at the Report Stage of this Bill and we have a Bill that has just started its Second Reading. What if the Committee recommends that we should not pass the Bill?

**The President:** Senator Maeba, that is hypothetical; you know that it would not happen. We must be realistic. You know that that Bill is not going to be thrown away. Is that what you intend doing? If it is, we can adjust the Chairmanship of that Committee.

**Senator Lee Ledogo Maeba:** What I am trying to say is that we have a Bill that is at the Report Stage. The Bill is passed. Even after the Bill is passed by the Senate, if it needs to be incorporated in any place, it can still be done. What I am saying is that we cannot terminate this process because it is not in any part of our Standing Orders unless there is an Amendment. Our Rules says that unless an amendment is brought as a substantive Motion highlighting portions of a Bill that it seeks to be incorporated into another Bill.

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I believe we are on course to continue and finish the Bill and pass it. If at the process of the formation of the Petroleum Industry Bill, we need to integrate anything, it can be done there. It is on course now the Committee has finished its work and we are considering their Report. Let us finish their Report, possibly pass it and we would then proceed from there. It is on course. With the provisions of this Bill, we seek to achieve urgent measures, so we should go ahead and do what we are doing for the sake of the Nigerian gas. If at the end of the day we need to integrate anything or subsume anything into it, we will do it but I believe we should continue.

**The President:** All right, let me rule on it. I have heard enough arguments from both sides. Senator Amange, your Point of Order would have been most valid yesterday, if you had asked us to suspend that one because it was the one that was for Second Reading. What is before us now is for Third Reading.

You came by Point of Order. I took time to listen to the arguments from both sides because it is not the merits and the demerits of this particular Bill that is before us, we are doing the Third Reading of this Bill. Petroleum Industry Bill came after this. So what we should have stopped yesterday was the PIB not this one by our Order.

Your Order is a valid one but unfortunately, yesterday, you were concentrating on something else and you did not raise it. Therefore, your Point of Order valid as it would have appeared on the face value, cannot be sustained because of what is before us. I appreciate what you have said but pity would not solve your problem here. So, I rule you out of Order.

We would continue with this Bill but unfortunately, the time we would have used in debating this Bill we have spent in it trying to see whether or not we should carry on with it. I would suggest that if you would exercise a bit of patience, in just forty-five minutes, we should be able to go through what is left in this Bill so that we can put it out of the way.

Senator Mamowora, you are going to second it.

**Senator Olorunnimbe Mamowora:** Mr. President, after Senator Nimi Barigha-Amange has succeeded in wasting the time of this Senate, I want to -

**Senator G. Anthony Manzo** (Taraba North): Mr. Chairman, I have a Point of Order!

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**The President:** Senator Manzo, raise your Point of Order, please.

**Senator G. Anthony Manzo:** Mr. President, I want to refer us to Order 53(8). With your permission, I read:

53(7) states thus: *It shall be out of order to use offensive and insulting language; and*

53(8) say: *No Senator shall impute improper motives to any other Senator.*

With due respect to my very highly respected Senior Colleague, Senator Mamowora, it is not right to suggest that Senator Amange deliberately sought to waste the time of this Senate. Quite contrary, we have learnt a lot from his Point of Order.

**The President:** You can learn something from what Senator Amange has raised, but Senator Mamowora has not in any way used offensive language. If you stand up and say that Senator Manzo has wasted the time of the Senate that is not offensive. It is not a language that can be considered by this Order.

**Senator Nimi Barigha-Amange:** Point of Order.

**The President:** Senator Amange, are you coming under the same Order or another one?

**Senator Nimi Barigha-Amange:** No, I would not have raised this type of Order.

**The President:** Thank you very much. Senator Manzo you have cried louder than the bereaved. So, I rule you out of Order.

**Senator Olorunnimbe Mamowora:** Thank you very much Mr. President for your robust protection more so that I am the only one left on this side. Thank you for coming to my rescue in my time of need. *(Laughter)*

I rise to second the Motion that this Senate do resume consideration of the Bill for an Act to Prohibit Flaring of Natural Gas in Nigeria and for Matters Connected Therewith.

*Question put and agreed to.*

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*Resolved:* That the Senate do resume consideration of the Report of the Committee on Gas, on the Gas Flaring (Prohibition and Punishment) Bill, 2009.

Report of the Committee on Gas, on the Gas Flaring (Prohibition and Punishment) Bill, 2009 –  
CONSIDRED IN THE COMMITTEE OF THE WHOLE

**The Chairman:** I believe that we have had a lot of time to read this Bill at home, so it would be a fast movement. We were on page 8, Clause 9. That was where we stopped.

*Clause 9 – (OFFENCES AND PENALTIES)*

**Senator John Nanzip Shagaya** (Plateau South): Mr. Chairman, before we go to Clause 9, I have an observation on Clause 2, at page 1. I do not think that was what was discussed. Clause 2, on page 1 talks about the deadline. We are already in July 2009. I think we went beyond that if the Secretariat can refer to their notes. It was 2010 and not 2008, Sir. We moved that date to January 2010.

**The Chairman:** We have not made a clean copy yet, the correction there is 2010, that is what we agreed. If you have reflected it on your copy, we are still using the old copies that we all had.

**Senator Anyim C. Ude:** Mr. Chairman, we actually stopped at Clause 9(1)(a). We were to consider 9(1) (a)(ii) when we adjourned. It is on this 9 (1)(a) (ii) that I have a question. To get the question right, let me take you back to 9(1)(a)(i) where we said thus:

*Any person who flares gas after 31<sup>st</sup> December, 2010 contrary to Section 2 of this Act, commits an offence under this Act, and shall be liable on conviction to pay a penalty which shall be equal to the price of gas at the International Market. (We changed this from New York) provided that, any payment due under this paragraph shall be made in the same manner and be subject to the same procedure as for the payment of royalties.*

My question comes after reading (ii), *the current \$3.50 per 100scf penalty for gas flared, shall continue until January 1, 2010 when the new penalty regime shall commence.*

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My question is this; we have to know the value of the penalty referred to in Clause 9(1)(a)(i). It is not known in figures but we know the current one of \$3.50. We want to know exactly what Nigeria would gain so that we do not take the \$3.50 only to find that the other one which is currently not quantified is higher. What is the figure in Clause 9(1)(a)(i) so that we ensure that Nigeria gains and not loses.

**Senator Osita B Izunaso:** Mr. Chairman, let me also offer a correction in Clause 9(1)(a). We already changed it the last time we treated it. We are not adopting the New York Mercantile Exchange. We have reverted to what we approved earlier, which is *Pay a fine which shall not be less than the cost of gas at the International Market*. This is because we agreed that we should be consistent.

Let me answer Senator Anyim Ude's question. The question about \$3.50 is the current recommendation by DPR of fines to be paid by any oil company that is flaring gas beginning from April 1, 2009. It is not the same thing as the current price of gas at the International Market. By the time the Bill will come into force we cannot say what will be the current price of gas in 2010. But all the operators and regulators know the current price of gas at any point in time.

**The Chairman:** Sorry, Senator Izunaso, what you said is not what I have in my copy as the corrected version. What I have is New York Mercantile Exchange. I do not know if anybody has anything else. What Senator Anyim Ude said is what I have in my copy.

**Senator Osita B. Izunaso:** New York Mercantile Exchange is a measurement to know how to pay for gas and you said we should be consistent in all the Clauses. So we referred back to what we passed in Clauses (1) and (2) by saying that the price they will pay would be the price at the International Market at that point in time. It should be corrected to reflect thus: *a fine which shall not be less than the cost of gas at the International Market*. That should be the new corrected version.

**The Chairman:** Please correct that. I remember we said we should be consistent throughout and that this fluctuation may put us at a disadvantaged position. Can I put the Question now?

*Question put and agreed to.*

*Clause 9 – (OFFENCES AND PENALTIES) – as amended, ordered to stand of the Bill.*

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*Clause 10 – (ACT TO APPLY IN EXCLUSIVE ZONE) – ordered to stand part of the Bill.*

*Clause 11 – (MISCELLANEOUS PROVISIONS) – ordered to stand part of the Bill.*

*Clause 12 – (POWER TO MAKE REGULATIONS) – ordered to stand part of the Bill.*

**Senator Joel Danlami Ikenya:** Observation, Mr. President!

**The President:** Observation! Yes, Senator Joel Danlami Ikenya.

**Senator Joel Danlami Ikenya:** Sir, the way you put the question on Clause 12, it is empty in respect of the Committee's recommendations.

**Several distinguished Senators:** It is retained.

**Senator Joel Danlami:** I am very sorry, Sir.

**The President:** You know that this Bill has been long with us and I told Professor this morning that once we start this Bill, to most people it will just be like sedative.

*Clause 13 – (THIRD PARTY ACCESS TO GAS UNDER THIS ACT) – ordered to stand part of the Bill.*

*Clause 14 – (FISCAL REGIME FOR GAS UTILISATION AND GAS PROCESSING FOR ELIMINATING FLARES)*

**The President:** Yes, Senator Joel Danlami Ikenya, any comment?

**Senator Joel Danlami Ikenya:** Sir, I want some clarifications. Clause 14(2) states that: *The projects shall enjoy zero customs tariff and VAT regime on imported equipments.* I considered this in relation to the economic meltdown globally and placed it along the side of some of the developmental projects that we have and somebody is asking for zero tariff/VAT. It is too much. We either take one out of these instead of us to take all. It is not fair to this country. If they are taking customs as zero tariffs, we will accept it but for us to take all, I do not think it is fair.

**Senator Osita Izunaso:** Then, what is your suggestion?

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**Senator Joel Danlami Ikenya:** My suggestion is that we should remove any of the two and the Chairman should give us reason why we should not do that. For us to look at it critically, I believe that the best we can do is to put zero in custom tariff and retain VAT. That is my view.

**The President:** Senator Osita, the point Senator Joel is making is valid considering the PIB now. That was how we started with the petroleum industry and they put the country at such a big disadvantage and we are not getting anything out of it at all. Why do you want to give zero tariffs here when people would be rushing to take our gas? So, delete Clause 14 (2).

*Clause 14 - (FISCAL REGIME FOR GAS UTILISATION AND GAS PROCESSING FOR ELIMINATING FLARES) – as amended, ordered to stand part of the Bill.*

*Clause 15 – (SPECIAL CONSIDERATIONS)*

**Senator Olorunnimbe Mamowora:** I want to be sure that Clause 15 (2)(a) *five year corporate tax exemption haven* - it should be *haven* and not *heaven*.

**The President:** So, it is *haven* and not *heaven*. Sorry, let us go back to Clause 14.

**Senator Ayogu Eze** (Enugu North): It is just a matter of correcting it for record purposes because what we did was to take Clause 14(2) out, then you now called and say those in favour of Clause 14(2) as amended because we have already taken it out. So there is nothing there for us to support. I just want to point out that information. Clause 14 as amended but what you said was Clause 14(2) as amended.

**The Chairman:** If I said Clause 14(2), then it is wrong. The question is those in favour of Clause 14 as amended. I am sorry if I said Clause 14(2) but you said Ayes to it.

**Senator Anyim Ude:** The issue of feeding the oil giants; *all infrastructural projects undertaken to support gas flare out would enjoy the tax regime in Clause 10 (a) and in addition be entitled to 8 years corporate tax exemption.* This appears to be too much. Why must it be eight years? These people do not need any tax exemption. They have so much money and they have been enjoying this for too long.

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**The Chairman:** Senator Manzo, are you commenting on that?

**Senator Anthony G. Manzo:** The intention of the whole thing as Senator Izunaso said is that they need some incentives, at least, for an interim period. That is really the idea because it is an industry that is new. It should not be eight years. It can be two years or so. It is in line with that that the Committee on Gas recommended that there should be no VAT and custom may be for a period of two or three years. The idea is to create incentive. I think we are missing that point.

**The Chairman:** Senator Manzo, my understanding of the PIB is that it is an industry where everybody else is bringing very stiff situation so that the nation can benefit and these giant oil companies are making so much money. There is no question of incentive. They are more than willing to come. That is my understanding. We should not put ourselves in a position where the nation is just allowing the oil and gas companies to feed fat on us. The issue that Senator Anyim Ude raised is whether eight years is not too much. Can we reduce it or should we leave it like that?

**Several distinguished Senators:** It is too long.

**The Chairman:** It is too long? I think that is the consensus. Then, how many years?

**Several distinguished Senators:** Three years.

**The Chairman:** Is three years all right?

**Several distinguished Senators:** Yes.

**Senator Ayogu Eze:** There is a problem.

**The Chairman:** What is the problem now, Senator Ayogu Eze?

**Senator Ayogu Eze:** The problem is that if we go back to Clause 14 just a little bit, we would find out that what we have done was to delete Clause 14 so there would be no Clause 14 as amended. What we actually did was to delete Clause 14, so what we are considering now is the new Clause 14. Clause 15 should be new Clause 14. We have effectively deleted it because if you read it there is nothing remaining.

0300

**The Chairman:** The whole of Clause 14 goes because it says: *projects approved by the Minister to utilize and or process associated gas shall enjoy the following fiscal regime*. There is no fiscal regime to enjoy now. So, Clause 14 is deleted. That is noted. There is no Clause 14.

*Clause 14 – deleted*

We have corrected Clause 15. I would still use the old serial number because it is better that way. We have done the correction on Clause 15(2) (a) to three years.

**Senator Anthony Manzo:** What I want to know from Senator Osita, presumably you have looked at these things and because we have other competitors in this business, was there any way of comparing the experiences of other countries before we make changes that will put our country at disadvantage? I believe that the Committee did a thorough work but I will like Senator Izunaso to clarify that.

**The Chairman:** Senator Manzo, there is no need for Senator Izunaso to hold us down on that one; if they do not want to come let them not come and we keep our gas.

**Senator Ayogu Eze:** Mr. Chairman, Clause 15(2) says: *All projects aimed at producing for the Nigerian market shall enjoy the following waivers*

(a) *5 years corporate tax exemption heaven.*

What is the meaning of *heaven*? First of all, if we want to create tax heaven, it should be *haven* and not *heaven*. If that has been corrected, this one is grammatically wrong the way it is placed here. It should be *3 years corporate tax exemption*. There is nothing like *tax exemption heaven*.

**The Chairman:** That was corrected earlier. But remove the *heaven*.

**Senator Umaru Dahiru** (Sokoto South): Mr Chairman, Clause 15(c) says: *All project employing about 200 people from the oil producing communities*. This is against Federal Character; it is discriminatory against Nigerians. We cannot take it.

0301

**The Chairman:** Let it read: *All projects employing above 200 Nigerians* and leave out the words; *oil producing communities*. They can come from anywhere; why must they be only from the oil producing community? If a Nigerian decides to go there, by this law then the company is not covered. If all the Nigerians are from Lokpobiri's area, well and fine. I will now put the Question on Clause 15 as amended.

*Question put and agreed to.*

Clause 15 – (SPECIAL CONSIDERATIONS) - as amended, ordered to stand part of the Bill

Clause 16 – (DELEGATION OF THE POWERS OF THE MINISTER)

**Senator Ayodele Sylvester Arise** (Ekiti North): Mr Chairman, *the powers conferred on the Minister by this Act or any of them may be exercised by the Director of Petroleum Resources*. Can we use *may be delegated to the Director*?

**Senator Jubril Aminu:** Mr Chairman, I think that should be amended for two reasons. Firstly, if you look at Petroleum Industry Bill, the Department of Petroleum Resources has been changed but the main thing is that you can just say: *The powers of the Minister shall be exercised by any one duly authorised to act on that behalf*.

**The Chairman:** Is that amendment all right? If it is, I will put the Question.

*Question put and agreed to.*

Clause 16 – (DELEGATION OF THE POWERS OF THE MINISTER) – as amended, ordered to stand part of the Bill.

Cause 17 - (DEFINITION)

**Senator Jibril Aminu:** Mr Chairman, I raised this point the other time, that one of the reasons this major oil companies do not really care to observe the flaring loss as they observe in their countries is because all the penalties like the penalty shown there and because of our Joint Venture with them, would be paid for by Federal Government to the extent of 60 per cent or whatever we share in the Joint Venture. For instance, in the Joint Venture with Shell, Nigeria will pay 60 per cent and Shell will pay 40 per cent. They have got

0302

convenience arrangement whereby if you charge them any penalty Nigeria will pay 60 per cent of the fine, when in fact, Nigeria is not responsible. Therefore, I propose that this Definition should be modified whereby since it is a matter of bad behaviour the actual company (operator) will bear the burden of the penalty without anything being imposed on the government.

I, therefore, propose this amendment: *on all issues relating to penalties the word operator, leasee or licensee shall refer to the actual operating partner and not to the Joint Venture. For the avoidance of doubt, when the government is a non-operating partner, it shall not be liable to the payment of any of the penalties charged.*

That will save Nigeria a lot of money.

**The Chairman:** That is a perfectly good amendment because truly if we will pay 60 per cent then the Joint Company will not care less about what they do; they will keep committing the offences and government will not pay and they will not pay their own 40 per cent also.

*Question put and agreed to.*

**Senator Nimi Barigha-Amange:** Mr Chairman, Clause 17, under *Minister*, it says: *Minister means the Minister charged with the responsibilities for matters relating to gas*. What happens if we do not have a Minister as it is today? I think that it is not correct to put just Gas, it should be Petroleum.

**The Chairman:** The Minister for Petroleum is charged with responsibility for Gas, the Minister for Works is charged with responsibility for Roads, It is *mutatis mutandis*.

**Senator Anyim Ude:** Mr Chairman, sorry to take you back because I am troubled. This new Clause 14(c), I am worried; I do not know why we should be giving these people a tax free write-off because they are employing Nigerians.

*All projects employing about 200 Nigerians from the oil producing communities or has at least has 40 per cent Nigerian equity ownership shall enjoy tax write off for insurance policy premium for 3 years after commissioning.*

Is it because they are employing our own people that we should give them tax write-off for three years?

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**The Chairman:** We may have passed it, but for Third Reading we should be careful. It does not matter, even if we have passed it, we can always go back.

Senator Anyim Udeh, the fact to the matter is that we looked at that, in my own opinion that is not a big deal. Three years tax write-off for insurance policy premium. I do not know what it means, Senator Osita what is the meaning of *Tax write-off for insurance policy premium*?

**Senator Osita Izunaso:** Mr. Chairman, I do not know why they keep dragging us back. The essence of this particular Clause is to ensure that the oil companies employ more of our people and make them to have ownership in the company. We are only talking about the premium they pay on insurance. It can be waived for them for about three years. It is just a proper incentive to enable those from his village to be employed and enable him to have ownership of the company.

**The Chairman:** Can we just wind up on this one; if we are satisfied then we move forward.

**Senator Nicholas Y. Ugbane** (Kogi East): Mr Chairman, his explanation is a little bit worrisome. He said: *so that the company will not Pay Insurance Premium*. The real meaning to me is that any amount paid as insurance premium is deductible in computing the taxation liability of the company.

**Senator Ayogu Eze:** Mr. Chairman, if we are making this decision we could as well put it in a plain language which will show that for the past three years that they were given the moratorium that they would not be insured. These Insurance Companies are private companies that collect money. If you give them three years write-off and there is fire in their plant, who pays? My understanding is that this premium that he is supposed to pay has been written off.

**The Chairman:** Senator Nkechi Nwaogu, can you explain it because you are an insurance person?

**Senator Nkechi Nwaogu** (Abia Central): What this Clause intends to explain is that the amount of insurance payable is legally deductible before tax computation as liability. What it means is that it will reduce their tax liability by the component of insurance premium paid.

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**Senator John Nanzip Shagaya:** Mr. Chairman, what I am going to say is exactly what Senator Nwaogu has explained. My understanding is that the insurance being referred to is Workman's Compensation that is not waived but paid but it should be discounted against tax. So the counting is not right.

*Question put and agreed to.*

Clause 17 – (DEFINITIONS) – *as amended, ordered to stand part of the Bill*

Clause 18 – (SHORT TITLE) – *Agreed to*

**Senator Osita B. Izunaso:** Mr. Chairman, the information is on NESRA and NOSDRA. They are no longer relevant in this Bill. The areas where they were mentioned originally were deleted, so we should strike it out.

**The Chairman:** NESRA and NOSDRA would be *mutatis mutandis*.

(SCHEDULE)

**Senator Dahiru Bako Gassol** (Taraba Central): Mr. Chairman, what I want to comment on is on page 16 paragraph (a)(i). There is no need to make (i) and (ii) to break the sentence, it is a continuation. Permit me to read it: *The Schedule - Upon the coming into force of this Act, any enactment for the time being in force in Nigeria shall be amended to the extent that it is inconsistent with the provisions of this Act. In particular:*

(a) *The Associated Gas Re-Injection Act, CAP. A 25 LFN 2004 and the Regulations issued there under, to the extent that:*

(i) *It stipulated 1 April 1980 as the ultimatum for every company producing oil and gas in Nigeria to submit to the Minister, a Preliminary Programme for schemes for the viable utilization. otherwise, paragraph (a)(i) is not complete. So, it is a continuation and should read thus: for the viable utilization of all associated gas produced from a field or groups of field and project or projects to re-inject all gas produced in association with oil but not utilized in an industrial project.*

We should change paragraph (a)(iii) to (a)(ii).

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**The Chairman:** Preliminary programme for the schemes. What he is saying is that the Associated Gas Re-Injection Act, CAP A25, LFN 2004 and the regulation issued thereunder to the extent that:

(i) *It stipulated 1 April 1980 as the ultimatum for every company producing oil and gas in Nigeria to submit to the Minister, a Preliminary Programme for the schemes.*

(ii) *Viable utilization of all associated gas.* If you change *for the schemes* then you can put full stop there and have (i), (ii) and (iii). He has corrected it to say that (ii) is a continuation of (i).

**Senator Lee Ledogo Maeba:** Mr. Chairman, I have a contrary opinion. My opinion is that this Bill should better stop at page 18. This is because all the things that are canvassed in the Schedule are getting to the issue that will be controversial based on the Petroleum Industry Bill of yesterday. If this Bill stops at page 18 it is completely on course and all the things talked about on the schedule are unnecessary. All these things such as *Re-injection Bill* are being quoted as part of the things PIB seeks to be repealed. The Schedule is not necessary.

This Bill should stop at 18, the Short Title. But if we go into the Schedule notwithstanding this Cap, it may be controversial. If you look at the PIB, Clause 478, these are all the things it seeks to repeal; the Re-injection Act and all that. It is good we stop at Clause 18. If we stop at Clause 18, it is good.

**The Chairman:** The Learned people here, is there anything wrong with the surpluses here? Does it remove anything?

**Some distinguished Senators:** No.

**The Chairman:** That is all. It does not remove anything, it does not add anything. This Act is repealing something; PIB Bill is repealing the same thing. So I will put the Question now.

**Senator Umaru Dahiru:** Mr. Chairman, on Clause 18(iii), I do not think we have Third Schedule in the Bill given to me. It stopped at Second Schedule. I do not know where they got their Third Schedule. If you read Clause 18 (iii), the fifth line, you have to mention Section 1 of this Third Schedule.

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**The Chairman:** He has difficulty connecting where the Third Schedule is now

**Senator Osita Izunaso:** There is no Third Schedule in this Bill -

**The Chairman:** Senator Izunaso, is this the Schedule that we are discussing? If it is the Schedule we are discussing then it is of this Schedule.

**Senator Izunaso:** It is of this Schedule

**The Chairman:** I will put the Question that Schedule One, as amended stands part of the Bill.

*Question put and agreed to.*

*Schedule 1 - as amended, agreed to.*

*Schedule 2 - agreed to.*

*Long Title - agreed to.*

**The Chairman:** Observation, Senator Ayogu Eze.

**Senator Simon Ayogu Eze:** Mr. Chairman, when we considered Clause 15 there was general consensus that Clause 15(c) should be recouched and nobody did anything about it. I do not know whether it is too late now.

**Senator Adeleke Olorunnimbe Mamowora:** It was recouched.

**Senator Ayogu Eze:** All right, I stand guided

**The Chairman:** The Leader of the Senate

**Senator Victor Ndoma-Egba:** Mr. Chairman, I move that you report progress.

**Senator Adeleke Olorunnimbe Mamowora:** Mr. Chairman, I rise to second the Motion that you report progress.

*Question put and agreed to.*

(The President in the Chair)

**The President:** Distinguished Senators, the Senate in the Committee of the Whole resumed consideration

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of the Report of the Committee on Gas on the Prohibition of Gas Flaring Bill 2009 and approved as follows:

Clause 9 as amended

Clauses 10 – 13 as recommended

Clause 14 deleted

Clauses 15 – 17 as amended

Clause 18 as recommended

Schedules as amended

Title as recommended

Is it a true reflection of what transpired in the Committee of the Whole?

**Some distinguished Senators:** Yes

**The President:** Thank you very much.

**Senator Victor Ndoma-Egba:** Mr. President, I move that the Gas Flaring (Prohibition and Punishment) Bill 2009, be read the Third Time.

**Senator Adeleke Mamowora:** Mr. President, I rise to second the Motion ably moved by the Deputy Leader, that the Bill before us be read the Third Time.

*Question put and agreed to.*

*Bill read the time and passed.*

**The President:** Senator Osita, pay attention now because those who are coming to shake hands with you did not take a very strong stand on reading this Bill. Congratulation!

Distinguished Senators, thank you very much. This Bill has suffered a lot of delays but thank God, we finally passed it.

Senator Lee Maeba, when you are considering your Petroleum Industry Bill, I think you should look at this Bill also in *pari passu* so that you can see whether there is a requirement for you to incorporate it or do anything with it, or whether it is one of the ones you are going to amend. There are so many there that you are going to amend or discard.

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## ANNOUNCEMENT

### Delegation to the Burial Ceremony of Late Senator Lamai

**The President:** Distinguished Colleagues, please, before we close may I make a quick announcement?

For Senator Lamai's burial on Saturday, the Senators to go would be led by distinguished Senator James Manager. Others include; Senator Ayogu Eze, Senator Caleb Zagi, Senator A. Kuta, Senator Joel Danlami Ikenya and Senator Ganiyu Solomon. Any senior ranking elderly Senator who wishes to attend as a mark of identification with late Senator Lamai's generation is free to do so.

**Senator Ndoma-Egba:** Mr. President, we have just one other item on the Order Paper, which is the consideration of the Report of the Committee on Environment and Ecology on the National Climate Change Bill 2009. In the circumstances, I move that we step down this item to another legislative day.

**Senator Adeleke Mamowora:** Mr. President, pursuant to the reasons adduced by the Deputy Leader, I rise to second the Motion that the last item on the Order Paper be stood down 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 Ndoma-Egba:** Mr. President, having exhausted all the items on today's Order Paper, I move that this Senate adjourn till Tuesday, 7<sup>th</sup> July, 2009 at 10.00 a.m. prompt.

**Senator Adeleke Mamowora:** Mr. President, I rise to second the Motion that this distinguished Senate do adjourn till Tuesday, 7<sup>th</sup> July, 2009 at 10.00 a.m.

*Question put and agreed to.*

*Resolved:* That the Senate do adjourn till Tuesday, 7<sup>th</sup> July, 2009 at 10.00 a.m. prompt.

*The Senate adjourned accordingly at 1.12 p.m.*