

0015

HOUSE OF REPRESENTATIVES
FEDERAL REPUBLIC OF NIGERIA

Wednesday, 24th June, 2009

The House met at 2.55 p.m.

PRAYERS

(The Speaker in the Chair)

VOTES AND PROCEEDINGS

The Speaker: Hon. Members, the House is called to order. I have examined and will not approve the Votes and Proceedings of Tuesday, 23rd June, 2009 until one or two corrections are made by the Clerk of the House.

OATHS

OATH OF ALLEGIANCE

AND

OATH OF MEMBERSHIP

The Speaker: Hon. Colleagues, we have a Member-Elect from Lagos State. He is Member-Elect Ashiru Okanlawon Owolabi Shoniye. I now call on him to take the Oaths in accordance with the law.

(The following Member took and subscribed the Oaths required by law)

Hon. Ashiru Okanlawon Owolabi Shoniye (Epe Federal Constituency)

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

The Speaker: Which point of Order?

Hon. Olufemi Gbajabiamila: It is Order IX, Rule 4(12) of our Standing Orders.

The Speaker: Could you read it, please?

Hon. O. Gbajabiamila: The Rule states: *Members shall attend the sittings of the House formally dressed.*

The newest Member from Lagos State is not

0016

properly dressed. I believe upon swearing him in; he becomes a *bona fide* Member of this House. He is dressed in open-toes slippers which is not allowed in this House.

I would appreciate it if you can give a ruling that we are allowed to come into this Chamber in slippers.

The Speaker: Deputy Chief Whip, please.

Hon. Aminu Waziri Tambuwal (Tambuwal/Kebbe): Mr. Speaker, the Action Congress Leader, painfully appreciating the games of the Peoples Democratic Party in Lagos State, came under Order IX, Rule 4(12) of our Standing Orders. That Order does not exist in our Rules. I am of the view that the AC Leader is misleading this House by citing an order that is within the figment of his imagination.

The Speaker: The Chairman, Rules and Business, could you clarify this?

Hon. Ita S. J. Enang (Itu/Ibiono-Ibom): Mr. Speaker, Order IX, Rule 4(12) says that *Members shall attend the sittings of the House formally dressed.*

Formal dress is accepted; it does not define the shoe unless you wear a suit. I submit that the newly sworn-in Member in caftan and wearing open-toe slippers is properly dressed.

Even the Leader of the Minority is equally wearing open-toes slippers as the new Member.

Hon. Mohammed Ali Ndume (Damboa/Gwoza/Chibok): Having heard from one of the PDP Members that a member had to sell his slippers to sponsor the election, they are withdrawing the Point of Order. *(Laughter)*

The Speaker: Hon. Gbajabiamila, you are overruled. My dear Colleagues, I should not have allowed the AC Leader to make that Point of Order. If you look at our Order Paper, we ought to have taken announcements *et cetera* before taking your Point of Order.

ANNOUNCEMENTS

Visit of Councillors from Surulere Local Government Area Council

The Speaker: We have in the Gallery Councillors from Surulere Local Government Area Council. That is probably why my dear Brother, the Leader of the AC, is exhibiting his skills this morning.

0017

Visit of Councillors from Itire/Ikate Local Government Area Council

We also have in the Gallery Councillors from Hon. Akeem Arole Fancy's Federal Constituency. You are welcome.

(Councillors stood up for recognition)

Hon. Colleagues you can understand now why feelings have been nurtured.

Visit of Students from Bayero University

Hon. Colleagues, we also have in the Gallery students from Bayero University, Kano. You are welcome.

(Students stood up for recognition)

Invitation to Attend Who is Who Programme

This is from Hon. Audu Maisango. He is inviting all Graduates of the Faculty of Law of Ahmadu Bello University, Zaria to attend the Who is Who Programme of the Faculty between 26th and 27th of June 2009.

(Signed)

Hon. Audu Emmanuel Maisango

Meeting of Members with the Hon. Speaker

The Speaker: The following Members are to, please, meet with me immediately after sitting:

Hon. Daniel O. Reyenieju

House of Representative Caucus Leader for Plateau State and

Chairman, Committee on Education

PRESENTATION OF PUBLIC PETITIONS

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

Non-payment of Retirement Benefits

Hon. Joseph Jaiyeola Ajatta (Oshodi/Isolo II): Mr. Speaker, I have a Petition from my constituents who are members of the Association of Nigeria Purchasing and Supply Officers. They are complaining about non-payment of their pension and they understand

0018

that about ₦81 billion has been made available in this year's Budget and despite the fact that they had been promised to be paid for sometime, they have not been paid.

They are now requesting this House to kindly help them get their Pension paid by the Ministry in charge. Mr Speaker, May I have your permission to lay this Petition on the Table.

The Speaker: Please proceed.

Petition laid.

Wrongful Dismissal from the Nigeria Police Force

Hon. Daniel Dino Melaye (Kabba/Bunu/Ijumu): Mr. Speaker, I have a Petition here from one Sergeant Bunmi Oluwonusi who was illegally dismissed from the Police even when there was no evidence or witness against him. He was discharged and acquitted by a Police Panel but he is yet to be re-instated.

Mr. Speaker, if I have your permission, I will lay the Petition on the Table.

The Speaker: Please, proceed.

Petition laid.

Wrongful Suspension from Nigeria Police Force

Hon. Godfrey Ali Gaiya (Jaba/Zango Kataf): Mr. President, I have a Petition here from one Inspector Timothy S. Adams who is a Member of my Constituency. Inspector Adams was suspended from the Nigeria Police Force in 1992 over allegation he has since been able to exonerate himself. Even when a Court order directed that he be reinstated, he has not been so reinstated since 1992.

He has tried all other avenues for redress but none has come his way till today. He has, therefore, approached this honourable House to intervene so that he can be re-instated and his due benefits be paid to him from 1992.

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

Petition laid.

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

0019

0020

(All Petitions accordingly referred to the Committee on Public Petitions)

Hon. Adah Paul Andeshi (Obanliku/Obudu/Bakwarra): Point of Order, Mr. Speaker!

The Speaker: Which Order are you referring to?

MATTER OF URGENT PUBLIC IMPORTANCE

National Youth Service Corps On-line Pre-registration

Hon. Adah Paul Andeshi (Obanliku/Obudu/Bakwarra): It is Order VIII, Rule 4 of our Standing Orders dealing with Matter of Urgent Public Importance. This morning as I was going through the *Daily Trust* newspaper, I came across a story titled: *National Youth Service Corps On-line Pre-registration*.

I want to draw the attention of hon. Members to the fact that sometime ago we discussed this matter on the Floor of this House. This Pre-registration On-line is going to expose a lot of graduates to hardship. This is because they had restricted applicants to only one bank which is Afribank.

The Speaker: Do you want us to consider this matter as a Matter of Urgent Public Importance?

Hon. Ada Paul Andeshi: Yes and I want it discussed tomorrow if the House agrees.

The Speaker: It is all right. What exactly is the point you are trying to explain to the Floor?

Hon. Ada Paul Andeshi: The point I want to stress on the Floor is on the *ThisDay* newspaper report about our graduates purchasing scratch card. We had said on the Floor of this House that many of our Local Governments do not have access to Internet facilities. Many people do not even read some of these newspapers.

For instance, in the Local Government Area Council or Federal Constituency in Cross River State where I come from, *Daily Trust* and *ThisDay* newspapers are not in circulation. One other issue is the fact that they had restricted applicants to only one bank. In Cross River State where I come from, there are only two Local Governments that have Afribank branch and it makes it difficult for people who want to participate in this programme to do so.

I am therefore urging this House to deliberate on this matter and look for ways of reducing the hardship our people are facing.

The Speaker: Hon. Colleagues, the question is that we consider this as a Matter of Urgent Public Importance.

Question put and agreed to.

Resolved: That this House do consider National Youth Service Corps On-line Pre-registration a Matter of Urgent Public Importance to be discussed at the next Legislative Day.

Government Acceptance of the Poor Performance of 2009 Budget

Hon. Igo Aguma (Port Harcourt I): Point of Order, Mr. Speaker! I am raising Order VIII, Rule 4 dealing with Matter of Urgent Public Importance. This has to do with the acceptance by government of the poor performance of 2009 Budget currently on-going. Mr. Speaker raised the issue yesterday when we were about to conclude sitting.

Two days ago, 22nd June, 2009, there was this story reported in virtually all the newspapers captioned: *First Quarter - Government spent 21 per cent of 2009 Budget*. It was repeated in every newspaper: This was referring to the *Capital side of the Budget*. That means we have about 20 per cent Budget implementation.

I want us to quickly raise this issue. I sought the leave of the Chairman, Committee on Finance because this is totally different from the other issue that was raised. The first one was the supply side of the Budget, this is, the implementation side of the Budget.

So I want us to raise this as a Matter of Urgent Public Importance for us to safeguard the Act passed by this House because we are aware that for two quarters, the Executive had released money in full for the implementation of our Budget including Ministries, Departments and Agencies.

We want to know why up till now, only 20 per cent of such monies that are in the hands of Ministries have been utilised to implement our Budget. That is why I am raising this matter under Matter of Urgent Public Importance.

The Speaker: Hon. Colleagues, the question is that we consider this as a Matter of Public Urgent Importance at the next Legislative Day.

0021

Question put and agreed to.

Resolved: That the House do consider Government Acceptance of the Poor Performance of 2009 Budget as a Matter of Urgent Public Importance to be taken at the next Legislative Day.

We are going to discuss the output part of the Budget tomorrow, which is the release of funds and how accurately it has been done. We are also going to discuss the outcome side, which is the implementation.

We all sat here and passed the input side, which is the document called, the Budget. We will discuss the output side to find out if there are any financial challenges to the Budget and move on to the outcome side, which has to do with implementation based on the 20 *per cent* apparently released as the figure of implementation.

Please do your research very well before tomorrow as we would be talking about facts and figures. It is not a day to be making assumptions. Necessary solutions have to be found if at all there are problems.

Amended Version of the Votes and Proceedings

The Speaker: Hon. Colleagues, I have examined and now approved the Votes and Proceedings of Tuesday, 23rd June, 2009 as amended.

PRESENTATION OF REPORTS

Report of the Committee on Public Petitions on the Petition by Mr. Fwang Jacob against the Nigeria Air Force

The Speaker: The next Business of the Day is presentation of the Report of the Committee on Public Petitions on the Petition by Mr. Fwang Jacob against the Nigerian Air force standing in the name of Hon. C.I.D. Maduabum. This Petition was referred to his Committee on Wednesday, 30th July, 2008. The Report is ready.

Hon. Maduabum is invited to present the Report.

Hon. C.I.D. Maduabum (Nnewi North-South/Ekwusigo): Mr. Speaker, I rise to move that this House do receive the Report of the Committee on Public Petitions on the Petition by Mr. Fwang Jacob against the Nigeria Air Force.

Hon. Joseph J. Ajatta: I rise to second the Motion moved by my Chairman.

0022

Question put and agreed to.

Report laid on the Table.

Report of the Committee on Public Petitions on the Petition by Mr. Okafor Anthony Uzoma against the Federal Polytechnic, Afikpo/Federal Ministry of Education

The Speaker: Again, Hon. Maduabum has another report to present to the House. It is the Report of the Committee on Public Petitions on the Petition by Mr. Okafor Anthony Uzoma against the Federal Polytechnic Afikpo/Federal Ministry of Education, which was referred to his committee on Thursday, 3rd July, 2008. The report is ready.

Hon. Maduabum is invited to present the report.

Hon. C.I.D. Maduabum: I move that this House do receive the Report of the Committee on Public Petitions on the Petition by Mr. Okafor Anthony Uzoma against the Federal Polytechnic Afikpo and Federal Ministry of Education.

Hon. Nasiru Sule Garo (Gwarzo/Kabo): Mr. Speaker, I second the Motion.

Question put and agreed to.

Report laid on the Table.

Report of the Committee on Public Petitions on a Petition by Mr. Justin Akutaekwe against the Federal Ministry of Interior

The Speaker: Hon. Maduabum has yet another Report to present, which is the Report of the Committee on Public Petitions on the Report by Mr. Justin Akutaekwe against the Federal Ministry of Interior, which was referred to his Committee on 10th July, 2008. The Report is ready.

Hon. Maduabum, please proceed.

Hon. C.I.D. Maduabum: Mr. Speaker, once again, I move that this House do receive the Report of the Committee on Public Petitions on the Petition by Mr. Justin Akutaekwe against the Federal Ministry of Interior.

Hon. Austin Nwachukwu (Ehime Mbano/Ihite Uboma/Obowo): Mr. Speaker, I rise to second the Motion.

Question put and agreed to.

Report laid on the Table.

0023

0024

ORDERS OF THE DAY

CONSIDERATION OF BILLS

Distribution and Payments to State Governments of Some Taxes and Duties Bill, 2009

A Bill for an Act to provide for the Distribution and Payments to State Governments of Some Taxes and Duties Collected by the Federal Inland Revenue Services (FIRS) or Other Authorities of the Federal Government and Other Matters Connected Therewith, 2009 (HB. 215) -

Order for Second Reading.

The Speaker: The first Order of the Day is the presentation of the Bill for an Act to Provide for the Distribution and Payment to State Governments of Some Taxes and Duties Collected by the Federal Inland Revenue Services (FIRS) or Other Authorities of the Federal Government and Other Matters Connected Therewith, 2009. The Bill was read for the First time on Tuesday, 12th May 2009.

I now invite Hon. Moruf Akindelu Fatai to move that the Bill be read the Second Time.

Hon. Moruf Akindelu Fatai (Oshodi-Isolo I): Mr. Speaker, I rise to move that a Bill for an Act to Provide for the Distribution and Payment to State Governments of Some Taxes and Duties Collected by the Federal Inland Revenue Services (FIRS) or Other Authorities of the Federal Government and Other Matters Connected Therewith be read the Second Time.

Hon. Elizabeth O. Ogbaga (Ohaukwu/Ebonyi): Mr. Speaker, I do second the Motion that the Bill be read the Second Time.

Question proposed.

Hon. Moruf Akindelu Fatai: Mr. Speaker, the general scheme of power allocation in Nigeria is -
(Interruptions)

Hon. Mustapha Ahmed (Bauchi): Point of Order, Mr. Speaker!

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

Hon. Mustapha Ahmed: Mr. Speaker, my Point of Order is a constitutional Order predicated on Section 63 of the Constitution of the Federal Republic of Nigeria regarding this very Bill.

With your kind permission, Section 162 of the Constitution reads:

The Federal Shall maintain a special account to be called the Federation Account into which shall be paid all revenues collected by the Government of the Federation, except the proceeds from the personal income tax of the personnel of the Armed Forces of the Federation, the Nigeria Police Force, the Ministry or department of government charged with responsibility for Foreign Affairs and the residents of the Federal Capital Territory, Abuja.

This Bill seeks to distribute income taxes payable to the Federal Government without going through the

Consolidated Revenue Fund of the Federal Government, which should be distributed according to the provisions of the Constitution. Therefore, this Bill is seeking to overtake the provision of the Constitution where all revenues are supposed to be paid into the Consolidated Revenue of the Federation before their distributed to the States and Local Governments in a Federation Account.

The Speaker: Hon. Mustapha, you have read the part of the Constitution which in your opinion is about to be contravened by the proposed law. However, I am going to allow Hon. Fatai to open the Floor on this debate and then you can by all means go along the line in which you intend to debate and the Floor will decide on it.

Hon. Fatai, be mindful of the section of the Constitution that has been raised by Hon. Mustapha Ahmed.

Hon. Moruf Akindelu Fatai: Thank you, Mr. Speaker. As I was saying, the power scheme in the Nigerian Constitution of 1999 empowers the Federal Government to collect some revenues such as corporate income and capital gains while allowing the States to collect tax from individuals, trustees and other unincorporated bodies.

The Federal Government collects Stamp Duties but the proceeds are meant for the States. The reason behind this is to avoid double taxation. Item 59 of the Second Schedule to the Constitution makes it an exclusive matter while Item D of the Concurrent Legislative List titled *Collection of taxes* makes it a concurrent matter.

What this Bill is trying to address is this: The Federal Government collects some monies from employees that are in the Armed Forces, the Police, all residents of the Federal Capital Territory and those in

0025

the Foreign Service. These monies are meant for the States but are collected by the Federal Government on behalf of the States. The problem is that the Federal Government has not been remitting these monies to the States. This has resulted in a lot of conflicts between the States and the Federal Government.

A case in point is the issue of the **Attorney General of the Federation vs. Abia State Attorney-General and 35 Others** where the Supreme Court ruled that the Federal Government has no power to hold on to monies that are meant for the States. The apex Court also ruled that the Federal Government should stop violating the Constitution as regards this. However, the Supreme Court interpreted Section 163 (b) of the Constitution as follows: *where such tax or duty is collected by the Government of the Federation or other authority of the Federation, there shall be paid to each*

State at such times as the National Assembly may prescribe a sum equal to the proportion of the net proceeds of such tax or duty that are derived from that State.

However, there is a lacuna because the Supreme Court ruling and the Constitution have not really stated the timeframe and so the Federal Government has not been remitting this money.

The purpose of this Bill is to provide timeframe so that what is due to the States can go to the States, within a timeframe. If you go through Section 2 of the Bill that has been circulated before, it says:

The net proceed of any tax or duty provided for in this Bill shall be total sum derived from a particular State less the cost of collection which shall not exceed 5 per cent of the total sum.

What the Federal Government should do is to collect the money on behalf of the States while they will now deduct 5 per cent as the cost of collection and remit the remaining money. Therefore, what this Bill is all about is to put a timeframe for the Federal Government to remit back to the States. I do not want to talk too much about it but it is just as straightforward as that.

This Bill is not meant to contradict Section 163 of the Constitution. The aim of the Bill is for the National Assembly to do its own duties by prescribing timeframe within which the Federal Government will pay back what is due to the States so that the States can have money to carry out their functions.

Hon. Ita Enang: I speak in support of this Bill and I want to say that this is a very ingenious Bill and it

0026

is one of the Bills which this House ought to have taken account of in the very first year of the implementation of the Constitution.

This Bill is particularly about Section 163 of the Constitution and Item D of Part II of the 1999 Constitution. With the leave of Mr. Speaker, I will read Section 163 of the 1999 Constitution. It says:

Where under an Act of the National Assembly, a tax or duty is imposed in respect of any of the matters specified in item D of Part II of the Second Schedule to this Constitution, the net proceeds of such tax or duty shall be distributed among the States on the basis of derivation and accordingly;

(a) where such tax or duty is collected by the Government of a State or other

authority of the State, the net proceeds shall be treated as part of the Consolidated Revenue Fund of that State;

(b) where such tax or duty is collected by the Government of the Federation or other authority of the Federation, there shall be paid to each State at such times as the National Assembly may prescribe a sum equal to the proportion of the net proceeds of such tax or duty that are derived from that State.

This Section and this Bill seek to make a State entitled to part of what is collected as derivation. I refer to Part II of the Concurrent Legislative List and in particular item D(7), the proviso. It says:

In the exercise of its powers to impose any tax or duty on –

(a) Capital gains, incomes or profits of persons other than companies; and

(b) Documents or transactions by way of stamp duties;

the National Assembly may, subject to such conditions as it may prescribe, provide that the collection of any such tax or duty or the administration of the law imposing it shall be carried out by the Government of a State or other authority of a State.

What this Bill does in Clauses 3 and 4 is to allow a level of authority for the State to collect and it also says that at the end of collection, the money should be

0027

credited into a distributable pool account out of which the derivative will be given to the States that collects it.

The Bill goes further to address a peculiar problem of stamp duty. I will read Clause 4 of the Bill. It says:

For the purpose of this Bill, where stamp duty is paid on land or real property transaction of any type the stamp duty shall be deemed to be derived from the State in which the land or real property is situate.

Mr. Speaker, stamp duty as it is, sometimes depending on the Registry, can be paid anywhere but this law seeks to make it that it is the State where the land is situate that that stamp duty ought to be credited. I want to pray that this Bill be supported by all of you because it is a Bill that seeks to address a fundamental role of the Legislature in terms of tax collection.

I so support the Bill.

Hon. Bala Ibn Na'Allah (Zuru/Fakai/Sakaba/D/Wasagu): First, let me say that as beautiful as this Bill stands and as beautiful as the explanation of Hon. Ita Enang is, it is making a *goulash* of the necessary intendment of the combined effect of Sections 162, 163, 164 and 165 of the 1999 Constitution.

Let us not complicate the engine of governance as far as the Constitution is concerned. What intendment does this Bill seek to achieve? It prescribes clearly how whatever is accruing to the Federal Republic of Nigeria is to be distributed in this country but it goes further to anticipate that there is what is referred to as *taxing of Federal Government instrumentality and taxation of States instrumentality*. In those cases this is what this provision seeks to do.

I will give you an example. PHCN will acquire land in Kebbi, Kano, Ekiti and install transformers. They are supposed to pay what is referred to as the Ground Rent as far as that place is concerned and what this law is saying is that in that State, the Federal Government should collect that tax and distribute it based on the installation of those instrumentalities in those States. It is such that even where the Federal Government does this action, the State is expected to reimburse the Federal Government for the expenses incurred in doing so. Listen to Section 165 of the Constitution clearly:

Each State shall, in respect of each financial year, pay to the Federation Account an

0028

amount equal to such part of the expenditure incurred by the Federation during that financial year for the purpose of collection of those taxes or duties which are wholly or partly payable to the State pursuant to the provisions of this Part of this Chapter or of any Act of the National Assembly as is proportionate to the share of the proceeds of those taxes or duties received by the State in respect of that financial year.

There is no complication about this matter. As far as I am concerned what we are trying to do is what has already been provided for clearly in the Constitution. This Bill does not seek to radically alter what the Constitution has anticipated. It would rather complicate and give a backing to what would in the end be unconstitutional. Therefore, I am of the opinion that as beautiful as this Bill is and as beautiful as the explanation of Hon. Ita Enang is, the combined effect of all that it seeks to do is to make a *goulash* of the entire provision of the combined effect of Sections 162, 163, and 165 of the Constitution of the Federal Republic of Nigeria.

The Speaker: Hon. Ibn Na'Allah can you define *goulash* so that I will understand.

Hon. Bala Ibn Na'Allah: Mr. Speaker, *goulash* is one of the richest soups being made by the Caribbean that involves everything. While you are trying to enact a law and you put everything together, you are making a *goulash* of it.

Hon. O. Gbajabiamila: I will try my possible best to try and *un-goulash* the situation. First of all, I believe under the Constitution we have an arm of government that interprets and gives us combined meanings of different Sections. I believe that arm of government has already done that in the case of *Attorney-General vs. Abia State* cited by my Colleague in this particular instance.

Undoubtedly, the Constitution allows the Federal Government to collect taxes on behalf of States and it is for the purpose of the ease of collection. This Bill is very simple. If you collect something on my behalf for the ease of collection you return it to me. Anything short of that in law is known as *detinue* or retention. You cannot retain what belongs to me.

All this Bill is asking for is that as per Section 163 of the Constitution, by an Act of the National Assembly, you prescribe a time when the taxes will be returned. It is not of rocket science; it is very simple. The days of big government are over. We are all here

0029

representing different States and I think primarily our representation should be the interest of the States.

The idea of collecting taxes and returning taxes to States is fiscal responsibility which itself is a feature of true Federalism. Fiscal Federalism is a part and parcel of true Federalism.

As I said, the Supreme Court has ruled on this. What the proponent of this Bill is trying to do is to shore up the revenue base of the States. I do not think we should be arguing about Constitution or not because that has already been interpreted by the Supreme Court.

Hon. Shuaibu Hashimu Abdullahi: I have gone through this Bill and I have gone through the relevant Section of the Constitution that was referred to in the Bill. By my layman understanding, the Bill is in consonance with the constitutional provision by virtue of Section 163(b) and item (D) of the Second Schedule to the Constitution. Already there are laws guiding certain taxes like Capital Gains Tax, Stamp Duties Tax, Personal Income Tax and the like. They are very comprehensive about their provisions but what this Bill is trying to do is that there is a lacuna regarding how

some of the proceeds of these taxes are to be distributed, especially in a situation where the collector, in this case, the Federal Inland Revenue Service is different from the beneficiary.

If you take, for instance, Capital Gains Tax and Stamp Duties Tax in Abuja here, the collector is the Federal Inland Revenue Service and for a long time I am aware that there has been a running battle between the FCTA and the Federal Inland Revenue Service regarding un-remitted taxes on these Capital Gains and Stamp Duties. I am aware that it took the intervention of Mr. President for the Inland Revenue to now remit certain taxes that they were withholding which the FCTA was contesting that it rightly belongs to them.

So this is part of the problem. Even if you take Personal Income Tax for a State like mine in Nasarawa State which accommodates most of the residents working in the FCT, their taxes are deducted by the Federal Inland Revenue Service but these taxes are not remitted to Nasarawa State. This is because there is no law to guide that and this Bill I believe is trying to ensure that when you collect Personal Income Taxes of Abuja workers who are residents in Nasarawa, Kogi, and Niger States, the monies would be remitted appropriately to the States.

In line with the constitutional provision the Bill seeks to tackle the issue of double taxation and try to determine at what point you pay Stamp Duty or Capital

0030

Gains Tax so that you do not suffer double jeopardy and the liability arising there from.

Therefore, we should commend the sponsor of this Bill and allow this Bill to go through the Second Reading because it will be of immense benefit to the States and would minimise conflict in the area of remittances.

Hon. Chile W. Igbawua (Kwande/Ushongo): Mr. Speaker, I rise to speak against the principles of this Bill because in addition to the provisions of Sections 163, 164, 165 and the Concurrent Legislative List, the Federation Accounts Committee already has guidelines for the distribution of revenues collected by the three tiers of government and there are even agreements between States and Local Governments and the guidelines of the Federation Accounts Committee have already spelt out how these revenues collected are pooled and distributed.

Again we all know that Federation Accounts Committee meeting holds once every month. Now revenues that are collected and pooled are distributed in accordance with the provisions of the Revenue Allocation Act and the guidelines provided by the Federation Accounts Committee. I think the problem that may exist is not that of legislation; it may be a problem of interpretation which is not the duty of this House.

I believe that if somebody makes a little research into the guidelines already made by the Federation Accounts Committee he will discover that the Federal Government, States and the Local Governments already have in some cases an agreement written to them. Some of these issues that are being raised in this Bill were in fact dealt with in the case of **Attorney General of the Federation vs. Attorney General of Abia State** which Hon. Gbajabiamila also referred to. So I do not think we have a problem of legislation on this matter; rather we have a problem on interpretation which can be handled by the court if any State is not satisfied.

Hon. Ubale Jakada Kiru (Bebeji/Kiru): I want to argue that this Bill should not be allowed to go for Second Reading for the following reasons. Let me address this issue from the point of view of the Explanatory Memorandum under the Bill which reads as follows:

This Bill seeks to give effect to the provisions of Section 163 of the Constitution of the Federal Republic of Nigeria 1999 as it relates to the distribution and allocation of other revenues as contained in item D, Part II of the Second Schedule of the Constitution.

0031

I am saying that the relevant Sections of the Constitution some of which had actually been mentioned by my hon. Colleagues, particularly Section 163 subsections (a) and (b) and Part D of the Second Schedule have taken care of what this Bill seeks to do.

I will crave Mr. Speaker's indulgence to go through some of these Sections.

Section 163 says:

Where under an Act of the National Assembly, tax or duty is imposed in respect of any of the matters specified in item D of Part II of the Second Schedule to this Constitution, the net proceeds of such tax or duty shall be distributed among the States on the basis of derivation and accordingly –

- (a) Where such tax or duty is collected by the Government of a State or other authority of a State, the net proceeds shall be treated as part of the Consolidated Revenue Fund of that State; and*
- (b) Where such tax or duty is collected by the Government of the Federation or other authority of the Federation, there shall be paid to each State at such times as the National Assembly may prescribe a sum equal to the proportion of the net proceeds of such tax or duty that are derived from that State.*

Item D (7) of Part II of the Second Schedule to the Constitution reads as follows:

In the exercise of its powers to impose any tax or duty on –

- (a) capital gains, incomes or profits of persons other than companies; and*
- (b) documents or transactions by way of stamp duties,*

the National Assembly may, subject to such conditions as it may prescribe, provide that the collection of any such tax or duty or the administration of the law imposing it shall be carried out by the Government of a State or other authority of a State.

Since the Bill seeks to give effect to these Sections and these Sections are clear and explicit enough, they

0032

have stated clearly what is expected of the States and the Federal in the event of collection or at the point of distribution.

Why do we need a separate law to take care of this? I think that this Bill only attempts to address an issue that does not exist. If we have problem with implementation, it is not for this House to start making another law that will further complicate the process.

I am of the opinion that we retain Sections of the Constitution as they are while we dispose of this proposed Bill.

Hon. Mustapha Ahmed (Bauchi): Mr. Speaker, I stand to oppose and reiterate my earlier submission. The heavy reliance even by those who want us to support this Bill is predicated under Section 163, which has already been taken care of by the Act of this National Assembly.

What Section 163(b) is saying is that *where such tax or duty is collected by the Government of the Federation or other authority of the Federation, there shall be paid to each State at such times as the National Assembly may prescribe a sum equal to the proportion of the net proceeds of such tax or duty that are derived from that State.*

The Federation Accounts Committee meets monthly and that takes care of this provision where there is heavy reliance. So, where there is compliance by the Constitution and the Act of this National Assembly, it will be immaterial for this Parliament to give effect to something which has abundantly been provided for by the Constitution.

I am not an apostle of resource control but what this Bill is seeking to establish is that where a State collects certain tax, it should revolve back to them without coming to the Federation Account in order to be distributed monthly as provided by the Constitution.

With this, I am saying that we do not need an Act of the National Assembly to further strengthen the Constitution since the Constitution is clear and unambiguous.

The Speaker: I am going to put the question but before I do so I will give Hon. Fatai the right of reply.

Hon. Fatai, do you want to yield the Floor to Hon. Agoda?

Hon. Moruf Akindelu Fatai: Yes, I yield the Floor to Hon. Agoda.

0033

The Speaker: Hon. Agoda, he is yielding the right of reply to you.

Hon. Halims Agoda: Mr. Speaker, we are facing a very unique situation. There is no doubt that this Bill is based on Section 163, particularly subsection (b) of the 1999 Constitution.

By the operation of the Constitution itself the Federal Government is obliged to make these kinds of payments which are derivable from the items enumerated in the Second Schedule. When you read subsection (b) of it, the caveat word used there is *shall* but the problem that the Bill is asking this House to solve is the issue of time.

The Constitution makes it very clear that it is our responsibility as a Parliament to prescribe time for such payment; otherwise, the issue of payment is obligatory. The Federal Government has no right to say that it will not pay because the Constitution says *shall*. But the Constitution took further step by saying that the Parliament should now prescribe the time when such payment should be made. I have not gone through the Bill but I think that is what the Bill is seeking to do.

Several hon. Members: No!

Hon. Halims Agoda: I am an elder statesman; I do not have to lie. I have not gone through the Bill. What the Bill seeks to do is to prescribe the timing when the Federal Government is supposed to make such payment to States. Otherwise, by the operations of the 1999 Constitution, the Federal authority that is collecting such tax is duty bound to pay.

0034

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

Question put and negatived.

ANNOUNCEMENT

Special Lunch for Members

The Speaker: Hon. Colleagues, there is a special lunch arranged by the Special Adviser to the President on National Assembly for us.

Majority Leader, could you, please, move for the adjournment of the House?

ADJOURNMENT

Hon. Tunde Akogun: Mr. Speaker, I move that this House do stand adjourned till tomorrow, Thursday, 25th June, 2009 at 10.00 a.m.

Hon. Baba Shehu Agaie: I rise to second the Motion.

Question put and agreed to.

Resolved: That the House do stand adjourned till tomorrow, Thursday, 25th June 2009 at 10.00 a.m.

The House adjourned accordingly at 4.05 p.m.