

0169

HOUSE OF REPRESENTATIVES
FEDERAL REPUBLIC OF NIGERIA

Thursday, 2nd July 2009

The House met at 11.00 a.m.

PRAYERS

(The Deputy Speaker in the Chair)

VOTES AND PROCEEDINGS

The Deputy Speaker: Hon. Colleagues, the House is called to Order. I have examined and approved the Votes and Proceedings of Wednesday, 1st July, 2009.

ANNOUNCEMENTS

**Rescheduling of the Second Reading of Bills
for the Alteration of the Provision of the
Constitution and the Electoral Act**

The Deputy Speaker: I have an announcement from the Committee on Rules and Business. It reads: *Hon. Members are, please, informed that the Bills for the alteration of the provisions of the Constitution and the Electoral Act spread earlier for Second Reading this week could not be taken at the request of hon. Members for more time to study the Recommendations of the Political Reforms Committee.*

All the Bills are now scheduled for definite consideration and Second Reading next week. Accordingly, the under-listed Bills will be considered on the respective day set out in the Notice Paper being published namely:

- (1) *Independent National Electoral Commission (Amendment) Bill, 2009 (HB. 233)*
- (2) *Centre for Democratic Studies (Establishment) Bill, 2009 (HB. 235)*
- (3) *Constitution (Second Amendment) Bill, 2009 (HB. 236)*
- (4) *Political Parties Registration and Regulations Commission (Establishment) Bill, 2009 (HB. 237)*

0170

(5) *Electoral Offences Commission (Establishment) Bill, 2009 (HB. 238)*

(6) *Police Act (Amendment) Bill, 2009 (HB. 234)*

Hon. Members are, please, requested to prepare for individual contribution during the debate on these Bills.

(Signed)
Hon. Ita Enang

PRESENTATION OF PUBLIC PETITIONS

**Appropriation of Intellectual Property Right
by the National Institute for Pharmaceutical
Research and Development (NIPRD)**

Hon. Eziuche Ubani (Obinwa/Ugwunagbo/Osisioma): Mr. Speaker, I have a Petition from my constituent, Nwabilo Nwankwo. He is alleging that his Intellectual Property Right was being appropriated by the National Institute for Pharmaceutical Research and Development (NIPRD) and he said that after some years of research, he discovered some cure for some ailments and he took it to that agency and it was appropriated by the technocrats there and then credited to somebody else. Therefore, he is asking this honourable House to look into the case and ensure that his Intellectual Property Right is restored.

Mr. Speaker, if I have your permission, I would like to lay this Petition on the Table.

Petition laid.

Wrongful Termination of Appointment

Hon. Sadiq A. Muhammed (Ajaokuta): Mr. Speaker, I have with me a Petition from M. A. Adams and four others from my Constituency. The Petition is with respect to the wrongful termination of their appointment by the Union Bank of Nigeria Plc. They are all requesting for their re-instatement.

I have the privilege to forward this Petition for the consideration of this House.

Petition laid.

Wrongful Disengagement from Service

Hon Ita S. J. Enang (Itu/Ibiono Ibom): I have a

0171

Petition by Mr. Sunday Bassey Essien of Ibiono Ibom against the National Universities Commission for wrongful disengagement from service.

May I seek your leave to lay the Petition on the Table?

Petition laid.

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

(All Petitions referred to the Committee on Public Petitions)

PRESENTATION OF REPORT

Report of the Committee on Labour, Employment and Productivity on National Commission for Conciliation and Arbitration, National Labour Council, the Office of the Registrar of Trade Unions etc. (Establishment) Bill, 2008

The Deputy Speaker: The only Business of the Day is Presentation 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 standing in the name of Hon. Ado Audu Dogo.

Hon. Members would recall that the Bill was referred to the Committee on Tuesday, 28th October, 2008. The Report is now ready for presentation. I call on Hon. Ado Dogo Audu, who is today the Acting Whip of the House, to present the Report.

Hon. Ado Dogo Audu (Jama'a/Sanga): Mr. Speaker, I move that this House do receive 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. Hassan Ahmadu Haruna (Balanga/Biliri): I hereby second the Motion moved by Hon. Ado Dogo Audu.

Question put and agreed to.

0172

Report laid on the Table.

ORDERS OF THE DAY

MOTION

Special Order No. 1, 2009:

Procedure for Amendment of the 1999 Constitution Brought Under Order 1, Rule 1 (2) of the Standing Orders of the House of Representatives, 2008

The Deputy Speaker: The first Order of the Day is a Motion on Special Order No. 1 2009: Procedure for Amendment of the 1999 Constitution Brought Under Order 1, Rule 1(2) of the Standing Orders of the House of Representatives, 2008 standing in the name of Hon. Ita Enang.

Hon. Ita Enang is invited to move his Motion, please.

Hon. Ita Enang: This Motion is for the House to adopt the Special Order No. 1 of 2009 and it is brought pursuant to Order 1, Rule 2 of the Standing Orders of the House of Representatives, 2008.

It is hereby moved that pursuant to Order 1, Rule 1(2) of the Standing Orders of the House of Representatives, this House do adopt as hereunder the special procedure for considering Amendments proposed to the Constitution of the Federal Republic of Nigeria, 1999 and for Matters Ancillary hereto:

- (i) That the First and Second Reading of any Bill for altering the provision of the Constitution of the Federal Republic of Nigeria, 1999 shall be considered and proceeded with in accordance with procedure on Bills in the House Standing Orders;
- (ii) Upon the Second Reading, the Bill shall be committed to the Special Committee of the House on Constitution Alteration;
- (iii) (a) In the Clause by Clause consideration in Committee of the Whole, a clause or question shall be deemed passed if it be supported by positive vote of 2/3 majority, that is, 240 Members personally present and voting in a Roll Call;
- (b) If the question be to amend Sections 8

0173

and 9 of the Constitution, that is, the provision relating to State creation and Boundary adjustment or mode of altering the provision of the Constitution requiring 4/5 majority of Members present and voting, the question shall only be resolved upon the affirmative vote of 288 Members;

- (iv) Thereupon, a clean copy of the Bill shall be prepared and read a Third Time by a vote of 2/3 majority for avoidance of doubt;
- (v) The Bill as passed shall be forwarded to the Senate for concurrence;
- (vi) The Harmonised Bill, upon any possible Conference, would then be adopted in Plenary and transmitted by the Clerk to the National Assembly to each of the 36 State Houses of Assembly;
- (vii) Each of the State Houses of Assembly shall communicate its resolution howsoever to each House of the National Assembly;
- (viii) Upon there being the required majority of the State Houses of Assembly supporting each of the respective clauses severally, each such clause shall be deemed passed and such section of the Constitution shall stand amended;
- (ix) And that this Special Order shall and do stand as part of the Standing Orders of the House of Representatives regulating the Constitution Amendment procedure or procedure for the alteration of the provisions of this Constitution.

I so move.

The Deputy Speaker: Is any Member seconding this Motion?

Hon. Leonard O. Ogor (Isoko North/Isoko South): Mr. Speaker, I intend speaking against this Amendment.

The Deputy Speaker: Hon. Leonard, are you seconding the Motion?

Hon. Leonard Ogor: No, I am not seconding this Motion.

0174

The Deputy Speaker: I am looking for a seconder.

Hon. Yusuf Shittu Galambi (Gwaram): I rise to second the Motion by Hon. Ita Enang.

Question Proposed.

Hon. Ita Enang: First, I come under Order 1, Rule 1 (2) at page 1 of the Reprinted Standing Orders of the House of Representatives. It says: *In all cases not provided for hereunder or by Sessional or other Orders or practice of the House, the House shall by resolution regulate its procedure.* It is that resolution to regulate

this procedure that I am now coming under.

Section 9(2) of the Constitution states that an Act of the National Assembly for the Amendment of the Constitution shall not be passed unless the proposal is supported by a vote of 2/3 majority of the Members of that House and that such decision is again supported by - *(Interruptions)*

The Deputy Speaker: Hon. Ita Enang, the provision of the Constitution is saying two- third majority of the House is required.

Hon. Ita Enang: Yes, Sir.

The Deputy Speaker: Unfortunately, you went ahead to say that two-third is 240; the Constitution does not say that.

Hon. Ita Enang: Very well, Mr. Speaker. I will delete 240 but it is important that I read this provision verbatim: It reads:

An Act of the National Assembly for the alteration of this Constitution, not being an Act to which Section 8 of this Constitution applies, shall not be passed in either House of the National Assembly unless the proposal is supported by the votes of not less than 2/3 majority of all the Members of that House and approved by resolution of the Houses of Assembly of not less than 2/3 of all the States.

The Deputy Speaker: I just want you to delete that 240.

Hon. Ita Enang: Very well, Mr. Speaker. I delete the 240 and stand by the provision of 2/3 majority of all

0175

the Members of that House as required by the Constitution.

Can I then proceed to other sections?

The Deputy Speaker: Go ahead.

Hon. Ita Enang: This Motion is brought by the fact that in the course of trying to consider the provisions of the Constitution, that is, the Bills relating thereto, there have been questions as to what stage are we to comply with the provisions of the Constitution. That is why it is extremely necessary for us to define that it is at the stage of putting question on the Clause by clause consideration of the Bill, not at the Second Reading stage of the Bill. It is at the time that we seek to pass the Amendment, not at every stage of putting the question. Otherwise, we would be putting the question and requiring 2/3 at every stage of it. *(Interruptions)*

Hon. Ubale Jakada Kiru (Bebeji/Kiru): Point of Order, Mr. Speaker!

The Deputy Speaker: Hold on, Hon. Ita Enang. What is your point of Order, Hon. Ubale Kiru?

Hon. Ubale Jakada Kiru (Bebeji/Kiru): Mr. Speaker, I am referring to Order 1, Rules (1) and (2) of our Revised Standing Orders at page 1 and I want to read it along with some Sections of the Constitution. It is both an Order on the House Rules as well as an Order by the provisions of the Constitution of the Federal Republic of Nigeria, 1999.

Order 1, Rule 1 says: *The Proceedings in the House of Representatives and in all Committees of the House shall be conducted in accordance with these Standing Orders.*

Order 1, Rule (2) says: *In all cases not provided for hereinafter, or by Sessional or other Orders or practice of the House, the House shall by resolution regulate its procedures.*

What this Order is saying does not apply to what Hon. Ita Enang is referring to; he is using this as a basis to amend or alter sections of the Constitution. This is wrong especially when the Constitution specifies how to alter sections inside it. There are several Sections of the Constitutions that buttress this. For example, Section 9(2) of the Constitutions says:

An Act of the National Assembly for the alteration of this Constitution, not being an Act to which Section 8

0176

of this Constitution applies, shall not be passed in either House of the National Assembly unless the proposal is supported by the votes of not less than 2/3 majority of all the Members of that House and approved by resolution of the Houses of Assembly of not less than 2/3 of all the States.

This is the only way by which we can alter the Constitution. This does not require any interpretation as far as this honourable House is concerned and if it will need to be interpreted, that will be when we come to the stage at which we begin the process. I believe what this Motion seeks to do is to amend this portion of the Constitution and it is not proper to propose an amendment to the Constitution by way of a Motion unless in strict compliance with this section that is being quoted.

The Deputy Speaker: Thank you, Hon. Ubale Kiru. Let me ask you; can you tell us what this Motion seeks to address?

Hon. Ubale Jakada Kiru: Prayers (i) and (ii) are in line with the provisions of the Constitution.

The Deputy Speaker: You have accepted that.

Hon. Ubale Jakada Kiru: But Prayer (iii) (a) and (b) is nowhere in the Constitution. Now, putting them here and asking the House to approve them through a Motion is equivalent to amending the Constitution.

The Deputy Speaker: I will read Prayer (iii) (a) of the Motion as read by Hon. Ita Enang:

In a clause by clause consideration in Committee of the Whole, a clause or question shall be deemed passed if it be supported by positive vote of 2/3 majority personally present and voting in a Roll Call.

Hon. Ubale Jakada Kiru: And that has been interpreted to mean 240 Members.

The Deputy Speaker: It is not 240; that has been deleted. It is not 240. Even the Constitution did not say 240; he has removed that one.

Hon. Ubale Jakada Kiru: But it is there in the bracket.

The Deputy Speaker: No, it has been removed. Hon. Ita Enang brought it in but it has been removed.

0177

Hon. Ubale Jakada Kiru: It is all right! The next one is (b):

If the question be to amend Sections 8 and 9 of the Constitution, that is, the provision relation to State creation and Boundary adjustment or mode of altering the provision of the Constitution requiring four-fifth majority of Members present and voting, the question shall only be resolved upon the affirmative vote of 288 Members;

Again, it is not there in the Constitution.

The Deputy Speaker: Yes.

Hon. Ubale Jakada Kiru: Now, these things amount to altering the Constitution.

The Deputy Speaker: You mean the 288?

Hon. Ubale Jakada Kiru: Yes.

The Deputy Speaker: I think it is an oversight on my side. Hon. Ita Enang, does the Constitution talk about 288?

Hon. Ita Enang: Mr. Speaker, I will delete the 288 to align with the provisions of the Constitution. I am relying on Section 9(3)

The Deputy Speaker: The figure 288 is to be deleted.

Amendment put and agreed to.

288 – deleted.

Hon. Ubale Jakada Kiru: Mr. Speaker if Hon. Ita Enang is saying that he has deleted those figures there and he is replacing them with the provisions of Section 9, then why do we need this Motion? It means Section 9 stands as it is.

The Deputy Speaker: Yes, Section 9 stands as it is.

Hon. Ubale Jakada Kiru: Now, what does this Motion seek to do? Does it seek to interpret section 9?

The Deputy Speaker: No, that is not the aim of the Motion.

0178

Hon. Ubale Jakada Kiru: That is the problem.

The Deputy Speaker: Your question was about putting 240 and 288 which I am also opposed to. This is because the Constitution does not stipulate 240 and 288. It says 2/3 or 4/5 of Members. Members may be 356 or 359 but it is not correct for Hon. Ita Enang to insert 240 or 288.

Let us hear him with respect to the other one since it has not contravened the Constitution.

Hon. Ita Enang: Mr. Speaker, in conclusion, I urge Members to accept that this is the procedure that we will adopt or follow in the course of amending the Constitution. It is to avoid the question arising at any stage as to what stage we need the required majority.

Members had raised this question at several fora and the Committee on Rules and Business considered it after consultation with Members that it is necessary, in line with our practice, to adopt a special procedure that can guide this process.

With the leave of Mr. Speaker and the consent of hon. Members, I so move.

The Deputy Speaker: The procedure of a Motion is first to listen to those who are in support of the Motion before those who are against.

Therefore, I will give the Floor to hon. Members who are in support of the Motion.

Hon. Mohammed Sani Takori (Gunmi/Bukkuyum): Mr. Speaker, the Motion as presented by the Chairman, Rules and Business Committee, Hon. Ita Enang, is another milestone in the democracy in Nigeria.

This is the first time that a procedure for the Amendment of the Constitution has been proposed by this all-important Parliament. Going by the provision of that Motion one can see that Section 1(2) of our revised Standing Orders, 2008 has given this Parliament a mandate to adopt where necessary and accommodate all issues not being accommodated by the Rules of the House.

This Subsection has given this Parliament the power to come up with this Motion. The Motion is not ambiguous; it is very clear. It is only to adopt a procedure for the Amendment or alteration of the 1999 Constitution in accordance with Section 9(1) of the 1999 Constitution.

0179

I therefore urge all hon. Members to give overwhelming support to this Motion.

Hon. Betty Apiafi (Ahoada East/Abua/Odual): Mr. Speaker, I rise to support the Motion moved by Hon. Ita Enang. We as a House need to be specific as to what is expected of us in terms of constitutional amendment.

It is right that the Constitution has stated that we need 2/3 majority and we need four-fifth of Members to amend the Constitution as he has stated in the Motion. I also believe that it is right for us to give the exact figure because if we say 2/3 majority it is possible that at the point of doing clause by clause review of the Constitution, we may have just a hundred Members in the House and is it right for 2/3 of one hundred Members in the House to amend the Constitution, I will say no.

Therefore, what Hon. Ita Enang has done is to simplify the procedure so that every Member will understand how we are going to proceed with proposed amendments to the Constitution. It is also that Members will know that no amendment can be made in the Constitution if we do not have so many Members in the House in attendance.

I strongly support this Motion and I urge all my Colleagues to support this simplification of the procedure for constitutional amendment.

Hon. Friday Itulah (Esan North East/Esan South East): Mr. Speaker, I support the Motion brought by Hon. Ita Enang, Chairman Rules and Business. If you look at the Standing Orders of the House of Representatives, you will discover that there is no procedure in place for the amendment of the Constitution. I am sure we envisaged this hence we have provided for Order 1, Rule 2 which says:

In all cases not provided for hereinafter or by Sessional or other orders or practice of the house, the House shall by resolution regulate its procedure.

As far as that is concerned since there is no provision for amending the Constitution in our Standing Orders, this aptly provides for that. Therefore, it is in order. It is necessary for us to adopt this resolution for us to follow in amending the Constitution of the Federal Republic of Nigeria.

That is not to say that I agree *in toto* with the entire contents of the Motion. We do know that when we talk of the passage of a Bill the procedure that is

0180

adopted is very clear. When we talk about passage into law, it is after the Third Reading that a Bill is passed into law. If we are going to adopt that in this case, Section 9 particularly subsection (2) of the Constitution is very clear on what is to be done. It says:

An Act of the National Assembly for the alteration of this Constitution not being an Act to which Section 8 of this Constitution applies, shall not be passed in either House of the National Assembly unless the provision is supported by the votes of not less than 2/3 majority of all the Members of that House and approved by resolution of the Houses of Assembly of not less than 2/3 of all the States.

The meaning of this is that at the stage of passage, we already have 2/3 support of Members of the Houses of Assembly in the country. If you look at our Rules, the ordinary way by which a Bill is passed into law is that after the Second Reading it is referred to a Committee. The Committee brings the report back after which clause by clause consideration is done. When that is through, a formal Motion is moved to adopt the Rules and then it is passed for Third Reading. That passage to the Third Reading is what is being referred to in this place.

The Constitution says this passage shall not be done unless it is supported by 2/3 Members of the States Houses of Assembly. In other words, the stage at which we require the 2/3 support of the Members of the State Houses of Assembly is at the Committee Stage. It is when we already have the 2/3 support of Members of the State Houses of Assembly that we can pass it into Third Reading. To that extent, what he has provided for in the Bill in Clause 3 or 4 is that in the clause by clause consideration in the Committee of the Whole, a clause or question shall be deemed passed if it be supported by positive votes of 2/3 majority present at voting in a Role Call.

In other words, this is not the place where the passage is envisaged. The passage by 2/3 can only come after we have already had the support of the Houses of Assembly. Therefore, when we are through at the Committee stage, the resolution of the House will be forwarded.

The Deputy Speaker: That means you are only supporting what the State Houses of Assembly have done.

Hon. Friday Itulah: No, we would have done our own. Then we will now transmit it to the Houses of Assembly before the Third Reading which is the passage. That is the point I am making.

0181

Hon. Isah Idris Umaru (Igabi): I stand to support this very important Motion. My reason is that attempt was made to review the Constitution but because of the confusion that there was no procedure adopted then to review the Constitution, they came up with the idea of a Joint Committee which was manipulated and which, to some extent, hit the rock and at the end of the day they did not succeed.

This time around, due to lack of procedure in our Rules as to how we can alter this Constitution we also copied what the previous sessions have done by coming up with a Joint Committee. Before this Joint Committee began its assignment, it started having problems. This particular Motion in clear terms provide us with the way we can alter this Constitution any time the need to amend it arises. Constitution over the life of any nation cannot be changed in a wholesome situation as it had been attempted and the way it his being perceived by virtually all Nigerians. If we adopt this procedure, we will now alter the Constitution whenever the need arises and that is the way it should be.

I support it and I urge my Colleagues to support it so that by this resolution we know that we can alter the Constitution anytime any day.

The Deputy Speaker: I only want to hear from those who are in support of the Motion now.

Hon. Henry S. Dickson (Sagbama/Ekeremor): I rise to support the Motion ably moved by the Chairman of the Committee on Rules and Business, Hon. Ita Enang representing Itu/Ibiono Ibom Federal Constituency.

I am in support of what my Colleague, Hon. Friday Itulah said. This Motion has become expedient as a result of a vacuum created by the Rules of this House. It is understandable why that vacuum is there because Constitution amendment is not an activity that a Parliament is expected to be engaged in day by day. That is why it is not there.

We have been constrained by the circumstances this nation has found itself. We have all agreed that we need to take a second look at the Constitution, which is the most important law of this country. So it has become necessary to regulate our own internal dynamics in conducting that debate, not the procedure for amendment because that is clearly provided for by the Constitution. That is the essence of the Motion.

The Constitution says yes; whatever we pass here should be supported by the concurrence of the Senate and thereafter with the concurrence of 2/3 majority of

0182

State Houses of Assembly but it does not tell us how we in the National Assembly should conduct our own internal debate in achieving a consensus on any amendment we intend to propose. That is why it has become necessary.

The Motion proposed is not in any way contradictory to the procedure for amendment stated in the Constitution and that is not the aim of this Motion. For example, whether in discussing a constitutional amendment matter, every representative here should have a say in that debate; these are the critical things we are talking about.

The only thing we should add to the Motion that my Colleague has moved which I enjoin all of us to support is that while we are discussing the issue of amendment of this Constitution which is the most important law; every representative here should be allotted an agreed timeframe within which to make his or her contributions. That is the only amendment I intend to propose when we get into discussion on the issue by way of amendment.

What I am saying is that in principle the Motion on ground deserves support because it is meant only to clarify the internal procedure governing the way we conduct our debate here on the Constitution.

Hon. James Joseph Idachaba (Idah/Igalamela-Odolu/Ibaji/Ofu): I am on my feet to support the Motion ably moved by my Chairman, Committee on Rules and Business, Hon. Ita Enang. I believe what he has done in this perspective is to buttress the constitutional provision by going further to actually entrench within our own Standing Rules the procedures we should follow to be able to carry out the necessary alterations that may be done to the present Constitution of the Federal Republic of Nigeria.

I think it is not out of place for him to come out with this type of Motion because if he does not do this, our Standing Rules have not captured the procedure which we should follow to amend our Constitution and there is absolute necessity for us to do this so that we do not do anything that would be *ultra vires* in our actions.

Hon. Samson Raphael Osagie (Orhionmwon/Uhunmwode): Mr. Speaker, I want to start on the note that our Colleagues have amply demonstrated the necessity for us to regulate our procedure as we move into a very crucial stage in the life of this Parliament to amend and alter the provisions of our grund-norm which is the Constitution of the Federal Republic of Nigeria. It is very imperative because today the political class is highly agitated about

0183

constitutional amendment, electoral reforms and so forth. It is important that we take this step in order for the same political class not to inundate the polity with a floodgate of litigations on the procedure that we are going to adopt on this Floor. You will understand that the provisions of the constitutional Bill that is before us will definitely not go out the way it has come.

The representatives of the Nigerian people in this Parliament will look at it; dot the *i*'s and cross the *t*'s. At the end of the day, the end product may not be suitable to a certain segment of the political class who may want to use that avenue to fault the procedure for the amendment of the Constitution. It is, therefore, imperative that the procedure that is being brought by this Motion that is intended to make us comply with the Constitutional provision be adopted. However, I must warn from the onset that if we choose not to take cognisance of the numbers of representatives sitting and voting, then we are also likely to run into the same hitch because what the Constitution requires is 2/3 of the Members. If it had wanted 2/3 of the Members sitting and voting, it would have stated that clearly. By definition, it is in my opinion and rightly so that 2/3 of the Members of this House shall be 2/3 of the Members and not 2/3 of the Members sitting and voting.

On the whole, I want to say that nothing short of a full compliance with the provisions of the Constitution as further emphasised by this Motion would be less demanded of us in the process of this constitutional

amendment. It is cumbersome and going to be time-consuming but we need to go the whole hog. Otherwise, the bye-product of this exercise can be a subject of litigation that can take several years and we may not see the end of it

The Deputy Speaker: Let me make it very clear that it is clear to ever Member that 2/3 means a 2/3 of the Members of the House of Representatives. The issue that Hon. Jakada raised is the issue of putting 240 Members as being 2/3. Presently, we do not have 360 Members in the House; we are short of it either by one or two Members. If you put 240 and we are voting today, we do not have that number of 360 in order to get that 240 as 2/3. If we are 358 and you put 240 as 2/3, that would be more than 2/3. So, that is why the Constitution was very clear and did not indicate the number. The only thing stated in the Constitution is 2/3 of Members of the House of Representatives.

Hon. John Enoch Owan Enoch (Obubra/ Etung): I would like to speak in support of this Motion as moved by Hon. Ita Enang. Like most Members, my first reaction to this Motion when I walked into this Chamber and saw it was to want to speak against it.

0184

As most Members would also imagine, Section 9(2) clearly indicates to us the manner the Constitution should be amended. I would also like to call the attention of Members that the same Constitution has given us the powers to regulate our own procedures as a House of Representatives.

From 1999 till date, this National Assembly has never been able to alter or amend the Constitution.

The Deputy Speaker: Hon. Enoch, it is not only that. From 1999 to date, we have never received a Bill from the Executive Arm for the alteration of the Constitution.

Hon. John Enoch: That means we have never been able to alter the Constitution because of that. Therefore, as we get set to start this journey, it is important that whatever little issues we need to tidy up, we had better do so.

I recall that some months ago there was a matter that arose here over the appropriate procedure that this House could actually undertake. It is whether we needed to go first to the Houses of Assembly or start our process here and take a vote before we send it to the Houses of Assembly. All these arose because Section 9(2) of the Constitution simply says that no Bill for the alteration or amendment shall be accommodated unless it is passed by 2/3 majority of the Members of this House. It does not go further to tell us how to arrive at

that vote. What do we do in order to get that 2/3 majority? I believe what Hon. Ita Enang has presented to us this morning is to suggest to us item-by-item the various stages and the procedure to adopt to get to that 2/3 majority.

If you look at the Motion that he moved, he said at the end that if the Motion is adopted, it is going to be adopted as part of the Standing Rules of the House of Representatives. There is nothing in the Motion that negates the constitutional provision in Section 9(2). Rather what it does is to guide us internally and it is important for us to bear that in mind.

We should look at the clauses that are contained in this Motion and make arguments on which clauses we intend to amend or add as a way of guidance. I do not think that the principle is what we should question. A lot of those who want to question it want to say that the Constitution has already suggested what to do. The Constitution has suggested that at a particular level Members of this Assembly would have the power to regulate what we should or should not do. That is what this Motion seeks to answer.

0185

Therefore, I urge Members to support it.

The Deputy Speaker: Let us hear from those who want to speak in favour of the Motion.

Hon. Adamu Gora Kalba (Kaltungo/ Shongom): Mr. Speaker, I rise to support this Motion for two reasons. First, this Motion is timely as we are about to consider the issue of constitutional amendment. Secondly, this Motion is just trying to guide us on the procedure to adopt in amending the Constitution. It is also trying to explain what our roles should be when the issue of 2/3 and others arise.

I believe the Motion is simple and as my Colleagues earlier said it is a straightforward Bill and I implore all Members to support Motion so that we can progress.

Hon. Sadiq Asema Muhammed (Ajaokuta): Mr. Speaker, having listened carefully to the earlier speakers on this Motion, I want to support it. Why I am in support of this Motion is because the essence of it is to strengthen the provisions of the Constitution and our Standing Orders. As my Colleagues had earlier explained, we have not been able to move forward speedily in amending the Constitution because the procedure has not been in existence.

Now that the Chairman of the Committee on Rules and Business has sponsored this Motion aptly, I want to fervently support it and I urge my Colleagues to do so.

Hon. Shehu Garba Matazu (Matazu/ Musawa): Mr. Speaker, personally, this is a wakeup call. I sincerely thank Members of the Committee on Rules and Business for waking me up and for reminding me of a procedure which I ought to know.

In addition, I see this Motion as a motivational factor to me and my Colleagues to do what we know. It is just a way of saying that we can do it in the simplest way like a, b, c, d; that is exactly what this Motion is all about.

Now that we have a simplified process and modality for amending the Constitution of Federal Republic of Nigeria, 1999 we ought to stand on our feet to do the right thing, which this House has been known to be doing right from day one.

I urge my Colleagues to kindly and sincerely support this Motion because supporting it is saying yes to constitutional amendment. Otherwise, not supporting this Motion is saying no to constitutional

0186

amendment and we all know that Nigerians are eagerly and anxiously waiting for this constitutional amendment.

Hon. Kayode Idowu (Odo-Otin/ Ifelodun/Boripe): Point of Order, Mr. Speaker!

The Deputy Speaker: Hold on, Hon. Olaka Nwogu. Let us take this point of Order, please.

Hon. Kayode Idowu: Mr. Speaker, it is very important for me to cite a constitutional Order as regards this matter so that we would be clear from the beginning as regards what we are trying to do. With your permission, I will read Section 9(4) of the Constitution. It reads:

For the purposes of Section 8 of this Constitution and sub-sections (2) and (3) of this Section, the numbers of Members of each House of the National Assembly shall, notwithstanding any vacancy, be deemed to be the number of Members specified in Sections 48 and 49 of this Constitution.

Section 8 clearly states the composition of the Members of the House of Representatives and that of Senate, which is 306 and 109 for the House of Representatives and the Senate respectively.

I want to put it in correct perspective that it is very clear mathematically that when you say 2/3 of the Membership of the House of Representatives, it will definitely give us 240 as clearly written by the mover.

The Deputy Speaker: What does Section 48 say?

Hon. Kayode Idowu: Section 48 says that we shall definitely have three Members of the Senate from each State which brings it to 108 plus one Member from the Federal Capital Territory; that will make it 109 Members.

The number of Members in the House of Representatives is 360 notwithstanding whether we have vacancy or not. It means that 2/3 of the membership of the House of Representatives will definitely give us 240; it is a simple arithmetic.

Therefore, I want to state very clearly that we have to be guided by this particular principle so that we would definitely not build on wrong premise.

The Deputy Speaker: Even with that, the Constitution still did not say 240 and 288.

0187

Hon. Kayode Idowu: It is clear; it is mathematical interpretation.

The Deputy Speaker: If it is interpretation, I am the Chief Interpreter here. You are overruled.

Hon. Olaka J. Nwogu (Eleme/Oyigbo/Tai): First of all, let me make it clear that I agree *in toto* with this Motion. I also agree and support the need for clarity but I will not mind getting some clarifications myself.

I do know that we would have succeeded with constitutional amendment to some extent in the past if there was clarity on whether we can pass some Clauses in a Bill and leave the Clauses we do not want.

I would like to refer specifically to Prayer (iv) which, to my mind, is a safety Clause. Prayer (iv) says:

For the avoidance of doubt, the clean copy of the Bill shall be read the Third Time and voted on for which we would require two thirds.

My issue of clarification is in the clause by clause consideration; we would not need two thirds. There might be issues vote for in clause by clause consideration that would form part of the clean copy that I may be opposed to. I would have thought that any clause that gets two thirds should be deemed to have been passed by this House. However, there are items that I would oppose but you will find in the clean Bill that may lead me not to give my vote the Second Time.

Let me take the last consideration as an instance. There were people who supported other issues in the last Constitution but opposed Tenure Elongation. For the single issue of tenure elongation, they voted against the entire Bill, which if you had allowed the other single Clauses - (*Interruptions*)

The Deputy Speaker: I believe you are one of them.

Hon. Olaka J. Nwogu: I would not say where I stand, Mr. Speaker. The Hansard is there for those who want to know where people stood. I want to urge that the clean Bill itself would contain liked and disliked items. It is the Clause by clause that is most important. Once the House takes a position on a Clause, that two-third stands. The idea of voting on a total package can lead to a situation where no Constitution is amended.

The Deputy Speaker: I will now give the Floor to those in favour of the Motion.

0188

Hon Sada Soli Jibia (Jibia/Kaita): I beg to support this Motion standing in the name of Hon. Ita Enang and 18 other Members. This House is bold and courageous. Therefore, this House must not be afraid of change.

The Motion is brilliant and it is trying to bring our Standing Order to a contemporary stage with what happens in other Parliaments around the world with respect to amendment or alteration of Constitutions. It is not out of ignorance; it is out of history and abundant reference around the world.

The Motion is never in any way inconsistent with the provisions of the Constitution. Yet, some Members argued that there is a provision in the Constitution as to how the Constitution could be altered. We know there is a provision as to how Treaty should be ratified in the Constitution, but we have the procedure on how we ratify Constitution in this House Rule and yet it is in the Constitution.

There is mention of Proclamation of State of Emergency in the Constitution, yet we have the procedure on how we follow it in the House Rules and both of them are consistent with the provision of the Constitution. The Motion is just trying to condition the Standing Rules in accordance with the provisions of the Constitution. The Standing Rule is not in any way inconsistent with the provisions of the Constitution. The Standing Rules is just a simplification for Members to do their job.

Hon. Mohammed Sani Abdu (Alkalari/Kerfi): I stand to support this Motion very much in the sense that we have a challenge before us. We are challenged by the situation of Nigeria, by Nigerians and we are more challenged by the Executive who sent about seven Bills for us to work on.

On one hand, we could have gone straight to learn the hard way; but on the other hand we now have a Motion which if you look at the substance is superfluous but procedural; it is prompting us to look inward and see how we can jerk up to do the right thing in order to avoid catastrophe in the process of amending the Constitution. It is on this ground that I support the Motion.

Many Speakers who spoke in favour of this Motion have spoken rightly. Only yesterday in many newspapers and the electronic media, the National Assembly was being accused of lack of political will to go ahead and amend the Constitution and in particular, the Senate has been put on the spot. This is an opportunity for us to show that this House is vibrant and

0189

that it is for Nigerians and that we would do the right thing.

Secondly, the essence of the Motion procedurally is that it is exposing the bolts, nut and the spanners that will be a cog in the wheel of progress. For example, this issue of 2/3 which was raised and the issue of at what point do we vote and so on are pertinent. If you are talking about 2/3 of the entire Membership of this House, somebody can ask: when do we have 360 Members sitting to vote? It means that if we do not have the 360 to vote then, there must be a procedure which we must bring out to enable us to vote.

Personally, I want this Constitution to be amended as quickly as possible so that Nigeria can move forward and my constituents and constituency develop. For example, the Census has shown that my constituency needs to be divided yet constitutionally we cannot do that. Therefore, we need to amend it within time. I wholly and solidly support this.

I urge the House to set up an Expert Committee to look at this Motion properly because there are some parts of the Motion that need to be looked at so that we can get the nitty-gritties properly.

Hon. Gbenga Oduwaiye (Ijebu-Ode/Ijebu North East/Odogbolu): My reason for supporting this is very clear. While this debate is in Motion, I have gone through the fine details of our Standing Rules as well as the provisions of the Constitution of the Federal Republic of Nigeria and I have tried to go through each of the prayers in this Motion. I stand to be corrected; I have not seen any one that runs contrary to the intendment of the spirit of the Constitution of the Federal Republic of Nigeria.

We may be making a mistake here in trying to confuse procedure before getting to the point of passing the Bill as against the constitutional requirements. My

understanding is how do we get to that point and what this Motion is trying to do is just to standardise it so that today we will not have a particular procedure and tomorrow we will now be changing it.

This Motion is not in any way contrary to the Constitution of the Federal Republic of Nigeria. We are just trying to standardise so that at any point when we are faced with the task of amending the Constitution, we will be guided by a standard set of rules. This is against the actual passage.

In the prayers I must commend Hon. Ita Enang because he has taken time to specify at which point

0190

what numbers are required. I also agree that we should delete absolute numbers because if in this circumstance we have two vacancies; it automatically goes to 2/3 of 358 which is 238.

Hon. Colleagues, what we should concern ourselves with here is whether or not this Motion in any way runs contrary to the spirit of Federal Constitution of Nigeria.

Hon. Barnabas Yusuf Bala (Kaura): I support this Motion fully for the very good reasons my Colleagues have already given. What we need to do first is to find ways of providing an acceptable document to all Nigerians.

The flood of litigations, which Hon. Osagie was afraid of, is what I am also thinking about. There are Nigerians who, by their own opinion, hold to the fact that the Constitution, which we currently operate, is a military document that has not received the attention and approval of Nigerians. By their own thinking, ethnic nationalities, civil organizations and other stakeholders in the Nigerian nation were not adequately involved. I do not know whether Hon. Ita Enang can provide for us in these set of rules of debate how we can ensure the full participation of Nigerians in this process so that at the end of the day the document we so produce as a Constitution for the Federal Republic of Nigeria will receive full acceptability of all Nigerians.

My proposal is that we can best consider this constitutional amendment clause by clause. I do know that every Member is good enough to come here with the position of his people. There is nothing wrong in providing for ourselves a set of rules by which we can ensure that the position of our constituents as clearly classified by the various stakeholders has been adequately collated which will represent what we stand here to say in the course of the amendment of this Constitution.

If I got the presenters of the various papers in the Kano Retreat right, this was one of the main issues. How do we come up with a document that will be acceptable to Nigerians? How do we involve the various stakeholders, civil society organizations and the ethnic nationalities?

Therefore, I look forward to a situation by which the process will have a showing by which these various groups and their interests are accommodated.

Hon. Shuaibu Hashimu Abdullahi (Awe/Doma/Keana): I rise to support this Motion that has

0191

been moved by the Rules and Business Committee of this House.

This is a Motion that was prepared in response to the yearnings of several Members of this House and members of the public particularly the civil society organizations and even distinguished legal luminaries who appear to be in the dark because we were at the Retreat in Kano when this issue came up. They appear to be in the dark regarding the actual procedure to be adopted by the National Assembly when we now embark on the process of amending or altering the provisions of our Constitution. The House and the Nigerian public would like to see a procedure that is streamlined and standardised; that any person can track from the beginning to the end. That is why we see this necessity to lay out this procedure as part of our Standing Rules just as we have procedure for Bills, ratification of treaties and the like.

In fact, in consideration of this Motion at Committee level, we had many ideas and we believe that by bringing this Motion to the Floor of this House, we will benefit from more ideas from our Colleagues. For instance, the public especially the civil society organizations usually ask the question whether any Nigerian can initiate a Bill or an amendment to the Constitution or whether it is just the prerogative of the Executive or the Members of the House. This is an issue that people out there will be very glad to know that any Nigerian that is desirous of amending any section of this Constitution can do so through his Member in the House who can sponsor a Bill to that effect.

Implicit in this Motion is the fact that unlike what we thought in the past, we are not going about the constitution amendment via a Joint Committee with our Colleagues in the Senate. It is clearly stated in one of the clauses there. We have now recognised that there is a House Standing Committee on Constitution Review that will be mandated to look at any alteration in the Constitution.

Also implicit in this Motion is the fact that we are not actually thinking of a wholesale review of the Constitution. It will be done piecemeal through

presentation of one Bill at a time. Similarly, it will be good and we did toy with the idea at the Committee that when any amendment is passed by the National Assembly and sent to the States Assemblies, should there not be a time limit for which the States Assemblies will be required to respond either yes or no so that the process will not be open-ended. This may

0192

come in the form of modification or amendment to this Motion.

Therefore, I urge us all to give our total support to this Motion with amendments, if any.

Hon. Yusuf Maitama Tuggar (Gamawa): I commend the Rules and Business Committee for coming up with this solution to what was hitherto considered a riddle wrapped in an enigma inside a puzzle.

The beauty of this Motion is its simplicity; it solves the problems for those who might think that there is a danger in allowing so many frivolous proposals to amend the Constitution go through. There are enough safeguards in the Constitution itself to prevent such frivolity.

I think it is an excellent idea which my fellow Colleagues should support and it also provides the opportunity for some of us who are agitating for creation of States such as the people I represent, that is, the people of Katagum, to present their case. The Motion also provides a safety valve for the polity.

The Deputy Speaker: Those who want to speak against the Motion will now take the Floor.

Hon. Adefolabi Morufudeen Adeola (Ifako-Ijaiye): Mr. Speaker, I rise to speak against this Motion particularly Prayer (iii)(a).

The Deputy Speaker: You are not against the entire Motion?

Hon. Adefolabi M. Adeola: I am against the Motion. In the clause by clause consideration, I believe sincerely that we can at least agree in this House to pick the bad ones out of the Constitution because not all the provisions of the Constitution are bad. As far as I am concerned, it is only the area that concerns the Local Government that is bad particularly the provision that established the 774 Local Governments.

The Electronic Board is not working as at today. We should also look at the type of voting pattern that we have here all those days. Our present system of dividing the House is not all right; we must have this Electronic Voting Board back.

Finally, we have not agreed on the points of meeting each State House of Assembly on the 2/3 requirement of all the States Houses of Assembly in this

0193

Federation. Until we undertake all these, I will not give my support to this amendment. The Constitution as far as I know is not totally bad as I have said.

Hon. Ihiabe Samson Positive (Dekina/Bassa): I am speaking against this Motion based on certain facts that I am going to bring out now. Although it is generally known that a journey of one mile starts with one step, you have to be careful with the way you take your steps. This constitutional amendment came up in the last session. It did not work because of certain procedural factors and based on certain indices that were found in it.

Some of our Colleagues in trying to support this Motion said that the Motion has come because we have to be specific about certain procedures in trying to alter or amend certain provisions in the Constitution. I am asking a question in respect of this. Are we going to be more specific than the provisions of the Constitution? That is the first question.

Secondly, some other people have spoken in line with the fact that it is just a procedural factor. What procedure do we want over and above the procedures stipulated clearly by the law of the land, the Nigerian Constitution?

In the third instance, some Members have said that the Motion is in tandem with the provisions of the Constitution. Which one do we take; is it the Motion or the Constitution if all the things in the Motion are already embedded in the Nigerian Constitution?

In the fourth instance, we were talking about this Amendment. How could some hon. Members say that certain things are missing in the Constitution and because of that certain rules have to be put in place through the Standing Rules to amend the Constitution? Is there any provision in the Constitution that we use the Standing Rules of the House to do constitutional Amendments? For the purpose of emphasis, is there any provision in the Nigerian Constitution that the Rules of the House should be put in place to find out certain missing areas in the Constitution to alter or to amend the Nigerian Constitution?

Several hon. Members: No.

Hon. Ihiabe Samson Positive: If that is the situation, using a Motion to put in place procedures for amending the Nigerian Constitution is going to be an exercise in futility.

I proceed to tell you certain things.

0194

Hon. Leonard Okuweh Ogor (Isoko North/South): Point of Order, Mr. Speaker!

The Deputy Speaker: Hon. Positive, hold on, please. What is the point of Order, Hon. Leo Ogor?

Hon. Leonard Ogor: Mr. Speaker, I will refer this House to Order 12, Rule 3 of our Revised Standing Orders at page 47 which arose from Section 60 of the Constitution that gives us the powers to make laws for this country.

The Deputy Speaker: Read the Order.

Appointment Days for Stages of Bills

Hon. Leo Ogor: Order 12, Rule 3(1) of our Revised Standing Orders says: *Every Bill shall receive three readings previous to its passage which readings shall be in three different days unless the House unanimously directs otherwise and the Speaker shall give notice at each reading whether it is first, second or third.*

This issue arose from Section 60 of the Constitution. I agree to the fact that Rules and Business Committee is the custodian of this Rule. In this particular Motion that they have given to us, they are telling us that amending the Constitution needs to go through four Readings.

It has stated clearly, First, Second, Third and Fourth Readings. It therefore, means that this upcoming Bill is not in consonance with the Order.

The Deputy Speaker: No, you will be given time to contribute.

Hon. Leo Ogor: Are you sure?

The Deputy Speaker: Yes. Meanwhile, you are overruled.

Hon. Positive Samson Ihiabe: Mr. Speaker, put it right or wrong, one thing that is significant is the fact that the Standing Rules of this House does not, cannot and will not be used in altering or amending the Constitution. The provisions for the amendment of the Constitution are found in the Constitution itself and the House can capitalise on this to amend the Constitution. Therefore, to use the Rules of the House to put up one Motion or Bill or the other to put certain things in place before going into the amendment of the Constitution will be unconstitutional.

0195

Hon. Olajumoke Okoya-Thomas (Lagos Island I): Mr. Speaker, I strongly oppose this Motion. The only reason we are all here is to protect and be guided by the Constitution. I do not believe in coming up with this Motion to help the Standing Rules for one reason. The way I see it is that it will now give some people power or edge over other Members.

The only way my constituents would be heard when we are amending the Constitution is making sure that they are protected by this Constitution. I am sure that once it is amended the voice of the opposition would be suppressed.

I do not think we need to amend this Constitution at all to suit any purpose whatsoever. This is because it is stated clearly; it asks for 2/3 majority. I do not know where anybody would be when he or she is supposed to be in this House; when we are dealing with issues that are so salient to the progress of this nation.

Hon. Terngu Tsegba: Mr. Speaker, constitutional amendment is a very important thing which requires the contribution of each of us. I make bold to say that if not for the strict compliance with the provision of the Constitution, the *Third Term* that was sought by the former President would have been a reality today.

The fear that Members may not meet the minimum requirement necessary to pass the Bill through Second Reading is not a reason for us to do away with Section 9 of the Constitution in consideration of constitutional alteration. Section 63 has made adequate provision in respect of attendance of Members at Plenary. Section 63 of the Constitution has provided for each Member of this House to sit for a minimum of 181 days. The Leadership of this House has never tried to invoke the provision of Section 63 even when it is apparently clear that some Members of this House have not sat for two days. We should not go through the backdoor to seek easy ways to amend or alter the provisions of the Constitution.

The Constitution has made very strict provisions for its amendment. The Constitution did not even envisage that it would be amended; that is why it has made a strict provision for its alteration in Section 9. The procedure for the alteration of the Constitution must be in strict compliance with the provision of Section 9.

The alteration of the Constitution is one of the most important legislations that we have to contend with in this Chamber. This is why we have not been able to pass one single constitutional amendment ten

0196

years into the operation of this Assembly. In addition, if we propose to alter the provisions of the Constitution, we must do this in tandem with the spirit and letters of the Constitution.

The framers of the 1999 Constitution did not envisage that we would come here to make a proposal to amend or alter ten sections of the Constitution six to nine years into the administration. That is why all of us who took Oath to defend the Constitution must abide by the provision of the Constitution except or until when we deem same to be altered or amended. To come here and say that we should take a constitutional amendment provision as passed by the simple majority by Second Reading with just a Standing Order of the House without amending Section 9 is wrong.

The process of alteration as provided in Section 9 of the Constitution is very clear. The fact that the process of a Bill is not listed in the Section does not mean we should come here by the Order of the House and pass amendment or alteration to the Constitution in the Second Reading, which is the most important circle of a Bill by just simple majority.

What we are trying to do here is to pass the Second Reading of the Bill by a Yes Vote in this Chamber. If we do that, I am afraid that tomorrow, the alteration of the Constitution will be used to create State religion by just coming here to alter that Constitution and pass it through Second Reading.

I urge this honourable House to stick by the Oath of Office that we took, to defend and safeguard the Constitution and all its provisions by adhering strictly to the provision of Section 9. Every Member of this House here must answer his father's name in trying to alter the Constitution. If a particular provision of the Constitution is to be altered, I have to consult with my constituency and I have to come here and vote against it whether at Second or Third Reading. We must follow that.

I urge hon. Members to reject this Special Order of the House which seeks to relegate the provision of Section 9 through a mere resolution of the House.

Hon. Leo Ogor: Mr. Speaker, it is important for us to appreciate that Section 9 of the 1999 Constitution has spelt out clearly how the Constitution of the Federal Republic of Nigeria can be amended. Let me also state clearly that I am hundred *per cent* in support of the amendment of the Constitution. It is important we note this because people were already saying that those who are speaking against were probably against the Constitution amendment. What we are against is the

0197

unacceptable procedure that is coming into the whole process.

Section 16 of the Constitution has given us powers as Lawmakers to come out with our Rules. You know that when you are amending an Act you must follow the

procedure of a Bill. The first page you have to go to is the Presentation of the Bill, the Second Reading and the Third Reading. I have not seen anywhere which we have stated clearly in our House Rule that every Bill must go through Third Reading and the custodians of the House Rules which is the Business and Rules are those that are also now coming with another Fourth Reading for a procedure.

I then have to ask; are we here speaking from both sides of our mouth? What is actually wrong with the provisions of the Section 9 of the Constitution? Let me also state clearly that we all know that it is a settled principle that duplication of issues that are already stated in the Constitution has no place because whatever you are seeing in that particular Rule is clearly stipulated in the 1999 Constitution. What I want to seek clarification for is what does this Motion intend to achieve? I tell you; you are indirectly telling us as Members of Parliament with cognate experience that we do not know the procedures.

Hon. Shuaibu Hashimu Abdullahi (Awe/Doma/Keana): Point of Order, Mr. Speaker!

The Deputy Speaker: What is the point of Order?

Hon. Shuaibu Abdullahi: My Point of Order is Order XII, Rule 10(2) on page 51. It reads:

When a Bill has been ordered for Third Reading, any Member who wishes to amend or delete any provisions contained in the Bill or to introduce any fresh provision may give notice of his intention on the order for Third Reading being read to move "That the Bill be re-committed." If such Motion be agreed to, the House shall resolve itself into Committee immediately or upon such day as the Rules and Business Committee may appoint. When the Bill has been reported, the House shall then proceed with the Third Reading of the Bill unless the Rules and Business Committee decides to postpone this stage to a later day. When a Bill has been the subject of a special report from a Standing Committee, the Chairman in charge of the Bill may, on notice given, move "That the Bill be re-committed to

0198

that Standing Committee." On this question being proposed the House may debate the special report from the Standing Committee.

I do not know where Hon. Leo Ogor got it that there is no Third Reading on a Bill.

Hon. Leo Ogor: I think the hon. Member is misunderstanding me.

Hon. Shuaibu Abdullahi: What Hon. Leo Ogor said was that there is no Third Reading in our Rules. Let the Speaker rule.

The Deputy Speaker: This has nothing to do with our debate, Hon. Abdullahi.

Hon. Leo Ogor: I concur with my brother that that Bills must go through three Readings which is the First, Second and Third. In this Motion, I do not know why we have to go through Fourth Reading, which is not in consonance with our House Rule.

You have said that the Bill will have to go through three Readings; First Reading, Second Reading then the Third Reading which is the consideration of the Report. Then you now went to Order IV and said that *the clean copy of the Bill shall be prepared and read the Third Time by vote of 2/3*. That is duplication because we have already done the Third Reading during the consideration of the Report.

What they are eager to do is to take the Third Reading of the Bill after the Clause by clause consideration. What they are now trying to do is to read the Bill the Fourth Time. I therefore want to submit that there is no essence and intent for this Motion because Section 9 of the 1999 Constitution has stated clearly how the Constitution should be amended.

Hon. Johnson Aigbodu Abolagba (Owan East/West): I want to make it clear, first and foremost, that I am for the amendment of our Constitution. It is trite that the Constitution of Nigeria is above all other laws including our Rules and we will not support any method that will subsume our Constitution under the Rules of this House.

The Constitution in its wisdom allowed us to make Rules to guide ourselves when we are making other Bills but when it comes to the Constitution itself; it exempts us from tampering with the way it should be done. See Section 9; it gives you power to make Rules to guide you when you are making other Bills but you have no power to tamper with the Constitution. What it seeks to do here is to expand the power given to us to

0199

amend other Bills to now use it to amend the Constitution itself which will be unlawful. What will be the outcome? People will go to court after we have amended the Constitution and challenge us in order to have it reversed.

Secondly, what some people are saying is what harm will it cause? If it is not going to cause any harm why are we wasting our time? If the Motion will not cause any harm, why are we debating it? Therefore, this Motion ought not to see the light of the day; it should be withdrawn by the hon. Member who brought it or it should be voted against overwhelmingly.

Hon. Umar Buba Jibrin (Lokoja): I want to support the position of the last speaker in the sense that if we go by the provisions of this Motion, we would discover that at the end of the day, there may be need for a Fourth Reading of the Bill or alteration of any Section of the Constitution.

What this Rule sets out to achieve is to follow the procedures of passage of Bills in the House to conclusion up to the Third Reading after this Bill will now be referred to the State Houses of Assembly. It is expected that they will have their own input made into whatever alterations of the Constitution we want. Going by this procedure, it will come to the House. What for? It will be accepted that that amendment has been achieved. How do we incorporate the views of the State Houses of Assembly into what has come out of the National Assembly? That calls for a Fourth Reading and I believe that we need to take a second look at this procedure.

As Hon. Leo Ogor said, Section 9 of this Constitution clearly state procedures for altering of the Constitution and I think we need to marry the provisions of this Motion with the provisions of the Constitution so that we do not run into some difficulties at the end of the day.

Hon. Ubale Jakada Kiru (Bebaji/Kiru): Mr. Speaker, we should reject this Motion for two good reasons. First, there are insinuations already among members of the public that the National Assembly is not interested in Constitution amendment. One of the things that we could do to give credit to those insinuations and to put doubt in the minds of members of the public has to do with an attempt to create unnecessary bottlenecks in the way of the process that should bring into reality the Constitution amendment process. I believe that this Motion and the prayers therein are nothing more than an attempt to create such bottlenecks that would bring about credibility to the insinuations among members of the public.

0200

It is our belief that Section 9(1) (2) (3) and (4) and other relevant sections of the Constitution have clearly given every detail regarding the procedure for amending or altering the Constitution. I do not believe this House needs another separate procedure to achieve the Constitution amendment process.

Secondly, we have already started the Constitution amendment process by receiving Bills from the Executive arm. Those proposed amendments to the Constitution have all come in the form of Bills. If we

are treating Bills, Order XII, Rules 1 to 18 of the House Standing Orders on pages 46 through 61 which deals with Procedures on Bills has clearly specified how all Bills are going to be handled by this House. I am sure if you add those Standing Orders with those sections of the Constitution talking about the procedures of amendment, this House does not need any separate new procedure to amend the Constitution.

I will refer this honourable House to prayer (i). It reads: *The First and Second Reading of any Bill for altering the provision of the Constitution of the Federal Republic of Nigeria, 1999 shall be considered and proceeded with in accordance with procedure on Bills in the House Standing Orders.*

What this prayer is saying is that we will only follow the House Standing Orders to the extent that we are simply at stages one and two. With respect to other stages, the prayers are saying that we should abandon the House Rules, Standing Orders and take the remaining part of the procedure. The remaining part of the procedure has two fundamental defects. Let me read the remaining part. Procedure (ii) says: *Upon the Second Reading, the Bill shall be committed to the Special Committee of the House on Constitution Alteration.*

Assuming that the sponsor of the Motion has withdrawn fundamental aspects of items (a) and (b) of prayer (iii), we will jump to prayer (iv) and it is as follows:

Thereupon, a clean copy of the Bill shall be prepared and read a Third Time by a vote of 2/3 majority for avoidance of doubt.

It continues up to item No. 9 which is:

And that this Special Order shall and do stand as part of the Standing Orders of the House of Representatives regulating Constitution amendment or alteration of the provisions of the Constitution.

0201

The two problems here are as follows: first, this aspect is suggesting that you cannot kill a Constitution amendment proposal at the Second Reading stage. It is saying that you must proceed to a Committee stage and that is fundamental.

Secondly, if you read the prayers up to the last one, nowhere is it required for the entire process that brought about a final version of the amendment which is accepted by the entire National Assembly and all the State Houses of Assembly. Nothing here suggests that you will subject it to the President's assent. That is not required by this procedure. I do not believe a Bill can become one without having the assent of Mr. President.

The Deputy Speaker: It is not required for Constitution amendment.

Hon. Stanley Ohajuruka (Umuahia North/South/Ikwunano): I want to oppose this Motion with the following arguments and I do hope my Colleagues will understand me.

In the first place, this particular Motion amounts to repetition of every provision in the Constitution that has to do with Constitution amendment. Let me refer this honourable House to all the items sought in this Motion. There is nowhere in this item that suggest a procedure. Look at item sub (5) which says: *The Bill as passed shall be forwarded to the Senate for concurrence.*

You will agree with me that this is the procedure adopted by every bi-cameral Parliament. Every Bill passed by this House naturally goes to the Senate for concurrence. What if at the point of passing this particular Bill, the Senate passes it? The danger we will face is that because we have adopted it here whether or not the Senate has passed theirs we would also send our own to them. These inconsistencies can be found in this particular Motion.

Let me also draw our attention to this item (7) of this Motion which says:

Each of the State Houses of Assembly shall communicate its resolution howsoever to each House of the National Assembly.

Where is this provided in the Constitution? It is certainly not. We cannot do that by way of Motion. The Constitution has already spelt out a procedure for doing that. The Constitution as it stands *inter alia* stands on its own. This honourable House does not have the powers to vire what is already in the Constitution to itself by way of a Motion.

0202

Let us now go to item (viii) which states as follows: *Upon there being the required majority of the State Houses of Assembly supporting each of the respective clauses severally, each such clause shall be deemed passed and such section of the Constitution shall stand amended.*

Mr. Speaker, this is also what is already provided in the Constitution; it amounts to a nullity. This particular Motion has said nothing. Item Number (ix) states: *And this Special Order shall and do stand as part of the Standing Orders....* That is natural.

If the mover of this Motion wants this honourable House to adopt the entire provisions of the Constitution that has to do with the Constitutional amendment as part of its Standing Orders then we will all agree by way of Motion. We cannot do that by not going into specificity. I think that procedures that this honourable House would want to hear is what procedures should be adopted, what time should be allocated to each Member to speak, whether this House would sit on a Monday, on a Tuesday, on a Wednesday, on a Thursday or on a Friday. Times are allotted; these are our procedures. We sat in this honourable House to say that Members can sit down when our microphones go bad; that is part of procedural change.

So this Constitution stands on its own. My dear Colleagues, please, let us not do anything that will suggest an amendment of the procedures as already enshrined in the Constitution to any other authority.

Finally, let me draw your attention to item (ii). It says:

Upon the Second Reading, the Bill shall be committed to the Special Committee of the House on Constitutional Alteration.

Mr. Speaker, if we are mindful of the first provision it says: *The First and Second Reading of any Bill for altering the provisions of the Constitution shall be considered and proceeded with in accordance with the procedure on Bills in this honourable House.*

The Speaker reserves a right to refer any matter to any Committee. We know that there is a standing procedure in this House that any time a constitutional matter is presented, it is the Deputy Speaker of the House that presides over such Committee as provided for. For this Committee to now repeat a procedure that is already in existence amounts to no issue as far as we are concerned.

0203

Therefore, I crave our indulgence that this particular issue is not thorough; it is a nullity.

Hon. Ita Enang: Mr. Speaker, I am very impressed at the level and quality of contributions of Members. The disputations as to the issues really justify why this Motion is brought to the Floor of the House.

It is brought because Ita Enang says this is the stage that we need to have 2/3. Hon. Ita Enang is saying this is the stage that we need to have three-quarter; this is the stage that we have to do this and Hon. Dickson says no, it is not that stage, it is this stage. It is at this stage now that we say this is the stage that we have to do that. If there is any stage here that we have not or that we have jumped, Members can bring an amendment to each of the clauses and if we bring an amendment, that stands as amendment.

Mr. Speaker I yield part of my time for this right of reply to my friend, Hon. C.I.D. Maduabum with your Permission.

The Deputy Speaker: Hon. Ita Enang, we have only one Speaker at a time.

Hon. Ita Enang: I apologise for that, Sir. I seek your permission to let me reply to few of the issues. My Colleagues have said what is needed is to state when Members will speak. If Members will speak one after the other, what time will be allotted to each Member to speak? That is not a matter that has to be stated here. It is the prerogative of the Presiding Officer and so these rules sought to be made cannot take away the prerogative of the Presiding Officer.

Thirdly, Members have said that we cannot make this. I refer Members to Section 60 of the Standing Orders which allows us to make these things. *(Applause)*

The Deputy Speaker: Hon. Colleagues, I have two amendments. The first amendment is from Hon. Dickson.

Hon. Dickson can you, please, read your amendment?

Hon. H. S. Dickson (Ekeremor/Sagbama): As a matter of fact I have two amendments. The first is as follows:

That in the debate on amendment proposed on the Constitution all hon. Members shall be allotted five

0204

minutes within which to make submissions in alphabetical order of States.

Hon. Nkiruka Onyejeocha (Isuikwuato/Umunneochi): I second the amendment as moved by Hon. Dickson.

The Deputy Speaker: Hon. Colleagues, I will put the question on this amendment that every Member be allotted time to speak on every part of the Constitution Amendment as we did in the Third-Time issue.

Question put and agreed to.

The Deputy Speaker: Hon. Dickson, you have only forwarded one amendment to me and you have read the two amendments.

The second amendment is from Hon. Abdullahi. Can you, please, read your amendment?

Hon. Shuaibu Hashimu Abdullahi (Awe/Doma/Keana): My amendment is as follows:

That upon the passage of any Bill for the amendment of the Constitution by the National Assembly, the States Houses of Assembly shall be required to make their decisions within 30 Legislative days.

The Deputy Speaker: Hon. Shuaibu, that is unconstitutional. Therefore, there is no need of putting the question.

The next amendment is from Hon. Betty Apiafi.

Hon. Betty Apiafi: My amendment is on what the original Motion brought by Hon. Ita Enang stated about the number of Members to vote, that is, the 2/3 and four-fifth. I would like to quote Section 9(4) of the Constitution Section 9(4).

For the purpose of Section 8 of this Constitution and sub-sections (2) and (3) of this Section, the number of Members of each House of the National Assembly not withstanding any vacancy be deemed to be the number of Members specified in Sections 48 and 49 of this Constitution.

Sections 48 and 49 of the Constitution specify that the House of Representatives be 360.

The Deputy Speaker: I have a question for you,

0205

Hon. Betty. Those who drafted the Constitution know that our number is 360 and the Senate is 109 but they deliberately did not put that figure.

Hon. Betty Apiafi: They did. It is at Sections 48 and 49.

The Deputy Speaker: Is it on this one? It is not there.

Hon. Betty Apiafi: Yes, I will read it; it is implied

The Deputy Speaker: Read it on Section 9.

Hon Betty Apiafi: I will read Section 48.

The Deputy Speaker: Is it on voting? It only states 2/3 or 4/5 but not the number.

Hon. Independence Ogunewe (Ahiazu Mbaise/Ezinihite): The relevant sections you are talking about cannot be taken like that. It defined what should be the best number by referring us to Sections 47 and 48 to define the number of the House of Representatives. Then, if you know the number of the House of Representatives and you take 2/3 that then defines what you get as 2/3.

The Deputy Speaker: Hon. Independence, they can simply say 240, which is 2/3 of Members.

Hon. Betty Apiafi: Mr. Speaker, the Constitution is very specific. It says irrespective of vacancy and it specifies that the Senate has three Members per State. The Constitution could not state 360 most probably because of continuous delineation but it is specific here that irrespective of vacancy, it has to be 2/3.

Therefore, we should go back to 240 Members and 288.

The Deputy Speaker: Is there any Seconder to that?

Hon. Falade Ajibade (Ede North/Ede South/Egbedore/Ejigbo): I rise to second the amendment.

Amendment put and negatived.

Hon. Ernest Ibejiako (Owerri Municipal/North/West): I have an amendment and it is an additional Prayer to this Motion because the intention of this Motion is wonderful.

0206

The Deputy Speaker: Just make your amendment, please.

Hon. Ernest Ibejiako: My amendment is that the Committees on Judiciary, Justice, Rules and Business should articulate other procedural problems the House will face during this constitutional amendment.

Hon. Juliet Akano (Nkwere/Isu/Nwangele/Njaba): I rise to second the amendment.

Amendment put and negatived.

Hon. Friday Itulah (Esan North East/South East): My amendment is on Prayer (iv). I am alluding to Section 9(2) of the Constitution which says that: *An Act of the National Assembly for the alteration of this Constitution, not being an Act to which Section 8 of this Constitution applies, shall not be passed in either House of the National Assembly unless the proposal is supported by the votes of not less than 2/3 majority of all the Members of that House and approved by resolution of the Houses of Assembly of not less than 2/3 of all the States.*

In order words, what the Constitution provides is that the alteration of the Constitution shall not be done until after the passage by 2/3.

The Deputy Speaker: What is your amendment?

Hon. Friday Itulah: My amendment is that the Third Reading of the amendment of the Constitution should not be done until after the approval of 2/3 Members of the States Houses of Assembly has been received because that is the provision of the Constitution.

Hon. Henry M. Shawulu (Jalingo/Yorro/Zing): I rise to second the amendment moved by Hon. Friday Itulah.

Amendment put and negatived.

Hon. C.I.D. Maduabum: Mr. Speaker, I have gone through the Motion and I discovered that the Motion did not seek to amend a specific part of the Rules.

Therefore, the amendment is to say that the entire Motion amends Order XII of our Standing Orders, which is on Procedure on Bills. If we pass this Motion and we say it is incorporated in the Standing Orders, where is it incorporated? Is it Order I, II, III or IV of our Standing Orders? Therefore, I am saying that the

0207

amendment should be incorporated into Order XII of the Standing Orders. In other words, we should insert this as part of Order XII of the Standing Orders.

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

The Deputy Speaker: What is the point of Order, Hon. Ita Enang?

Hon. Ita Enang: Mr. Speaker, with respect and due reference to my learned Colleague, this is a Special Order adopted for this purpose and it is recognised by our Standing Orders.

Hon. Barnabas Yusuf Bala (Kaura): Mr. Speaker, my amendment is that we delete Prayers (iv) to (viii) because what they merely seek to do is to repeat what is already constitutionally provided and discussing them here will amount to an attempt to make some amendments or whatever.

Hon. Austin Nwachukwu: Mr. Speaker, I stand here to second the amendment as ably moved by my Colleagues, Hon. Barnabas Yusuf Bala.

Amendment put and negatived.

The Deputy Speaker: I will now put the Question that this Motion be adopted as amended.

Main Question as amended put and agreed to.

Resolved:

Pursuant to Order 1, Rule 1(2) of the Standing Orders of the House of Representatives, this House do adopt as hereunder the Special Procedure for considering Amendments proposed to the Constitution of the Federal Republic of Nigeria, 1999 and for Matters Ancillary hereto:

- (i) That the First and Second Reading of any Bill for altering the provision of the Constitution of the Federal Republic of Nigeria, 1999 shall be considered and proceeded with in accordance with procedure on Bills in the House Standing Orders;
- (ii) That in the debate on amendment proposed on the Constitution all hon. Members shall be allotted five minutes within which to make

0208

submissions in alphabetical order of States.

(iii) Upon the Second Reading, the Bill shall be committed to the Special Committee of the House on Constitution Alteration;

(iv) (a) In the clause by clause consideration in Committee of the Whole, a clause or question shall be deemed passed if it be supported by positive vote of 2/3 majority personally present and voting in a Roll Call;

(b) If the question be to amend Sections 8 and 9 of the Constitution (State Creation and Boundary Adjustment or mode of altering the provision of the Constitution) requiring 4/5 majority of Members present and voting, the question shall only be resolved upon the affirmative vote of 4/5 majority of Members;

(v) Thereupon, a clean copy of the Bill shall be prepared and read a Third Time by a vote of 2/3 majority for avoidance of doubt;

(vi) The Bill as passed shall be forwarded to the Senate for concurrence;

(vii) The Harmonised Bill, upon any possible Conference, would then be adopted in the Plenary and transmitted by the Clerk to the National Assembly to each of the 36 State Houses of Assembly;

(viii) Each of the State Houses of Assembly shall communicate its resolution howsoever to each House of the National Assembly;

(ix) Upon there being the required majority of the State Houses of Assembly supporting each of the respective clauses severally, each such clause shall be deemed passed and such section of the Constitution shall stand amended;

(x) And that this Special Order shall and do stand as part of the Standing Orders of the House of Representatives regulating the Constitution Amendment or alteration of the provisions of this Constitution.

0209

0210

ADJOURNMENT

7th July 2009 at 10.00 a.m.

Hon. Baba Shehu Agaie: Mr. Speaker, I move that this House do stand adjourned till next week Tuesday, 7th July 2009 at 10.00 a.m.

Question put and agreed to.

Resolved: That this House do stand adjourned till Tuesday, 7th July 2009 at 10.00 a.m.

Hon. Shehu Garba Matazu (Matazu/Musawa): Mr. Speaker, I do second the Motion moved by the Leader that the House do stand adjourned till Tuesday,

The House adjourned accordingly at 1.30 p.m.