

**HOUSE OF REPRESENTATIVES**  
**FEDERAL REPUBLIC OF NIGERIA**

Tuesday, 17<sup>th</sup> November, 2009

*The House met at 10.45 a.m.*

**PRAYERS**

(The Speaker in the Chair)

**VOTES AND PROCEEDINGS**

**The Speaker:** Hon. Members, the House is called to order. I have examined and approved the Votes and Proceedings of Thursday, 12<sup>th</sup> November, 2009.

**The Speaker:** I understand from the Chairman, Rules and Business Committee that this week is saturated with Public Hearings. I understand that the House has moved to a higher gear now. There are about six or seven of the hearings going on today at different Committees and that should be a total of 200 Members but we just have to move on with Plenary because we have a lot of work to do and we want to meet our target.

Hon. Ita Enang, you do not advise the Committees that they can hold their Public Hearings at different times after Plenary?

**Hon. Ita Enang** (Itu/Ibiono Ibom): We will re-arrange with the Committees.

**The Speaker:** I am aware that a lot of Committees are also on oversight functions at the same time.

**Hon. Ita Enang:** Yes, out of Abuja.

**MESSAGE FROM THE PRESIDENT OF  
THE FEDERAL REPUBLIC OF NIGERIA**

**The Speaker:** Hon. Colleagues, I am in receipt of a letter from Mr. President of the Federal Republic of Nigeria on virement. It reads thus.

3<sup>rd</sup> November, 2009

*Rt. Hon. Dimeji Bankole, CFR  
Speaker of the House of Representatives,  
National Assembly Complex,  
Three Arms Zone,  
Abuja.*

*Dear brother,*

**SUBMISSION OF VIREMENT PROPOSAL  
FOR SOME PROVISIONS  
IN THE 2009 APPROPRIATION ACT FOR  
MINISTRIES,  
DEPARTMENTS AND AGENCIES**

*I write to request the kind consideration of the House in approving virement proposals to achieve higher execution rate of the 2009 Budget.*

*Hon. Speaker, you will recall that the capital budget implementation fell below expectation during the first quarter of the year due to implementation constraints. We have since made concerted efforts towards accelerating the pace of capital budget implementation through monitoring and tracking of budget execution at the Federal Executive Council, simplification of procurement procedures and strengthening of MDAs' implementation capacity among other measures. While these measures have culminated in appreciable progress in budget execution, we remain committed to intensifying efforts in this direction.*

*Following a recent review of project execution by the MDAs considerable scope exists for further progress through virement of funds from projects that are unlikely to be fully executed before the end of the fiscal year to other projects that have recorded higher execution rate. In a few cases also it is considered critical to reallocate resources within recurrent expenditure category of the budget with a view to facilitating the day-to-day running of the MDAs.*

*In line with budgetary practices and existing legislation, virement proposals in respect of 2009 Appropriation Act prepared by under listed Ministries are hereby attached for your kind consideration:*

- i. Federal Ministry of Agriculture and Water Resources;*
- ii. Federal Ministry of Aviation;*
- iii. Ministry of Defence;*
- iv. Ministry of Federal Capital Territory Administration;*
- v. Federal Ministry of Health;*
- vi. Ministry of Interior;*
- vii. Ministry of Niger Delta Affairs;*
- viii. Federal Ministry of Power;*
- ix. Federal Ministry of Science and Technology and*
- x. Federal Ministry of Works, Housing and Urban Development.*

*It is my hope that the House of Representatives of the Federal Republic of Nigeria will consider and pass virement proposals in their characteristic expeditious manner.*

*Please accept, Hon. Speaker, the assurances of my highest consideration.*

*(Signed)*

**UMARU MUSA YA'ADUA**

## **ANNOUNCEMENTS**

### **Meeting of House Services Committee**

**The Speaker:** There will be a meeting of the House Services Committee, today 17<sup>th</sup> November, 2009 in Room 201 at 2.00 p.m.

*(Signed)*

*Chairman*

### **Celebration of Life**

**The Speaker:** Hon. Yakubu Dogara, on behalf of the family, is inviting the entire Members of the House of Representatives to the burial ceremony of his father, late Baba Yakubu (1907 to 2009) scheduled as follows:

*Date:* 21<sup>st</sup> November, 2009.

*Venue:* Bauchi State, Bogoro Local Government, Dogara.

*Time:* 11.00 a.m.

He wishes to thank Members of the House of Representatives for their continuous

prayers and support.

*(Signed)*

*Hon. Yakubu Dogara,*

*Chairman, Committee on Customs*

### **Special Flight for intending Pilgrims**

**The Speaker:** This is to inform all intending pilgrims who would like to go on a special flight of the Hajj Commission that they should raise a draft in favour of the National Hajj Commission before the end of tomorrow and forward it to the Clerk of the Committee on Foreign Affairs. All enquiries should be directed to the Committee.

## **PRESENTATION OF PUBLIC PETITIONS**

**The Speaker:** Any Member who has a Petition to present to the House may, please, rise to do so now.

### **Petition against Bad Trade Practice by the HITV**

**Hon. John Halims O. Agoda** (Ethiopia East/Ethiopia West): Mr. Speaker, the Petition is titled: *Petition against Bad Trade Practice in the paid TV Industry of Nigeria.*

The Petitioners, among other things, are saying that the Association of Cable Operators of Nigeria (ACON) have decided to bring to your very good self and this honourable House the issue of unfair business practice by a fellow competitor called the HITV against their Members.

The Petitioner is alleging that in the two years that HITV has held the EPN rights, efforts by the nation's Broadcast Regulatory Agency and the Copyrights Commission to facilitate negotiations between ACON and HITV for the purpose of sub-licensing the rights to ACON have been rebuffed by the company.

Among other issues, the prayers of the Petitioners are stated thus:

(i) That this honourable House should please plead that you use your good offices to intervene in this matter to ensure international best practices;

(ii) To ensure that companies are not allowed to practice apartheid and must obey standard anti-competition laws and policies (anti-trust) and

(iii) To nip in the bud the potential danger of paid TV operators folding up businesses thereby causing job losses and its attendant social problems.

May I lay the Petition on the Table?

*Petition laid.*

**The Speaker:** The Petition is hereby referred to the Committee on Public Petitions.

*Petition referred to the Committee on Public Petitions.*

**Hon. Daniel Dino Melaye** (Kabba/Bunu/Ijumu): Point of Order, Mr. Speaker!

**The Speaker:** What is the Point of Order, Hon. Dino Melaye?

**MATTER OF URGENT PUBLIC  
IMPORTANCE**

**In the Course of Our Nation's History:  
\$300 million loan to be invested in the Power  
Sector**

**Hon. Daniel Dino Melaye** (Kabba/Bunu/Ijumu): Mr. Speaker, I draw my Order from VIII, Rule 4 of our Standing Orders dealing with Matter of Urgent Public Importance. My Point of Order this morning is in course of our nation's history.

On Wednesday, 11<sup>th</sup> November 2009 the Federal Executive Council met and one of the resolutions of the meeting was the conveyance of Nigeria's acceptance of a \$300 million loan to be invested in the Power Sector and part of the resolution of that meeting was to immediately ask the Minister of Finance to implement the agreement between the Federal Republic of Nigeria and the International Development Agency (IDA), an extension of the World Bank. Mr. Speaker, if you permit me I will just give you a background of the resolutions of the Council.

A sum of \$200 millions has been earmarked for the proposed Nigerian Electricity and Gas Improvement Projects and \$100 million for Partial Risk Guarantee for gas supply. Put together, a sum of ~~N~~45 billion loan has been collected, accepted, sealed and signed on behalf of Nigerians by the Federal Republic of Nigeria.

The reason adduced to the acceptance of this loan is that it would assist in reducing Green House gas emission. The loan is in two compartments. Mr. Speaker, as I speak to you, the project implementation period is five years and it commences on 24<sup>th</sup> November 2009 and ends on 23<sup>rd</sup> November 2014 and this is packaged by the World Bank to support the 7-Point Agenda.

Between the 6<sup>th</sup> and 8<sup>th</sup> of May, 2009 a meeting held at the World Bank's office in Abuja; that meeting was the negotiation meeting on behalf of the Federal Government and the World Bank. In attendance was the representative - *(Interruptions)*

**Hon. Ita Enang:** Point of Order, Mr. Speaker!

**The Speaker:** Hold on, Hon Melaye; Chairman, Rules and Business Committee, what is your Point of Order?

**Hon Ita Enang:** Mr. Speaker, the Point of Order I want to raise is that he is supposed to mention the matter and then question will be put to determine whether it is a Matter of Urgent Public Importance or not before we go on.

**Hon Dino Melaye:** Mr. Speaker, I sought your indulgence when I said I needed a minute to conclude.

**The Speaker:** But you have exceeded a minute.

**Hon. Dino Melaye:** However, the key and the meat of the matter is that money was collected on behalf of the Federal Government through the advice of the Attorney General of the Federation.

**The Speaker:** Hon. Dino Melaye, you have mentioned the matter.

**Hon. Dino Melaye:** But the legislative implication is this. *(Interruptions)*

**The Speaker:** Hon. Dino Melaye, it is all right. If it is going to be considered, the House will decide after which you can now bring those facts up.

**Hon. Ita Enang:** Let me draw the attention of the House to one matter that is pending on the Floor of this House. It is a request by Mr. President for approval that loan be taken; the letter came together with the Supplementary Appropriation Bill.

**The Speaker:** Are we talking about the same subject?

**Hon. Ita Enang:** Yes Sir.

**Hon. Dino Melaye:** Mr. Speaker, it is absolutely wrong. What is in the Supplementary Appropriation Bill \$500 million? What I am discussing here is \$300 million and it has been approved and accepted against Sections 21 and 22 (iii) of the Act.

**The Speaker:** What he is seeking is whether we are talking about the same loan or a different loan.

**Hon. D. Dino Melaye:** It is a different loan.

**The Speaker:** It is all right. I will allow that.

**Hon. Ita Enang:** Mr. Speaker, let me conclude by saying that we had in July received a letter for the First Supplementary Appropriation Bill from Mr. President and we considered and passed only the request for the expenditure. We have not yet approved the request for loan and that matter is coming up on the Floor of this House tomorrow.

**The Speaker:** Hon. Ita Enang, the matter that is coming up tomorrow, which you are talking about, is it the same matter as Hon. Dino Melaye's Matter of Urgent Public Importance. That is what I need to know?

**Hon. Ita Enang:** Yes, Mr. Speaker. It is.

**Some hon. Members:** No.

**Hon. Ita Enang:** I leave it to the House until the matter is brought to the Floor of the House tomorrow

**Hon. Dino Melaye:** It is not. If I have your permission, I can read what has justified what I am bringing up.

**The Speaker:** Chairman Rules and Business, on your honour, are you confirming to the House that it is exactly the same loan? Please be careful before you answer this question.

**Hon. Ita Enang:** I will not now be categorical.

**The Speaker:** All right, Hon. Dino, I beg your leave for you and the Chairman, Rules and Business Committee to, please, reconcile this matter and if it is definitely not the same loan, we can bring it up tomorrow.

**Hon. Austin Nwachukwu** (Ehime Mbano/Ihitte/Uboma/Obowo): Point of Order Mr. Speaker!

**The Speaker:** What is the Point of Order, Hon. Austin Nwachukwu?

#### **Air Crash Disaster in Nigerian, Averted**

**Hon. Austin Nwachukwu:** My Point of Order is Order VIII, Rule 4 of our Standing Orders. It has to do with Matter of Urgent Public Importance. Yesterday, there would have been one of the most disastrous air crashes in Nigerian history but by the mercy of God, it was averted at the Abuja International Airport.

I was on board the flight from Lagos to Abuja and with me here are my boarding pass and ticket to buttress what I am saying. The aircraft was to land and behold, there was another aircraft, Arik Air, that was about taking off at the same time. The Chanchangi Pilot managed to swerve towards the grass like the acrobatic display of Air Force jetfighter and managed to climb again and that was how we were able to avert what I would have called the most disastrous air crash in Nigerian because it would have involved two aircrafts.

The aircraft I boarded had 144 passengers on board; I do not know how many passengers were on board the Arik Aircraft. That would have been a serious disaster to this country. By the grace of God I am here this morning; I would have gone to the world beyond.

It is very important that we take this matter up as urgently as possible.

*Question put and agreed to.*

**Resolved:** That the matter be considered as a Matter of Urgent Public Importance on the next Legislative day, Wednesday, 18<sup>th</sup> November 2009.

#### **Syrup Addiction**

**Hon. Abubakar Shehu Bunu** (Bungudu/Maru): Point of Order, Mr. Speaker!

**The Speaker:** What is the Point of Order, Hon. Abubakar?

**Hon. Abubakar Shehu Bunu:** My Point of Order is Order VIII, Rule 4 of our Standing Orders dealing with Matter of Urgent Public Importance. There is an urgent need to check the extent of abuse of Syrup with Codeine.

On Friday last week, the BBC Hausa Service made a very serious observation on the abuse of syrups with codeine content in Nigeria. I am drawing the attention of this honourable House to the abuse of these syrups with codeine by some Nigerian youths especially those of them in the universities and others institutions.

**The Speaker:** Hon. Abubakar, you have made your point. You are talking about syrup addiction.

**Hon. Abubakar Bunu:** Yes. I have a sample here; Benilyn with codeine.

**The Speaker:** It is all right. Are you bringing syrup addiction as a Matter of Urgent Public Importance?

**Hon Abubakar Bunu:** Yes. If it is agreed to, I intend to bring it on the next Legislative Day.

**The Speaker:** I will put the Question that this matter be considered as a Matter of Urgent Public Importance.

*Question put and negatived.*

Hon. Abubakar Bunu, you can have a meeting with the Chairman, Rules and Business Committee. Maybe the Motion can come faster than you think.

#### **MOTION**

##### **Petroleum Products Deregulation**

**The Speaker:** My dear Colleagues, the next Order of the Day is a Motion on Petroleum Products Deregulation standing in the name of the Minority Leader, Hon. Mohammed Ali Ndume.

Hon. Ali Ndume, please move your Motion.

**Hon. Mohammed Ali Ndume** (Damboa/Gwoza/Chibok): Mr. Speaker, this Motion is on Petroleum Products Deregulation. This House:

*Notes* that the Ministry of Petroleum Resources and the Nigerian National Petroleum Corporation (NNPC) has forwarded to the National Assembly for consideration and passage the Petroleum Industry Bill;

*Worried* that the Ministry of Petroleum Resources and Nigerian National Petroleum Corporation (NNPC) engage in Media war with various interest groups which has caused panic in the supply and demand of petroleum products, thereby exposing Nigerians to various forms of hardship;

*Take cognisance* of the fact that the constitutional powers of amending, repealing or making new laws are exclusively vested with the National Assembly;

*Resolves to:*

(i) Direct the Ministry of Petroleum Resources and the Nigerian National Petroleum Corporation (NNPC) to guard their pronouncements as to deregulation of the Petroleum downstream sector to avoid panic buying and hoarding of petroleum products;

(ii) Urge the Ministry of Petroleum Resources and the Nigerian National Petroleum Corporation (NNPC) to sensitise the public with accurate facts and data underlying reasons for the proposed deregulation of the Petroleum downstream sector before the exercise.

I so move.

**Hon. Bashiru Omolaja Bolarinwa** (Lagos Mainland): I rise to second the Motion as moved by the Minority Leader of the House, Hon. Mohammed Ndume.

*Question Proposed.*

**Hon. Mohammed Ali Ndume:** Mr. Speaker, every one of us is aware that this Motion is a very simple and straightforward one. We have a constitutional responsibility. We all here in this

hallowed Chamber are, by our names, Members of House of Representatives. Constitutionally, it means we are representing our various constituencies and by extension Nigerians.

Chapter 2 of our Constitution, which we all swore to protect and defend, states clearly the Fundamental Objectives and Directive Principles of State Policy. With your permission, I will read Section 13 of the Constitution. It says:

*It shall be the duty and responsibility of all organs of government, and of all authorities and persons, exercising legislative, executive or judicial powers, to conform to, observe and apply the provisions of this Chapter of this Constitution.*

Section 14 of the Constitution states:

1) *The Federal Republic of Nigeria shall be a State based on the principles of democracy and social justice.*

2) *It is hereby, accordingly, declared that -*

(a) *sovereignty belongs to the people of Nigeria from whom government through this Constitution derives all its powers and authority;*

(b) *the security and welfare of the people of Nigeria shall be the primary purpose of government; and*

(c) *the participation by the people in their government shall be ensured in accordance with the provisions of this Constitution.*

Section 16(1)(b) of the Constitution states clearly as follows:

1. *The State shall, within the context of the ideals and objectives for which provisions are made in this Constitution -*

(a) *harness the resources of the nation and promote national prosperity and an efficient, a dynamic and self-reliant economy;*

(b) *control the national economy in such manner as to secure maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity.*

The issue of law making, as stated in the Preamble, is on the Exclusive Legislative List. Let me emphasise here that in the Second Schedule of our Constitution which is the Exclusive Legislative List, item 62(e) specifically states that: *control of the prices of goods and commodities designated by National Assembly as essential goods or commodities*.

We are aware that there is the need for deregulation and review of our petroleum industry and as I stated this Bill is before this House and it is going through the normal legislative process.

Hon. Dino Melaye has just raised an issue. It is always prevalent that we as representatives of our people who are saddled constitutionally with the responsibility of making laws are sidelined and government consistently takes decision and taking the lawmakers who are supposed to be in the forefront to the back seat. You will hear pronouncements that government will take a decision and we as representatives of the people will either read this in the newspapers or hear it on the network news.

I do not know why the NNPC, instead of lobbying the Members of the National Assembly who are responsible for the passage of this law as to the importance and relevance of deregulation, are touching on very sensitive issues that affect lives of Nigerians. You know that the mere pronouncement by NNPC that deregulation is necessary caused panic in the marketing of petroleum products and we know the consequences. Notwithstanding the panic, you know that in some places, you cannot get petroleum products to buy at ₦65 per litre.

It is high time we call the various authorities to order so that when major policy is going to be effected in this country the appropriate due process which this government always preaches should be followed, that is, that the National Assembly who are the constitutional representatives of the people should be consulted so that we do not experience this ugly situation again.

We know that Sallah and Christmas festivals are just by the corner and individuals normally want to take advantage of such situation in order to inflict hardship on our people. Besides that, this issue of petroleum products pricing is a Nigerian issue.

NNPC by its name belongs to Nigerians; the petroleum product by the grace of God's belongs to Nigerians. No individual; not even Members of the National Assembly can do things that are not in the interest of Nigerians. This House as a responsible House must call whoever is doing this to order so that our people do not suffer unnecessarily.

I hope this Motion is timely and will be supported by my hon. Colleagues.

**Hon. Clever M. Ikisikpo (Ogbia):** First of all, I thank our Minority Leader for bringing this Motion. This Motion will help Nigerians to know why it is good to deregulate or why it is not good to do so.

The prayer given so far from the mover of this Motion are not bad prayers; believe me these are the things that NNPC and the Ministries are doing as at this time. The Ministry and NNPC have not taken any date for deregulation. What they are doing is to tell Nigerians that there is something called deregulation and Nigerians should know and get views from various angles before they can now think of fixing any date for deregulation.

I would like Mr. Speaker to give me some time to enlighten Nigerians and the House why it is good for us to deregulate. Let us take our minds back to when President Olusegun Obasanjo was in office; Nigeria had four good refineries but the good refineries are good for nothing because the refineries are not working. We have spent so much money on Turn-Around Maintenance (TAM) concerning these refineries.

**The Speaker:** How much have we spent on it?

**Hon. Clever Ikisikpo:** Just last year before the former GMD left office US\$7.5 million was spent on Kaduna Refinery but believe me US\$7.5 million is over ₦1 billion but till date Kaduna Refinery is not working properly. Hundreds of millions of Naira have been spent on Warri Refinery but believe me till date Warri Refinery is not working.

What we have in Nigeria is importation of fuel; we import fuel up to 100 *per cent* because our refineries are not working. I want to also tell you that we have a cartel or a cabal in Nigeria and that cabal do not want our refineries to work. The only solution for us to break that cabal is for us to deregulate the down stream sector. This is because the cabal believes that with importation they can always fill their pockets and since they fill their pocket with proceeds made from importation of refined fuel, the only solution for us is to deregulate.

**Hon. Friday Itulah (Esan North East/South West):** Point of Order, Mr. Speaker!

**The Speaker:** What is the Point of Order?

**Hon. Friday Itulah:** I am raising Order IX, Rule 4 of our Standing Orders at page 31. It says: *A member must confine his contributions to the subject under discussion and may not introduce mater irrelevant thereto.*

The subject matter of this Motion is very clear about the non-availability of information -  
(Interruptions)

**The Speaker:** Hold on! If I may read this Motion, it is on petroleum products deregulation and his facts are on petroleum products deregulation. So, you are ruled of order.

Hon Ikisikpo, go ahead.

**Hon. Clever Ikisikpo:** Thank you, Mr. Speaker. All we are doing today is importation and I said that there is a cartel and that cartel does not want our refineries to work. Let us take our minds back to the period when President Obasanjo was to leave office. When he realised that it was difficult to break this cartel, he decided to give out these refineries believing that giving those refineries out to private hands would break that cartel but Nigerians cried out that we do not want our refineries to be given out to private hands. At that time President Yar'Adua was just coming in. Being a listening President he decided to manage these refineries. But believe me in spite of the fact that he has spent about two years in office; he still could not break that cartel. Our refineries are still not working.

So what is the solution to this problem? Deregulation will never result in price hike; it will only help this nation. Why? This is because when private hands are handling this problem there will be competition and when the market is competitive every marketer will want to make gain and how do you make gain; your price might likely come down.

A good example is the success we have recorded in the telecommunications sector. When we pitched tent with ECONET at the initial time, a SIM Card was sold for ₦15,000.00 but we were able to break the monopoly by allowing several telecommunications companies to operate. Today we buy a SIM Card at only ₦200. If you talk of air time, if you make a call from 12.00 midnight it is free; this is a means of making customers to come around.

I want to appeal to hon. Members that we need to support deregulation because it is the only means that will remove fuel queue. In a regulated market we talk about bridging; bridging means every part of Nigerian needs to get fuel at the same price and Nigeria price today is ₦65.00 per litre but if you go to Bayelsa State where I come from fuel in a regulated market is between ₦90.00 and ₦100 per litre. It is only in Abuja that fuel is being sold at ₦65.00 and this is a regulated market.

If we allow private hands to handle our refineries and refine in Nigeria the issue of demurrage, landing cost and transport will no longer be there. Nigeria spends about ₦600 billion a year on subsidy because we

refine our product abroad and transport it back. The implication is that we spend about ₦1.5 billion a day on subsidy and when there is no importation of fuel, the issue of subsidy will not be there.

**Hon. John Halims Agoda** (Ethiope East/Ethiope West): This motion is very timely. Hon Clever Ikisikpo has dwelt extensively on the issue of deregulation. The important thing in life and in any society is that when the government wants to introduce a concept, it must also equally show capacity, seriousness and preparation. There must be stages of development of that concept. There must be period of policy formulation, planning and the time when this policy will be implemented.

As the authors of this Motion said, papers are awash with report that instead of the two government agencies; the Ministry and indeed the NNPC to show capacity and readiness of the government to providing alternatives to Nigerians, they are engaging other stakeholders who by virtue of their position must have interest in the management of our economy in a show of shame to the extent that they sometimes even take advertisements that are very insulting instead of exposing to Nigerians the level of preparation of the government.

It is true that deregulation, as Hon. Clever Ikisikpo said, has brought a lot of benefits to us in the Communication and Aviation Sectors but we should bear in mind that the issue of fuel is one critical factor in our national life. The government should be able to show that yes; now that we are about to deregulate, the transport system of our country has been properly taken care of.

Secondly, we have more than enough fuel in stock as a government and as a country so that whenever the private hands who are given opportunity to do this supply are getting funny by way of price differentials, the Government would be ready, capable and ever present to mitigate whatever the price would be. This brings to the fore the issue of salaries and wages because there is no doubt that the increase in the price of fuel will no doubt raise the cost of all other social services.

I do expect the Nigeria Government of which I am part and parcel; the NNPC and indeed the Ministry of Petroleum Resources at this material time that we are to show more seriousness by disclosing the facts and figures; not by telling Nigerians that they are going to import fuel from Senegal.

In fact, about three or four days ago it was credited to Nigerian Ministry officials that the Nigerian Government would import fuel from Senegal. Now, if the Government is planning to import fuel from Senegal, is that an attribute of deregulation? I do not think that is deregulation if the Government itself is

involved in importing fuel from a small nation; a sister nation that is not as big as Delta State.

This time calls for collective support, collective seriousness, and collective determination of the National Assembly, the Executive, for constant engagement, productive engagement and showing capacity that we are ready to do the question of deregulation so that the issue of trust and confidence can be created in the minds of the Nigerian people.

**Hon. Aro Samuel Bamidele** (Yagba East/Yagba West/Mopamuro): Mr. Speaker, if I have to go through the Motion at hand, I believe the Minority Leader is only talking about the process of deregulation. The prayer of his Motion just wants NNPC and the Ministry of Petroleum Resources to follow the normal procedure and the procedure is to make sure that all necessary actions are taken before such policy is implemented. There is no way you can talk about the process without talking about the policy itself.

There is need for us to let Nigerians know why the government wants to take such a decision. Indeed, deregulation is not a new thing in the Nigerian Petroleum Industry. Between January and May 1999 there was a system of deregulation whereby you allow Government agencies to fix their prices. At that time, the PPPRA was not in place.

As I am talking to you today, part of the industry is being deregulated. For example, the diesel that we make use of is no longer being subsidised. You import your AGO and sell at the landing cost. The only thing is that PPPRA and DPR are advisory bodies in that perspective; they do not fix the price. If you get to some gas stations, you will find that they are selling at ₦100 and at others they are selling at ₦105. So, it is left for you to go to wherever you feel the price is all right for you; that is what applies as regards AGO for now. With respect to PMS and DPK, it is a regulated market.

I agree that NNPC has to follow the normal procedure and the procedure is for them to come by way of a Bill which they have done in the form of the Petroleum Bill and I think by the time the House finishes working on the Bill and passes it, everything would be all right. I am not saying that the Bill entirely has to do with deregulation. It does not but I believe it is an aspect of it.

Having said this, I think there is need for me to give certain information to this Chamber. On the issue of deregulation, it is just a system whereby Government subsidises the price; the government takes control of what we pay for the products. As I am talking to you today, if you go to the PPPRA template, you will find that the landing cost of PMS to Nigeria excluding the distribution margin is between ₦94.00 and ₦95.00 per

litre. If you add distribution margin to it, PMS is supposed to be between ₦107 and ₦110.

**The Speaker:** We know what PMS is but there are other people who do not know.

**Hon. Aro Samuel Bamidele:** PMS is petrol.

**The Speaker:** That is, the one used in vehicles; is that right?

**Hon. Aro Samuel Bamidele:** Yes.

**The Speaker:** That is the language people understand.

**Hon. Aro Samuel Bamidele:** Thank you, Sir. The open market price of petrol today is between ₦107 and ₦110. In a regulated market, the difference between ₦107 and ₦65 we pay on the pump is what the government subsidises.

It was in 2006 that the government started paying subsidy on petrol. The sum of ₦261 billion was used to pay subsidy to the operators in the industry. In 2007, the sum of ₦278.8 billion was expended on subsidy. In 2008, the sum of ₦630.5 billion was expended. The reason for the sharp increase between 2007 and 2008 was due to the increase in the price of crude and the exchange differential.

From January 2009 to date, the sum ₦286.3 billion has been expended on subsidy. If you sum everything together, a sum of ₦1.456 trillion has been expended on subsidy since 2006 to 2009. If we have to continue this way, my personal perception is that it is not good for our economy. This is because the ordinary masses are not really enjoying the subsidy that we think we have put in place for them to enjoy.

Let me give you an example; if you look at kerosene under a regulated market which we are practicing now, it is supposed to go for about ₦50 per litre at the gas station. The fact is that you can hardly get to buy kerosene to buy at gas stations; you can only get it at the black market. The price you will get kerosene is between ₦110 and ₦120. So, the subsidy that the Nigerians are supposed to be enjoying has been eroded. I do not believe that this is good for our system.

One of the advantages of deregulation is that our refineries will work. It will bring about investment; create jobs; encourage competition and make products to be available. It will also remove bottleneck in the NNPC, open up a lot of businesses and encourage a lot of foreign investments. It will equally bring about more revenue to the government.

**The Speaker:** I will now put the question in favour of this Motion.

*Question that the question be put, put and agreed to.*

*Main question put and agreed to.*

The House:

*Noted* that the Ministry of Petroleum Resources and the Nigerian National Petroleum Corporation (NNPC) has forwarded to the National Assembly for consideration and passage the Petroleum Industry Bill;

*Worried* that the Ministry of Petroleum Resources and Nigerian National Petroleum Corporation (NNPC) engage in Media war with various interest groups which has caused panic in the supply and demand of petroleum products, thereby exposing Nigerians to various forms of hardship;

*Cognisant* of the fact that the constitutional powers of amending, repealing or making new laws is exclusively vested with the National Assembly;

*Resolved to:*

(i) Direct the Ministry of Petroleum Resources and the Nigerian National Petroleum Corporation (NNPC) to guard their pronouncements as to the deregulation of the Petroleum downstream sector to avoid panic buying and hoarding of petroleum products;

(ii) Urge the Ministry of Petroleum Resources and the Nigerian National Petroleum Corporation (NNPC) to sensitise the public with accurate facts and data underlying reasons for the proposed deregulation of the Petroleum downstream sector.

**The Speaker:** Chairman, Committee on Rules and Business or the Deputy Chairman, Committee on Rules and Business, please, approach the Chair.

*(Hon. Ita Enang, Chairman, Committee on Rules and Business confers with the Speaker)*

## CONSIDERATION OF BILL

### Development of Nigeria Content in the Nigerian Oil and Gas Industry Bill, 2009

A Bill for an Act to Provide for the Development of Nigeria Content in the Nigerian Oil and Gas

Industry; for Nigerian Content Plan; for Supervision, Coordination, Monitoring and Implementation of Nigerian Content and for Matters Incidental Thereto, 2009 (HB. 97) –

*Order for Third Reading.*

**The Speaker:** Hon. Colleagues, the next Order of the Day is the Third Reading of a Bill for an Act to Provide for the Development of Nigeria Content in the Nigerian Oil and Gas Industry; for Nigerian Content Plan; for Supervision, Coordination, Monitoring and Implementation of Nigerian Content and for Matters Incidental Thereto, 2009.

Members would recall that the House adopted the Report of the Committee of the Whole on the Bill on Thursday, 22nd October, 2009. Clean copies of the Bill have been circulated to Members to enable them have a look at the content.

I therefore call on the Chairman, Rules and Business Committee to move that the Bill be read the Third Time.

**Hon. Mohammed Ali Ndume:** Point of Order, Mr. Speaker!

**The Speaker:** What is the Point of Order, Minority Leader?

**Hon. Mohammed Ali Ndume:** My Point of Order is Order VII, Rule 4 of our Standing Orders at page 17. With your permission I read:

1. *The Leader of the House shall be a Member nominated from among Members of the Majority Party in the House.*
2. *His functions shall be:*

(a) *To lead the business of the House;*

(b) *To manage the legislative schedule of the House;*

(c) *To liaise with Committee Chairmen and other functionaries of the House;*

(d) *To perform such other duties as may be assigned to him.*

Order VII, Rule 5 states:

*The Whip of the House shall be a Member nominated from among Members of the Majority Party in the House.*

His functions shall be:

- (a) In conjunction with other officers, ensure the attendance of Members, Order, decorum and discipline in the House;
- (b) Organise Members in debates and Divisions, and persuade them on voting one way or the other.

Order VII, Rule 6 states:

1. The Deputy House Leader shall be a Member nominated from among the Members in the Majority party in the House.
2. His functions shall be:

- (a) Assisting the Leader of the House in the performance of his functions ;
- (b) Deputising for the Leader of the House in his absence;
- (c) Any other function as may be assigned to him.

Order VII, Rule 7 states:

1. The Deputy House Whip shall be a Member nominated from among the Members in the Majority Party in the House.
2. His functions shall be:

- (a) Assisting the Whip of the

House in the performance of his functions;

(b) Deputising for the Whip of the House in his absence;

(c) Any other function as may be assigned to him.

Mr. Speaker, this is not the first time I am raising this Point of Order. All of these officers are not on their seats.

**The Speaker:** I rule you out of Order. Chairman, Rules and Business Committee, you have the Floor, please.

**Hon. Ita Enang:** Mr. Speaker, I move that a Bill for an Act to Provide for the Development of Nigeria Content in the Nigerian Oil and Gas Industry; for Nigerian Content Plan; for Supervision, Coordination, A Monitoring and Implementation of Nigerian Content and for Matters Incidental Thereto be read the Third Time.

**Hon. Jerimon S. Manwe** (Lau/K/Lamido/Ardo-Kola): I rise to second the Motion moved by Hon. Ita Enang that a Bill for an Act to Provide for the Development of Nigeria Content in the Nigerian Oil and Gas Industry; for Nigerian Content Plan; for Supervision, Coordination, Monitoring and Implementation of Nigerian Content and for Matters D Incidental Thereto be read the Third Time.

Question put and agreed to.

Bill read the Third Time and passed.

A

## CONSTITUTION (AMENDMENT) BILL, 2009

A Bill for an Act to Alter the Provisions of the Constitution of the Federal Republic of Nigeria 1999; and for Other Matters Connected Thereto 2009 (HB. 311) –

Order for Second Reading.

**Hon. Ita Enang:** The next matter on the Order Paper is the Second Reading of the Constitution (Fourth Amendment) Bill. Mr. Speaker, you have assigned the Deputy Speaker to declare one of the Public Hearings on FCT open. You have assigned the House Leader to declare another one open. You have also assigned the Hon. Deputy Leader on a function outside the country

and the House Whip has just left to represent you at another public hearing.

**The Speaker:** Hon. Ita Enang, the Leader is here.

**Hon. Ita Enang:** The Leader has just finished declaring open a Public Hearing on your behalf. We welcome him back, Sir.

**The Speaker:** Why do you not confer with the Leader quickly and see how we move.

*(Chairman, Rules and Business Committee, Hon. Ita Enang confers with the House Leader, Hon. Tunde Akogun)*

**Hon. Ita Enang:** Mr. Speaker, we are ready, Sir.

**The Speaker:** Hon. Colleagues, the next Order of the Day is commencement of debate on the General Principles of a Bill for an Act to Alter the Provisions of the Constitution of the Federal Republic of Nigeria 1999; and for Other Matters Connected Thereto, 2009.

This Bill was read the First Time on Wednesday, 28th October, 2009. I now invite the Leader of the House, Hon. Tunde Akogun to move that the Bill be read the Second Time.

**Hon. Tunde Akogun** (Akoko-Edo): Mr. Speaker, I rise to move that a Bill for an Act to Alter the Provisions of the Constitution of the Federal Republic of Nigeria 1999; and for Other Matters Connected Thereto, 2009 be read the Second Time.

**Hon. Austin Nwachukwu** (Ehime Mbano/Ihitte Uboma/Obowo): I rise to second the Motion as moved by the Leader of the House.

*Question proposed.*

**Hon. Tunde Akogun:** Mr. Speaker, hon. Colleagues, this is a very simple legislative proposal. It seeks to augment the electoral reform process by making the Independent National Electoral Commission (INEC) funding a First Line Charge on the Consolidated Revenue Fund of the Federation.

The Amendment is to enable INEC get an effective funding thereby ensuring effective autonomy for free and fair electoral process.

Hon. Members are, therefore, called upon to, please, support this Bill for Second Reading.

**The Speaker:** I will now put the question on the Second Reading of this Bill.

*Question put and agreed to.*

*Bill read the Second Time and referred to the Special Ad-Hoc Committee on the Review of the Constitution of the Federal Republic of Nigeria, 1999.*

**Hon. Ita Enang:** Mr. Speaker, permit me to move that in view of the fact that the Hon. Deputy Speaker is still representing you in declaring open a Public Hearing that Order VII, Rule 2(2) of our Standing Orders be suspended to allow Mr. Speaker to preside in the Committee of the Whole to take all the Reports.

**Hon. Jerimon S. Manwe:** I rise to second the Motion as moved by the Chairman, Rules and Business Committee.

*Question put and agreed to.*

*Resolved:* That Order VII, Rule 2(2) of the House Standing Orders be suspended to allow Mr. Speaker to preside in the Committee of the Whole to take all the Reports.

## **CONSIDERATION OF REPORTS**

### **Report of the Joint Committee on Finance and National Planning on the 2010-2012 Medium Term Expenditure Framework and Fiscal Strategy Paper of the Federal Government of Nigeria**

**The Speaker:** Since we have a number of Reports to consider, I am going to ask the respective Chairmen to get ready to move for the consideration of these Reports after which the Leader will move for us to move into Committee of the Whole.

The next Order of the Day is consideration of the Report of the Joint Committee on Finance and National Planning on the 2010-2012 Medium Term Expenditure Framework and Fiscal Strategy Paper of the Federal Government of Nigeria. Members would recall that the Report was laid on Thursday, 12<sup>th</sup> November 2009.

Hon. John Owan Enoh is now invited to move for the consideration of the Report.

**Hon. John Owan Enoh** (Ibubra/Etung): Mr. Speaker, I move that this House do consider the Report of the Joint Committee on Finance and National Planning on the 2010-2012 Medium Term Expenditure Framework and Fiscal Strategy Paper of the Federal Government of Nigeria and approve the recommendations therein.

**Hon. Sada Soli Jibia** (Jibia/Kaita): I rise to second the Motion moved by Hon. John Owan Enoh.

*Question put and agreed to.*

**Resolved:** That the House do consider the Report of the Joint Committee on Finance and National Planning on the 2010-2012 Medium Term Expenditure Framework and Fiscal Strategy Paper of the Federal Government of Nigeria and approve the recommendations therein.

**Report of the Committee on Federal Capital Territory on Federal Capital Territory Education Resource Centre (Establishment) Bill, 2009**

**The Speaker:** The next Order of the Day is consideration of the Report on a Bill for an Act to Provide for the Establishment of the Federal Capital Territory Education Resource Centre and Other Matters Connected Therewith, 2009.

This Bill was committed to the Committee of the Whole and the Report was laid on Thursday, 30<sup>th</sup> July 2009.

Hon. Ita Enang could you, please, move for the consideration of the Report?

**Hon. Ita Enang:** Mr. Speaker, I move that this House do consider the Report on a Bill for an Act to provide for the Establishment of the Federal Capital Territory Education Resource Centre and Other Matters Connected Therewith.

**Hon. Peter Linus Umoh** (Oron/Mbo/Okobo/Udung Uko/Urue/Offong/Oruku): I do second the Motion.

*Question put and agreed to.*

**Resolved:** That the House do consider the Report on a Bill for an Act to provide for the Establishment of the Federal Capital Territory Education Resource Centre and Other Matters Connected Therewith.

**Report of the Committee on Special Duties on the National Boundary Commission (Amendment) Act No. 12, 2006 (Amendment) Bill, 2008**

**The Speaker:** The next Order of the Day is the consideration of the Report of the Committee on Special Duties on a Bill for an Act to amend the National Boundary Commission (Amendment) Act, 2006 No.12 so as to make appointment of some Members of the Commission to be full-time as Commissioners, 2008.

The Report was laid on Thursday 8<sup>th</sup> October, 2009. Hon. Samson Osagie, please move for the consideration of that Report.

**Hon. Samson Osagie** (Orhionmwon/Uhunmwode): I move most respectfully

move that this House do consider the Report of the Committee on Special Duties on a Bill for an Act to Amend the National Boundary Commission (Amendment) Act, 2006 No. 12 so as to make appointment of some Members of the Commission to be full-time as Commissioners, 2008.

**Hon. Waheed Aderemi Gbede** (Ibadan North): I rise to second the Motion for the consideration of the Report as moved by my hon. Colleague.

*Question put and agreed to.*

**Resolved:** That the House do consider the Report of the Committee on Special Duties on a Bill for an Act to Amend the National Boundary Commission (Amendment) Act, 2006 No. 12 so as to make appointment of some Members of the Commission to be full-time as Commissioners and approve the recommendations therein.

**Report of the Joint Committee on Science and Technology and Defence on Chemical Weapons (Prohibition) and National Authority for Effective Implementation of Chemical Weapons Convention in Nigeria (Establishment) Bill, 2008 (HB. 92)**

**And**

**The Report of the Joint Committee on Communications and Environment on Regulation of Location of Telecommunication Mast and Associated Facilities; Co-Location and Infrastructure Sharing (Provision) Bill, 2008 (HB. 71)**

**The Speaker:** Chairman, Rules and Business Committee, Hon. Akinlade and Hon. Dave Salako are not here?

**Hon. Ita Enang:** We can stand these reports down, Sir. Hon. Dave Salako said he would definitely be here.

**The Speaker:** I will stand the Reports down.

*Consideration of the Reports, with the leave of the House, stood down.*

**Hon. Tunde Akogun:** I move that the House do resolve into Committee of the Whole to consider these Reports.

**Hon. Nkem Ihedioha** (Aboh Mbaize/Ngor Okpala): I do second the Motion as ably moved by the House Leader.

*Question put and agreed to.*

**Report of the Joint Committee on Finance and National Planning on the 2010-2012 Medium Term Expenditure Framework and Fiscal Strategy Paper of the Federal Government of Nigeria - CONSIDERED IN THE COMMITTEE OF THE WHOLE.**

*(The Chairman in the Chair)*

**The Chairman:** Hon. Colleagues, the Recommendations of the Joint Committee on Finance and National Planning goes thus:

**Recommendation (i):**

**Naira to Dollar Exchange Rate**

*That the Committee recommends a benchmark exchange rate of ₦150 per USD; this was done after due consultation with both officials of the Ministry of Finance as well as the Central Bank of Nigeria and in line with present market indicators.*

**Hon. Bitrus B. Kaze** (Jos South/Jos East): This is a Report of a Joint Committee on Finance and National Planning that is based on the 2010 to 2012 Medium Term Expenditure Framework.

My understanding is that this Medium Term Expenditure Framework is to give us a roadmap as to how Nigeria will emerge as one of the 20 strongest countries in the world by 2020. As it is now, in the black market, a dollar goes for between ₦150 and ₦157 and for the years 2010 to 2012, we are still hoping to retain ₦150 as the Exchange Rate between the Naira and the Dollar. To me, it is a contradiction of our aim to move forward. We should have aimed at reducing the rate of exchange of the Dollar to ₦100.00 or even ₦50.00. That this House would accept up to ₦150.00 per Dollar is not acceptable to me and I am of the opinion that we should reduce it downward.

**Hon. John Enoh:** Mr. Chairman, let us first of all look at the situation in 2009. In 2009 we passed the National Budget based on ₦125.00 to a Dollar but midway when we had cause to approve the President's Special Supplementary Appropriation, there was a request for us to appropriate in terms of ₦147.00 to the US Dollar.

As at yesterday, based on the Supplementary Budget that was sent again, the Ministry of Foreign Affairs is actually asking for additional funding based on the difference even between the ₦147.00 and ₦152.00 or thereabout which was computed; that is at one level.

The second level is that the Medium Term Expenditure Framework that we are considering and modifying in some instances has a figure of ₦147.00 to a Dollar. The experience in 2009 was that if we look at how much money we had in our foreign reserves, most of these moneys were depleted because of the need by the Central Bank to cushion and to continually withdraw from there to be able to support the demand of the Dollar in the market. Even if we reduce it to below ₦150.00 per Dollar, we are going to have the same problem in 2010.

What is important for us as an economy is to be able to get a figure that makes the demand for Dollar not to overwhelm the capacity of the internal market as well as the CBN to be able to supply the Dollar in exchange for the Naira.

Based on the interaction with the CBN, the CBN agreed with the Joint Committee that ₦150.00 would be the ideal exchange rate for 2010. This is not the figure that is going to remain for 2011 and 2012; rather this ₦150.00 is going to be the basis for the 2010 Budget. By 2011 and 2012, of course, the assumption would change accordingly.

**The Chairman:** That is quite straightforward. Hon. Colleagues, let me advise us in simple economics here. We are a private sector driven economy system; we do not run a fixed exchange rate system. So, you can not fix the rate by definition. Therefore, it is the prevalent exchange rate as at now that you can use to plan for the future. If those circumstances change next year vis-à-vis other markets it would change as well. It is impossible under our system to fix it. That makes it straightforward that it would have to be within the system.

I will now put the Question on Recommendation (i).

*Question put and agreed to.*

**Recommendation (ii):  
Real GDP**

The Committee accepts the above real GDP growth as contained in the Medium Term Expenditure Framework (MTEF).

*Question put and agreed to.*

**Recommendation (iii):  
Oil Production and Growth**

That the Committee considered the fact that in 2008, the oil industry produced an average of 2.1 million barrels per day (mbpd) and for the first half of 2009 oil production averaged 2.09 mbpd and recommends that the House maintains the production level of 2.088 mbpd or 2010, 2.275 mbpd for 2011 and 2.443 mbps for 2012.

**Hon. Jerimon S. Manwe:** Mr. Chairman, while I am not opposed to the Committee's recommendation, having come from the Customs Committee Public Hearing, the revelation we heard is that the NNPC itself neither knows the quantity of oil they produce nor do they know what is being taking out; although I am not pre-empting the Report. So I do not know what the basis for arriving at the figure is.

**The Speaker:** This is an average figure.

**Hon. Abubakar Abdullaziz Yari** (Anka/Talata Mafara): Mr. Chairman, these figures represents the average projection for 2009, 2010 and 2011 respectively but there was a Report submitted to us in the Committee of Petroleum Resources (Upstream) in 2008 that the NNPC is projecting to raise the country's production capacity to 4 million barrels per day in 2010. So, I do not know whether this Committee based their projection in collaboration with the NNPC or not.

NNPC officials made this disclosure when they appeared before our Committee. When we called the then Managing Director of NNPC, we raised the issue of some wells that were not functioning. They gave us a plan and money was appropriated for it and they assured us that by 2010 we would have attained the 4 million barrels per day target they set. And as now, we are still project 2.43 million barrels per day for 2011. So, I would like this House to look into that.

**The Chairman:** This is a conservative estimate on what they intend to achieve.

**Hon. Bala Ibn Na'Allah** (Zuru/Fakai/Sakaba/D/Wasagu): Mr. Speaker, when the Medium Term Expenditure Report was submitted there were some projections and additional reasons were given as to why those projections were arrived at. One was the declining productivity in the oil sector as a result of the activities of militants in the Niger Delta to which a solution has almost been found and, therefore, based on that solution the production becomes realistic that they may not be able to boost that production to the level that the NNPC is projecting because they have not taken into account the time it takes to restore the infrastructure that were destroyed during that period.

NNPC officials were saying that that problem having been solved we should be able to put in place what is capable of producing 2.44 million barrels per day as at 2010 which should become the basis for our planning rather than planning on what is not achievable but just a forecast and that this is a realistic thing based on what is on the ground and you can see that there is a progressive rise to justify the arrival of 2.3 mbpd. If you just move one benchmark back, you would have seen that for 2010 it is 2.275 mbpd. So, it is just a marginal increase in 2011 to 2.443 mbpd as we have.

I think this is realistic and I urge my Colleagues to accept it.

**Hon. Andrew Uchendu** (Ikwerre/Emohua): I disagree a little bit with the recommendation here. Only last weekend, I had the opportunity of listening to the Managing Director of NNPC when he paid a visit to Port Harcourt and it was even reported in some Newspapers yesterday.

With the recent happenings in the Niger Delta the current oil production is put at 2.4 mbpd. If as at today it is 2.4 mbpd are we not being too conservative in assuming that it would be 2.443 in three years time? Can we not adjust it a little bit; but then it is not good to be over-optimistic.

**The Speaker:** I was trying to give an answer to that.

**Hon. John Owan Enoh:** Mr. Chairman, first of all, I would like to make a correction that for 2010 it is actually 2.088 mbpd by these recommendations, not 2.275 or whatever.

Hon. Ibn Na'Allah has actually made a point about the damage to distribution and production, channels and all that. The information I would like to give is that even the Minister of Petroleum had argued even for the fact that it would reduce the figure from 2.088 to 2 mbpd. We have actually come out with these figures because we have looked at the performance in 2008 and in 2009 and said rather than reduce it to 2 mbpd we should stick to 2.088 mbpd.

It is also important that without prejudice to how much you produce what is important is our OPEC quota. We are doing a budget for 2010; our OPEC quota, for example, cannot even consume the entire 2.088 mbpd that we are even projecting for 2010. Therefore, we need to be able to look at all these things in terms of how much optimism we want to actually indicate as we make our projection for oil production.

**The Chairman:** I ill now put the question on Recommendation (iii).

*Question put and agreed to.*

**Recommendation (iv):**

**Benchmark price of Oil**

*That the Committee recommends an upward review of the benchmark price to \$57 in 2010; \$59.50 in 2011 and \$62 in 2012 after further engagement with Finance Ministry officials and other stakeholders knowledgeable on recent oil price trends. This increase is consistent with the recent forecast by market analysts*

and would provide the fiscal space to accommodate necessary increases in government expenditure.

Question put and agreed to.

**Recommendation (v):**

**Non Oil Revenue Baselines and Assumptions**

That based on the above, the Joint Committee recommends the adoption of the above forecast for all of CIT, VAT and Customs Duty as contained in the Medium Term Expenditure Framework (MTEF)/Fiscal Strategy Paper.

Question put and agreed to.

**Recommendation (vi):**

**Independent Revenue**

That the Committee recommends some slight modifications of the forecast figures to ₦300 billion in 2010; ₦316.89 in 2011 and ₦345.6 billion in 2012.

Question put and agreed to.

**Recommendation (vii):**

**Federation Account**

That the Committee projects a total Federally collectible revenue for 2010 to be ₦6,265.88 billion.

**The Chairman:** I think the word *collectible* should read *collected*.

**Some hon. Members:** *Collectible*.

**The Chairman:** There is need for an adjustment there. *Collectible* is different from *collected*. I will give an example. The Nigeria Customs will give an average of maybe ₦120 billion a year and they will say that is the amount collected but if you check the ratio that is actually about 30 per cent of collectible.

**Some hon. Members:** *Collectible*.

**The Chairman:** *Collectible* is not necessarily a projection. Could Hon. John Enoh clarify the position, please?

**Hon. John Owan Enoh:** The language that has usually been used really is federally collectible. It represents what the assumptions in totality would lead us to achieving without making reference to the capacity which we cannot really talk about. In other

words, we cannot talk about what we are unable to achieve.

Therefore, by the context of this, I think that it is federally collectible based on our assumptions.

Question put and agreed to.

**Recommendation (viii):**

**Oil Revenue**

That the Committee projects a greater increase in oil revenue in 2010 to ₦4,349.05 billion. This is due largely to increase in benchmark price of oil. More increases are also expected in both 2011 and 2012 beyond the levels forecasted by the Medium Term Expenditure Framework (MTEF) document for both the same reason and additionally the fact of expected shifts in production across different business arrangements which are subjected to different cost structures and fiscal terms.

Question put and agreed to.

**Recommendation (ix):**

**Non Oil Revenue**

That the Committee recommends a slight modification of the non oil revenue projection to ₦1,747.18 billion. This is to accommodate the expected modification of the figure for Independent Revenue for 2010.

Question put and agreed to.

**Recommendation (x):**

**2010 – 2012 Medium Term Sector Strategies**

That the Committee recommends the approval of the projected declines in recurrent expenditure as captured in the medium term strategy paper but recommends an upward review of the Capital Vote. An increase of between 30 and 40 per cent in aggregate capital spending is hereby recommended in the fiscal year 2010. This is based on demands for increased spending in priority sectors and the need to deliver tangible results in the provisions of critical infrastructure. The additional revenues earned due to increase in benchmark price will readily support this.

Question put and agreed to.

**Recommendation (xi):**

**Deficit**

*That based on the additional need to push up Capital Expenditure to between 30 and 40 per cent, the Committee recommends a modification of the 2010 fiscal deficit to GDP to between 3.5 per cent and 4.5 per cent.*

**The Chairman:** Hon. Enoh, can you explain this in English to us, please?

**Hon. John Enoh:** Mr. Chairman, in addition to the reason that has been adduced in that recommendation, we must, as much as possible and in line with international best practice and as contained in our Fiscal Responsibility Act, manage deficit to GDP ratio to levels that are not more than 3 per cent of GDP. We are actually facing an unusual year because even that fiscal legislation indicates that we would have deficit figures of more than 3 per cent in this period of economic crisis where governments all over the world are making efforts to actually spend quite a lot of money to be able to take their economies out of the present situation.

That is why the Committee is recommending that if we have to increase our capital expenditure; if we must exhaust and spend monies that had been earned additionally as a result of the increase in the benchmark that we would need for 2010 by allowing the Executive to spend such monies as are going to give us a deficit figure; that is going to be above 3 per cent of GDP.

*Question put and agreed to.*

**The Chairman:** We are going to consider the next Report now. The Deputy Speaker is here. He will continue from here.

*(The Speaker departs as The Deputy Speaker presides)*

**A Bill for an Act to Provide for the Establishment of the Federal Capital Territory Education Resource Centre and Other Matters Connected Therewith, 2009 - CONSIDERED IN THE COMMITTEE OF THE WHOLE.**

**The Chairman:** The next Report is on a Bill for an Act to Provide for the Establishment of the Federal Capital Territory Education Resource Centre and Other Matters Connected Therewith, 2009.

I will now call on Hon. Ita Enang to say a word or two on this Bill.

**Hon. Ita Enang:** Mr. Chairman, this Report was referred to the Committee of Whole and this is a Bill which had earlier been passed by this House but we could not complete the cycle for the assent of Mr. President and it had to be reintroduced.

I will pray Members that we consider this Report. It is a very short Report and it is not controversial.

## **PART I – ESTABLISHMENT, COMPOSITION, ETC. OF THE FEDERAL CAPITAL TERRITORY EDUCATION RESOURCE CENTRE**

*Clause 1 – (ESTABLISHMENT, COMPOSITION, ETC. OF THE FEDERAL CAPITAL TERRITORY RESOURCE CENTRE) – ordered to stand part of the Bill.*

*Clause 2 – (DIRECTION, ADMINISTRATION AND SUPERVISION OF THE CENTRE) – ordered to stand part of the Bill.*

*Clause 3 – (TERMS OF OFFICE OF DIRECTOR AND OTHER STAFF OF THE CENTRE) – ordered to stand part of the Bill.*

## **PART II – FUNCTIONS OF THE CENTRE**

*Clause 4 – (FUNCTIONS OF THE CENTRE) – ordered to stand part of the Bill.*

## **PART III – GENERAL ADMINISTRATION OF THE CENTRE**

*Clause 5 – (GENERAL ADMINISTRATION OF THE CENTRE) – ordered to stand part of the Bill.*

*Clause 6 – (APPOINTMENT AND DISCIPLINE OF STAFF) – ordered to stand part of the Bill.*

*Clause 7 – (DELEGATION OF DUTIES) – ordered to stand part of the Bill.*

*Clause 8 – (PENSION REFORM ACT, 2004) – ordered to stand part of the Bill.*

## **PART IV – FINANCIAL PROVISIONS**

*Clause 9 – (FUNDS OF THE CENTRE) – ordered to stand part of the Bill.*

*Clause 10 – (EXPENDITURE OF THE CENTRE) – ordered to stand part of the Bill.*

*Clause 11 – (ANNUAL ESTIMATES AND ACCOUNTS) – ordered to stand part of the Bill.*

*Clause 12 – (ANNUAL REPORTS) – ordered to stand part of the Bill.*

*Clause 13 – (POWER TO ACCEPT GIFT) – ordered to stand part of the Bill.*

Clause 14 – (POWER TO BORROW) – ordered to stand part of the Bill.

Clause 15 – (INVESTMENT CAP. 449 LFN) – ordered to stand part of the Bill.

Clause 16 – (EXEMPTION FROM TAX)

**Hon. Ita Enang:** With respect to Clause 16, you will agree with me that we are presenting as was passed but there are new situations and developments in the law and on the Floor of this House which has necessitated that we have to change a few things that are in this Bill.

I draw attention of Members to Clause 16 which I believe is unlawful. We are saying that the Centre shall be exempted from the payment of income tax or any income accruing from investments made by the Centre. We have just made a law on taxation and it is not good for us to make any law exempting the Centre from tax.

I pray that this Clause be deleted.

*Amendment put and agreed to.*

Clause 16 – (EXEMPTION FROM TAX) – deleted

## PART V – LEGAL PROCEEDINGS

Clause 17- (LIMITATION OF SUIT AGAINST THE CENTRE ETC. CAP 379 LFN)

**Hon. Ita Enang:** Mr. Chairman, I will pray that Clause 17(2)(3) and (4) be deleted since we have said that the provision of the Public Officers Protection Act shall apply. I therefore pray that Clause 17(2)(3) and (4) be deleted.

Clause 17 – (LIMITATION OF SUIT AGAINST THE CENTRE ETC. CAP. 379 LFN) – as amended, ordered to stand part of the Bill.

Clause 18 – (RESTRICTION ON EXECUTION AGAINST PROPERTY OF THE CENTRE) – ordered to stand part of the Bill.

Clause 19 – (SERVICE OF DOCUMENTS) - ordered to stand part of the Bill.

Clause 20 – (INDEMNITY OF OFFICERS) – ordered to stand part of the Bill.

Clause 21 – (SECRECY) – ordered to stand part of the Bill.

Clause 22 – (DIRECTIVES BY THE MINISTER ETC.) – ordered to stand part of the Bill.

Clause 23 – (REGULATIONS) – ordered to stand part of the Bill.

## PART VI – MISCELLANEOUS PROVISIONS

Clause 24 – (COMMITTEES) – ordered to stand part of the Bill.

Clause 25 – (RELATIONSHIP WITH OTHER BODIES)

**Hon. Ita Enang:** Mr. Chairman, Clause 25 which deals with Relationship with other Bodies reads:

*The Centre shall maintain good working relationship with related national bodies, other State ERCs, examination bodies, universities, research institutions and other such bodies as may be useful to enhancement of the performance of its functions.*

Mr. Chairman, this is not necessary to be in a law. Whether it is there or not, they will maintain relationship; it does not need to be by law. I pray that Clause 25 be deleted.

*Amendment put and agreed to.*

Clause 25 - (RELATIONSHIP WITH OTHER BODIES) – deleted.

Clause 26 – (INTERPRETATION) – ordered to stand part of the Bill.

**The Chairman:** The Long Title reads: (A BILL FOR AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE FEDERAL CAPITAL TERRITORY EDUCATION RESOURCE CENTRE AND OTHER MATTERS CONNECTED THEREWITH).

*Long Title, agreed to.*

**Report of the Committee on Special Duties on a Bill for an Act to Amend the National Boundary Commission (Amendment) Act, 2006 No. 12 so as to make Appointment of Some Members of the Commission to be Full-Time and as Commissioners – CONSIDERED IN THE COMMITTEE OF THE WHOLE**

**The Chairman:** The next report is on a Bill for an Act to Amend the National Boundary Commission (Amendment) Act, 2006 No. 12 so as to make appointment of some Members of the Commission to be

full-time as Commissioners, 2008 (HB 153) submitted by the Joint Committee on Special Duties and Justice.

Mr. Chairman, Committee on Special Duties, brief the House please.

**Hon. Samson Raphael Osagie:** Mr. Chairman, the Report seeks to amend the National Boundary Commission Act and there are basically three Clauses to be considered.

I move that these Clauses be considered right way.

**The Chairman:** The Clause to be considered is the Long Title.

Long Title – (A BILL FOR AN ACT TO AMEND THE NATIONAL BOUNDARY COMMISSION ACT 2006) – *agreed to*.

Clause 2 - (SUBSTITUTION FOR SECTION 4(1)(G), LINE 1 OF THE PRINCIPAL ACT).

**The Chairman:** Clause 2 reads: *Substitution for Section 4(1)(g) line 1 of the Principal Act, a new Section 4(1) of line 1(g), thirty seven part-time Members to be appointed by the President as Commissioners each representing a State and Federal Capital Territory.*

**Hon. S. J. Ita Enang:** I pray that we should not pass this recommendation. When you look at the functions of the National Boundary Commission and the provisions of the Act as it is, to make and have 36 other Members is too unwieldy and in my opinion unreasonable.

The only section we are amending here is to add sub-section 1(g) and to remove (g) as it is now which provides for six other Members to make it 37. Already, we have as follows:

*The Commission shall consist of the Vice President of the Federation, who shall be the Chairman, the Attorney General of the Federation, Minister of Defence, Police Affairs, Foreign Affairs, Internal Affairs, Works, Co-operation and Integration in Africa, Economic Planning or Presidential Adviser on National Planning, Petroleum Resources, National Security Adviser, Inspector General of Police, Director-General, National Boundary Commission who shall be the Secretary.*

You have all these and then you will have 37 other Members who will be full-time. In addition to it, there is in (h) the Governor or Governors, as the case may be, who may be co-opted when a dispute involving the state

of States arise. I want to say that it is not reasonable to make Members of this Commission full-time when you consider the functions they have to perform. Part of the functions of the Government is to reduce cost of governance and to reduce redundancy in appointment.

I therefore oppose this Clause and pray that the House do not pass it.

**Hon Samson Osagie:** I want to place on record that this report is the result of a Public Hearing at which stakeholders in this sector including State Government were all duly present and involved.

The rationale for this particular recommendation is drawn out of the fact that the proposed amendment sought by the Members who sponsored this Bill was to make six Members each representing each of the geo-political zone as permanent Members. It was discovered at the Public Hearing that there can be conflict of interests. A Member who is representing a zone must come from a State. If there is a boundary dispute between his State and another State in the same zone, he is likely to be bias especially when you make him a permanent Member of the Commission. It is likely to sway the decisions of the Commission on Boundary Matters in favour of his State because he is privileged to be there.

**The Chairman:** That is what is happening between my State and the neighbouring State. This is because the Member who is from the neighbouring State is favouring his State.

**Hon. Samson Osagie:** Exactly. We have discovered in this country that there is virtually no State within the Federation that is not having boundary skirmishes with its neighbour and with the rising cases of boundary dispute, it has become imperative that every State must have a representative in the National Boundary Commission to protect its interest and to be able to come to a compromise. To make a Member who came from a State in a region a permanent Member is to jeopardise the interest of the other people.

In any case, the functions of a boundary Commission in the emerging world have become so complex that they cannot function only as Commission but through Committees which the law recognizes that the Commission has power to set up from time to time. A 37-Member Commission including ex-officio Members who are Ministers of this or that Ministry would be able to break into several Committees to address the rising cases of boundary dispute in Nigeria. It is not too much. I believe that it can make for quick resolution of the number and plethora of boundaries disputes that we have across the country.

**The Chairman:** Hon. Ita Enang, if there is a provision in the law to make the Governors as part of

the Commission, that provision can be deleted. When you have a representative from each State, you do not have to co-opt any Governor.

**Hon Ita Enang:** Yes there is that provision in the 2006 law that we passed in this House.

**A hon. Member:** When the need arises.

**The Chairman:** The need will never arise if they have a representative there.

**Hon. Mohammed Ali Ndume** (Damboa/Gwoza/Chibok): Mr. Chairman, my contribution is just to support the main Amendment of this Act which, as we all know and agree, will further solve the problems that we are having all over the Federation. As we all know, the issue of boundary is not only restricted; it is all over the Federation. I think the appointment of part-time Member which is normally based on integrity and qualification will go a long way to solving the problem.

The issue of co-opting the Governors when the need arises does not solve the problem in its entirety. That means that it is only when you have crisis that you now co-opt the Governors in order to solve the crisis. It is better to avoid the crisis by having 37 Members representing. Every decision that is taken that relates to boundary would be with the knowledge of these Members; we need not drag this issue.

The present arrangement whereby you have full-time Members is what Hon. Ita Enang is trying to avoid. It is putting a burden on the Government. These are part-time Members that will be paid sitting allowances each time they are sitting. This is a very important amendment to this Bill and it should be taken accordingly.

**Hon. Bala Ibn Na'Allah:** It is not parliamentary for a Parliament to sit over a matter and accept its inadequacy to conclude on it and take it to the public for public opinion. The public are the taxpayers. They know the consequence of a boundary dispute; the amount of losses that it can cause; the destruction of the national economy and all other consequential effects.

If it is the opinion of the public that for the purpose of preventing this and taking certain decisive action to prevent all these happenings that 37 full-time Members be put in place, I think it would not be parliamentary wisdom to just throw that kind of recommendation away.

As far as I am concerned, this recommendation is in order and I am happy that the Chairman has admitted that what the recommendation seeks to cure is a situation where one Member is from one State and there is a dispute between his State and the other and he is

taking sides which is very normal with us and I think that we need to begin to build a nation rather than build personal interests. So, in the overall interest of the nation what the public has concluded is that members be full-time.

Yes, we accept it would be a burden on the government but they are the taxpayers and that is what they want. I think this Parliament has a responsibility to endorse that. I therefore move that my Colleagues endorse the recommendation of the Special Duties Committee ably chaired by my brother and friend, Hon. Samson Osagie.

**Hon. Jerimon Manwe** (Lau/K/Lamido/Ardo-Kola): I do not have any cause to fear when only 37 people will represent one hundred and forty million Nigerians. We know the problem of boundary crisis.

On the issue of zonal representation, we have had cause not to be represented because we have this zonal representation everywhere and anytime they find themselves there they only represent the State they come from. Hardly do they represent their respective zones.

I am in tandem with the recommendation of the Chairman of the Special Duties Committee that the States must be represented and that is the right thing to do. We should not waste much time on this issue.

**Hon. Labaran Dambatta** (Dambatta/Makoda): I agree with what Hon. Ita Enang said. No matter what it is, whether part-time or full-time Members, we should have a lean government. We are talking about part-time; they will still have to occupy space. We have to provide space for them to sit and so on. Certainly, it is at a cost; we are just looking at the situation whereby we have job for the boys or men but I think we should not encourage that.

An hon. Member here raised the issue of Amendment thinking that we need full-time Members. At the Public Hearing, all stakeholders rejected that because it is going to be a burden on the government. To now come back and bring the issue of 37 part-time Members is by no means a small number. We should do justice to ourselves by rejecting it because we do not need that. The issue is how do they operate at the moment? They are operating and I do not think there is any problem regarding the way that Commission is operating at the moment. To bring in additional cost is really something that is avoidable.

**Hon. Peter L. Umoh** (Oron/Mbo/Okobo/Udung Uko/Urue Offong/Oruku): I want to plead with Members to accept in particular this aspect of the Committee's recommendation. It is important that every State has a permanent Member on the Board of the Commission. I plead with Members also that every

one of us is here as a representative of one State or the other and therefore, there is need to protect the interest of every State. This is what this aspect of the Committee's report seeks to achieve.

**Hon. Sada Soli Jibia** (Jibia/Kaita): Mr. Chairman, having 37 Members on the Board of this Commission is very unwieldy; it is too much burden on the government to appoint 37 actualised and accomplished people as Members of this Commission.

Is there any decision that part-time Members can take which cannot be taken by full-time Members? Part-time Members can take a decision as much as full-time Members. Can you imagine the overheads the government will have to incur if we have these 37 people?

**The Chairman:** They are part-time Members.

**Hon. Sada Soli Jibia:** But the report seeks to make them full-time members.

**The Chairman:** No.

**Hon. Sada Soli Jibia:** It is all right by me if they are made part-time Members.

**Hon. Ahmed Mustapha:** Mr. Chairman, my observation is with respect to the Membership of the Governors of States in the Commission. I want to observe that if there is any constitutional power that is bestowed on any Deputy Governor of every State in Nigeria, it is the Chairmanship of the Boundary Commission. It will be a duplication to have the Governor and the Deputy Governor who is assigned a constitutional responsibility to oversee that aspect of the dispute.

Therefore, I would suggest that instead of Governors let it be Deputy Governors in consonance with the provisions of the Constitution.

**The Chairman:** I will put the question that we retain the recommendation of the Committee as having 37 part-time Members to be appointed by the President as Commissioners each representing a State and the Federal Capital Territory.

*Question put and agreed to.*

*Clause 2 – (SUBSTITUTION FOR SECTION 4 SUB-SECTION 1 (G) LINE OF THE PRINCIPAL ACT) – ordered to stand part of the Bill.*

**The Chairman:** Hon. Chairman, is there any need to co-opt the Governors since every State is represented?

**Hon. Samson Osagie:** Mr. Chairman, what is happening in practice is that where there are States with irreconcilable differences arising from boundary disputes, the President through the Vice President invites the representative from the Region and the Governors of the State.

Let me state that contrary to the position that Mr. Chairman is trying to put forward, there are no constitutional powers bestowed on Deputy Governors on Boundary Matters. The power that Deputy Governors have to chair the Committee on Boundary Matters is conferred by this same National Boundary Commission Act. The reason the issue of the Governors are put there is to be able to exercise that power in the event that a particular boundary dispute is becoming so serious that only the Chief Executive of the State can resolve it as a last resort.

I believe that it is a provision that is not harmful at all; we can leave it as it is.

**Hon. Bitrus B. Kaze** (Jos South/Jos East): I want to support what the Chairman, Committee on Special Duties said. Most times when there is a boundary dispute, there can be disagreement to the extent that both communities that are fighting would need to be assuaged. I think that having the Governors incorporated when there is need will not take away the powers of the Deputy Governors as conferred on them by the relevant law but that it would assist in assuaging both communities as in talking to them to stay away from any form of violence. I think the recommendation is to the extent of when there is a need; it is not going to be a permanent position; it is not going to be as if they are taking over the powers of the Deputy Governors.

It is important to have the Governors in fact to assist the Deputies to assuage the fears of the various disagreeing communities to be able to sort out the matters. That is the way I see it.

**Hon. Friday Itulah** (Esan North East/South West): Mr. Chairman, the observation you raised is quite apt. Even by the provisions of the law itself the Deputy Governors are Members of the Board. Only a while ago we have also agreed that every State should have a representative. I cannot see the rationale why again we should co-opt the Governors as members of the same Board.

It will become very unwieldy. Once the deputies are there that suffices. It is not just the deputies; we also have additional persons from each State. So, I believe that aspect of the recommendation should be deleted.

**Hon. Mohammed Bello Suleiman** (Akko): The issue here is that the Deputy Governors are acting on behalf of the Governors. So, what is the rationale

behind bringing in the Governors again? Whatever is deliberated, the Deputy Governor will report back to the Governor. He can neither take action on his own nor decide on whatever it is.

It is possible that the Deputy Governor, after attending the Board meeting, has to report back to the Governor and the Governor will have to convene Executive Council Meeting before they can finally approve or disapprove it. So if that person is there why are you bringing in the Governors again? It looks very ambiguous.

**Hon. Barnabas Y. Bala** (Kaura): I am equally of the opinion, as some of my Colleagues have said, that since the Deputy Governor is constitutionally the Chairman of the Commission at the State level, that is adequate.

I believe what Hon. Kaze is talking about is assuming when a matter becomes so serious that requires the attention of the Governor of the State; I do not think it will require a law to make that possible; it will just be a matter of administrative convenience so to act. So, it is probably not necessary

**The Chairman:** I will put the question that Governors be removed on the Board of the National Boundary Commission.

*Amendment put and agreed to.*

**Hon. Ibn Na'Allah:** Mr. Chairman, we should not allow the House to be misled legally.

**The Chairman:** Who is misleading the House?

**Hon. Ibn Na'Allah:** The vote we have just taken.

**The Chairman:** All right let me hear you.

**Hon. Ibn Na'Allah:** The vote we have taken will run counter to Section 5 of the Land Use Act which provides and I quote: *All Lands in the Territory of the Federal Republic of Nigeria are hereby vested with the Governors to hold in trust for the benefit of all Nigerians.*

So, there is a legal authority that says that for the purpose of Sokoto State, the Governor of Sokoto State owns that land in trust.

**The Chairman:** The Governor of Sokoto State has the power to delegate.

**Hon. Ibn Na'Allah:** No, he cannot. There is no delegation in the law. It is not right when we sit down here and allow things that are not legally right.

**The Chairman:** Hon. Ibn Na'Allah, even though I am not a lawyer these are two different matters.

**Hon. Ibn Na'allah:** With due respect, Sir, they are not. There is wisdom in listening to this argument. If it is the opinion of the House that nothing should be said, let me be put on record that that is not the proper position of the law and then the House can take its own decision. But it will be morally wrong for me to sit down here and allow this House to take this kind of decision when I know it is not legally right.

**The Chairman:** Hon. Ita Enang, you have the Floor, please.

**Hon. Ita Enang** (Itu/Ibiono Ibom): Mr. Chairman, thank you for the privilege to take this matter. I want to raise three issues. First, I want us to read the Section 4(1)(h) of the National Boundary Commission Act. It says:

*The Governor or Governors as the case may be who may be co-opted when a dispute involving the State or States arise.*

They can only be co-opted when there is a dispute involving their own State; they are not statutorily Members of the Commission. It is only when a dispute involves their State that they may be co-opted and they are only co-opted because it is they who are the trustees of the land under the Constitution.

Secondly, I will take you to Section 12 of the National Boundary Commission (Establishment) Act, 2006 that was passed by this House on 22<sup>nd</sup> of December 2006. It is the most updated version of the Laws of the Federation. It deals with the Establishment and Composition of the State Boundary Committee, not National Boundary. It says:

*There shall be established by each State of the Federation and the Capital Territory Abuja, a Boundary Committee. A State Boundary Committee shall consist of the Deputy Governor of the State who shall be the Chairman.*

And I will go to subsection (12). It says:

*The State and Federal Capital Territory Boundary Committee shall each deal with inter and intra Local Government Boundary dispute within the State and the Federal Capital Territory.*

The State Boundary Committee deals, for example, only with a dispute between Itu and Ibiono Ibom Local Government or Itu and Oron Local Government or between two Local Governments in

Gombe State. That is what the State Boundary Committee handles. It cannot deal with a boundary dispute between Tambunwal and Ekpe Village; that is what it is about.

The Deputy Governor is not a Member of the National Boundary Commission. It is the Governor that can only be co-opted when the issue involving his own State arises.

Again, Mr. Chairman, I want to also say that this is not one of the matters; although we have the power to look at anything, we can make recommendations but then I pray that we be guided. Let it be on record that I leave the entire decision to that of the House.

**Hon. Samson Osagie:** I want to respectively urge this House to rescind the decision that it has just reached with respect to the position of Governors. As I said earlier, this Report is the product of a Public Hearing and the issue as to whether the position of the Governors under the National Boundary Commission Act was not tested at the Public Hearing and it is not part of the recommendations before us. So, I expect that this House would not invoke its powers to tamper with what was not before us at the Public Hearing.

**The Chairman:** The House has that right to look into it.

**Hon. Samson R. Osagie:** That is what I am saying; we will not give the compelling reasons that have been given by my two learned senior Colleagues that it would amount to jeopardising the whole overall interest of boundary resolution.

I will give you an instance. When there was a boundary dispute between Delta and Ondo State; it took President Obasanjo two clear days to meet with the Governors of these two States and their respective Boundary Committees and the National Boundary Commission to be able to arrive at some points.

**The Chairman:** Who is the Head of the Boundary Commission?

**Hon. Samson Osagie:** The Vice President is the Chairman.

**The Chairman:** In view of the magnitude of the matter, it was the President that went there, not the Vice President. That does not mean that the Governor cannot be invited.

**Hon. Samson R. Osagie:** In law, if a provision in a statute book will not cause harm to any of the parties that may have rights and obligation thereunder, then it is useless going before it to exclude it; it does no harm. And in any case, it will empower the Commission to

have more arsenals to resolve boundary disputes; that is the way I see it. There is no harm leaving the provision as it is and I urge this House to reverse itself.

**Hon. Friday Itulah** (Esan North East/South East): Point of Order, Mr. Chairman!

**The Chairman:** What is the Point of Order?

**Hon. Friday Itulah:** It is Order X, Rule 2 of our Standing Orders at page 37. It says:

*The Speaker in the House and the Chairman in any Committee shall be responsible for the observance of the Rules of Order in the House and Committee respectively and their decision upon any Point of Order shall not be open to appeal and shall not be reviewed by the House except upon a substantive Motion after Notice.*

The issue that the House is reviewing has been ruled upon by the Chairman. Once the gavel is gone, as far as our Rule goes, that matter is closed but we are reopening it again in default of the Rule of the House which I have just cited.

I think we should move on in observing the Standing Orders of our House. I regard this matter as closed.

**The Chairman:** Thank you, Hon. Itulah. The Point of Order Hon. Itulah has raised is that we have decided on this matter. If a matter is decided upon and it is found to be constitutionally incorrect then, I do not think it is appropriate for the House to just allow it go like that. It is only when the matter that has been passed by the House does not contravene any part of the Constitution that it will stand but anything that we passed in this House that contravenes the Constitution is null and void. Do you agree with that Hon. Friday Itulah?

**Hon. Friday Itulah:** I agree but that can be done only by way of a substantive Motion.

**The Chairman:** No. If you pass anything that contravenes the Constitution it is null and void *at initio*.

**Hon. Friday Itulah:** Our Rules is subject to the Constitution.

**The Chairman:** Who is the custodian of the Rules?

**Hon. Friday Itulah:** The House.

**The Chairman:** Who is supposed to interpret the law?

**Hon. Friday Itulah:** It is the House through the Speaker.

**The Chairman:** In this case, it is the Chairman.

**Hon. Friday Itulah:** Yes, the Chairman.

**The Chairman:** That is what I am saying, Hon. Friday Itulah. When you were Speaker I believe you were exercising this authority. Why are you now trying to stop me from exercising this power?

**Hon. Bala Ibn Na’Allah:** It is a common knowledge that whatever is decided when the House is sitting as a Committee of the Whole cannot be said to have been validly decided until you go back to that Chair and the Mace is moved from the position below to the upper position and then we now say that this is the issue that we have agreed to and you gavel on it. It is at that stage that we can say that we have arrived at a decision; that is the parliamentary practice.

In addition, the only reason we should be patient as lawmakers to understand the wisdom and rationale of doing the correct thing is that it would not be nice that you constitute 360 able-bodied and knowledgeable Members of the Parliament on an issue that is very clear and at the end of the day arrive at a wrong decision; it touches on the confidence of the public and the ability of this House to arrive at decisions.

Legally, if the law says that 360 Members of the House of Representatives are the only people allowed to make laws for this country but we admit any other person into this Chamber for the purpose of making any law, no matter how good it is, that law is null and void. If, for example, we restrict ourselves by this provision to say that only the people properly constituted are capable of determining the issues arising from boundary disputes and a situation arises that we need to invite the Governors to sit with them for the purpose of taking that decision and we are unable to do so, if we invite them, whatever decision is reached can be challenged in law and it is null and void and of no effect. That is the consequence and we must look at the consequence of what we are doing.

When we say that Governors will be co-opted when the need arises, all that the Committee needs to say is that the need has arisen that for the purpose of settling the dispute between Bauchi and Gombe States the Governors of Bauchi and Gombe should come.

**Hon. Ita Enang:** Point of Order, Mr. Chairman. In support of my friend in his application that the House do rescind itself, I rise on Order 12 Rule 9(7) of our Standing Orders at page 51. It says:

*At the conclusion of the proceedings the Chairman shall put the question “That I do report the Bill (or the Bill as amended) to the House”, which question shall be decided without amendment or debate.*

It is only at the stage that question had been put that we would only need to bring a substantive Motion. Even in Court of Law while the Court is sitting it has jurisdiction to review what it has done. Any matter, no matter how well taken, if it is done *per incuriam* or without jurisdiction, is null, void and of no effect and it will be taken as if no such decision was ever taken.

Therefore, I support the application by Hon. Samson Osagie that the House do rescind its decision and that which we took to delete Clause 3(4)(h) *the Governors or Governor’s representative* be rescinded and that be restored on the statute book.

**The Chairman:** The Order is sustained.

Hon. Colleagues, we have had beautiful arguments from our learned Colleagues. Their argument is that the land in a State is vested in the Governors. Therefore, there is no way any decision will be legal without involving the Governors; this is the position of the law.

It is important that we consider their views. It is not even their views; it is a constitutional provision. That is why we have all sorts of professions in the Chamber. If it is something that has to do with journalism, we have people like the Chief Whip who will educate the House. With respect to law, we have people like Hon. Waziri Tambuwal, Hon. Bala Ibn Na’Allah and Hon. Ita Enang who has twenty-six post-call experience at the Bar to assist the House and we have so many other professionals. It is in line with our practice that we look at this provision once again and see if there is need to accommodate the Governors as part of those who will resolve boundary matters.

So I will put the Question again that we leave the provision the way it is, that is, the Governors should also be part of it. I will read the provision. *The Governor or Governors, as the case may be, who may be co-opted when a dispute involving the State or States arise.*

It is only when a dispute arise in their own State will they be involved.

*Amendment put and agreed to.*

Clause 2 – (SUBSTITUTION FOR SECTION 4 SUB-SECTION 1 (G) LINE OF THE PRINCIPAL ACT) – *as amended, ordered to stand part of the Bill.*

**Hon. Kamil A. Mudashiru** (Afijio/Atiba East/Oyo West): Point of Order, Mr. Chairman!

**The Chairman:** What is the Point of Order?

**Hon. Kamil A. Mudashiru:** The Chairman of the Committee on Judiciary has just made a submission that if a body is composed of certain number of people to make a law and it is discovered that somebody who ought not to be there is there, the law is null and void.

I am just saying that that is not the position of the Constitution of the Federal Republic of Nigeria. With your permission, I will read Section 57 of the Constitution. It says:

*Any person who sits or votes in the Senate or the House of Representatives knowing or having reasonable grounds for knowing that he is not entitled to do so commits an offence and is liable on conviction to such punishment as shall be prescribed by an Act of the National Assembly.*

That does not invalidate the law.

**The Chairman:** You did not hear him well, Hon. Mudashiru.

**Hon. Kamil A. Mudashiru:** No. What he said was that because of the presence of that person, the law is null and void.

**The Chairman:** What he said is that the House of Representatives consists of 360 Members. If we agree to admit somebody to make us 361 Members, any law that was made by the House is null and void and is of no effect, which is correct.

A House of 360 Members constitutionally provided cannot sit down and say because 360 is an even number we need an additional person to come to the House; we cannot do that.

**Hon. John Halims O. Agoda** (Ethiope East/Ethiope West): If I heard my hon. Colleague properly, the section that he read is to the effect that the stranger that entered this Chamber which, by our consent we admitted and by what he read that stranger may have committed an offence but the law itself that was made with the inclusion of that stranger remain valid; that is the section he read.

**The Chairman:** Read the Section once more.

**Hon. Kamil A. Mudashiru:** It is Section 57 of the Constitution. I will read it again:

*Any person who sits or votes in the Senate or the House of Representatives knowing or having reasonable grounds for knowing that he is not entitled to do so commits an offence and is liable on conviction to such punishment as shall be prescribed by an Act of the National Assembly.*

**The Chairman:** This provision is talking about that person who knows that he is not a Member and he entered the Chamber and sat with us as a stranger; it is different from the scenario Hon. Bala Ibn Na'Allah is talking about.

For example, before commencing the day's proceedings, we are 360 Members. Instead of 360 we resolved to add a number to make it 361 and question was put and agreed to. Making us 361 has nullified everything because the Constitution says that we are only 360.

This one is talking about the person who came in as stranger. In this case, he is talking about our decision as Members to make the number 361.

**Hon. Halims Agoda:** What is the subject of discussion now? Is it the issue of the extra person who is called the stranger that we either admitted collectively or the issue of the validity of the law that was made?

**The Chairman:** No. The issue is the decision of the 360 Members; that is the subject matter; not the person.

**Hon. Bala Ibn Na'Allah:** Can I respectfully say that what the Constitution of the Federal Republic of Nigeria recognises to constitute a valid House of Representatives of Nigeria is 360 Members with their given constituencies and the law says with this number you have the power to enact laws for the good governance of this country.

If, for example, we sit down today and decide that we should admit another person to make it 361, in the first place, that decision is unconstitutional. Whatever comes out of it is equally unconstitutional and to the extent of not being unconstitutional, it is null and void. This is because there was never a time that Nigeria recognises the fact that 361 people will sit here and make laws for the people. What they have always at all particular material time agreed is that 360 Members would always sit here and make laws for the good governance of this country. That is what it is.

**The Chairman:** Hon. Bala Ibn Na'Allah, are you up to twenty-five years at the Bar?

**Hon. Bala Ibn Na'allah:** Mr. Chairman, there is an age you will reach at the Bar that we stop counting age and I think I have reached that stage.

**The Chairman:** Do we have any Member of the Bench here?

**Hon. Emeka Ihedioha:** Mr. Chairman, there is a Member of the Body of Benchers here.

**The Chairman:** Who is that?

**Hon. Emeka Ihedioha:** My distinguished Deputy, Hon. Aminu Waziri Tambuwal.

**The Chairman:** Congratulations, Hon. Aminu Waziri Tambuwal.

**Hon. Waziri Aminu Tambunwal:** Thank you, Sir.

*Short Title – (NATIONAL BOUNDARY COMMISSION (AMENDMENT) BILL, 2009) – agreed to.*

*Long Title – (A BILL FOR AN ACT TO AMEND THE NATIONAL BOUNDARY COMMISSION (AMENDMENT) ACT, 2006 NO. 12 SO AS TO MAKE APPOINTMENTS OF SOME MEMBERS OF THE COMMISSION TO BE FULL-TIME AS COMMISSIONERS) - ordered to stand part of the Bill.*

**Hon. Tunde Akogun** (Akoko-Edo): Mr. Chairman, I move that the House do revert to Plenary.

**Hon. Emeka Ihedioha:** I do second the Motion as moved by the House Leader.

*Question put and agreed to.*

*Resolved:* That the House do revert to Plenary.

*(The Deputy Speaker resumed the Chair)*

**The Deputy Speaker:** The House, in the Committee of Whole, considered the Report of the Joint Committee on Finance and National Planning on the 2010-2012 Medium Term Expenditure Framework and Fiscal Strategy Paper of the Federal Government of Nigeria and all the recommendations approved.

The House, in the Committee of the Whole, also considered a Bill for an Act to Provide for the Establishment of the Federal Capital Territory Education Resource Centre and took the following decisions:

Approved Clauses 1-15;  
Deleted Clause 16;  
Amended Clause 17;  
Approved Clauses 18 to 24;  
Deleted Clause 25;

Approved Clause 26;  
Approved the Short Title; and  
Approved the Long Title.

The House, in the Committee of the Whole, considered the Report of the Committee on Special Duties on a Bill for an Act to Amend the National Boundary Commission (Amendment) Act, 2006 No. 12 and approved Clauses 4 (g) and (h) and approved the Short Title and the Long Title.

### Adoption of Reports

**Hon. Tunde Akogun:** Mr. Speaker, I move that the House do adopt the Reports of the Committee of the Whole.

**Hon. Emeka Ihedioha:** I second the Motion as moved by the Leader of the House.

*Question put and agreed to.*

*Resolved:* That the House do adopt the Reports of the Committee of the Whole.

### ADJOURNMENT

**Hon. Tunde Akogun:** I move that the House do stand adjourned till tomorrow Wednesday, 18<sup>th</sup> November 2009 at 10.00 a.m.

**Hon. Emeka Ihedioha:** I second the Motion that the House do stand adjourned till tomorrow Wednesday, 18<sup>th</sup> November 2009.

*Question put and agreed to.*

*Resolved:* That the House do stand adjourned till tomorrow Wednesday, 18<sup>th</sup> November 2009 at 10.00 a.m.

*The House adjourned accordingly at 1.30 p.m.*