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**Thursday
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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, 16th July, 2009

The Senate met at 10.40 a.m.

PRAYERS

(The Deputy President in the Chair)

VOTES AND PROCEEDINGS

The Deputy President: Distinguished Senators, the Senate is called to order. The Votes and Proceedings of Wednesday, 15th July, 2009 is before us for approval; pages 89, 90, 91, 92, 93, 94, 95 and 96.

Senator Anthony G. Manzo (Taraba North): Mr. President, I move that the Votes and Proceedings of Wednesday, 15th July, 2009 be approved.

Senator Simeon Olasunkanmi Oduoye (Osun Central): Mr. President, I rise to second the Motion moved by Senator Anthony Manzo that the Votes and Proceedings of Wednesday, 15th July, 2009 be approved.

Question put and agreed to.

Resolved: That the Votes and Proceedings of Wednesday, 15th July, 2009, be approved.

ANNOUNCEMENT

**Visit of Members of Nigerian Association of
Computer Science Students, Auchi Polyphonic**

The Deputy President: I wish to acknowledge the presence of members of Nigerian Association of Computer Science Students, Auchi Polyphonic, Auchi, Edo State. They are in the Gallery to observe the Senate Proceedings. You are all welcome and we hope that you will benefit from observing the proceedings of the Senate today. *(Students stood up for recognition)* Please, take your seats.

PERSONAL EXPLANATION

Senator Zaynab A. Kure (Niger South): Point of Order, Mr. President!

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The Deputy President: Senator Zaynab Kure, Order what?

Senator Zaynab Kure: Order 43, if I may be allowed to read.

The Deputy President: Please, read.

Senator Zaynab Kure: Order 43 on Personal Explanation reads:

By the indulgence of the Senate and the leave of the President of the Senate, a Senator may make a Personal Explanation although there be no question before the Senate, but no controversial matter may be brought forward nor may debate arise upon the Explanation. The terms of the proposed statement shall be submitted in detail to the President of the Senate when his leave to make it is sought.

The Personal Explanation has to do with our Committee's work. On the 2nd of June, 2009, a Bill on the Remuneration for former Presidents, Heads of State, Heads of Federal Legislative Houses and Chief Justices of the Federation Bill, 2009, (SB 153) was committed to our Committee. The Second Reading of the Bill was taken on Wednesday, 27th May, 2009. It was referred to our Committee and we were given four weeks to report back to the Senate.

I want to explain, on behalf of the Committee, that work is still ongoing on the Bill and we want to crave the indulgence of this hallowed Chamber to grant us an extension of time.

The Deputy President: That is all right. How much time do you need?

Senator Zaynab Kure: Two weeks will do.

The Deputy President: Is it the wish of the Senate that we grant them two more weeks?

Several distinguished Senators: Yes.

The Deputy President: You are, therefore, given two more weeks to report back.

PRESENTATION OF REPORTS

**Sessional Report of the Ad-hoc Committee on
Millennium Development Goals (MDGs)**

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Senator Teslim Kolawole Folarin (Oyo Central): Mr. President, the first business of the day is the presentation of the Sessional Report of the Ad-hoc Committee on the Millennium Development Goals (MDGs) from May, 2008 to June, 2009.

You may now invite the Chairman of that Committee, Senator Mahmud Kanti Bello, the Chief Whip of the Senate, to move the Motion for the Senate to receive the Report.

Senator Mahmud Kanti Bello (Katsina North): Mr. President, I wish to seek the leave of the Senate to receive the Report of the Ad-hoc Committee on the Millennium Development Goals (MDGs) on Sessional Report – May, 2008 to June, 2009.

Senator Bassey Ewa-Henshaw (Cross River South): Mr. President, I rise to second the Motion by Senator Mahmud Kanti Bello, the Chief Whip of the Senate to be granted permission to lay the Report of the Ad-hoc Committee on the Millennium Development Goals (MDGs)

Question put and agreed to.

(Report accordingly laid on the Table)

**Sessional Report of the Committee on
Privatisation from May, 2008 to June, 2009**

Senator Teslim Folarin: Mr. President, the second business of the day is the presentation of another Sessional Report of the Committee on Privatisation from May, 2008 to June, 2009.

Again, you may invite Senator Mahmud Kanti Bello, the Vice Chairman of the Committee to move the Motion for Senate to receive the Report.

Senator Kanti Bello: Mr. President, on behalf of the Committee on Privatisation, I hereby seek the leave of the Senate to receive the Report of the Committee on Privatisation on the Sessional Report – May, 2008 to June, 2009.

Senator James Ebiowou Manager (Delta South): Mr. President, I rise to second the Motion as moved by the Chief Whip of the Senate.

Question put and agreed to.

(Report accordingly laid on the Table)

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**Report of the Committee on Finance on the Customs
and Excise Tariff, etc., (Consolidation) Act
(Amendment) Bill, 2009**

Senator Teslim Folarin: Mr. President, the third business of the day is the presentation of the Committee on Finance on the Customs and Excise Tariff, etc., (Consolidation) Act (Amendment) Bill, 2009.

You may invite, the Chairman of the Committee on Finance, distinguished Senator Ahmed Makarfi to present the Report.

Senator Ahmed Mohammed 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 Customs and Excise Tariff etc., (Consolidation) Act (Amendment) Bill, 2009.

Senator Felix Kolawole Bajomo (Ogun West): Mr. President, I second the Motion that the Senate do receive the Report of the Committee on Finance and Customs and Excise Tariff etc., (Consolidation) Act (Amendment) Bill, 2009.

Question put and agreed to.

(Report accordingly laid on the Table)

**Report of the Committee on Establishment and
Public Service, on the Chartered Institute of
Management Accountants of Nigeria (CIMA)
Bill, 2009**

Senator Teslim Kolawole Folarin: Mr. President, the fourth business of the day, is the presentation of the Report of the Committee on Establishment and Public Service, on the Chartered Institute of Management Accountants of Nigeria (CIMA) Bill, 2009

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

Senator Mohammed Ahmed Inuwa (Kwara North): Mr. President, I seek the consent of this honourable Senate to receive the Report of the Committee on Establishment and Public Service, on the Chartered Institute of Management Accountants of Nigeria (CIMA) Bill, 2009.

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Senator Joy Emodi (Anambra North): Mr. President, I rise to second the Motion ably moved by distinguished Senator Mohammed Ahmed, that the Senate do receive the Report of the Committee on Establishment and Public Service, on the Chartered Institute of Management Accountants of Nigeria (CIMA) Bill, 2009.

Question put and agreed to.

(Report accordingly laid on the Table)

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

Senator Teslim Kolawole Folarin: The fifth business of the day is the presentation of the Report of the Committee on Ethics, Code of Conduct and Public Petitions, on the Premature Retirement of Mrs. Faith E. E. Umoh from Service.

You may invite distinguished Senator Omar Hambagda to move the Motion for the Senate to receive the Report.

The Deputy President: I thought we have taken this Report, distinguished Senator Hambagda?

Senator Omar Hambagda (Borno South): Mr. President, I rise to move the Motion that Senate do receive the Report of the Committee on Ethics, Code of Conduct and Public Petitions on the Premature Retirement of Mrs. Faith E. E. Umoh from Service.

Senator Adegbo Erhiawarie Eferakeya (Delta Central): Mr. President, I rise to second the Motion that the Senate do receive the Report of the Committee on Ethics, Code of Conduct and Public Petitions on the Premature Retirement of Mrs. Faith E. E. Umoh from Service.

Question put and agreed to.

(Report accordingly laid on the Table)

Senator Teslim Kolawole Folarin: The sixth business of the day is the presentation of the Report of the Committee on Niger Delta on the 2009 Budget Proposal for the Niger Delta Development Commission (NDDC).

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You may now invite the Chairman of the very powerful Committee, distinguished Senator James Manager to move the Motion for the Senate to receive the Report.

Senator James Ebiowou Manager: Mr. President, I seek the leave of this distinguished Senate to permit me to lay the Report of the 2009 Budget Proposal for the Niger Delta Development Commission (NDDC).

Senator Grace Folashade Bent (Adamawa South): Mr. President, I rise to second the Motion ably moved by the Chairman, Senate Committee on Niger Delta that the Senate do receive the Report of the 2009 Budget Proposal for the Niger Delta Development Commission (NDDC).

Question put and agreed to.

(Report accordingly laid on the Table)

ORDERS OF THE DAY

CONSIDERATION OF BILLS

Independent National Electoral Commission

Act (Amendment) Bill, 2009

A Bill for an Act to Amend the Independent National Electoral Commission Act Cap 15 LFN 2004 and for Other Matters Connected Thereto, 2009 (SB.273)

Senator Teslim Kolawole Folarin: Mr. President, the first Order of the day is the Second Reading of the Independent National Electoral Commission Act (Amendment) Bill, 2009. This is an Executive Bill which was read the First Time in this hallowed Chamber on Thursday, 14th May, 2009.

With your kind permission, I wish to lead the debate.

The Deputy President: You may proceed.

Order for Second Reading

Senator Teslim Kolawole Folarin: Mr. President, I thank you for the privilege to lead the debate on the general principles of a Bill for an Act to Amend the Independent National Electoral Commission Act Cap 15 LFN 2004 and for Other Matters Connected Thereto, 2009. As earlier said, this Bill was read the First Time in this Chamber on Thursday, 14th May, 2009.

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This is one of the Electoral Reform Bills presented to the National Assembly by the President, Commander-in-Chief, Umaru Musa Yar'Adua. It is a consequence of the White Paper on the Recommendations of the Justice Muhammad Uwais Electoral Reform Committee, which aims at strengthening the institutional framework of the country's electoral system.

For quite sometime now, much of the discussions in many quarters within this country have been dominated by the need to conduct credible elections in Nigeria. Opinions are agreed on the need to reposition the Independent National Electoral Commission to enable it effectively deliver on its constitutional mandate of conducting free and fair elections that would be acceptable to all across the nooks and crannies of this great nation.

The amendments sought in this Bill are targeted at strengthening the institutional framework of the Independent National Electoral Commission (INEC) with the view of building people's confidence in INEC as an institution that has the capacity to deliver on election matters as an impartial judge.

In order to effect these reforms, the Bill seeks to amend Sections 2, 3 and 4 of the Independent National Electoral Commission (INEC) Act in the following ways:

- (i) Section 2, which deals with Member of the Commission, will be amended to make provisions for the post of a Deputy Chairman and the inclusion of six persons, each representing a geo-political zone;
- (ii) Section 3, which has to do with the tenure of office, is to be amended in sub-Section (1) by making provision for the tenure of members of the Commission to be open for renewal for another period of five years, if found eligible.
- (iii) In Section 4, the power to register and regulate the activities of political parties is to be removed from the Independent National Electoral Commission (INEC). This power is to be vested in a new Commission to be established.

The inclusion of six additional persons, each representing a geo-political zone will give the zones a sense of belonging and representation in the Independent National Electoral Commission (INEC).

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The Bill will also ensure that if any of the Commissioners is found to be a good material and vital to the running of the affairs of the Independent National Electoral Commission (INEC), such a person's appointment may be open for renewal.

Mr. President, these amendments are not only good for the Independent National Electoral Commission (INEC), they are also good for the country and our democracy. I, therefore, urge you all to support this Bill and its expeditious passage into law.

I thank you for listening.

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

The Deputy President: Point of Order, Senator Sekibo.

Senator George Sekibo: Mr. President, I am raising Constitutional Point of Order under Section 9 of the 1999 Constitution.

The Deputy President: Yes, go ahead.

Senator George Sekibo: It is Section 9 of the Third Schedule and also Section 1(3). I take Section 9 first and it reads:

Section 9(1) - *The National Assembly may, subject to the provision of this section, alter any of the provisions of this Constitution.*

Section 9(2): *An Act of the National Assembly for the alteration of this Constitution, not being an Act to which Section 8 of this Constitution applies shall not be passed in either House of the National Assembly unless the proposal is supported by the votes of not less than two-thirds majority of all the members of that House and approved by resolution of the Houses of Assembly of not less than two-thirds of all the States.*

I will leave sub-Sections 3 and 4 for our Colleagues to read, while I go to Third Schedule 14. Third Schedule 14(1) says:

The Independent National Electoral Commission shall comprise of the following members -

(a) *a Chairman, who shall be the Chief Electoral Commissioner; and*

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(b) twelve other members to known as National Electoral Commissioners, who shall be persons of unquestionable integrity and not be less than fifty years and forty years of age, respectively

(2) There shall be for each State of the Federation and the Federal Capital Territory, Abuja, a Resident Electoral Commissioner who shall -

(a) be appointed by the President

(b) be persons of unquestionable integrity

(c) not less than forty years of age.

I refer us to Section 1(3) of the Constitution which says: *If any other law is inconsistent with the provisions of this Constitution, this Constitution shall prevail, and that other law shall to the extent of the inconsistency, be void.*

I have two issues to raise. The first issue is, based on the lead debate and what we have, we are trying to amend the Constitution. The Third Schedule of the Constitution, in Section 4, has given exactly who and who should be members of the Independent National Electoral Commission. Any addition or subtraction would be subject to Section 9 of the Constitution because we are amending the Constitution. That is on one part.

The other part is, which law are we amending? Is it the Electoral Law 2002 that has been repealed or the Electoral Law 2006? There are two Laws in the issue. One was the Law of 2002 which was amended in 2004 with some few provisions, followed by the Electoral Law 2006 which repealed the 2002 Act; meaning that every subsidiary enactments or legislations that had been carried on it are also null and void, because they had been repealed.

If you look at what we are trying to amend, we are amending the Amendment to the Electoral Law 2002 and it is not CAP 15 of the Laws of the Federation. *(Interruptions)*

The Deputy President: I am sorry to interrupt but let me direct you better. What we are dealing with is the Independent Electoral Commission Act and not the Electoral Act. I am following your argument, but the point is that, we are seeking to amend the Independent Electoral Commission Act and not the Electoral Act.

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Senator George Thompson Sekibo: Part 1, is saying that these are provisions in the Constitution. If there is any attempt to amend them, it ought to have followed the other alterations we carried out here on the Floor of the Chamber. They are alright, but they would have come through by way of amendment of the Constitution and not enacting or making a law and then added something that is out of the provisions of the Constitution. I suggest we look at it properly to see if we are doing the right thing.

The Deputy President: Distinguished Colleagues, the implication of the Point of Order raised is that if I sustain the Order it will mean the end of this Bill. So, I want comments in respect of this Motion so that when we dispose of it, it would determine whether we would make progress with the Bill in question or not. Your comments should be in respect of the Motion he had raised to dispose of it first before we go back to the Bill.

Senator Ayogu Eze: I actually think that what Senator Thompson Sekibo did was to come through a Point of Order to make a contribution which some of us are going to make. I share his sentiments and I agree completely with him that this matter should not have come as an opportunity for us to start amending something that is already written in the Constitution. It should simply have been referred to our Committee on Constitution Amendment which would deal with it instead of wasting a lot of our precious time on it.

Moreover, if you look at one of the items listed here which is Section 4, it is a matter we decided not quite a month ago. It was dead on arrival and we threw it out. It is being smuggled back through the backdoor. If we have the cooperation of my Colleagues, this matter should go straight to the Constitution Amendment Committee without being debated here because it is within the competence of the Committee for amending the Constitution not within the Floor here.

Senator Umaru Dahiru (Sokoto South): Mr. President, I totally align myself with what Senator Sekibo said. In fact, just before them I was struggling to find out the kind of law we are talking about? Is it the 2004 Act? The Secretariat was able to produce the Act for me. What we are going to discuss is absolutely in conflict with the Constitution. I believe that probably the Ministry of Justice were not diligent enough to know the provisions of the Constitution hence they went ahead and drafted the Bill for the Executive to present to us.

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I discussed this issue at one of the fora that I attended. We should tell them to be careful with the kind of Bills they sent to us. They do not do a thorough job. They always send Bills which eventually would not get through.

So, I believe that by virtue of the provisions of the Constitution as quoted by Senator Sekibo, certainly this debate cannot go on. The Constitution as mentioned under Section 1(1) and (3) is simply enough. We cannot pass any law that will be in conflict with the Constitution. Of course, the Constitution takes precedence over all other laws. So, I feel that in order to have a clean debate on this issue, the matter is constitutional amendment. If we want to amend the Constitution in respect to the observation, we would agree to do that but certainly not through the Bill.

Senator Kabiru Gaya (Kano South): Mr. President, first of all, I want to comment on the formation of the Bill. This Bill, I believe, the Ministry of Justice should do better than this. When they are forwarding a Bill through the Presidency, they should make it in such a way that it will portray the level and caliber of the professionalism of those handling the drafting. I believe there is less professional touch on this Bill.

Secondly, you are very much aware that item 3 of this Bill has been deliberated in this Senate and rejected. There is no reason we should not be respected on our decisions because once we take a decision that should be final and for it to come back, then there is something wrong somewhere.

Again, items 2 and 3 are part of the Constitutional amendment which you are the Chairman of the Committee and we are looking through Justice Awesu's recommendations which also affect whether INEC would be or not. So, I believe that this Bill with its fault composition and not properly drafted should be thrown away and we continue with our constitutional amendment which would affect all these reforms on INEC and others.

I suggest to my Colleagues that when other Bills come here next time, it should be in proper shape for us to deal with it. The Rules and Business Committee should also reject items which they know had already been discussed. Therefore, I decline my support to this Bill. .

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Senator Anthony Manzo: Mr. President, I want to align myself with the views expressed by my very senior Colleagues. My understanding is that we ought to know in this country that it is only the Legislature that can amend the Constitution, by whatever means you come. By the way the Executive is trying to amend the Constitution, though with good intention, is not going to work this. What law are we even talking about? The law we are trying to repeal is treated under Section 312 of the Constitution as a transitional provision which means that that law on INEC was already dead as soon as the 1999 Constitution came into force.

So, my opinion is that this Bill should be withdrawn by the Senate Leader in order to save ourselves embarrassment because it is not going to work. The noble course for us is to urge the Senate Leader to withdraw this Bill so that we save time and move forward.

Senator Mahmud Kanti Bello: I want to make some clarifications for the benefit of my Colleagues. I am in support to what they stated earlier with regard to constitutional issues because it is perfectly correct. But the issue is simple. Some people talked about Item 3 that we are not being respected, that is very incorrect. I say this because all these Bills, if we can remember, came together. At that time, nobody was sure that we were going to throw away the Commission. They all came together and it is not our job to remove any. So, it is wrong information to look at this Senate and say we are not being respected. That is not being fair to the government. That comment is very unfortunate.

But in a nutshell, my thinking is that this distinguished Senate should kindly refer all these issues to the Constitutional Amendment Committee because at the end of the day that is where all these matters are going to be treated.

Senator Isiaka Adetunji Adeleke (Osun West): Mr. President, if you look at Sections 153 to 161 of the Constitution as well as Part I of the First Schedule to the Constitution, what this Bill seeks to intervene in has been sufficiently and adequately provided for in those Sections such as the nomenclature, the composition, tenure and other qualifying ingredients of the members of Independent National Electoral Commission. So this can only be entertained within the framework of the Constitution. Therefore, I want to suggest that the Bill be withdrawn as the issues being sought to be addressed can only be addressed within the ambit of the constitutional amendment.

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Senator Sole Akinyede (Ekiti South): Mr. President, I would like to align myself with the position of the previous Speakers and in doing so, I would like to draw the attention of my distinguished Colleagues to the provisions of Schedule III, Paragraph 14(2)(b) of the 1999 Constitution. This section deals with the powers of INEC and it says: *The Commission shall have power to -*

(b) register political parties in accordance with the provisions of this Constitution and an Act of the National Assembly.

One of the things this Bill is seeking to do is to expunge the powers of INEC to register political parties yet it has in the Constitution the power to register political parties. So, what the Bill is seeking to do is contrary to the provision of the Constitution. It is not possible for the removal of that Section to happen unless the Constitution is amended. This Bill is a waste of the time of this Senate.

Secondly, I am disappointed that much more fundamental issues are not being addressed by this Bill. For instance, I will like to invite the attention of my distinguished Colleagues to the provision of Section 156(1)(a) of the Constitution which deals with the qualification of INEC Chairman and Members. This Section says: *No person shall be qualified for appointment as a member of any of the bodies aforesaid if -* (those bodies refer to the Federal Executive bodies)

(a) he is not qualified or if he is disqualified for election as a Member of the House of Representatives.

That is to say that the qualification for the Chairman and Members of INEC are exactly the same as the qualification for a Member of the House of Representatives.

Now, let us see the qualifications for a Member of House of Representatives and it is found in Section 65(2)(b) of the Constitution and it says: *A person shall be qualified for election under subsection 1 of this section if -*

- a. *he has been educated up to at least School Certificate level or its equivalent; (and most importantly)*
- b. *he is a member of a political party and he is sponsored by that party.*

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The meaning of that is that under our Constitution, a Chairman of INEC and Members are supposed to be members of political parties. It is absurd and I am surprised that the Office of the Attorney-General has not deemed it fit that this fundamental issue should be addressed. We need to address this in the Constitution. There are so many defects in the Nigerian Constitution that it does not make sense bringing all these Bills to the National Assembly when the basic document which should be amended has not been amended.

I submit that the government, with due respect, the Executive, is putting the cart before the horse by bringing this Bill. I support the Motion that this Bill should be withdrawn.

Senator Idris Umar (Gombe Central): Mr. President, I also align myself with the strong Point of Order raised by distinguished Senator Sekibo. Perhaps, just to make one clarification, I believe that, maybe, the Executive must have been misled in their construction of Section 153(2) read conjunctively with Item 15 of Schedule III of the Constitution specifically Item (i) which says that: *The Commission shall have power to -*

- (i) carry out such other functions as may be conferred upon it by an Act of the National Assembly.*

That suggests, of course, that the National Assembly is empowered to make provisions in an Act to enlarge the powers of the Commission, but that is not to suggest that the National Assembly has the power to provide for powers against what are already contained in the Constitution. I think this is the point read and got misled. This point should be made very clear to them that yes, the National Assembly has power to amend the Act, as it were, to enlarge the powers of the Independent National Electoral Commission but not to make provisions that would conflict with what is already contained in the Constitution.

I, therefore, align myself with the Point of Order raised and urged that it should be sustained.

Senator Mohammed Kabiru Jibrin (Kaduna Central): Mr. President, I want to say that the facts speak for themselves. It is obvious that this matter has been thoroughly debated in this hallowed Chamber and a final decision, for that matter, was taken. There is no how we can circumvent the provisions of Sections 9, 22 to 25 of the Constitution by attempting to tamper with provisions made by the Constitution in any particular law without first amending the Constitution. In my

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opinion, therefore, it is quite embarrassing that the Attorney-General has found it necessary to re-present this same Bill for consideration by the Senate. It is not only embarrassing to the Senate, it is also embarrassing to the President himself.

We should immediately order our Committees on Legal Matters and Judiciary to call the Attorney-General of the Federation and ask him why he is insisting on pushing this Chamber to do this irresponsible act of amending the Constitution through the back door.

It is necessary for us to stop this kind of practice. We are wasting the time we would have used to deliberate on issues that would promote the welfare of the citizens of this country by re-visiting this Bill that we have closed the door on. It is necessary that we check some of these excesses of the Office of the Attorney-General by asking our Committee on Judiciary to invite him and ask him why he insists on asking us to do an illegal thing. This is the only way this kind of practice could be stopped once and for all.

This hallowed Chamber has not left any stone unturned in its discussion on laws regulating the procedure for conducting exercises of this nature. We have in our various Resolutions given adequate pieces of advice to the Office of the Attorney General. We had brought out all the issues in contention which he should have considered before making any attempt of this nature.

We should not waste the time of this hallowed Chamber anymore by looking at this Bill rather, we should ask our Committee on Judiciary to invite the Attorney-General and ask him why he insists on doing this illegal activity.

Senator Omar Hambagda: Mr. President, while I agree and share the views of my Colleagues, we should try to look at the context of the presentation of these Bills by the Executive. There is the Uwais Report and its recommendations which gave birth to these Bills. Never mind about the details whether they are consistent with Uwais Report or not, but these Bills emanated from that. Incidentally, most of the Bills touched on Constitutional amendment.

The Executive brought about seven Bills that address various aspects of election. What we should have done is, when the Executive brought the Bills as a comprehensive package, our Rules and Business Committee should have studied each of the Bills to see

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which one involves constitutional amendment. If there is any one that involves constitutional amendment it should not be brought into the Order Paper at all. So that when the Constitutional amendment is concluded we can then look into them. It is with this assumption that the Executive probably brought them so that we can sequence them in accordance with our programmed events so that when we finish with Constitutional amendments we can then take up those vacuums that have been created by the amendment of the Constitution.

Right now no vacancy exists for some of these Bills to fill. It is only when the Constitutional amendment is concluded that there will be vacancy. It is only then that those other Bills which have some aspects that do not affect the Constitution will be brought together to fill the vacancy created by the Constitutional amendment and to enhance the Bill with that portion which does not affect Constitutional amendment. So, I do not think it is correct for us to blame the Executive.

My suggestion is that this Bill should be withdrawn and a good homework done. All those affecting Constitutional amendment should be passed to the Constitutional Amendment Committee so that they can conclude work on them. When vacancies have been created as a result of Constitutional amendment then the other Bills can come up and they can pass through.

Senator Anyim Ude (Ebonyi South): Mr. President, this is not the first time we are finding a Bill from the Ministry of Justice deficient. The Ministry of Justice advises the President. It is so surprising that our Committees on Rules and Business and Judiciary appear to be falling into the same trap. These Bills should have gone to these Committees for them to go through and ensure that they are worthy to be brought to this Chamber. For instance, everybody knows that Item 3 had once been thrown out by this Chamber. If they had had a second look at it, they would not have allowed it to come again.

We have been waiting for the most critical part of these Bills – the issue of rigging, which is giving Nigeria a bad image to the extent that Mr. President of America cannot visit Nigeria. These are the critical areas we are waiting for. These ones that are associated with ordinary changing of titles and tenures are not really the critical problems we have with our electoral process.

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Therefore, as my Colleagues have said, let us return all these Bills to the Constitutional Drafting Committee for them to go through thoroughly and know what should be brought back to the Chamber.

Senator Teslim Folarin: Mr. President, I have listened carefully to the contributions from my Colleagues and I clearly know that there is a lot of work to be done on this Bill. At this point I want to move a Motion that I should be given the opportunity to withdraw this Bill.

The Deputy President: The Leader, I sympathise with you but there is a Point of Order which I have to rule on. Do not forget that we have been debating a Point of Order.

I have listened carefully to the issues raised – the Point of Order and the contributions of our respective Colleagues and I cannot agree more. Those of us who are being paid with tax payers' money and public fund should be responsible enough to do our jobs diligently to justify those payments. It is painful that a Bill would come all the way from the Office of the Attorney-General, passing through different departments and no one discovered that there is no Act actually to be amended. This is because what we are discussing today is essentially Decree No. 17 of 1998 that was promulgated for the purposes of the Local Government Election of 1998 and the subsequent elections of 1999. The provisions of this Decree were all incorporated in the 1999 Constitution when it came into force. With that, that Decree was expended. It was even an error that it found its way in the Laws of the Federation. So, there is just nothing to be amended.

Distinguished Colleagues, I will sustain the Point of Order and allow the Senate Leader to withdraw the Bill. Senate Leader, you are allowed to withdraw the Bill. (*Prolonged Interruptions*)

Senator Mahmud Kanti Bello: Mr. President, there is a problem here. Our Order 89 states that: *The Senator in charge of a Bill may make a Motion without Notice for its withdrawal either before the commencement of Public Business or on the Order of the Day for any stage of the Bill being read.*

The Senate Leader wanted to withdraw the Bill without your ruling, now that you have ruled, as far as I am concerned, if you sustain his Order it means that this Bill is thrown away. That is my understanding of your ruling.

Several distinguished Senators: Yes.

The Deputy President: You have to understand where we were. We started discussion of the Bill and somebody raised an objection. So, I only ruled in respect of his Order. (*Prolonged interruptions*)

Senator Audu Idris Umar (Gombe Central): Mr. President, you are absolutely correct. We are in a process. You have ruled on the Point of Order and you have not put the Question as to whether this Bill should be thrown out or not. To the extent that the Question has not been put, this Bill can be withdrawn under our Standing Order 69. Therefore, the Leader is quite correct in moving to withdraw his Bill.

The Deputy President: I agree with you entirely and we are making progress. We have finished with it and the Bill has been withdrawn.

Senator Teslim Kolawole Folarin: Mr. President, I suggest that we read the appropriate Order and then you put the Question. Order 89 says: *A Senator in charge of a bill may make a motion without notice for its withdrawal either before the commencement of public business or on the order of the day for any stage of the bill being read.*

I now formally request that this Bill be withdrawn.

Senator Kabiru Ibrahim Gaya: Mr. President, I second the Motion ably moved by the Leader that this Bill be withdrawn.

Question put and agreed to.

(Bill by leave of the Senate withdrawn)

Chartered Institute of Commerce Establishment Bill 2009

A Bill for an Act to Establish the Chartered Institute of Commerce of Nigeria to Provide and Foster the Professional Capabilities of Persons involved in Commercial Administration in the Federal, and for Other Purposes Connected Therewith, 2009 –

Senator Teslim Kolawole Folarin: Mr. President, the second Order of the day is the Second Reading of the Chartered Institute of Commerce (Establishment) Bill, 2009. This Bill was read the First Time in this Chamber on Wednesday, 25th June, 2008.

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You may now invite Senator Mohammed Adamu Bello to move the Motion for the Bill to be read the Second Time.

Order for Second Reading

Senator Mohammed Adamu Bello (Kano Central): Mr. President, I appreciate the opportunity being given to me to lead the debate on the general principles of a Bill for an Act to Establish the Chartered Institute of Commerce of Nigeria to Promote and Foster the Professional Capabilities of Persons involved in Commercial Practice and Administration in the Federation.

I have the pleasure in opening the debate on the Bill under consideration. This Bill was read for the First Time in this Chamber on the 25th of June, 2008. This Bill seeks to statutorily establish the Institute of Commerce of Nigeria which was officially launched in the University of Lagos in November 1979, nearly two months after the commencement of the Second Republic.

The Institute which is affiliated to the Institute of Commerce in London, has since its inauguration been engaged in the promotion and advancement of the knowledge and skills of a good cross-section of Nigerians in trade and industry by providing adequate skilled manpower in all aspects of commerce and trade with emphasis on Nigeria's economic peculiarities.

Before delving into the main features of this legislative proposal, I will like to seek the permission of Mr. President and Distinguished Senators to dwell a bit on the importance of trade and commerce in shaping a nation's economy *vis-à-vis* the Nigerian experience and peculiarities.

Indeed, one of the most significant indices for measuring and determining the levels of socio-economic development, success and growth of any particular nation lies in its volume of trade and commerce and this includes the number of investments streaming into its varied economic sub-sectors.

In the case of Nigeria, the practice of trade and commerce has been with us for several decades, even before attaining Independence, but one of the biggest fallacies or rather paradox of our economic system is that trade and commerce has been carried on without any particular or definitive goals, set standards, targets or methods by which real growth or development levels may be ascertained, measured or determined; and also how impediments, obstacles and other hindrances encountered along the way may be surmounted.

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Without mincing words, there indeed, abound very serious basic and fundamental issues which affect and stand in the way of this nation-state's desire and dream to attaining, real socio-economic development. On this subject, I feel deeply saddened and worried about the future. I, therefore, seek the opportunity of this debate to invite every Senator in this distinguished Chamber to reflect upon and express their viewpoints on this matter. I make this open invitation because this Chamber is not just a talk shop, but an institution where we impart wisdom, practical knowledge, and solidity of ideas and common sense that ultimately shapes and influences societal values, norms, ethics and the general deportment (behaviour) of our people.

From my own personal observations and experience, the overall object for carrying on business ventures in Nigeria appears terribly flawed and if we in our capacity as the *Senatus Consulta* (the ancient Roman nomenclature for the Senate which means the *House of Wisdom*) of this country, sit here and expect miracles to happen, then posterity will not be lenient with us - (*Interruptions*)

The Deputy President: I am sorry, Distinguished Senator, for interrupting you. I suggest that you just highlight the issues, so that others can contribute because if we allow you to read all these things, I am sure at the end of the day you may not find any person who would be here to contribute.

Senator Mohammed Adamu Bello: It is all right, I will go directly to the purpose of the Institute.

One of the resultant objects of this proposed Chartered Institute of Commerce is to give Nigerians greater knowledge to enable them participate advantageously and effectively in commerce and trade with their foreign counterparts, and to galvanize the manufacture of quality products, goods, *et cetera*, and encourage farmers to increase their outputs, productivity and turnover levels.

The Institute presently organises and conducts workshops, seminars and other training programmes under the auspices of its membership education and training schemes to keep its members and other participants constantly updated on the professional skill and knowledge necessary to function as Commercial Administrators or Commerce Practitioners. The Institute's professional examination scheme which is based on a multi-disciplinary curriculum is designed to enable its members to keep pace with the latest developments in modern commercial practice and administrative techniques.

0573

However, the conferment of a statutory ranking on the Institute will enable it perform its duties more authoritatively and will assist immensely in the training and grooming of persons to be always conscious of the overall impact which any category of trading and commercial activity has on the nation's economy. Such consciousness will assist in no small way to dissuade or minimise incidences of mismanagement, malpractices, sharp practices and other economic sabotage in commerce and industry.

The establishment of the Chartered Institute of Commerce of Nigeria is devoid of any financial implication on the part of the Nigerian government. To this end, its financial provisions states clearly that it intends to fund its activities through levies, subscriptions and other contributions or grants from its members and any other philanthropic organisation. Its activities will be controlled and run by a Council, while a Registrar is to be appointed to maintain its register and carry on the day-to-day running of the Institute.

Nonetheless, in rounding up debate on the general principles of this Bill, I find it necessary and expedient to inform this distinguished Senate that the Institute is presently engaged in the publication of an authoritative directory of all Nigerian Trade and Market Associations for the purpose of separating the chaffs from the grains. Indeed, the publication is intended as a weapon against trading and commercial businesses that have continued to portray the nation's image in bad light within and outside Nigeria.

In addition to the foregoing, the directory is designed to:

- promote and regulate trader-customer relations;
- be kept in every Nigerian Mission abroad, Embassies and Chambers of Commerce, including reputable hotels, holiday and business resorts;
- change the outlook of the Nigerian market by taking it a step further into the field of E-commerce in the internet;
- assist Federal and State Governments to ascertain claims made and compensation to be paid in the event of the occurrence of any natural disaster or catastrophe, and
- create a focal point of accessibility to genuine commercial administrators and traders in Nigeria.

0574

When the duties of persons involved and connected in trade and commerce are fully appreciated and synchronised, then government efforts in strengthening and making real its economic policies would become attainable. I hereby urge distinguished Senators to support this Bill which aims at modernising our trading, commercial and industrial activities.

I urge you all to give this Bill an accelerated hearing.

The Deputy President: Thank you, is there any person that wishes to contribute?

Senator Annie Okonkwo (Anambra Central): Mr. President, I want to first of all thank my Colleague for taking time to bring this Bill because it shows that he is concerned about commerce. Of course, some of us who are from that constituency believe that what he is talking is a genuine spirited idea that the Senate should put forward to.

Already organisations of commerce have their own private Institute. They come together in different capacity to form their own private organisation. In that case they use it to organise their commerce and trade.

I believe that if we continue to allow the government to be involved in how to regulate or control or do the businesses and fashion ways commerce will operate, may breed corruption. We must not continue to encourage things that will only create jobs for the Boys. We must not do that. Although, he has a good intention, I would plead that the Senate look at this Bill very well and see how it can be modernised.

Senator Ibrahim Ida (Katsina Central): Mr. President, I want to commend the distinguished Senator for bringing up this Bill, which does not surprise me because he comes from Kano Central, the Centre of Commerce.

The world is now witnessing a meltdown financially, economically and, indeed, commercially. The only countries whose heads remain above water are those that have arraigned their commercial activities in such a way that they take care of what is to come, correct the mistakes that are on-going and prepare their people for the global challenge. The global challenge now is no longer production in the manner we know it. It is now value addition in terms of intellectual contribution in which commerce plays a very important leading role. It, therefore, behooves on every society to train its people in the best practices of commercial activities and regulate it in such a manner that it conforms to international best practices.

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This Bill seeks to do that because it seeks to establish an institute which would see that those who are engaged in commercial activities do so within the purview of the Law and in a manner that adds value and places Nigeria among the comity of nations that are advanced economically.

I, therefore, have no hesitation in supporting this Bill. I enjoin my Colleagues to give this Bill the support it requires so that we can pass it within the shortest possible time.

Senator Garba Yakubu Lado (Katsina south): Mr. President, I support this Bill and also commend distinguished Senator Bello for bringing up this important Bill. Of course, it is not surprising for someone that comes from Kano Central for that matter, the Centre of Commerce, to bring up something that would strengthen the commercial activities in the federation.

Looking at the scope of the Bill, it is a very good initiative. It is a Bill that will strengthen and open more doors to commercial activities if it sees the light of the day. We all know that commercial activities are the bedrock of any developing society. In this regard, I urge my distinguished Colleagues to give this Bill all the necessary support so that it sees the light of the day.

Senator Ahmad Ibrahim Lawan (Yobe North): Mr. President, let me commend the sponsor of this Bill and I want to take us down the memory lane.

Some 50 or 100 years ago, people all over the world engaged in commerce. They used very difficult, strenuous and excruciating experiences to conduct their activities. From Nigeria people used donkeys to go to Ghana. From Europe, people spent so many months before they reached their various destinations through the high seas.

Today, the world has reached a stage where commerce has become so sophisticated. All available means of communication has eased the stresses that were known. What is important is for us, as a country, to have our people involved in commerce participate as equals in any part of the world. We can only achieve that if our people are properly equipped with negotiation skills. In fact, for a very long time we have been disadvantaged because we do not have businessmen and women who have the skills to interact with the international gurus.

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I am sure that with the establishment of this Institute, our businessmen, particularly those that are involved in commercial activities will avail themselves of the opportunities to sharpen their skills. They should imbibe the universally and globally accepted standards so that wherever they go and in whichever circumstance they find themselves, they should be able to interact as equals with those people that ordinarily see themselves as the best.

I, therefore, have no hesitation to support this Bill 110 *per cent*. I also urge my Colleagues to give it the necessary support so that our Nigerian businessmen and women would become well grounded in international commercial best practices. By so doing they would equally attract good investments and play good ambassadorial role when they are involved with people from outside of Nigeria.

The Deputy President: All right, I will now put the Question for the Second Reading of this Bill.

Question put and agreed to.

The Bill is hereby referred to the Committee on Commerce to report back in two weeks.

Bill read a Second Time and referred to the Committee on Commerce to be reported back in two weeks.

AJOURNMENT

Senator Teslim Folarin: Mr. President, I move that this Senate do adjourn until next week Tuesday, 21st July, 2009 at 10.00 am.

Senator Kabiru Ibrahim Gaya: Mr. President, I second the Motion ably moved by the Senate Leader that having exhausted all the items on our Order Paper the Senate do adjourn until next week Tuesday, 21st July, 2009 at 10.00 a.m. prompt.

Question put and agreed to.

Resolved: That the Senate do adjourn until next week Tuesday, 21st July, 2009 at 10.00 am. Prompt.

The Senate adjourned accordingly at 12.25 p.m.