

HOUSE OF REPRESENTATIVES

FEDERAL REPUBLIC OF NIGERIA

Tuesday, 15th December, 2009

The House met at 10.55 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, 10th December, 2009

ANNOUNCEMENTS

Meeting of the National Economic Summit of the Legislative Forum

The Speaker: All Chairmen and Deputy Chairmen of Standing Committees and any other Member that wishes to be part of the National Economic Summit of the Legislative Forum should please kindly join me and the Principal Officers today at the Transcorp Hilton at 4.00 p.m.

Special Prayer Meeting of the South East Caucus

Hon. Igwe Nwagu is inviting all Members of the South East Caucus of the House of Representatives to please join him today for a special prayer meeting at 7.00p.m prompt. That should be in his residence at No. 19 Tatali Close, Zone A.

PRESENTATION OF PUBLIC PETITIONS

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

Wrongful Dismissal from Service

Hon. Ibejiako I. Ernest (Owerri Municipal/Owerri North/West): I have three Petitions from my Constituents. One is on wrongful dismissal and he is appealing for justice in that matter.

Abandoned Contract/Project

Another Petition is from Lady Edith Ajaero on behalf of Umuaka-Ikwu Emekuku Women Development Union in respect of the MDG project in Emekuku Community, Owerri Local Government Area which was abandoned by the contractor without reason. The community petitioned on that project and are requesting for justice in the matter.

Wrongful Dismissal

Another Petition is from Mr. K. O. Udokporo who was dismissed by the Nigerian Customs Service.

Without boring you with the details, I wish to lay the Petitions on the Table.

The Speaker: Please proceed.

Petitions laid.

Alleged Total Neglect and Refusal to pay Compensation

Hon Betty Apiafi O. (Ahoada East/ Abua/Odual): I have a Petition from one of my constituents in respect of neglect and refusal of Nigerian Agip Oil Company to pay compensation to families, individuals and communities affected by Agip Pipeline Right of Way.

I seek your permission to lay the Petition on the Table.

The Speaker: Please, go ahead.

Petition laid.

The Speaker: All Petitions are referred to the Committee on Public Petitions.

(All Petitions referred to the Committee on Public Petitions)

Hon. John Halims Agoda (Ethiope East/Ethiope West): Point of Order, Mr. Speaker!

The Speaker: What is the Point of Order?

MATTER OF URGENT PUBLIC IMPORTANCE

Hon. John Halims Agoda: My Point of Order is Order VIII, Rule 4 of our Standing Orders. I seek the permission of the House to suspend sub-Rule (3) which provides that *if the claim is allowed by the Speaker and*

the leave of the House is given by majority of all Members present, the matter shall stand over till the next legislative day.

The Marginal Note of Rule (4) of Order VIII is Matter of Urgent Public Importance. I do not know whether or not I should read it.

The Speaker: You need not. Go ahead.

Hon. Halims Agoda: As a Parliament, democracy should not be practised in fear. When a House takes a decision on a critical matter that affects the nation, the House must take every necessary step to ensure that that issue is taken care of.

The issue of foreign loan which we had earlier taken decision on especially as it affects the Federal Government is clearly on notice that officials of some State Governments have rushed to the World Bank to obtain loan. By next week two State Governments will get the money.

In the light of Item 7 of the Exclusive Legislative List in the Second Schedule to the Constitution, it is copiously clear that it is the responsibility of the National Assembly to make laws on issues that relate to foreign loan as it concerns the Federation and the federating units.

If I am allowed, I want to come with a short Motion so that I can explain the details of what is happening so that this House can fully be in charge. That is my plea this morning.

Question put and agreed to.

Resolved: That the House do consider this matter as one of Urgent Public Importance.

Hon. John Halims Agoda: Mr. Speaker, with due humility I move for the suspension of Order VIII, Rule 4(3) of our Standing Orders to enable me move this Motion.

Hon. John Kalipa (Okrika/Ogu/Bolo): I rise to second the Motion moved by Hon. Halims Agoda.

Question put and agreed to.

Resolved: That the house do suspend Rule 4 (3) of Order VIII of the Standing Orders of the House to enable the House debate the matter immediately.

The Speaker: Hon. Halims Agoda, please go ahead.

Hon. Halims Agoda: Thank you, Mr. Speaker.

Hon. Igochukwu Aguma (Port Harcourt I): Point of Order, Mr. Speaker!

The Speaker: Hold on, Hon. Halims Agoda. Which Point of Order, Hon. Aguma?

Hon. Igochukwu Aguma: I rely on Order V, Rule 2 of our Standing Orders. With your permission, I read:

Privileges

Whenever a matter of privilege arises, it shall be taken into consideration immediately.

I want to rely on that Order and quickly draw your attention to a breach of my privilege and parliamentary privilege. The privilege I talk about is also explained in the idea in the Motion he is going to talk about. When we are doing this it is the breach of Constitution, the breach of our parliamentary rights and powers where laws that are made by the Parliament including the rights of the Parliament as enshrined in the Constitution is grossly being not obeyed.

The Speaker: In this case, which one are you specifically referring to?

Hon. Igochukwu Aguma: The one I am talking about specifically has to do with the constitution of the Due Process Office. We passed a Resolution here that our Committees of Procurement and Compliance should quickly look into that matter.

I have received on my table today a Schedule from the Appropriation Committee on the passage of this Budget that is before us. It only means that this Budget when passed legally shall subject itself in finality to an illegality by going before a body not constitutionally recognised.

The Speaker: Chairman, Committee on Procurement, what is going on?

Hon. Yusuf Maitama Tuggar (Gamawa): Mr. Speaker, this is a matter that the House is fully aware of. My predecessor as Chairman, Committee on Public Procurement moved a Motion that was adopted by the

House calling for the inauguration of a National Council on Public Procurement.

Since then we have made several efforts along with the Committee on Legislative Compliance to ensure that this National Council is inaugurated but up till date it remains not inaugurated. The point that my hon. Colleague is making is that it is not possible for the Bureau for Public Procurement to operate legally without the National Council on Public Procurement because that National Council which is appointed by the President is responsible for appointing the Directors of the Bureau for Public Procurement. Today, we have Directors in the Bureau for Public Procurement without the existence of the National Council on Public Procurement.

The Speaker: It is all right. Hon Igo Aguma, Chairman, Committee on Public Procurement and Chairman, Committee on Legislative Budget; I want all three of you to meet in Conference with the Deputy Speaker immediately after this Sitting.

Hon. Halims Agoda, you may please proceed.

Motion on Foreign Loans by State Governments

Hon. John Halims Agoda: Mr. Speaker, the title of the short Motion is Motion on Foreign Loans by State Governments.

The House:

Aware that the Abia State Government is on the verge of securing World Bank loan of \$200 million the equivalent of ₦30 billion it said it could not get from the country's bond market because of its inability to meet the stringent conditions placed in its path;

Conscious of the historical antecedents of the Federal and State Governments especially during the Military era scampering for foreign loans which eventually plunged the country into the pit of a chronic debtor nation;

Realising that such foreign loans by the Federal and State Governments were hardly ever scrupulously accounted for as they did not translate into any value for the development of the affected States;

Concerned that it was the inability of the affected States to meet up with their foreign loan repayment obligations which ultimately placed the burden of repayment on the Federal Government of Nigeria;

Worried that after the Federal Government has successfully paid its huge foreign debt of about \$45 billion only a few years back at the twilight of the administration of President Olusegun Obasanjo with a stern warning policy statement that from thenceforth no State Government shall be permitted to take any foreign loan without authorisation;

Uncomfortable that of late, the Federal Government itself is developing a rekindled proclivity to seek and obtain foreign loans to the utter shock and worry of sections of the Nigerian society;

Shocked that in spite of the fact that there has been no reversal of the policy stand that the Federal Government itself and the State Governments could now go to the foreign loan markets if they so desire; and

Considering the constitutional implications in a democratic framework for a federating State to obtain foreign loan without recourse first to the consenting concurrence of the Federal Parliament and secondly for the Federal Government to obtain foreign loans without the legislative empowerment of the National Assembly;

Resolves to:

- (i) Call on the President of the Federal Republic of Nigeria, the Minister of Finance and his counterpart in the National Planning Commission to put on hold forthwith all foreign loans not approved by the National Assembly;
- (ii) Mandate the House Committees on Aids and Loans as well as Justice to determine the constitutionality or otherwise of a State or a federating unit of the country to seek and obtain foreign loans without seeking the approval of the National Assembly.

I so move.

Hon. Mayor Chukwudi Eze (Orlu/ Orsu/Oru East): I second the Motion ably moved by Hon. Halims Agoda.

Hon. Halims Agoda: I have a short comment on this Motion because the Motion speaks for itself. Let me, first and foremost, refer this honourable House to *ThisDay* newspaper of Sunday, 13th December 2009 particularly on page 20. The Caption here, among

others, reads: *Assembly Okays US\$200 million World Bank loan.*

It continued: *Having apparently hit a brick wall in its quest to secure ₦30 billion from the Bond Market, Abia State Government has turned to the World Bank to secure US\$200 million loan facility equivalent to the ₦30 billion.*

The Deputy Speaker of the House said: *this has been concluded and the Government is taking it right away.*

Explaining the reason for abandoning the Capital Market in preference to the World Bank, Elechi said that the World Bank facility has less stringent conditions unlike the Bond Market where a lot of hurdles were placed before the State Government.

Mr. Speaker, he said *we need this loan to take care of urgent necessities.*

Apart from Abia State there are other States that are not respecting the Constitution of the Federal Republic of Nigeria.

Under the Exclusive Legislative List of the Constitution, Item 7 of the Second Schedule says: *Borrowing of money within or outside Nigeria for the purposes of the Federation or of any State.* Therefore, it is the responsibility of the Federal Parliament, not that of the State Government.

What is happening now is akin to the Military days where the State Governments without respecting the Constitution as we are practicing today had recourse to international financial institutions and monies were taken without directing the monies to developmental purposes of the various states.

When these monies were put together it amounted to over US\$45 billion. I was here in this Parliament when we were paying money for the interest of such loans and such monies sometimes were over the Capital money that was supposed to be used in developing the country.

We cannot at this moment as a Parliament tolerate a situation where a State Government will on their own disobey the Constitution which they swore to uphold. If we keep our eyes out of it, within one year, we will get back to where we are coming from.

Therefore, I want this House to direct a relevant Committee to determine whether a State Government can on their own have direct link with international financial institutions without the approval of the National Assembly.

Another question again is that the State Governments are within the Federation and the Federal Government with the sovereign right, in my own view, reserves the right to enter into negotiation on behalf of the States. The implication is that if the State Governments fails the responsibility and the liability of such commitment lies on the Federal Government.

I may not be right but I think our Committee that is in charge should investigate and give this House the necessary direction.

I beg to submit.

Hon. Gbenga Gbajabiamila (Surulere I): Hon. Halims Agoda has covered the fields very well. I have one thing to add which is that although Hon. Agoda is talking about foreign loans and international loans, from Item 7 of the Second Schedule to the Constitution which he has just read out apparently what the States have been doing by going a borrowing even within Nigerian; bonds, banks and the rest of them is actually illegal. It is not only foreign loans because Item 7 of the Second Schedule to the Constitution vests that power exclusively on the National Assembly for borrowing within and outside Nigeria.

This Motion is well taken but it should also cover loans taken internally. States cannot do that. I may not necessarily agree with that provision of the Constitution because I believe States should have enough independence and under Federalism should be able to do what they need to do but the Constitution as it is remains the Constitution.

Hon. Igochukwu Aguma: I believe that this Motion is one of those actions we would take to really stamp in the sensibilities of our fellow brothers and sisters on the powers of the National Assembly.

I want to dwell more on local loans. Most States in Nigeria today are bankrupt; they all have Garnishee Orders. If my brother in the Committee on Chairman is here, he would have corroborated what I am saying; they all have one form of Garnishee Order or the other on their monthly allocations arising from loans taken

without recourse to due process or even if they have recourse to due process, have not been paid. That is why the crafters of our Constitution thought it wise that there should now be a proper streamlining on how loans can be taken in Nigeria by bringing the States and the Federal Government under the oversight of the National Assembly.

Most States have taken loans or bonds from the Capital Markets. Their action, wherever they have gone to, is illegal. There is no need for prayer (ii) which says: *The Committee should determine the legality* because the Constitution is clear on this issue. What the Committee should determine is the quantity they have taken so far so that we can start looking at how to pay back these monies and then let the due process be followed thereto.

Hon. Andrew Uchendu (Ikwerre/ Emohua): This Motion is a very important one. As important and relevant as it is, I suggest that we tread very cautiously even though I support fully the spirit of this Motion.

As I have always pointed out, this issue has to do with the microeconomic setting of the Federal Republic. The entire State Governments in this country from 1999 to date have been running deficit budget and the full implication of deficit financing is that monies are being borrowed from outside what is normally the total allocation made to State Governments and all those deficit financing are loans. I am saying this because if we are not careful in separating the final details we might ground the entire system to a halt but that does not distract from my full support on this matter.

The issue of foreign direct investment, the whole idea of Public/Private Partnership and overdraft from local banks are all covered within the purview of loans. Therefore, I would want while we are approving this, that the Committee responsible must carefully sit down and look at the constitutionality so that the entire system do not come to a halt.

Hon. Leonard Okuweh Ogor (Isoko North/Isoko South): Let me, first and foremost, state clearly that on this Floor we took Oath of Allegiance to defend the Constitution of the Federal Republic of Nigeria to the letter. I tend to totally disagree with the last speaker.

As far as I am concerned we must be properly guided by the provisions of the Constitution because the era we live in today is the era which we state very firmly that the rule of law is the order of the day with emphasis on due process.

We may not appreciate the enormity of the implication of this Motion. It may end up showing very clearly that some of these loans or most of these loans if not all these loans that have not the approval of the National Assembly may end up as illegal loans because definitely they need the stamp of the Parliament first and foremost in line with the clear provisions as read by Hon. Halims Agoda for them to even grant those loans.

I will appeal to us that we must do a thorough and proper investigation so that we do not find ourselves in a situation where we ended up paying almost \$45 billion and going back to that era. These are major challenges that are before us because if you look at the clear provisions of Section 162 of the Constitution there is a distribution formula that gives them the opportunity of having expected funds from the Federation Account.

It therefore means that it is important for them to even go to any place to go and seek loan in line with the Exclusive List and Item 7. They must, as a matter of principle; as a matter of due process and legality seek and obtain the prior approval of the Parliament.

The Speaker: Chairman, Committee on Rules and Business, I just need clarification from those of us who are lawyers here? If what you are saying is true that these loans are unconstitutional, it means these are illegal loans. If they are, does that mean that the State Governments or the Federal Government is under no obligation whatsoever to pay these loans?

Hon. Ita Enang (Itu/Ibiono Ibom): Mr. Speaker, permit to answer the issues that you have raised in the course of the submission I want to make.

I want to say that we swore to protect and defend the provisions of the Constitution and I do not agree with this Motion for the purpose of the Constitution and the law that we made in this House.

The Legislative Lists contained in the Constitution are the lists which each tier of government are empowered to legislate on. Now, the Exclusive Legislative List is the legislative list containing matters which only the Federal Government (National Assembly) can make laws on. It does not mean that we have to approve every matter relating to it. It only means that we have to abide by the provisions of any law that we made. Item 7 under the Exclusive Legislative List provides as follows: *Borrowing of money within and outside Nigeria for the purpose of the federation or of any state.*

In the exercise of these powers, this House in 2005 or thereabout made an Act; the Debt Management Office (Establishment etc) Act which provided the conditions under which loans could be taken for the purpose of the Federation and for the purpose of the State.

I want to pray that this House having made that law that law is deemed to be embedded in the breast of every member of this House. That being so, it is not proper that a Motion should be moved to task our Committee to go and find out what this National Assembly passed into law.

The Speaker: Hold on, Hon. Ita Enang. If anything has been violated as far as the Debt Management Office (Establishment etc) Act is concerned, just tell us.

Hon. Ita Enang: Mr. Speaker, I know that Sections 21 and 22 provide that if the Federal Government is to take a loan that loan must be approved by the National Assembly. If the State is to take loan that law also regulates that provision.

(The Chairman, Committee on Debt Management, Hon. Abdul-azeez Abubakar Yari, stood up)

The Speaker: Chairman, Committee on Debt Management, you will soon have the Floor.

Hon. Ita Enang, you have said clearly to us that that Act more or less spells out the conditions the Federal Government must fulfil before loans can be granted it. Does that Act spell out the conditions under which the State Governments can take loans?

Hon. Ita Enang: Yes. I pray that we should examine the provisions of that Act before we take any decision on this Motion.

The Speaker: It is all right.

Hon. Ibn Na'Allah (Zuru/Fakai/ Sakaba/ D/Wasagu): The mover of this Motion has raised two issues for determination. The first issue is whether in view of the provision of the Constitution a State can go outside the territory of this country to take loan. The answer with the greatest respect is no.

The second issue that you raised *suo motu* is to the effect that whether the Debt Management Act has made provision relating to the States taking loan. I cannot remember the specific provision but I do know

that it is for the purpose of the Federal Government of Nigeria having a quick and decisive tip on what its liability would be outside this country that that law was made. That law provides that if the Federal Government is to take loan, it must be brought here for the purpose of approval and if the States are to take loans it must equally pass the request to the Federal Government from which Federal Government will obtain approval from the National Assembly so that we limit the commitment of this nation to external loans. That is the necessary intendment of that Act and that remain so.

It will be unwise for anybody to think that simply because we operate a Federal system anybody can do whatever he likes. The basis of our existence as a Federation is the fact that people have decided that on the substantial part of their civil rights and obligations they want to be together but because there are certain things that must remain different we said all right; let us have a Federal Government to manage those interests to which every State has to succumb to the Federal Government for the purpose of management and we said those other ones you can hold; go and do it at the state.

I think it will not be right for this House to sit down and allow States to continue to go outside the territory of this Federal Government to take loans in clear contradiction of the Constitution and the Debt Management Act.

Hon. Aminu Waziri Tambunwal (Kebbe/Tambunwal): Arising from the contributions of our dear brothers, Hon. Ita Enang and Hon. Bala Ibn Na'Allah, I would like to advise that we have a copy of the Act right here or shortly thereafter and look at what is prescribed by the law and see whether what the State Governments are doing is in tandem with the provisions of that law or not. I believe that the House would be better guided if we get a copy of that legislation, take a look at it and then we can actually take a position.

This matter is very sensitive and it is a very important matter and the House needs to be properly guided while taking decision on it.

The Speaker: Chairman, Committee on Debt Management, you have the Floor.

Hon. Abdul-azeez Abubakar Yari (Anka/Talata Mafara): On the issue of loans taken by the State Governments, there is a provision in the Act, which specifies the types of loans they can take.

Loans that are taken internally are within the powers of the legislation in the States; they do not have to obtain the approval of the Federal Government.

The Speaker: Can you read that provision for us?

Hon. Abdul-azeez Abubakar Yari: What I am saying here is that there are two loans. *(Interruptions)*

The Speaker: Do you have a copy of this Act to authenticate what you have just said?

Hon. Abdul-azeez Abubakar Yari: No.

The Speaker: You do not have? Please proceed.

Hon. Abdul-azeez Abubakar Yari: What I am trying to say here is that the Federal Government will bear the burden of loans taken by the State Governments only where the Federal Government is the guarantor. Any other loans taken by the State Governments are within the internal arrangement of the legislature of those States and the Foreign Agency that gave the money; that is the problem of the State and the burden would not be on the Federal Government.

The Speaker: Chairman, Committee on Aids and Loans, which provision of the Act or Constitution backs this up? What you are saying is very critical since you are going to take up this assignment. Everyone here has backed up whatever they have said with the Act of this Parliament or the Constitution.

However, you are making submissions and you are not backing them up with the provision of any Act or the Constitution. Therefore, you need to be careful!

Hon. Abdul-azeez Abubakar Yari: I would advise that for this Motion, we can use the Office of the Debt Management to give us the clarification of loans, whether that can be part of the burden of the Federal Government?

The Speaker: Chairman, I do not understand. If we have made the laws and we cannot clarify it ourselves; you want us to go and ask the agency we are over-sighting?

Hon. Abdul-azeez Abubakar Yari: Mr. Speaker, there is problem on that aspect.

The Speaker: That is all right. Is there any Amendment to this Motion please?

Hon. Abubakar Mohammed Maifata (Taurani): I just want the House to step this Motion down and agree with the proposal of the Deputy Chief Whip of the House to ask the Committee to advise the House properly.

The Speaker: Why do you not move it as an Amendment if that is your wish or you want the Deputy Chief Whip to move it as an Amendment since he proposed it?

Hon. Abubakar M. Maifata: Yes.

Hon. Waziri Aminu Tambunwal: Mr. Speaker, hon. Colleagues, I stand on the earlier opportunity given to me. My prayer before this House is that the Committee on Justice should be directed to get a copy of this legislation and advise the House in the next two hours so that this House will take a decision on this matter.

Hon. Ita Enang: Mr. Speaker, with respect, Sir, I have the Debt Management Act in my office; I can bring it in twenty minutes.

The Speaker: Hon. Colleagues, please, I am in a bit of a dilemma as to this Amendment. Is it the wish of the House that we suspend debate or stand it down for the next one hour?

Question put and agreed to.

Resolved: That the House do suspend Debate on the Motion for one hour.

Hon. Olufemi Gbajabiamila (Surulere I): Point of Order, Mr. Speaker!

The Speaker: Which Point of Order, Leader of the Action Congress?

Hon. Olufemi Gbajabiamila: It is Order V, Rules 1 and 2 of our Standing Orders dealing with Privileges

The Speaker: Can you read, please?

Hon. Olufemi Gbajabiamila: It is with the deepest sense of duty and responsibility that I ask for your indulgence to, please, read the last page of our Constitution, page 160 and to read an excerpt from it for me to be able to lay the foundation for this matter.

It is the Oath that we all swore as Members of this House to uphold and it reads: *I do solemnly swear/affirm that I will be faithful and bear true allegiance to the Federal Republic of Nigeria; that as a Member of the House of Representatives, I will perform my functions honestly to the best of my ability, faithfully in accordance with the Constitution of the Federal Republic of Nigeria and the law, and the rules of the House of Representatives and always in the interest of the sovereignty, integrity, solidarity, wellbeing and prosperity of the Federal Republic of Nigeria; that I will strive to preserve the Fundamental Objectives and Directive Principles of State Policy contained in the Constitution of the Federal Republic of Nigeria;*

It goes on to say: *That I will preserve, protect and defend the Constitution of the Federal Republic of Nigeria and that I will abide by the Code of Conduct contained in the Fifth Schedule to the Constitution of the Federal Republic of Nigeria.*

There is an issue that is at the central stage in this country right now.

The Speaker: Can you please refer to the Privilege that has been breached?

Hon. Olufemi Gbajabiamila: Yes. The privilege is constitutional. I am going straight to Section 145 of the Constitution which provision plugs any possible vacuum in the governance of this country. *(Interruptions)*

The Speaker: I rule you out of Order.

MATTERS OF URGENT PUBLIC IMPORTANCE

Death of a Nigerian in Cyprus

Hon Samson Raphael Osagie (Orhionmwon/Uhunmwode): Point of Order, Mr. Speaker!

The Speaker: What is your Point of Order?

Hon Samson Raphael Osagie: I rise to speak on Order VIII, Rule 4 of our Standing Orders which marginal note is *Matter of Urgent National Importance*.

My matter of Urgent National Importance arises from a new twist that has occurred in the way and

manner our citizens abroad are being treated and whose cases are being handled with utmost floppiness.

Last week, a Nigerian student died at the University of Cyprus and by Saturday the corpse was brought into this country with the connivance of the Nigerian High Commission in Turkey and dumped at the Murtala Muhammed International Airport for the country to decide who owns what.

All efforts to get at the circumstances leading to the death of this young man at the University of Cyprus have proved abortive. It has left so many questions on our lips as to why a Nigerian student in a faraway country would die under circumstances that are not understood and nobody is ready to give explanations.

This is the matter I have and I crave the indulgence of this House to move a Motion to this effect on the next Legislative Day.

The Speaker: Hon. Samson Osagie, this young Nigerian died and within a few days, his body was brought back to our country. Do you have any idea whether or not the body has been claimed by his or her family?

Hon. Samson Osagie: The information at my disposal is that the body, as I speak on the Floor of this Parliament and in my honour, is at the Murtala Muhammed International Airport, Lagos. It has not been claimed by the family as according to them the conditions for claiming this corpse is the same as the condition of claiming guns that are brought into this country.

The Speaker: The family is honestly aware that the body is here?

Hon. Samson Osagie: Definitely, Sir.

The Speaker: Are you seeking to raise a Motion to investigate the circumstances of this person's death?

Hon. Samson Osagie: Possibly, Sir and the action of the Nigerian High Commission in Cyprus.

The Speaker: Hon. Samson Osagie is seeking for us to consider this as a Matter of Urgent Public Importance.

Question put and negatived.

The Speaker: However, I would ask the relevant Committees on Foreign Affairs and Diaspora to quickly investigate the circumstances surrounding the death of this young Nigerian.

Mass Failure in WAEC and NECO

Examinations in 2009

Hon. Umaru Kurfi (Dutsin-Ma/Kurfi): Point of Order!

The Speaker: Hon. Kurfi is the last person to raise a matter, which he feels is a Matter of Urgent Importance. Please proceed.

Hon. Umaru Ibrahim Kurfi: My Point of Order is Order VIII, Rule 4 of our Standing Orders dealing with Matter of Urgent Public Importance.

My matter of urgent public importance is with respect to the ridiculous mass failure in the 2009 WAEC and NECO examinations. As the representatives of the people; students, parents, elders and lawmakers of Nigeria, we are constitutionally bound to investigate the reasons for the mass failure of candidates in the recently released WAEC and NECO examinations. It is on this basis that I am bringing this matter as one of Urgent Public Importance.

The failure is most ridiculous and intolerable. Out 1,400,000 candidates that sat for the WAEC and NECO examinations, only 356,000 candidates passed the examinations.

The Speaker: Hon. Kurfi is referring to a situation we find ourselves in our Secondary Schools where only 25 *per cent* of our students or thereabout pass Secondary School final examinations. These are the candidates who have five credits including English Language and Mathematics.

We cannot allow our children to be in this mess; we must act so that we find solutions to this problem. This is the time to tackle this problem.

The Speaker: I will put the question that the matter be considered as one of Urgent Public Importance, to be taken on the next Legislative Day.

Question put and agreed to.

Resolved: That the House do consider the Mass Failure of Candidates in the 2009 WAEC and NECO

examinations as a Matter of Urgent Public Importance to be taken on the next Legislative Day.

Hon. Leo Ogor: Point of Order, Mr. Speaker!

The Speaker: What is the Point of Order, Hon. Leo Ogor?

Personal Explanation

Hon. Leonard O. Ogor: I am relying on Order VIII, Rule 5 of our Standing Orders at page 26 dealing with Personal Explanation.

By the indulgence of the House and the leave of the Speaker a Member may make a personal explanation although there be no question before the House but no controversial matter may be brought forward nor may debate arise upon the explanation.

The Speaker: Please, proceed.

Violation of Appropriation Act

Hon. Leonard O. Ogor: As we are all aware, on Thursday last week, there was a Motion that borders on a Circular which was issued by the Head of the Civil Service in violation of the Appropriation Act that created what we call a Centralized Vote that is alien to the 2009 Budget.

I have taken time to find out and I have realised that this issue was not deliberated upon as we were made to understand. The most important thing is that in every situation as it relates to the Civil Service, it is the file that speaks. As it stands today, we have a Circular that has stated very clearly that the implementation of the Centralised Vote takes effect from 1st of December 2009, which means it is in effect.

I would, therefore, seek the indulgence of this august Chamber to address this issue tomorrow if the opportunity is given because it is clearly a usurpation of the powers of Parliament.

The Speaker: My Dear Colleagues, this matter came on the Floor on Thursday last week and we have the information that this particular policy might have been jettisoned by the Federal Executive Council.

Hon. Leo Ogor is seeking for the directive from the same source to clearly show that it has been cancelled. Until that it is done, he feels that we have the right to move that Motion.

I would seek for the relevant Committee to do that today. If it is found out that there has been no paper from wherever it came from to disown that policy; then we would take it on the next Legislative Day.

Question put and agreed to.

Resolved: That the House do address the issue on the next Legislative Day.

ORDERS OF THE DAY

MOTION

Violent Clashes between the Youths and a Vigilante Group in Ijebu-Ife, Ijebu East Local Government Area of Ogun State

The Speaker: The next Order of the Day is Hon. Osibote's Order which refers to a Motion on the Violent Clashes between the Youths and a Vigilant Group in Ijebu-Ife in Ijebu East Local Government Area of Ogun State, standing in the name of the representative from that area, Hon. Olusegun Osibote.

Hon. Olusegun Osibote, could you please, move the Motion.

Hon. Olusegun Osibote (Ijebu North/Ijebu East/Ogun Waterside): My Motion is on the Violent Clashes between the Youths and a Vigilante Group in Ijebu Ife, Ijebu East Local Government Area of Ogun State. The House:

Notes that a mayhem took place in Ijebu-Ife of Ijebu East Local Government Area of Ogun State on the 5th of December 2009 where many lives and properties were lost;

Further notes that the mayhem started as a result of protest by some youths over the death of a youth allegedly beaten by a vigilante group operating in the community;

Worried that the situation got out of hand when Anti-riot Policemen came in to restore law and order. Unfortunately, the protest led to a fracas in which many lives and properties were lost including an Assistant Commissioner of Police, Mr. Omololu Oladokun;

Disturbed that the economic activities in the area have been put to a stand-still as a result of the clash;

Resolves to:

(i) Commiserate with the families of all the deceased;

(ii) Urged the National Emergency Management Agency (NEMA) to provide relief materials to the affected people;

(iii) Mandate the Joint Committee on Police Affairs and Emergency and Disaster Preparedness to visit the area and investigate the remote and immediate causes of the crisis and report back to the House.

I so move.

Hon. Mustapha Ahmed (Bauchi): I rise to second the Motion as proposed by my Hon. Colleague.

Hon. Olusegun Osibote: Mr. Speaker on the 5th of December 2009 a fracas broke out between the youths and a vigilante group in Ijebu-Ife.

The youths were protesting against the beating of one of them by the Task Force of the Vigilante Group which later resulted into the death of the youth.

When the situation got out of hand, some mobile policemen were brought in to maintain law and order in the community but unfortunately the reverse was the case.

During the fracas many lives and properties were lost. The fracas also resulted in the death of an Assistant Police Commissioner.

I urge my Colleagues to support this Motion so that necessary relief materials can be forwarded to the affected people.

Hon. Olakunle Kazeem Salako (Ado-Odo Ota): I have an Amendment! I rise to amend the third prayer which says:

Mandate the Joint Committee on Police Affairs and Emergency and Disaster Preparedness to visit the area and investigate the remote and immediate causes of the crisis and report back to the House.

This is needless.

The Speaker: It is all right. My dear Colleagues, for clarification, there was mayhem in a particular Local Government in Ogun State. It was reported that over thirty people were killed. The Area Commander of the particular area was also killed in this mayhem.

Hon. Olusegun Osibote, the Member representing that particular area is seeking for some level of investigation into the causes of this incident and for those affected to get relief materials. That was basically what the Amendment is seeking for.

Hon. Independence Ogunewe (Ahiazu Mbaise/Ezinihitte): In seconding the Amendment, I am moved by the fact that any death anywhere diminishes me. As a Member and part of humanity I feel diminished by what happened in Ijebu-Ife. So I second the Amendment that a Committee be mandated to find out the causes of the crisis and to forestall such occurrences in the future.

Hon. Olumuyiwa B. Obadina (Ifọ/Ewekoro): Point of Order, Mr. Speaker!

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

Hon. Olumuyiwa B. Obadina: I rely on Order V, Rules 1 and 2 of our Standing Orders at page 9 dealing with Privileges. Unfortunately, I do not have *The Punch* newspaper of today but I am very much aware because I am from Ogun State that granting Prayer (iii) would, of course, be tantamount to doing exactly the same job that a Panel of Judicial Inquiry has been set up in Ogun State to look into this matter.

The Speaker: So you are not interested in any investigation from this side?

Hon. Olumuyiwa B. Obadina: Mr. Speaker, all I have said is that a Panel of Inquiry has been set up; the Police and everybody is involved. So why do we need to set up another investigation for the House? Why do we not wait for that result to come out before we act?

The Speaker: Which Order are you relying on?

Hon. Olumuyiwa B. Obadina: I am speaking under Privileges, Mr. Speaker.

Mr. Speaker: It is all right. I rule you out of Order. Now let us just take this straight away.

I am going to put the question on Hon. Salako's Amendment.

Amendment put and negated.

Hon. Igochukwu N. Aguma (Port Harcourt I): I have an Amendment, Mr. Speaker!

The Speaker: Which Amendment are you seeking?

Hon. Igochukwu N. Aguma: Mr. Speaker, we have the death of a member of the Police Force who is under our own protection.

My Amendment is that the Nigerian Police Force should investigate and bring to book all those responsible for that mayhem.

The Speaker: The Nigerian Police is already doing that.

Hon. Igochukwu N. Aguma: It is for the purposes of emphasis because they are investigating in Ogun State. Let the Police Force investigate for Nigeria.

The Speaker: That is what Hon. Obadina was saying.

Main Question accordingly put and negated.

The Speaker: I think we can now resume the Debate on Foreign Loans by State Governments.

Hon. Ita Enang: Mr. Speaker, on the resumption of this Debate I want to draw attention to Section 6(1)(e) of the Debt Management (Establishment) Act No. 18 of 2003. It states:

The functions of the Debt Management Office No. (E) on Agency basis to service external debts taken by States Governments and any of their Agencies where such debts are guaranteed by the Federal Government.

Section 21(2) says: *The Federal, States or any of their Agencies shall not obtain any external loan except with a guarantee issued by the Minister and the Minister here is Minister of Finance.*

Then it says in Section 21(1): *No external loan shall be approved or obtained by the Minister unless its terms and conditions shall have been laid before the National Assembly and approved by its resolution.*

The Speaker: His references were made only to External Debts. Does this refer to Internal Debts?

Hon. Ita Enang: Yes, there is a provision for Internal Debts as well.

The Speaker: Could you read that for us please?

Hon. Ita Enang: Section 23(1) deals with internal borrowing. It states:

Subject to the provisions of Section 7 of this Act in collaboration with the Central Bank of Nigeria, the Office shall:

(a) Determine -

(i) *The amount and timings of the issuance of Federal Government Short-term and Medium term Securities in the Nigerian Money Market;*

(ii) *The Repayment or Roll-over of the existing or maturing issues;*

(iii) *The appointment of underwriters to the issues specified in sub paragraph (1) of paragraph A of this Section to ensue their success;*

(iv) *The flotation of Federal Government Long-term Securities to raise appropriate funds in the Capital Market;*

(v) *The payment of interest, maintenance of a Register of Holder and redemption of Securities at maturity;*

(vi) *The Creation and Management of sinking funds to provide for the Redemption of Securities and Maturity.*

(b) *In collaboration with the Central Bank of Nigeria and the Accountant-General of the Federation determine any other form of Securities that may be created, issued or floated to achieve the domestic debt management objective of the Federal Government. Review and advise the maintenance of statutory limited for all categories of loans or debt instrument at levels compatible with economic activities required for sustainable growth and development in collaboration with the Central Bank of Nigeria and the Accountant General of*

the Federation and finally, liaise or cooperate with other States Government or other relevant institutions within or outside Nigeria for the realisation of the Objectives of the office.

That is what it talks about Internal Borrowing at the Marginal Notes.

The Speaker: Hon. Ibn Na'Allah, that was not clear at all.

Hon. Bala Ibn Na'Allah (Zuru/ Fakai/ Sakaba/D/Wasagu): Thank you very much Mr. Speaker. I would only say with the greatest respect that, my friend, Hon. Ita Enang, is making a goulash of the entire scenario in the sense that he is getting mixed up.

In recognition of the fact that Debt Management Act is an extant law, this House again enacted the Fiscal Responsibility Act. I will, with your permission, read

Sections 44 (i)(v) and 47(iii) of the Fiscal Responsibility Act. I will start with Section 44(i)(v). It says:

Without prejudice to the specific responsibilities of the National Assembly and Central Bank of Nigeria, the Debt Management Office shall maintain comprehensive, reliable and current electronic database of Internal and External Public Debt guaranteeing public access to the information. Then Section 47(iii) says: In the case of Foreign Currency borrowing, the Federal Government guarantee shall be a requirement and no States, Local Government or Federal Agency shall on its own borrow.

Hon. Patricia Olubunmi Etteh (Ayedade/Irewole/Isokan): Mr. Speaker, considering what Hon. Ita Enang read out to us procedurally I believe even if it does not emanate from the National Assembly, it must end with the National Assembly.

The power of interpretation is very important when you are trying to apply the law. What Hon. Ita Enang, read out to us is in tandem with Section 7 of the Exclusive List. Therefore, even if the State Government is going to borrow money they have the right to do that but procedurally they have to go through the normal channel which is through the Minister of Finance and at the end of it all, the Minister of Finance who must bring it to the National Assembly.

So there is no ambiguity in what Hon. Agoda brought up but I think, Hon Ita Enang, needs to at least advise this House properly.

The Speaker: I have no doubt that you will continue to advise the House properly

Hon. Ita Enang: Yes, Sir. I stand by the advice under the Constitution.

The Speaker: I think we have had enough on this issue. So, I am going to put the question.

Hon. Bernard Ambrose Udoh (Ikot Abasi/Mkpat Enin/Eastern Obolo): Point of Order, Mr. Speaker!

The Speaker: What is the Point of Order?

Hon. Bernard Udoh: It is Order IX, Rule 12 of our Standing Orders.

The Speaker: Can you read it, please?

Hon. Bernard Udoh: Order IX Rule 12 says: *Members shall attend the sitting of the House formally dressed.*

The Speaker: Who is not formally dressed?

Hon. Bernard Udoh: The Chairman, House Committee on House Services.

The Speaker: Hon. Udoh, if you are going to make accusation, make sure that the Member is here. I am beginning to have the opinion that you have a hidden agenda somewhere.

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

The Speaker: Hon. Ita Enang, what is the Point of Order?

Personal Explanation

Hon. Ita Enang: I come under Order VIII, Rule 1. The Personal Explanation I have is that the question that is before this House as raised by my Friend is whether we should refer this matter to the Committee on Justice and Debt Management. That is the matter that I offered advice to the House that since we have made the law that we do not need to make that reference because it should be here.

My opinion is not that this House has no power to do it. I would like the Member to read his prayer again because I still rely on his prayer. It would be wrong as Hon. Patricia Etteh has said that I am misadvising the House because Hon. Etteh did not listen to the prayers. What is important in the Motion is the prayer.

The Speaker: Hon. Ita Enang, he has raised an Order and I need to rule on it.

Hon. Ita Enang, I am going to rule you out of Order. You are the Chairman, Committee on Rules and Business. Therefore, you are the Chairman of the Committee of the engine room of this House, which means the performance of this House to an extent determines on how well you lead your Committee and how well your Committee leads this House. To our knowledge, you have done very well so far and as a politician and as a Member of the House of Representatives who offered yourself to be elected into this House, you must be able to take criticisms sometimes and that is what has happened today and it is not in anyway the judgment of your capacity as a third time Member of this House. Therefore, I rule you out of Order.

Hon. Ita Enang: It is well taken Sir.

The Speaker: Before I put the question there is one last Amendment from Hon. Leo Ogor.

Hon. Leonard Okuweh Ogor (Isoko North/Isoko South): Mr. Speaker my Amendment is very clear. In line with the various angles and various Committees that this whole exercise is going to touch, it is important that the House set up a very clear Ad-hoc Committee that will coordinate this whole exercise.

I so move.

Hon. Chile Igbawua (Kwande/Ushongo): Mr. Speaker, I rise to second that Motion.

Question put and agreed to.

Resolved: That the House do set up a Ad-Hoc Committee that will coordinate the whole exercise.

Membership of the Ad-Hoc

Committee to Investigate Foreign Loans

The Speaker: The Members of this Ad-Hoc Committee are as follows:

1. Hon. Bala Ibn Na'Allah - Kebbi State
2. Hon. Ahmed Mustapha - Bauchi State
3. Hon. Habeeb A.B. Fasinro – Lagos State
4. Hon. Chile Igbawua – Benue State
5. Hon. C.I.D. Maduabum – Anambra State
6. Hon. Ita Enang – Akwa Ibom State
7. Halims Hon. Halims Agoda – Delta State.

The Chairman of this Committee is Hon. Emeka Ihedioha, Chief Whip of the House.

Hon. Nimota Oba Suleiman (Ilorin West/Asa):
Point of Order, Mr. Speaker!

The Speaker: Which Order please?

Hon. Nimota O. Suleiman: My Point of Order V, Rule 1 of our Standing Orders at page 9 dealing with Privileges.

The Speaker: Can you read the Order please.

Hon. Nimota O. Suleiman: Order V, Rule 1 states:

Privileges

Privileges are the rights enjoyed by the house collectively and by the Members of the house individually conferred by the Legislative houses (Powers and Privileges) Act, 2004 and other statutes, practices, precedents, usages and customs.

(a) Whenever a matter of privilege arises, it shall be taken into consideration immediately.

The Speaker: Hon. Nimota, could you tell me the privilege that has been breached?

Hon. Nimota O. Suleiman: Hon. Speaker, in the Committee you have just announced, I did not hear the name of any woman. Considering that women are also Members of this Parliament, I think we should be represented.

The Speaker: Hon. Nimota, which rule of the House and which part of the Constitution are you raising your Order? - *(Prolonged Interruptions)*

Under this pressure from the Members of the House of Representative, I have no choice other than to include the name of Hon. Nimota Suleiman in this Committee. *(Applause)*

Question put and agreed to.

Resolved: That Hon. Nimota Oba Suleiman be included as a Member of the Ad-hoc Committee to Investigate Foreign Loans.

CONSIDERATION OF BILL

Labour Act, Cap. L1 2004 (Amendment) Bill, 2009

A Bill for an Act to Amend the Labour Act, Cap. LI 2004 and for Other Matters Connected Therewith, 2009 (HB. 290) –

Order for Second Reading.

The Speaker: The next Order of the Day is the Commencement of Debate on a General Principles of a Bill for an Act to amend the Labour Act, Cap. LI 2004 and for Other Matters Connected Therewith, 2009. Member would recall that the Bill was read for the First Time on Thursday, 16th July 2009.

I now invite Hon. Olufemi Gbajabiamila to move that the Bill be read the Second Time.

Hon. Olufemi Gbajabiamila (Surulere I): Mr. Speaker, I move that a Bill for Act to Amend the Labour Act, Cap. LI 2004 and for the Other Matters Connected Therewith, 2009 be read the Second Time.

Hon. Mohammed Ali Ndume (Damboa/Gwoza/Chibok): I do second the Motion that the Labour Act (Amendment) Bill be read the Second Time.

Question proposed.

Hon. Olufemi Gbajabiamila: Mr. Speaker, this is a very short Bill that requires one or two lines Amendments to the Labour Act.

Before I start, let me lay the foundation that our Constitution makes the welfare of the Nigerian citizenry its primary purpose of government.

When you work you must be paid. If you did not work, you will not get paid. I believe that we are all aware that there is a particular ailment that we have in this country where people work and you hear stories of people not being paid their salaries for up to four months; that is criminal. You do not expect people to work and not be paid.

As a matter of law that is actually what we call *detinue* or *conversion*. When you do not pay my salary, you have converted my money.

One of the agenda of the Administration is to fight corruption. I do not see how we can begin to fight corruption when the issue of salaries not being paid is not addressed. There is no doubt that if a man works and is not paid for two, three or four months, he is going to need money to do things that he ordinarily and necessarily must do and he will look for other ways and means to get that money and that is where corruption comes in. For every thesis and anti-thesis there is a synthesis. If I work and you do not pay me the chances are that I will be corrupt. As I said it is a very short amendment.

The Labour Act itself already prescribes that you need to be paid by agreement whether weekly or monthly but what the Labour Act did not do is that it did not prescribe any sanction or punishment if you do not comply with that provision of the law.

This Amendment basically brings in the sanction that if you do not pay salaries as at when due at least beyond the month, it brings in a sanction of N500, 000 in the first instance and ~~N~~1 million in the second instance.

I think it is providence; it is not coincidence. It is, I believe, divine orchestration that on this Order Paper today, there is a Motion on the issue of NITEL workers and the hardship they are going through because they have not been paid their salaries. Mr. Speaker, this is a very simple amendment; it takes care of the welfare of the people who have elected us here.

I so move

Hon. Solomon Agidani (Apa/Agatu): Mr. Speaker, mine is just a caution because as we packaged the Labour Act 2004, the important provisions you will find there were put together by tripartitism; the tripartite Committee of Labour, Employer and the Government.

The idea of bringing these three parties together was to accept positions from each of the three partners in this game of trade unionism and labour movements in Nigeria. The idea here is that mediation, conciliation and arbitration are entrenched in the Labour Act.

In employment parlance when you go into employment contract with an employer as an employee, we have what we call *the power to bargain*, that is, the power to go into collective bargaining. So, we are not anticipating illegal action on either side without going through the process of mediation, conciliation and arbitration. Therefore, I am only cautioning that in dealing with this, I hope that the benefits of these three aspects of mediation, conciliation and arbitration would be protected instead of resorting to litigation.

Hon. Tamarautare E. Brisibe (Burutu): On the face of it, the Amendment to the Bill appears reasonable but we have to be a bit cautious in making owing of salaries a criminal offence punishable with a fine. There could be mitigating circumstances for an organisation not being able to pay the salaries of its staff and sometimes if this kind of Amendment becomes law, it would then mean that instead of owing the salary an employer might feel obliged to lay off the worker so that it does not owe the salary. I do not think we should consider laying off the workers as an alternative to owing salaries but I do agree that any organisation that is capable of paying salaries and is not paying salaries definitely should be made to do something about that.

I would not necessarily say that we should kill this amendment but when we are asking that we look at it in the Committee that would look at it after a Second Reading, take cognizance of the fact that criminalising this action on its own might not get us the benefit that we want from this Amendment.

Hon. Leonard Okuweh Ogor: Let me, first and foremost, appreciate where the author and mover of this Amendment is coming from essentially when it is a one-line amendment but I am very concerned about the implication of this Amendment because we all know very clearly that in every organisation there are bound to be challenges. There are times that we call the hard times.

The danger in this particular Amendment may end up putting some employers as criminals in prisons or whatever. I say with due humility that nobody will want to run an organisation, employ people and will

not want to pay for it. You can clearly see that when you employ and if you watch out a situation when you even have strikes, there are these claims that people would want to probably be claiming money when they know they are not working.

I would appeal to the author of this particular Amendment that he should take a clinical analysis of it because he did mention the situation of NITEL. NITEL as an organisation as its challenges and the records are very clear there. We are now taking funds from the Consolidated Account of the Federation to go and pay the services that were rendered by a private business entirely in the interest of peace.

This Amendment should be deleted in its entirety and just leave the Labour Law the way it is because the implication is quite grave.

Hon. Charles Odogwu Onyekweli (Ndokwa East/Ndokwa West/Ukwuani): My contribution is that if you say it is a criminal offence if we do adopt for a worker not to be paid, what about a circumstance for a Local Government that has zero allocation? If a local government has zero allocation and for that reason it is not able to pay workers for a particular month, who would you say is the criminal? Is it the Federal Government that allocates fund or the Local Government? I do not think that this kind of Amendment is desirable. Therefore, it should be struck out.

Hon. Emmanuel Bello (Gombi/Hong): I have seen this Amendment and I do not think that the author of this amendment has consulted the Nigerian Labour Congress whose members would be the beneficiaries at the end of the day. I do not think the Nigeria Labour Congress would support this Amendment.

I have a personal experience. Before I came to this House I was an employer. I employed 1,600 Nigerians and there will come a time when you manufacture goods for sale and there is no market for it. Therefore, you have a very high inventory with no sales and you cannot meet up your salary demand. Do you call that an offence? The staff would understand because the market picks up with time and so you can pay them in areas. You can call a meeting with the staff and have an understanding and may be borrow soft loans that would take care of their daily needs.

I do not think that this Amendment is in the interest of the employee. It is not also in the interest of the employer because it would completely erode the essence of entrepreneurship. Therefore, this House

should kill it in its entirety because it is not a good Amendment.

Hon. Asita Honourable (Ogba/ Ebgema/ Ndoni/Ahoada West): I just want to ask whether this proposed Amendment is in consonance with the spirit of the Labour Law.

Does the Labour Law contemplate criminal relationship between the employer and the employee? Employment is a civil arrangement where I work and you pay me. The intendment from that perspective is not criminal in nature.

If this Amendment is intended to import criminality into that civil arrangement, it may be defeating the spirit and the purpose of the Labour Law.

Hon. Terngu Tsegba (Gboko/Tarka): This Bill ordinarily is very good in an ideal environment where the public infrastructure works. It may not be very convenient in our own environment where people who are in the manufacturing sector can hardly get electricity; they have to depend on diesel. The contractors depend on government to pay their workers. I know that local debt today is in billions and so many local contractors have not been paid. Most of these people, as my Colleague Hon. Emma Bello who had employed so many people before he came here said, they find it very difficult to pay their workers as at when due. Since government in this country is the biggest employer of labour and the biggest spender in the economy, most of the businesses depend on government.

If we criminalise wage Bill, then we would be sending so many people to jail. I am sure our Colleague, Hon. Femi Gbajabamila sponsored this Bill with the belief that this is an ideal situation. I do not think we are yet in that position. With due respect to him and as one of the leaders of this House, he has heard his Colleagues and I am sure he is going to withdraw this Bill for much more consultation.

The Speaker: Should I put the question?

Several hon. Members: Yes.

The Speaker: The last contributor will be Hon. Independence Ogunewe.

Hon. Independence Ogunewe: Having listened to some of the arguments that have been canvassed by my Colleagues, I want to say that I appreciate their views but I want to believe that the Amendment Hon.

Femi Gbajabiamila is seeking is not such that could be couched in absolute languages because from the explanation that was given by the former Chairman, Committee on Labour, Hon. Solomon Agidani, he pointed out the three stages that are passed through in a tripartite arrangement to arrive at certain things.

In fact, in the light of that what Hon. Femi Gbajabiamila should be actually canvassing is that if you get to the Arbitration stage and it is proven that you have the ability to pay and yet you owed or that by the activities or the actions of an employer, he made it difficult for even the organisation to be able to meet its wage obligations, then it should carry some punitive measures. There are examples of banks in this country where the activities of the owners of the banks ran down the banks and made it impossible for the employees to be paid. In such circumstance what do you say?

The Speaker: Hon. Independence, is it not why they are under investigation with the E.F.C.C and the rest of them?

Hon. Independence Ogunewe That is what I am saying. Even at that, if they are passing through E.F.C.C investigation there should some compensatory kind of measures for the employees who have passed through some kinds of difficulties for reasons not occasioned by them.

The Speaker: Thank you. Hon. Gbaibamiala, do you want a right of reply?

Hon. Olufemi Gbajabiamila (Surulere I): I just want to correct an impression. Maybe the word *criminalised* is wrong but the sanctions - (Interruptions)

The Speaker: But you said it.

Hon. Olufemi Gbajabiamila: And I am saying, maybe the use of it is wrong.

The Speaker: Are you withdrawing it?

Hon. Olufemi Gbajabiamila: What I am saying is that sanctions need to go with the provisions throughout the Labour Law. There are other sanctions even in the Labour Law that we seek to amend; there are sanctions that are fines, it does not make them criminal.

Maybe what we can do is to at the stage of the Committee treat this thing to mean *wilfully withhold*. So the intention is there that you wilfully withheld. Definitely, there will be acts of God where you cannot pay or you may not be able to pay but where you wilfully withhold salaries just because you want to, then there should be sanctions to go with that.

The Speaker: I will now put the question that the Bill be read the Second Time.

Question put and negatived.

The Speaker: Hon. Colleagues, please, in the last Ad-hoc Committee that we set up I would also like to include the Chairman of the Committee on Debt Management as part of that Ad-Hoc Committee.

CONSIDERATION OF REPORTS

Report of the Joint Committee on Governmental Affairs and Justice on a Bill for an Act to Regulate the Use of Sirens in Nigeria and for Other Matters Connected Therewith

(Adjourned Consideration: 2/7/2009)

The Speaker: The next Order of the Day is the resumption of consideration of the Report of the Joint Committee on Governmental Affairs and Justice on a Bill for an Act to Regulate the Use of Sirens in Nigeria and for Other Matters Connected Therewith, 2009. Members would recall that on Wednesday, 15th July, 2009 the House in a Committee of the Whole approved Clauses 1 to 6 and directed the Committee to provide the Interpretation Clause and the Long Title of the Bill for approval by the House.

I now invite the Leader of the House, Hon. Tunde Akogun to move that the House do now resume the consideration of the Report.

Hon. Tunde Okogun (Akoko-Edo): I rise to move that this House do resume consideration of the Report of the Joint Committee on Governmental Affairs and Justice on a Bill for an Act to Regulate the Use of Sirens in Nigeria and for Other Matters Connected Therewith, 2009 and approve the recommendations therein.

Hon. Baba Shehu Agaie (Agaie/Lapai): Mr. Speaker, I second the Motion as moved.

Question put and agreed to.

Resolved: That this House do resume consideration of the Report of the Joint Committee on Governmental Affairs and Justice on a Bill for an Act to Regulate the Use of Sirens in Nigeria and for Other Matters Connected Therewith.

**Report of the Committee on Labour,
Employment and Productivity on a Bill for an Act
to Establish the National Commission for
Conciliation and Arbitration, National Labour
Council, the Office of the Registrar of Trade
Unions, etc to Administer the Provisions of Labour
Laws in Nigeria and Matters Connected Therewith,
2008.**

The Speaker: The next Order of the Day is the consideration of the Report of the Committee on Labour, Employment and Productivity on a Bill for an Act to Establish the National Commission for Conciliation and Arbitration, National Labour Council, the Office of the Registrar of Trade Unions, etc to Administer the Provisions of Labour Laws in Nigeria and Matters Connected Therewith, 2008. This Report was laid on 2nd July, 2009.

Hon. Ado Dogo, please, move for the consideration of this Report.

Hon. Ado Dogo Audu (Jema'a/Sanga): Mr. Speaker, I move that this House do consider the Report of the Committee on Labour, Employment and Productivity on a Bill for an Act to Establish the National Commission for Conciliation and Arbitration, National Labour Council, the Office of the Registrar of Trade Unions etc to administer the Provisions of Labour Laws in Nigeria and Matters Connected Therewith, 2008.

Hon. Adamu Gora Kalba (Kaltungo/ Shongom): I rise to second the Motion as moved by Hon. Ado Dogo.

Question put and agreed to.

Resolved: That the House do consider the Report of the Committee on Labour, Employment and Productivity on a Bill for an Act to Establish the National Commission for Conciliation and Arbitration, National Labour Council, the Office of the Registrar of Trade Unions, etc to Administer the Provisions of Labour Laws in Nigeria and Matters Connected Therewith.

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

Hon. Baba Shehu Agaie: I second the Motion as moved.

Question put and agreed to.

Resolved: That the House do resolve into Committee of the Whole to consider the two Reports.

ANNOUNCEMENTS

The Speaker: Can I make these announcements immediately before we commence the consideration of the Reports?

**Additional Membership of the Committee on
Local Content in the Oil Industry**

The additional Members to the Committee on Local Content in the Oil Industry Bill would be:

1. Hon. Alhassan Ado Dogo and
2. Hon. Aro Bamidele.

**Additional Membership of the Committee on
Harmonisation of the Virement Proposal with the
Senate**

The Membership of the Committee on Harmonisation of the Virement Proposal with the Senate will be:

1. Hon. Ayo Adesheun
2. Hon. Hashiru Isa
3. Hon. Terngu Tsegba
4. Hon. Jerry Manwe
5. Hon. Ita Enang and
6. Hon. Okey Udeh.

**National Economic Summit
of the Legislators Forum**

May I remind all Committee Chairmen, Deputy Chairmen and other Members to please attend the National Economic Summit of the Legislators Forum with me and the Principal Officers at the Nicon Hilton today at 4.00 p.m.

(The Speaker departs)

(The Deputy Speaker in the Chair)

Federal Road Safety Commission

(Amendment) Bill, 2007

A Bill for an Act to Amend the Federal Road Safety Commission (Establishment) Act 2007 in order to Regulate the Use of Sirens in Nigeria and for Other Matters Connected Therewith - CONSIDERED IN THE COMMITTEE OF THE WHOLE.

The Chairman: Hon. Colleagues, the first Report is on a Bill for an Act to Amend the Federal Safety Commission (Establishment) Act 2007 in order to regulate the use of sirens in Nigeria and for other matters connected therewith.

Hon. Leonard Okuweh Ogor: As we are all aware, we have actually finished with this Bill and what we seek is just the interpretations of some provisions that are clearly there in the Bill.

When you go to page 2 of the Bill that has just been distributed; it says under Interpretation as follows:

In this Bill unless the context otherwise requires: "Emergency" means any sudden serious and dangerous situation needing immediate attention.

"Siren" means an instrument producing a loud penetrating sound.

"Paramilitary" has the same meaning as similar services like Nigerian Customs Service, Immigration Services etc.

Those are actually the main Interpretation but it is also important that I bring a very fundamental issue that bothers on the usage of the siren by the Chiefs and I think that the concept that day was to try as much as we can to restrict them within their various States.

I believe that these are the clear provisions that we need to look at and if there are any explanations, I would be obliged to do that.

The Chairman: Hon. Colleagues, we have taken almost everything in this Bill. The last part of the Bill that we have not taken is the one that has just been read by Hon. Leonard Okuweh Ogor, Chairman of the Committee on Governmental Affairs.

I will put the question on Clause 6.

Clause 6- (INTERPRETATION) - ordered to stand part of the Bill.

Long Title – (A BILL FOR AN ACT TO AMEND THE FEDERAL ROAD SAFETY COMMISSION (ESTABLISHMENT) ACT 2007 IN ORDER TO REGULATE THE USE OF SIRENS IN NIGERIA AND FOR OTHER MATTERS CONNECTED THEREWITH) - *agreed to.*

The Chairman: Hon. Ita Enang, page 37 of our Rules says: *The Speaker in the House and Chairman in the Committee shall be responsible for the observance of Rules of Order in the House and Committee respectively and their decision upon any point of Order shall not be open to any appeal and shall not be reviewed by the House except upon a substantive motion* after notice.

Hon. Ita Enang, we have ruled on that and you are the chief custodian.

National Commission for Conciliation and Arbitration (Establishment) Bill, 2009

A Bill for an Act to Establish the National Commission for Conciliation and Arbitration, National Labour Council, the Office of the Registrar of Trade Unions, etc to Administer the Provisions of Labour Laws in Nigeria and Other Matters Connected Therewith – CONSIDERED IN THE COMMITTEE OF THE WHOLE HOUSE.

The Chairman: The next Report is on a Bill for Act to establish the National Commission for Conciliation and Arbitration, National Labour Council, the Office of the Registrar of Trade Unions, etc., to Administer the Provisions of the Labour Laws in Nigeria and for Matters Connected Therewith.

Hon. Ado Dogo Audu, can you brief the House on this Report so that we can consider it Clause by Clause?

Hon. Ado Dogo Audu: Thank you, Mr. Chairman. Hon. Members would recall that the House in a Plenary Session on Wednesday 29th July 2008 referred the above-mentioned Bill to the Committee on Labour and Productivity for a thorough scrutiny and further legislative action.

The Committee had several meetings on the Bill and had interactive session with various Stakeholders and a Public Hearing was held on the 1st and 2nd of

April 2009 to listen to the views of the general public and to collect necessary documents that would assist the Committee in its assignment.

The objective of the Bill is to create labour institutions that would administer the provisions of all the Labour laws in the country and facilitate speedy resolutions of labour disputes in the country.

The Chairman: Clauses 1 to 3.

Clause 1 - (OBJECTIVE OF THE ACT) – ordered to stand part of the Bill.

Clause 2 - (SCOPE AND APPLICATION) – ordered to stand part of the Bill.

Clause 3 - (ESTABLISHMENT OF THE NATIONAL LABOUR COUNCIL) – ordered to stand part of the Bill.

Clause 4 - (TENURE OF OFFICE OF MEMBERS OF THE COUNCIL) – ordered to stand part of the Bill.

Clause 5 - (CESSATION OF MEMBERSHIP OF THE COUNCIL) – ordered to stand part of the Bill.

Clause 6 - (FUNCTIONS OF THE COUNCIL) – ordered to stand part of the Bill.

Clause 7 - (FINANCIAL PROVISIONS OF THE COUNCIL) – ordered to stand part of the Bill.

Clause 8 - (ESTABLISHMENT OF THE NATIONAL COMMISSION FOR CONCILIATION AND ARBITRATION) – ordered to stand part of the Bill.

Clause 9 - (ESTABLISHMENT AND COMPOSITION OF THE GOVERNING BOARD) – ordered to stand part of the Bill.

Clause 10 - (TENURE OF OFFICE OF THE MEMBERS OF THE BOARD) – ordered to stand part of the Bill.

Clause 11 - (CESSATION OF MEMBERSHIP OF THE BOARD) – ordered to stand part of the Bill.

Clause 12 - (ALLOWANCES, ETC. OF MEMBERS) – ordered to stand part of the Bill.

Clause 13 - (FUNCTIONS/ POWERS OF THE BOARD) – ordered to stand part of the Bill.

Clause 14 - (FUNCTIONS OF THE COMMISSION) – ordered to stand part of the Bill.

Clause 15 - (POWER OF THE COMMISSION) – ordered to stand part of the Bill.

Clause 16 - (DIRECTOR-GENERAL AND OTHER STAFF OF THE COMMISSION) – ordered to stand part of the Bill.

Clause 17 - (COMMISSIONERS) - ordered to stand part of the Bill.

Clause 18 - (STRUCTURE OF THE COMMISSION) – ordered to stand part of the Bill.

Clause 19 - (OTHER STAFF OF THE COMMISSION) – ordered to stand part of the Bill.

Clause 20 - (SALARIES AND ALLOWANCES) – ordered to stand part of the Bill.

Clause 21 - (PENSIONS, 2004 NO. 2) – ordered to stand part of the Bill.

Clause 22 - (FUND OF THE COMMISSION) – ordered to stand part of the Bill.

Clause 23 - (EXPENDITURE OF THE COMMISSION) – ordered to stand part of the Bill.

Clause 24 - (ANNUAL ESTIMATES AND ACCOUNTS) – ordered to stand part of the Bill.

Clause 25 - (ANNUAL REPORTS) – ordered to stand part of the Bill.

Clause 26 - (POWER TO ACCEPT GIFTS) – ordered to stand part of the Bill.

Clause 27 - (POWER TO BORROW) – ordered to stand part of the Bill.

Clause 28 - (LIMITATION OF SUITS AGAINST THE COMMISSION) – ordered to stand part of the Bill.

Clause 29 - (SERVICE OF DOCUMENTS) – ordered to stand part of the Bill.

Clause 30 - (RESTRICTION ON EXECUTION AGAINST PROPERTY OF THE COMMISSION) – ordered to stand part of the Bill.

Clause 31 - (INDEMNITY OF OFFICERS) – ordered to stand part of the Bill.

Clause 32 - (TRANSITIONAL PROVISION ON INDUSTRIAL ARBITRATION PANEL) – ordered to stand part of the Bill.

Clause 33 - (EMPLOYMENT EXCHANGES) – ordered to stand part of the Bill.

Clause 34 - (FEE-CHARGING EMPLOYMENT AGENCIES) – ordered to stand part of the Bill.

Clause 35 - (OFFICE OF REGISTRAR OF TRADE UNIONS AND EMPLOYERS' ASSOCIATION) – ordered to stand part of the Bill.

Clause 36 - (FUNCTIONS OF THE REGISTRAR) – ordered to stand part of the Bill.

Clause 37 - (ASSISTANT REGISTRAR) – ordered to stand part of the Bill.

Clause 38 - (POWER TO MAKE REGULATIONS) – ordered to stand part of the Bill.

Clause 39 - (EXEMPTIONS OF CERTAIN ENACTMENT CAP 19 LFN) – ordered to stand part of the Bill.

Clause 40 - (INTERPRETATION) - agreed to.

Question proposed.

Hon. Terngu Tsegba (Gboko/Tarka): Mr. Chairman, I want to draw your attention to Clause 15 - Powers of the Commission on page 7. It says: *The Commission shall have power to -*

(a) Charge fees for its activities including fees for conciliation and arbitration proceedings, training and capacity building of conciliators and arbitrators, registration of joint industrial councils and collective bargaining councils;

(b) Set standards and guidelines for qualification for registration as conciliator or arbitrator under this Bill; and

(c) Do anything which, in its opinion is expedient and necessary for the efficient performance of its functions under this Bill.

We have not provided for the fees; so I do not know how they determined the fee. When we are crafting a law we should be in a position to set a fee or the procedure or the criteria for the fees but if we just create an agency and leave it to charge fees, I do not know the procedure.

The Chairman: Which Clause are you talking about?

Hon. Terngu Tsegba: I am talking of Clause 15(a).

The Chairman: Power of the Commission?

Hon. Terngu Tsegba: How do they determine the fee? This is because there is no schedule or even fees attached for conciliation and arbitration proceedings.

The Chairman: The issue of attaching schedule has been amended by the House rules and that we do not need to attach schedule.

Hon. Terngu Tsegba: Mr. Chairman, it is not the cost of the fee but I am saying that *the Commission shall have power to charge fees for its activities including fees for consideration and arbitration proceedings*. How do they determine the fees?

The Chairman: I believe there must be experts and if you fix the fees now, the value of the fees that you are fixing today may not be something to write home about in the next two to three years.

Short Title – (LABOUR INSTITUTIONS (ESTABLISHMENT, ETC.) BILL, 2009 - agreed to.

Long Title – (A BILL FOR AN ACT TO ESTABLISH THE NATIONAL COMMISSION FOR CONCILIATION AND ARBITRATION, NATIONAL LABOUR COUNCIL, THE OFFICE OF THE REGISTRAR OF TRADE UNIONS, ETC TO ADMINISTER THE PROVISIONS OF LABOUR LAWS IN NIGERIA AND FOR MATTERS CONNECTED THEREWITH) - *agreed to.*

Hon. Tunde Akogun: I move that this House do revert to Plenary.

Hon Baba Shehu Agaie: I rise to second the Motion that the House do revert to Plenary.

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 the Whole considered the Report of the Joint Committee on Governmental Affairs and Justice on a Bill for an Act to Regulate the Use of Siren in Nigeria and approved Clause 6 and the Long Title.

The House in the Committee of the Whole also considered the Report of the Committee on Labour, Employment and Productivity on a Bill for an Act to Establish the National Commission for Conciliation and Arbitration, National Labour Council, the Office of the Registrar etc. and approved Clauses 1 to 43, approved the Short Title and the Long Title.

Hon. Tunde Akogun: I move that the House do approve the Report of the Committee of the Whole.

Hon Baba Shehu Agaie: I rise to second the Motion as moved by the Leader.

Question put and agreed to.

Resolved: That the House do adopt the Report of the Committee of the Whole.

ADJOURNMENT

Hon. Tunde Akogun: Mr. Speaker, hon. Colleagues, I move that this House do adjourn sitting till tomorrow Wednesday, 16th December, 2009 at 2.00 p.m.

Hon Baba Shehu Agaie: Mr. Speaker, I second the Motion as moved by the Leader.

Question put and agreed to.

Resolved: That the House do stand adjourned till Wednesday, 16th December, 2009 at 2.00 p.m.

The House adjourned accordingly at 1.05 p.m.