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HOUSE OF REPRESENTATIVES
FEDERAL REPUBLIC OF NIGERIA

Tuesday, 27th October 2009

The House met at 10.25 p.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 Thursday 22nd October, 2009.

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

The Deputy Speaker: Hon. Colleagues, please listen to the Message from the President of the Federal Republic of Nigeria: It reads:

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

Dear Brother,

I forward herewith for kind consideration and passage into law the attached draft Bill for an Act to Repeal the Nuclear Safety and Radiation Protection Act No.19 of 1995 and enact the Nuclear Safety Security and Safeguard Act and re-establish the Nigeria Nuclear Regulation Authority and for Matters Connected Therewith.

Pursuant to the above, therefore, and in line with the power vested in the National Assembly, I hereby present the said Bill for the kind consideration of the honourable Members of the House of Representatives of the Federal Republic of Nigeria.

It is my hope that the honourable Members will consider and pass the amendment Bill in your usual expeditious manner.

Please accept, Mr. Speaker, the assurances of my highest consideration.

(Signed)

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Umaru Musa Yar'Adua
President

ANNOUNCEMENTS

Meeting of the North-East Caucus

The Deputy Speaker: There will be a meeting of the North-East Caucus immediately after sitting in House Committee Room 1; it is adjacent to the Deputy Speaker's Office.

Signed
Hon. Mohammed Ali Ndume
Minority Leader

Visit of Hon. Councillors from Oshodi-Isolo II

The Deputy Speaker: Sitting in the Gallery are thirteen honourable Counsellors from Oshodi-Isolo II and they have their hon. Member here in the person of Hon. Joseph Ajatta.

Could you please rise up for recognition?

(Councillors rose for recognition)

Birthday Wishes to Hon. Nnenna Ukeje

The Deputy Speaker: Let me also use this opportunity to congratulate our Colleague, Hon. Nnenna Ukeje who is forty (40) years old last Saturday. Congratulations!

However, you do not seem to look that old because you look much like a 23-year old person. Could you tell us the secret behind that?

Hon. Nnenna Ukeje (Bende): As a matter of fact, Mr. Speaker, it is as a result of the grace of God, a good heart and good friends.

**Visit of Rt. Hon. Speaker to the Conference of
Pan-African Parliament**

The Deputy Speaker: Let me also announce that the Hon. Speaker, Rt. Hon. Dimeji Bankole, CFR, is in South Africa attending the Pan-African Parliamentary Sitting.

The Chief Whip of the House of Representatives is in London attending CPA Branch Meeting and the Deputy Chief Whip is in Ivory Coast attending the ACPU meeting.

May I use this opportunity to appoint Hon. Austin Nwachukwu to act as the Chief Whip of the House.

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PRESENTATION OF PUBLIC PETITIONS

Wrongful Dismissal

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

Hon. Leonard Chukwudi Eze (Orlu/Orsu/Oru East): Mr. Speaker, this is a Petition from Engr. Christian Usulor. It is a Petition for wrongful dismissal, victimisation and application for recall. He was working with Petroleum Equalization Fund (PEF) and some time in 2005 he, alongside others, was accused of misappropriating ₦1.3 million. Later on, the two others were recalled while he has not been recalled till date. He is praying this honourable House to do justice to his Petition so that he would be recalled like his others Colleagues.

With your permission, Mr. Speaker, let me lay the Petition on the Table.

Petition laid.

The Deputy Speaker: Is there any other petition? *(No response)* In the absence of any petition, this Petition is referred to the Committee on Public Petitions.

(Petition accordingly referred to the Committee on Public Petitions)

The Deputy Speaker: The only Business of the Day - *(Interruptions)*

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

The Deputy Speaker: What is the Point of Order, Hon. Halims Agoda?

MATTER OF URGENT PUBLIC IMPORTANCE

The Intending Visit of the President of Sudan, President Albashir

Hon. Halims Agoda: My Point of Order is Order VIII, Rule 4(1) of our Standing Orders. The marginal note is Matter of Urgent Public Importance. I urge this honourable House, with due humility, to suspend Sub-Rule (3) at page 25 of our Standing Orders.

In taking a decision either by the government as represented by the Executive or by this honourable House, we must consider the weight and benefit of that

decision on our people and the impact it will make on the country as a whole.

Very recently, about a week ago, the Media both our local newspapers and indeed international were awash with report to the effect that the Sudanese leader, President Ahmed Albashir has been invited to visit Nigeria to attend a meeting known as the Africa Union Peace and Security Meeting that is taking place in Abuja here on the 29th of this month, which is just Thursday.

You all know what and who the President of Sudan is currently in this world. The man has been indicted in his country by an agency of the United Nations Organisation to which Nigeria is a signatory and Nigeria, being a leading nation, we need to ask ourselves, if I am allowed to move the Motion, whether we can withstand the implication of the decision of the indicted Sudanese President to visit Nigeria or not.

If I am allowed to move the motion, I have other evidence to adduce that we need to be careful and advise the Executive properly in taking that decision. This is my quest this morning.

I beg to observe.

The Deputy Speaker: Is it the wish of this House that we take this matter as a Matter of Urgent Public Importance?

Question put and agreed to. (Interruption)

Resolved: That Hon. Halims Agoda's Motion on the intending visit of the President of Sudan, President Ahmed Albashir to Nigeria be taken as a Matter of Urgent Public Importance.

The Deputy Speaker: The matter will be taken on the next legislative day.

Hon. John Halims O. Agoda: But the meeting is for the day after tomorrow. That is why we need to take it today because it is urgent.

The Deputy Speaker: Tomorrow is Wednesday.

Hon. John Halims O. Agoda: Yes, tomorrow is Wednesday.

The Deputy Speaker: In that case we can take it tomorrow.

Hon. John Halims O. Agoda: The Committee also needs time to investigate.

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Hon. Ita Enang (Itu/Ibiono Ibom): Point of Order, Mr. Speaker!

The Deputy Speaker: What Point of Order, Hon. Ita Enang?

Hon. Ita Enang: Mr. Speaker, it is Order X, Rule 2 of our Standing Orders at page 41. It says:

The Speaker in the House and the Chairman in any Committee shall be responsible for the observance of the rules of order in the House and Committee respectively and their decision upon any point of order shall not be open to appeal and shall not be reviewed by the House except upon a substantive Motion after notice.

I pray that this honourable House do observe this position because the Speaker has ruled.

The Deputy Speaker: Hon. Colleagues, for those who are opposed to this Motion, there is another opportunity for us to reject the Motion.

Hon. John Halims Agoda: Mr. Speaker, with the leave of the House, may I move that Order VIII, Sub Rule 3, be suspended for this issue to be critically looked into as a Parliament.

Hon. Mohammed Sani Takori (Gummi/Bukkuyum): Point of Order, Mr. Speaker!

The Deputy Speaker: Yes Hon. Takori, what is your Point of Order?

Hon. Takori Mohammed Sani: Mr. Speaker, my Point of Order is drawn from Section 4(1) of the 1999 Constitution.

The Deputy Speaker: Please, read the relevant portion of the Constitution.

Hon. Takori Mohammed Sani: It says:

The legislative powers of the Federal Republic of Nigeria shall be vested in a National Assembly for the Federation which shall consist of a Senate and a House of Representatives.

By the Rules of this House, I am of the humble opinion that majority voice always over-rides minority voice vote. It is unfortunate that while this Chamber is spearheading the Constitutional Review or Amendment

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aimed at tackling election rigging, we are intentionally rigging our voice vote.

A question was asked and the majority voice got the support but unfortunately, the presiding officer

chose to rule in favour of the minority voice vote. This is very unfortunate and a bad reflection of the happenings in this Chamber.

Hon. Mohammed Ali Ndume (Damboa/Gwoza/Chibok): Point of Order, Mr. Speaker!

The Deputy Speaker: What is your Point of Order, Hon. Ali Ndume?

Personal Explanation

Hon. Mohammed Ali Ndume (Damboa/Gwoza/Chibok): My Point of Order is Order VIII, Rule 5 of our Standing Orders dealing with Personal Explanation. It is on page 26.

Mr. Speaker, I want to use this opportunity under Personal Explanation to appeal to our Colleagues that when issues of National Importance arises in this Chamber, it is important for us as a representatives of the people to discuss that issue thoroughly so that the majority that feel otherwise or for the motion will be able to take that decision when the Motion is put to vote.

I appeal to our Colleagues to hear out because we have all the opportunities to argue for or against the Motion and the Speaker must rule accordingly and if we get to that level we can go into division.

I want to appeal that this matter should, please, be discussed after which Mr. Speaker will then put the question. If it is the view of the majority that that motion should not pass through then we would take that decision but for us not to discuss an issue like the visit of President Albashir to Nigeria will not be in the public interest.

It is good for us as Members of the House of Representatives to discuss this issue, so that we can take an appropriate decision.

Hon. Ubale Jakada Kiru (Bebeji/Kiru): Mr. Speaker, I hereby refer to Order IX, Rule 2(2) of our Standing Orders at page 32. It reads:

When the question of order has been stated, the Member who raised it shall resume his seat, and no other Member except with the

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leave of the Speaker or Chairman shall rise until the Speaker or Chairman has decided the question, after which the Member who was addressing the House or Committee at the time the question was raised shall be entitled to proceed with his speech giving effect to the ruling from the Chair.

Mr. Speaker, two references have been made; one to the Constitution of the Federal Republic of 1999 and the other to our House Rules. The first Order was by Hon. Sani Takori and the other Point of Order was raised by Hon. Ali Ndume. Mr. Speaker, Sir, I have not got your decision on these two Points of Order.

The Speaker: What Hon. Takori has read is in order. That is why I hit the Gavel. What Hon. Ndume had said is in order and I hit the Gavel.

Hon. Ubale Jakada Kiru: Mr. Speaker, Sir, if you permit me, Hon. Takori has raised a fundamental question. He is talking about the conduct of this honourable Chamber, raising a fundamental issue that bothers on the integrity of the way we manage ourselves. We should be reasonably careful about that observation really.

The Speaker: Hon. Ubale Kiru, it is part of our rules that whenever a Point of Order is raised or whenever there is a Motion on the Floor and the voice vote is taken, the Gavel determines which way to go and I ruled on that. It is also part of our rules that when a Gavel is hit on a particular issue that issue is so ruled and I have ruled on that.

The next thing that we are taking now is whether or not to suspend our relevant rule to allow him bring his Motion now or tomorrow; that is where we are now.

Hon. Ubale Jakada Kiru: Can I explain Mr. Speaker? What was the ruling?

The Speaker: The ruling on what?

Hon. Ubale Jakada Kiru: What was the ruling on the Point of Order raised?

The Speaker: He was only making a comment after I had ruled and I have ruled on his comment.

Hon. Ubale Jakada Kiru: I am sure he was specifically asking for the question to be put the Second Time.

The Speaker: To re-visit the issue upon which I had ruled?

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Hon. Ubale Jakada Kiru: It is not by way of re-visiting the issue but in the same way as you put the question first, and thought that the response was not clear, and you decided to put the question for the second time. I am sure he must have been referring to that trying to say perhaps there was need for the Speaker to put the question again so that the House can have an opinion on it.

The Speaker: I have ruled on that, Hon. Ubale Kiru. Thank you.

Hon. Joseph Jaiyeola Ajatta (Oshodi-Isolo II): I want to support the motion that this Motion be taken today.

Question put.

Hon. Members, I would put the question again.

Question put and agreed to

Resolved: That the Motion on the visit of the Sudanese President, Mr. Ahmed Albashir, be taken tomorrow.

PRESENTATION OF REPORT

Report of the Joint Committee on Inter/Intra Party Relations, Electoral Matters and Justice on a Bill for an Act to Promote the Internal Organisation and Administration of Political Parties in Nigeria 2008

The Speaker: The only Business of the Day is presentation of the Report of the Joint Committee on Inter/Intra Party Relations, Electoral Matters and Justice on a Bill for an Act to Promote the Internal Organisation and Administration of Political Parties in Nigeria to Provide Best Democratic Practice and Free, Fair Intra-Party Elections, Congresses, Conventions and for Related Matters, 2008 (HB. 54), standing in the name of Hon. Gbenga Oduwaiye.

Hon. Members would recall that the Bill was referred to the Committee on Wednesday July 16th 2008. The Report is now ready for presentation.

Hon. Gbenga Oduwaiye is invited to present the Report, please.

Hon. Gbenga Oduwaiye (Areemo) (Ijebu-Ode Ijebu North East/Odogbolu): I rise to move that this House do receive the Report of the Joint Committees on Inter/Intra Party Relations, Electoral Matters and Justice on a Bill for an Act to Promote the Internal Organisation and Administration of Political Parties in Nigeria to Provide Best Democratic Practice and Free,

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Fair Intra-Party Elections, Congresses, Conventions and for Related Matters.

Hon. Ibrahim Umar Ballah (Kumbotso): I rise to second the Motion moved by my Colleague,

Question put and agreed to.

Report laid.

ORDERS OF THE DAY

CONSIDERATION OF BILLS

Federal Capital Territory Water Board (Establishment) Bill, 2009

A Bill for an act to Establish the Federal Capital Territory Water Board and for Matters Related Therewith, 2009.

Order for Third Reading.

The Speaker: The first Order of the Day is the Third Reading of the Bill for an Act to Establish the Federal Capital Territory Water Board and for Matters Related Therewith 2009 (HB. 203).

Hon. Members would recall that the House adopted the Report of the Committee of the Whole on the Bill on Tuesday 28 July, 2009. Clean copies of the Bill have been circulated to Members to enable them pursue its content.

I therefore call on the Leader to move that the Bill be now read the Third Time.

Hon. Tunde Akogun (Akoko-Edo): I rise to move that a Bill for an Act to Establish the Federal Capital Territory Water Board and for Matters Related Therewith, 2009 be now read the Third Time.

Hon. Baba Shehu Agaie (Agaie/Lapai): I rise to second the Motion that a Bill for an Act to Establish the Federal Capital Territory Water Board and for Matters Related Therewith 2009 be now read the Third Time.

Question put and agreed to.

Bill read the Third Time and passed.

Exclusive Economic Zone Act, Cap. E17 LFN 2004 and the Territorial Waters Act, Cap. TS LFN 2004 (Repeal) Bill, 2009

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A Bill for an Act Repeal the Exclusive Economic Zone Act, Cap. E17 LFN 2004 and the Territorial Waters Act, Cap. TS LFN 2004 and Enact the Maritime Zones Act to Provide for the Maritime Zones of Nigeria and for Matters Connected Therewith, 2009 (HB. 170) -

Order for Second Reading.

The Speaker: The second Order of the Day is the commencement of debate on the general principles of a Bill for an Act to Repeal the Exclusive Economic Zone

Act, Cap. E17 LFN 2004 and the Territorial Waters Act, Cap. TS LFN 2004 and Enact the Maritime Zones Act to Provide for the Maritime Zones of Nigeria and for Matters Connected Therewith, 2009.

Hon. Members would recall that the Bill was read for the First Time on Thursday 16th July 2009. I now invite Hon. Tunde Akogun to move that the Bill be now Read the Second Time.

Hon. Tunde Akogun: With your permission, Mr. Speaker, I move that a Bill for and Act to Repeal the Exclusive Economic Zone Act, Cap. E17 LFN 2004 and the Territorial Waters Act, Cap. TS LFN 2004 and Enact the Maritime Zones Act to Provide for the Maritime Zones of Nigeria and for Matters Connected Therewith, 2009 be read the Second Time.

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

Question proposed.

Hon. Tunde Akogun (Akoko-Edo): Hon. Speaker, this Bill seeks to consolidate and unite all the existing legislations on the maritime zones of the country and this includes legislations on the territorial waters in contiguous zones, exclusive economic zone and continental shelves.

The maritime zones are clearly defined in this Bill for the purposes of exercise of sovereignty by Nigeria and assumption of liability by any person or authority whose act or omission amount to criminal breach.

Other purposes for which these maritime zones are clearly defined are as follows:

- (i) Exercise of Right over objects of ecological or historical nature found within the contiguous zones and enforcement of criminal jurisdiction.

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(ii) Exercise of sovereignty over Exploration, Exploitation, Conservation and Management of Natural Resources for the purpose of production of Energy, Scientific Research and preservation of Maritime Environments and finally,

(iii) Exercise of Exclusive Right of Jurisdiction as regards Establishment and use of Islands, Construction and Installation of Structures for safety of Navigation.

All these are for the purpose of identifying authority, its unit of expression conferred and prescription of criminal liabilities, penalties and for infringement and wrongful use or abuse of the Maritime Zones.

This Bill therefore, is a compendium on maritime zones in defining their base lines and limits to the outer sea limits. It provides conditions for resolution of any conflict where the prescribed nautical miles overlaps into that of another State and determines the extent of jurisdiction exercisable by the country within each zone.

Honourable Colleagues, I invite you to support the passage of this Bill the second time.

Question put and agreed to.

Bill read the second time and referred to Joint Committee on Marine Transport and Justice.

Provisions of the Constitution of the Federal Republic of Nigeria 1999 (Amendment) Bill 2009

Order for Second Reading

The Speaker: The third Order of the Day is the commencement of debate on the general principles of a Bill for an Act to Amend the Provisions of the Constitution of the Federal Republic of Nigeria 1999 and for other matters connected therewith 2009.

Honourable Members will recall that the Bill was read for the first time on Thursday, 16th July, 2009. I now invite Hon. Femi Gbajabiamila to move that the Bill be now read the second time.

Hon. Olufemi Gbajabiamila (Surulere I): May I moved that the Bill for an Act to Amend the Provision of the Constitution of the Federal Republic of Nigeria 1999 and for other Matters Connected Therewith be read the second time.

Hon. Henry S. Dickson (Ekeremor/Sagbama): I rise to second the Motion.

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Question proposed.

Hon. Olufemi Gbajabiamila: This Bill seeks principally to amend Section 81 of the Constitution of the Federal Republic of Nigeria. If you would allow me, I would read Section 81. The Section says;

The President shall cause to be prepared and laid before each House of the National Assembly at any time in each financial year, estimates of the revenues and expenditure of the federation for the next financial year.

This Bill seeks to amend the provisions and delete the words *at any time* and replace that with a specific date: *30th September of that year.*

It is important for all of us to agree that the Budget process is probably the most important process or function of any Government particularly the National Assembly. It is the Budget process that determines the economic, social and even political activities of any country. We have had a perennial problem in this National Assembly since its inception whereby where the Budget of the country of over 150 million people is presented in November and even December as we experienced last year, and this House is expected and pressured to approve that Budget within two weeks before the Fiscal Year in January.

Invariably, what happens is that the Executive takes that debate to the public and nine times out of ten, this National Assembly is castigated by those who have elected us that we are a do-nothing Assembly and we do not want to pass the Budget. It is important to know that in passing a Budget the proposal of Mr. President and the Executive has to go through a very serious legislative scrutiny that cannot be done not in two weeks, four weeks or even in two months.

Just recently about a week ago we passed the General Accounting Office Act in this House. Let me say that even that body, when it is eventually set up, can only function effectively when it has a glimpse of the proposals of the Executive. There is a provision in our Constitution, I believe it is Section 82, which allows the country to continue to run pending the passage of a Budget. That provision was put in our Constitution by the framers of the Constitution. It is expected to be used very sparingly; not on year in, year out basis. It is an emergency provision that should be called upon; it is a stop-gap measure, not what we have now when every year, come January or February, we would still be running on Section 82 of the Constitution that allows us to apply 50% of the preceding year's Budget so that the government does not shut down. That is the essence of

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that provision. And it is meant to be used only, sparingly.

Even if this House should take credit for the issue of unspent funds which we have discovered over the years, I dare say that the issue of unspent funds is not necessarily a good thing. Unspent funds means money Budgeted for capital projects for the development of a Nation which has not be utilised; the Projects have not been executed therefore development has been arrested in that given year. The only reason that is, a situation which is bound to happen when you have a Budget that is being passed in April, how many months do you have left in the year to execute that project of the Budget.

Let me cite an example, the difference between a country that works optimally and that which does not work is a simple thing like a Budget procedure. In the United States of America, they have what they call the *Budget and Accounting Act*, which was passed as far back as 1921. What does this Act do? The Congress categorically stipulates and imposes a time which is the first Monday of February when the President of United State must as a matter of Law present to the Congress, his proposals for a fiscal year that begins in October.

So by the first Monday of February the Congress must have before it the Budget proposals for the fiscal year that begins in October; giving it about seven months to work on that Budget. Likewise, in South Africa they have about six months to work on their Budget before the fiscal year. In the United Kingdom, they have six months from the time the Chancellor of the Exchequer presents his proposals to the beginning of the fiscal year and we are talking two, three, four, five weeks in Nigeria; a country that has such diverse population.

I will not belabour the point; what we are trying to do here is not novel neither is it new; it happens everywhere in the world, where the President is compelled to bring a Budget to the Legislative Arm of Government by a date certain. We have now about eight weeks to our fiscal year and there is even no sign or indication that the Budget of year 2010 is on its way to the National Assembly yet; we are at the end of October.

In other not to continue with this, I will urge and appeal so that we can be given enough time to do our work and to do it thoroughly that this Amendment and this Bill be passed for Second Reading

The Deputy Speaker: Thank you. Hon. Femi Gbajabiamila 30th September may be on a Sunday or Saturday.

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Hon. Femi Gbajabiamila: Any date may fall on any day. My understanding is that we are debating the General Principles of the Bill. When it gets to the Committee, level they can twig it to whenever would be convenient; the principle and the idea is what we are after here.

Hon. Ita Enang (Itu/Ibiono Ibom): I like supporting the Bills of Hon. Femi Gbajabiamila because they are normally intellectually exerting. However, unfortunately, I will speak against this Bill. *(Interruptions)*

Hon. Mohammed Sama'ila Abdullahi (Bassa/Jos North): Point of Order!

The Deputy Speaker: Hold on Hon. Ita Enang, there is a Point of Order being raised.

Hon. Mohammed S. Abdullahi: My Point of Order is anchored on the House Rules, Special Order (1) 2009; which provides for special procedure for Bills that have constitutional intendment. This one is a Constitutional Bill. I can hear a Colleague asking of the Order; it is under Rule (II) of that Order.

The Deputy Speaker: Which Order are you reading Hon. Mohammed?

Hon. Mohammed Sama'ila Abdullahi: I am reading Special Order (I)

The Deputy Speaker: He said this Order is a Special Order, Hon. Ita Enang are you aware about this Special Order?

Hon. Ita Enang: Yes, it was adopted by this honourable House for the purpose of regulating all Bills that intend to amend the Constitution and it is part of the Standing Orders of this House. It is correct. It was adopted by this House.

The Deputy Speaker: Hon. Ningi, I could remember that you were one of those who brought about that matter.

Hon. Abdul Ningi (Warji/Ningi): Yes Sir.

The Deputy Speaker: Can you read the Order?

Hon. Mohammed Sama'ila Abdullahi: The Order says:

During the debate on amendment proposed to the Constitution, all hon. Members shall be

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allotted five minutes within which to make submissions in alphabetical order and not in any other Order.

That is the Rule.

The Deputy Speaker: At what Stage?

Hon. Mohammed Sama'ila Abdullahi: It is during the First and Second Reading and this is a Second Reading.

The Deputy Speaker: Is there anything specific about First and Second reading there?

Hon. Mohammed Sama'ila Abdullahi: Yes Sir, there is.

The Deputy Speaker: Can you read that portion?

Hon. Mohammed Sama'ila Abdullahi: Order VIII reads:

The First and Second Reading of any Bill for altering the provisions of the Constitution of the Federal Republic of Nigeria 1999 shall be considered and proceeded with in accordance with the procedure outlined here.

The Deputy Speaker: What we have agreed upon on was that before passing the Bill every Member

will air his opinion in an alphabetical Order. This is because we have even done even the ones that are now before the Committee that way.

Hon. Ita Enang, can you interpret that section; what does it mean?

Hon. Ita Solomon Enang (Itu/Ibiono Ibom) Mr. Speaker, that was in the rule that we adopted when we had the six Bill from the President relating to the Amendment of the Constitution. In actual fact, and to speak from here, he is right. I am sorry but he is right. That is what we wrote down. But if we are constrained by it, we can apply to suspend that particular section for the purpose of fasting up this process. What he has read, however, is right; it is the Standing Order of this House.

The Speaker: My question is: why did you allow us to commit the six remaining Bills to the Committee on Constitutional Review without seeking the opinion of Members in alphabetical order?

Hon. Ita Solomon Enang: When we did that many people were not prepared to speak.

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The Speaker: Was there any deliberate plan either by the Committee on Rules and Business or the Presiding Officer to allow every Member to speak for five minutes?

Hon. Ita Solomon Enang: There was a deliberate plan but we were cut up by time. Many Members simply said that they concurred with the matter being committed to the Committee on Constitutional Review. There was a deliberate plan but that is our Rule. I cannot say right here that it is not.

With your leave, Mr. Speaker, and given the nature of this matter, I move that we suspend that particular section dealing with alphabetical order so that this matter can proceed

I so move.

The Speaker: But, I did not rule on that Point of Order. I want some legal contributions on the Point of Order that he has raised.

Hon. Lanre Adeniran Agoro (Ogbomosho North/South/Orire): Mr. Speaker, I humbly rise to volunteer the considered opinion of this matter which will arise from what takes place in a Court of Law.

The popular saying in Law is that the Presiding Justice is not a *Father Christmas*. What is not before the Court, the Court does not adjudicate on it. The Rules of the House are sacrosanct and that is what has provided for raising Point of Order on any matter to call the House to order either through our Rules or Constitution. But, in the case whereby non of us stood on this Floor to raise a Point of Order to call the House to order, whatever was done was considered done based on the face value of the Rule. So, whatever we did with those seven Bills passed for amendments to the Constitution Committee, in my humble considered opinion are sacrosanct and were in line.

However, we cannot begin to reinvent the Bill now. Now, that something of sort has arisen and somebody has called us to order; we cannot now say that we want to reinvent the Bills again. The Rules must be obeyed otherwise we must suspend that Section of the Rule to allow for the debate to continue.

The Speaker: The Point of Order is sustained.

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

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

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Hon. Ita Solomon Enang: Mr. Speaker, may I recall the Motion that I moved that we suspend the particular Order raised by Hon. Ismaila to enable the consideration of this Bill at Second Reading to proceed at the discretion of the Hon. Speaker.

I so move.

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

The Speaker: Hon. Gbajabiamila, which Point of Order?

Hon. Femi Gbajabiamila: Mr. Speaker, for the purpose of clarity I want to refer us to *Order IX, Rule 3(1) and (2) on Page 33* of the Standing Orders of the House Rule. I quote:

3(2): A Member may speak for, or against the Motion. But during consideration of Bills, Report and other measures, a Member can speak on the Bill, pointing out the merits and demerits of the Bill, including Statutory and Constitutional issues for and against such measure. He is not to speak for or against, because the debate is on the general principle.

So, if our Rules allow for debate on Constitutional matters and there is an Order saying that we cannot then the Rules not having been amended remains, like my Colleague had said, sacrosanct. This is what we go by and not a special Order that has not been adopted nor included in the body of our Rules. This forms the Body of our Rules and it allows for constitutional debates.

The Speaker: Hon. Gbajabiamila, I know that we have considered that Amendment.

There was a time that an issue was raised on how to tackle the issue of constitutional amendment; it was during this period that we considered the option read out by Hon. Ismaila.

Regarding the Point of Order that you raised, any Member can, at any time, talk about Constitutional matters whether or not it is on Constitutional Amendment. That does not negate the provisions of the Rules that have been read out now.

So, the Motion has been moved by Hon. Enang to enable us now consider your Motion.

Is there any seconder to that Motion?

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Hon. Austin Nwachukwu: Mr. Speaker, I rise to second the Motion as ably moved by Hon. Ita Enang.

I so move.

Question put and agreed to.

Hon. Ita Solomon Enang: Mr. Speaker, you have given me leave to speak and I want to speak on this Bill. *(Interruptions)*

The Speaker: We have another Point of Order.

Hon. Emmanuel Jime (Makurdi/Guma): Mr. Speaker, the Point of Order that I wish to raise is *Order VIII, Rule 7(1) on Page 26* and with your kind permission, Sir, may I quickly read:

No Rule shall be suspended except by a vote of two-thirds of the Members voting, a quorum being present.

The suspension of the Rules that has just taken place now, with the greatest respect, is not consistent with this particular rule in our Standing Order. The reason is that that you cannot possibly get two-thirds of the Members of this House in this august Assembly through voice vote. This is simply mathematically not possible. The only way that two-thirds of this House can be raised is by counting the votes of each Member of this House to be able to ascertain that two-thirds of the Membership of this House has voted.

So, I submit with the greatest respect that the suspension of the rules that has been done right now is inconsistent and so should be invalidated by the Speaker.

The Deputy Speaker: From the voice vote that I heard, it is even more than two-thirds. This rule about two-thirds of Members says *No rule shall be suspended except by a vote of two-thirds of the Members voting; a quorum being present.* We have a quorum now and Members have voted. There is nowhere in this Standing Rule that calls for division. Did you see any provision for division there? That is your innovation. Therefore, Hon. Jime, you are ruled out of order.

Go ahead, please, Hon. Ita Enang

Hon. Ita Enang: Mr. Speaker, the Section my Colleagues seeks to amend is Section 81 of the 1999 Constitution and that Section says:

The President shall cause to be prepared and laid before each House of the National Assembly at anytime

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That is the word Bill seeks to amend by deleting the word: *at anytime*. The Bill says in Clause 2:

Section 81 of the Constitution is amended in sub-section 1 by deleting the word at any time, immediately after the word National Assembly. It seeks to delete these words at anytime and he seeks to insert the words: not later than 31st October.

I speak against this because this intends to cork, bottle-up and cage the Chief Executive of the country or the Governor of a State in the presentation of budget to the National Assembly. It is not everything that has to be constitutionalized.

The Constitution, in creating the Legislature, has given it power to make other laws to regulate other things that cannot be covered or to regulate matters that are not covered by the Constitution; or to regulate matters required so to be done by the Constitution.

This hon. House as the National Assembly has exercised its power under Section 81 of the Constitution. It was in the exercise of the powers of the National Assembly under Section 81 that this House Passed the Fiscal Responsibility Act. The Fiscal Responsibility Act has laid out the procedure, timings and sequence at which the budget and budgetary matters are to be presented to the National Assembly.

That Act provides that before the President presents to the National Assembly a budget for each year, the President has to present before the National Assembly the Medium Term Expenditure Framework and the fiscal strategy for the next coming year. And it is that fiscal strategy paper and the revenue framework that would be the basis of what guides the President in preparing and presenting his budget to the National Assembly.

The President, giving an instance in this case, has presented before us the Medium Term Expenditure Framework and the Fiscal Strategy and it is pending before this House which, by our Notice Paper, is to be considered tomorrow.

If we by a way of amending the Constitution seem to say that we shall limit the time for the presentation to be in the Constitution, it is going to be too rigorous and it is going to be very difficult to attain and it will be deriding the power which this House had exercised in the making of the Fiscal Responsibility Act.

Finally, we, in the exercise of our powers, have made several laws, there is the Finance Act, Finance Miscellaneous Provisions Act, and there is also the

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Budget Monitoring and Price Intelligence Matters Act, which all regulate how budgetary matters and execution of programmes and projects are to be done.

Based on that, I pray that this Bill do not Pass Second Reading.

The Deputy Speaker: Chairman, Committee on Finance go ahead.

Hon. John Enoh (Obubra/Etung): Mr. Speaker, I agree that the Constitution, perhaps, need not be reduced to having to be specific on every issue. This is because our understanding is that it provides us a broad guide upon which many other specific issues can be attempted. While admitting that in the course of our work we have passed various Legislations as has been referred to by Hon. Ita Enang such as the Fiscal Responsibility Act which has the Medium Term Expenditure Framework that sets various time schedules upon which that framework has to be debate; resolutions have to be made and the President has to submit the budget, it does not appear that it is imperative to amend Section 81.

Perhaps let me even for the fact say that the President must lay this estimate before or about 31st December, if we amend that Section by deleting the words *at anytime*, it contradicts the various Acts that have even passed in this House. If the Constitution says that the President is free at anytime and we passed an Act in the Parliament saying that he must do so before 31st October or that he must do that three months to the end of the Fiscal Year as the Fiscal Responsibility Act says, it runs counter to the Constitution.

We may amend Section 81 to read: *the President shall cause to be prepared and lay before each House of the National Assembly in each Financial Year; we should delete: at anytime* without necessarily admitting the kind of amendment that is being suggested by Hon. Femi Gbajabiamila and without also saying that we need not Pass this amendment at this Second Stage.

I actually agree that this Bill to amend Section 81 should pass Second Reading, but at the point of the Committee work it should actually seek to delete *at anytime* because *at anytime* still gives the President overwhelming powers even far beyond what our Act may have passed in terms of the Fiscal Responsibility Act.

That is my submission, Sir.

The Deputy Speaker: Thank you. Minority Leader you have the floor.

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Hon. Mohammed Ali Ndume (Damboa/Gwoza/Chibok): Mr. Speaker, Hon. John Enoh has really made the point I was trying to bring to the notice of this House. While the Chairman Rules and Business Committee said that there are so many laws that take care of this, the Constitution which impedes on the ability of those laws that we passed to be practiced makes it necessary not even because Hon. Femi Gbajabiamila brought this amendments by passing the Fiscal Responsibility Act and for it to be effective we have to amend this Section.

For the past ten years that this House has been in existence, we all know that the Executive has formed the habit of bringing the budget late and we all know that the consideration of the budget requires a lot of work, a lot of due diligence and a lot of time. They will bring it just a month or few weeks to the end of the Financial Year only for this House to rush into passing the budget. And in rushing to pass it, so many things come out of it such that in most cases we are put against the public and projected in bad light.

The issue of placing time limit on every human activity, not only on budget, is very important for the President to have. Right now, we are coming to the end of October, the Budget is yet to be presented and maybe when the budget is presented anytime from now, the general public and the Executive arm would be expecting this House, with two activities, Hajj and Christmas before us, to pass this Budget before the end of the year. Therefore, it is very important regardless of what panel beating would be done to find it suitable but this section 81 that this Bill seeks to amend is very important for those laws that we have passed to be effective.

I urge my Colleagues to support the passage of this Bill to be read the Second Time.

Hon. Abdul Ahmed Ningi (Ningi/Warji): In my opinion, this is a very sound talk. If we look back ten years down the line we should be able to reflect and ascertain whether or not we have been able to achieve what we set out to achieve. The answer is a big 'No'; we have not been able to achieve our objective because of the kind of clauses that we have in the Constitution.

At any time is no time; governance is a serious business. If a public officer is not ready to be challenged until he encounters challenges along the way, let him leave and go and face his own business. The time lag gives you time for coordination, seriousness, effectiveness and you plan very well because you are challenged by a given time. But where you set out to achieve nothing by saying *at any time*; *at any time* could mean 345 days, 12 months, *et cetera*; it does not speak well of a nation like ours. We are a

developing nation. If you look back at the level of our infrastructural decay, the roads, power, agricultural sector as well as the health and other sectors, you will know very well that the last ten years has not been very good for this country.

Part of the problem is because at any given time, we do not receive the Budget in time and when we receive we do not pass it; and when we passed it, it is not implemented. This scenario keeps going on year in year out and until we start setting time frames so that we are challenged, the general public will understand that at any given time we must do certain things.

This should not only apply to the Executive because while we are giving time lag to the Executive, it is in my candid opinion that we should also set time limits for ourselves so that we can meet the target. Once we do that, in the next two years, this country will be transformed.

Hon. Bashir Omolaja Bolarinwa (Lagos Mainland): The three major roles of the legislature world-wide are mostly law-making, representation and oversight functions. One of the serious businesses of every legislature is approving budget. It is important, just like Hon. Gbajabiamila raised in the Bill that budget presentation to the legislature is time barred. Take for instance, we are now in a month of October, few days time November, would move in. Up till now, the Budget proposal for year 2010 has not been presented to this House.

When the budget is presented, we need to give it thorough investigation; thorough work has to be done on it and which will mean that we would need an ample time to be able to do that. For this reason, it is important that the presentation of the Budget is time tagged to the legislature to allow for that time to be able to work thoroughly on this Budget.

On this note, I want to support that this Bill as moved by Hon. Femi Gbajabiamila be read the Second Time.

Hon. Patrick A. Ikhariale (Esan Central/Esan West/Igueben): Hon. Speaker, I do sympathize with the sponsor of this Bill to some extent but I am inclined to think that the Constitution is more than very clear on this issue.

The section that my Colleague seeks to amend has to do with time limit. From his analysis and the wordings of the Constitution, there is time limit within which Budget ought to be presented and that is responsible to a great extent by his assessment for the poor Budget performance year in year out.

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I am of the view that the authors of this Constitution took so many things into consideration before allowing what one may call laxity of time. If you go to the proceeding section on the Constitution, it is clearly stated that in the event that the Budget is not passed or presented within the time limit we are talking about, the President is allowed the opportunity to spend money for the benefits of everybody in this country provided that the total sum spent does not exceed that which was spent within the period in the previous year.

The point is that, the fact that there is no time limit cannot be said to be absolutely responsible for poor Budget implementation in this country. Secondly, if we tie ourselves to a particular time, like he was suggesting the last day of September or October, we are likely to run into obvious problems that the drafters of this Constitution have taken into consideration by not specifically saying that Budget must be presented at a particular day.

Do we now suggest that if we do say that Budget must be received, submitted or presented on the specific date, are we setting targets for ourselves within which we must consider and pass the same budget? I would crave the indulgence of this honourable House to allow the contents and provisions of the Constitution to remain as it is because an amendment to this section will obviously call for the amendment of Sections 81, 82 and 83. This is because if you amend this as is being prayed those provisions in Sections 82 and 83 would have lost their meanings, bearings and understanding.

This is my submission.

Hon. Joseph Jaiyeola Ajatta (Oshodi/Isolo II): I thank you for giving me the opportunity to make contribution on this particular issue. We Accountants look at time. Budget is part of our profession; if you are doing a Budget, it is an estimate of what you want to do for a certain period and if you are going to do it, you must have a time limit. It is not a job for one person.

The Budget Office has their job to do. After they have done their job, it goes to the Executive to panel-

beat it before it comes to the National Assembly. If you say we are not giving a date by which the Budget Office should finish their job and the date that the Executives are going to do their job; how can we do a job that is well done?

The Executive usually send the Budget to us anytime they like. When the budget is here, they would start counting for us when to finish. It is the duty of the House of Representatives to see that a good Budget is presented nobody should push us around. That is why I believe that it is necessary to have a date by which the

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Budget must be brought to this House so that when we have it we will be able to allocate time for ourselves to look into the whole details rather than rushing over it.

It is not only done in America where we inherited this system, it is done in many parts of the world which the Mover of the Bill has just suggested. If we picked our budgeting system from another country why can we not do the same thing that they are doing there? I believe that there is a reason for putting such Section in the Constitution but if the reason is not helpful to us in Nigeria, why are we not going to look into it?

I am supporting that this Bill be read the Second Time.

Hon. Eziuche Chinwe Ubani (Obingwa/Ugwunagbo/Osisioma): This is a very fundamental Bill that we are considering in terms of our Appropriation's regime. And in considering this we need to look back into history. The Constitution gives the National Assembly power of appropriation and at this same time takes it away in the sense that it does not hold the Executive responsible in terms of the time limit for making up the Budget and presenting it before the National Assembly to do its work.

Let us just look back in time; few years ago some of our Colleagues who were here would agree that rather than the Budget being an instrument for socio-economic policy, it has become an instrument for political control by the Executive.

The Executive prefers to bring the Budget to the National Assembly at any point in time that it so desires; that is because of Section 82 of the 1999 Constitution of the Federal Republic of Nigeria. This is because if the Constitution gives power to the President of the Federal Republic of Nigeria to spend monies in case the Budget has not been passed at the beginning of any financial year, he can spend money for six months without recourse to the National Assembly.

That is the reason for the source of tardiness that we witness because there is no reason for urgency. For all the objectives that we set out to accomplish in the Budget, the Executive has never shown any kind of

hurry and there is nothing to hold them to account that they should be in that kind of hurry for us to consider the Budget thoroughly.

This year is a typical example; a few years ago when the Budget of this Republic was passed in May or thereabout because there was some discrete, and it never stopped the Executive from continuing to spend money.

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I align myself with the views of my Colleagues who have spoken to say that this Bill should be passed for Second Reading. And at the same time, it should give us the opportunity to time ourselves.

Hon. Leonard Okuweh Ogor (Isoko North /Isoko South): I support this Bill because of some serious laws that we have actually passed in this House. When you look at the provisions of Section 81, the Constitution of the Federal Republic of Nigeria 1999 it states clearly that:

The President shall cause to be prepared and laid before each House of the National Assembly at any time in each financial year estimates of the revenues and expenditure of the Federation for the next following financial year.

Now, when you look at the Fiscal Responsibility Act that we passed as a Parliament, it also stated there a specified time that; *the President shall present to the National Assembly a Budget three or six months before the close of the fiscal year.*

It therefore means that, that particular Bill or that Act that we have passed cannot stand because Section 1(3) states very clearly that any law that is inconsistent with the provisions of this Constitution are to that extent of inconsistency null and void.

What are we going to do in this situation? What we intend doing clearly as the author of this Bill has said is to delete that specific provision that says: *at any time* which would now give that legal force to the Fiscal Responsibility Act that we have passed as Parliament.

I would appeal to my Colleagues that, please, because of the fact that we have passed a law, which that law at the moment if properly challenged would not stand in respect of the provisions of the Constitution we should give this Bill the opportunity of going through the Second Reading. And when it gets to the Committee level, I believe that the specific date should be the issue which probably could be amended there and state very clearly that on or before 30th September.

I support this Bill and I appeal that everybody should please support it.

Hon. Bala Ibn Na'Allah (Zuru/Fakai/Sakaba/D/Wasagu): As beautiful as the intention of this Bill is, we must first ask ourselves, what is the necessary intendment of the provisions of Section 81 of the Constitution? The words used there *at any time*; what was the intention of the framers of the Constitution when that was inserted?

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Every conceivable problem seen and unseen, existing or non-existent is supposed to be captured by the provision of the Constitution because government must run. I accept the fact that we had a particular problem where the National Assembly, particularly the House of Representatives, would receive Budget at very late times and would be asked to work at very tight schedule which makes its work a little bit untidy at times due to time-frame. But what is important is the fact that, you must ask the other question on the other side of the coin; God forbids and I say again, God forbid; in the event that there is problem at any given time in this country where the government is unable to present Budget on the prescribed date in the Constitution what it means is that it can never present Budget at all. That is the consequence of the Amendment.

If you do not do it, it now becomes a constitutional matter. What it means is that, if for any reason it becomes impracticable for the President to present Budget before the prescribed date, it means he cannot do it. It means we cannot have Budget for that year because whatever is going to be done would be unconstitutional. So important is the content of the Constitution that every public office holder is expected to subscribe to an Oath that says you will uphold, protect and defend it.

Let me respectfully say that the intention is beautiful and well put, but the reasonable and foreseeable consequence of that provision is not going to be so palatable for this country. I will therefore ask my Colleagues to exercise caution in the determination of this matter when it relates to prescribing time within which budget must be presented.

Hon. Aminu Shehu Shagari (Yabo/Shagari): I wish to commend the proponent of the Bill. What the Bill seeks to do is to set a time frame within which the budget should be laid before the National Assembly and I think it is a very commendable effort because many times the National Assembly is constrained to consider the budget haphazardly. I have to admit I have taken part in this process twice but still it is a lot of mumbo jumbo to me because I never had time to consider it Clause by Clause and meticulously as it should be done.

So I think it is very commendable that we should allow the amendment so that we have a specific time frame within which the budget should be brought to us. The proponent of the Bill is suggesting the 30th of September. I do not know what informed this date but I think when it gets to Committee level we can now think of a specific date.

Hon. Farouk Mohammed Lawan (Shanono/Bagwai): I want to commend Hon. Femi

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Gbajabiamila for presenting a very good Bill that will help us in discharging one of the most important aspects of our Constitutional responsibilities - the control over the purse.

In the course of the contributions made by some of my Colleagues allusion was made to the Fiscal Responsibilities Act which was passed by this National Assembly and I recall that when we were working on the Fiscal Responsibilities Act one of the biggest handicaps that we were confronted with was the provision of Section 81 of the Constitution which gives virtually unlimited time for the President to submit Appropriation Bill before the National Assembly.

Even the Fiscal Responsibilities Act that was passed by the National Assembly could not work on the issue of time because we did not want to do anything that will be unconstitutional but we were deeply concerned with the need to make sure that budget is presented in time for the National Assembly to do thorough, sufficient and meticulous work on it. Now this National Assembly has also been working on a budget Bill. For the last 10 years there is a budget Bill that is on the drawing Board and one of the major challenges for the presentation and the passage of that Bill is this particular provision.

Hon. Bala Ibn Na'Allah raised the issue of what happens when there is crisis. Of course God forbid nobody wants there to be crisis but the Constitution has also provided for the presentation of the Supplementary Appropriation Bill at any time of the year. What I think this House should do is to commit this particular Bill to a Second Reading so that at the level of Committee discussion amendments such as the one made by Hon. John Enoch can be presented.

We do not necessarily have to insist that the budget must be presented at a specific date but removing the provision that it should be presented at any time will certainly help in ensuring that we get sufficient time for us to do a very effective and meticulous work on our Appropriation Bill. So I want to call on my Colleagues to support the Bill and commit it to Second Reading.

Hon. Asema Muhammed Sadiq (Ajaokuta): I want to commend the effort of the mover of this Bill. Having listened to previous speakers on the Bill, the important question I want to ask and which I would want the Committee to which this Bill would be referred to, to also consider is: if we are committing the Executive, specifically Mr. President, to a particular date upon which he must bring the budget to the National Assembly, we must also commit a date within which the Legislature or the National Assembly must

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finish approving the budget because what is good for the goose is also good for the gander.

On this note I call on members to support this Bill.

Hon. James Idachaba (Idah/Ibaji/Igalamela/Ofu): I stand to commend the effort of my Colleague that brought about the Bill. I am vehemently in support of the Bill in view of the fact that leaving an open ended situation for the Executive to decide on the period to present the budget to the National Assembly for consideration and appraisal before approval will make it too cumbersome and at the same time make the Legislators to embark on fire brigade approach in the consideration of the budget.

It is becoming our character in this country that everything we do is characterized with fire brigade approach. Allowing that open ended period within which the President can submit the budget to the National Assembly for consideration is like giving too much powers to the President especially considering Section 82 of the Constitution whereby the government can still spend and do everything with tax payers' money until the budget is passed. I do not think that is palatable for this country. We always claim we do not have money considering our economic situation but the earlier we state specifics in our budgetary approach that it should be presented on time by the Executive and treated also on time by the National Assembly, the better for this country.

For this reason I solicit the support of my other Colleagues to support this Bill.

Hon. Lanre Adeniran Agoro (Irepo/Orelope/Olorunsogo/Irepodun): I humbly rise to voice my support for the passage of this Bill for Second Reading. My support stem from the fact that I have a copy of Fiscal Responsibility Act, 2007 here with me and I also have a copy of the Constitution which my Colleagues have copiously quoted from.

Hon. Leo Ogor referred to the inconsistency clause which is Section 1(3). All efforts that have gone into the production of Fiscal Responsibility Act, 2007 would have been a waste if we consider Section 1(3) of the Constitution. This is because there are time frames put into consideration when it comes to this matter.

I want to quote from Section 11(2) and with your kind permission, I will read. It says; *The Medium Term Expenditure Framework:*

11 (1): *The Federal Government after consultation with the States shall –*

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- (a) *not later than six months from the commencement of this Act, cause to be prepared and laid before the National Assembly for their consideration, a medium term expenditure framework for the next three financial years; and*
- (b) *therefore not later than four months before the commencement of the next financial year cause to be prepared a medium term not more than four months into the commencement of the next financial year.*

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

The Deputy Speaker: Hold on Hon. Agoro, there is a Point of Order.

Hon. Igochukwu Aguma: Allow me to make my observation and then you may rule me out of order. In terms of relevance, a Medium Term Expenditure is different from a Budget.

The Deputy Speaker: All right, read the Order.

Hon. Igochukwu Aguma: Order VIII, Rule (3), Rules of Debates says:

A Member must confine his contributions to the subject under discussion and may not introduce matter irrelevant thereto.

What we are talking about here is the Budget of the Federal Republic of Nigeria. It is different from a medium term expenditure framework. The Constitution does not even recognize a medium term expenditure framework; we have created that Act to make the act of budgeting more efficient.

Those terms referred to there are being referred to as regards the presentation of a medium term framework which is different from a Budget. That does not go to condemn the intentment of the amendment. But let us confine ourselves to issues at stake.

The Deputy Speaker: What Hon. Lanre Agoro is trying to do is that he is bringing some arguments from other sections of the laws that we have passed to support the argument that there is a need to pass this Bill to Second Reading. Therefore, I want to believe that Hon. Lanre Agoro is in order.

Hon. Lanre Agoro: I laid emphasis on the medium term expenditure framework because it forms the basis of Part III of the Fiscal Responsibility Act, which says:

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Notwithstanding anything to the contrary contained in this Act or any other law medium term expenditure framework shall form the basis of which budget would be delivered.

If I now jump into budget without laying foundation and without referring to medium term expenditure framework, I would have lost the argument. The basis now is that the law gives us four months. They just gave us this particular medium term expenditure in October. Therefore what Hon. Gbajabiamila seeks to do is to put a final cap to give the law of enforcement on this particular Act so that we shall now have a Budget that would be based on medium term expenditure framework of all which we have also embedded time frame.

Lastly, there was an argument to the extent that we would be constraining the Executive. It is in our laws that Annual Reports must be submitted on or before certain date. If we also constrain the Executive to also submit the Budget based on the medium term expenditure framework, we are not doing anything outside the law.

Hon. Emmanuel Jime (Makurdi/Guma): Let me once again congratulate Hon. Femi Gbajabiamila for what he has done for our institution. I share also the sentiments that have been expressed by all of us here about the need to have the Budget process straightened out in a way and manner that will make for effective budgeting processes in the House here.

Having said that there is an issue that we need to call our attention even as we give our support to what our friend has tried to do. Constitutional scholars worldwide agreed on one particular issue as far as written Constitutions are concerned. For me, that is an area of worry that may be reasoned to be of concern as we look at this particular Bill.

It is very easy for us in this august Chamber to amend whatever law we have made here. When you seek to amend the Constitution, especially because it is a written Constitution, the procedure for the amendment is very herculean, cumbersome and difficult.

Therefore, constitutional scholars agreed that it is better to have flexibility in the wordings of a Constitution. In the wordings of the law, you can have it cast in stone but when you make constitutional provisions and you seek the kind of amendment that we seek to do here today, we need to worry that, God forbid as Hon. Na'Allah said earlier when he addressed this House, if it is impossible at any given time to be able to achieve the target of 30th September if we decide to include that in the Constitution, the consequence and the conclusion will be that we would have to call this

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Assembly back and then go through the process of amending the Constitution so that we would be able to allow the President to have some flexibility. That should be a cause of worry for us.

As much as we have good intentions behind the Bill, I am worried that if we cast it in stone there is always a possibility that at some point in time we may not be able to achieve the target that we have set to achieve. It is better to allow these specifics to be provided for in law which can easily be amended by this House than to insert it and cast it in stone in the Constitution.

That is my submission Sir.

Hon. Rufus Omeire (Ideato North/Ideato South): Mr. Speaker, thank you for allowing me to lend my voice to this very important Bill. It is obvious we have problem with the implementation of the Budget. So we have to do whatever we must do to stop these problems. I believe one of the ways to stop this problem of implementation is by putting time limit to the time of the presentation of the Budget to this House. As time goes on, we will need time for us to pass the Budget. If the Budget has to be implemented as from January 1, we also need time for the President to present the Budget to this House.

There is time for everything; as we also talk about re-branding our country, we must get away with the idea of the so-called *African time* or *Nigerian time* and put time limit so that things can be done appropriately; so that we can implement the Budget on time. I support this Bill and I urge my Colleagues to support this very important Bill.

Hon. Independence Ogunewe (Ahiazu/Mbaise/Ezinihite): I believe that so much have been said about the issue at stake. My little contribution is that for any progressive or anybody who is conscious about development in Nigeria; who understands the centrality of budgeting even though budgeting is estimate towards achieving diplomatic efforts, it becomes very necessary that if we must have to budget, we have to budget very well.

I am particularly concerned by the contributions made by my Hon. Bala Ibn Na'Allah even though he is not here. I will want to point out that the essence of Amendments or laws is to achieve good governance, order, peace, justice and progress in a society. The essence of Amendment is when you make laws and discovered that the laws are now standing on the way of achieving your vision.

In the past ten years, we produced Budgets and we know that between 1999 and today, the greatest sore

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points of friction between the Parliament and the Executive and indeed Nigerians, is that either Budgets are presented lately or even when they are presented in time and passed, they are not adhered to irrespective of whether some KPMs or KPIs are met.

So, if we go by the provisions of Section 81(1) that particular word *at any time* makes this issue of Budget so discretionary that it becomes so whimsical that the President and his Executive might decide to present Budget at any time they feel it is necessary. Nigeria and its progress is not equal to the Executive.

Therefore, if we allow such an important thing to become an issue that can be whimsically handled, then we will run into problems. That is why I fully align myself with Hon. Femi Gbajabiamila. And I align myself also with the Chairman of the House Committee on Finance that an Amendment has become very necessary.

Also, I align myself with the Chairman, House Committee on Finance that in amending or deleting particularly these words, we must do it in such a way that the apprehensions of my friends like Hon. Emmanuel Jime, must also be accommodated so that whatever thing that we do there will not be cast on stone; it will be flexible but its flexibility must be such that it puts responsibility on the people who are meant to present those Budgets as at when it is necessary.

Hon. Igochukwu Aguma (Port Harcourt I): First, I want to align myself totally with this Bill brought by Hon. Olufemi Gbajabiamila. I believe that the intention of the drafters of the Constitution especially in Section 81 that he seeks to amend has been over taken by time and experience. We know that we have drafted Laws in this House other than the Fiscal Expenditure Framework, which I believed, and still stand on it that it does not run contrary to this Constitution.

However, we drafted laws in this House that we have prescribed time limits within which such organisations must cause their Budget to be presented through the Presidency or their Ministers to the National Assembly. We also know that every facet of our lives is regulated by time. I believe that because of the dynamics of time, we may not need to introduce the issue of a specific date in our Constitution, but we need to quickly follow this Constitutional Amendment with an Act that prescribes the way and manner Budgets should be presented in the National Assembly. In addition, in that Act we may then prescribe a time which I believe is a big challenge to our brother in Finance Committee, Budget Committee and all other relevant Committees.

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However, I believe that in amending Section 81 we should remember the consequences of Sub-Section 4 that deals with Supplementary Budgets. In amending that whole Section we should not just limit ourselves to Section 81(1); we should look at the Section that deals with it so that the removal of the words *at any time* may not be interpreted by our lawyers when it suits them in the law Court to mean that it has injured the issue of Supplementary Budgets.

Therefore, I believe that the wordings of Section 81(4) should also be examined to ensure that the fears of Hon. Bala Ibn Na'Allah may be addressed through Supplementary Budget in case we make a law that prescribes a time limit for submission of the Budget by the President and the President did not meet that law he can bring in all his Appropriation through Supplementary Budgets.

I believe Hon. Femi Gbajabiamila's Bill is germane especially at this point in time but it does not run contrary to the Fiscal Responsibility Act in anyway.

Hon. David Onobi Idoko (Ado/Ogbadibo/Okpokwu): Generally, what Hon. Femi Gbajabiamila seeks to do is to prescribe some level of micro-economic stability in our situation. We must try to take away the cushion of comfort that the Executive enjoys by trying to implement the Budget through provisions of the subsequent Sections of the Constitution to allow them to make 50 *per cent* provision as it concerns the previous years. We have seen some level of inconsistency in this act of financing our Budget and that does not augur well for our micro-economic stability and it does not give direction to our economy. What it does is that it leaves us motherless without direction and it gives the Economists a lot of problems when they seek to try to either give some level of definitions to the directions of our budget or a performance of our economy.

So I think that we must adjust, specifically that section 81 to the extent that we do not allow that level of flexibility we have given government to present budget at any time. It is on that premises that I seek support the amendment of the constitution and also add that we must be conscious enough not to allow for the Fiscal Responsibility Bill not to be effective.

I urge our colleagues to support it both for Second Reading and for proper scrutiny.

The Deputy Speaker: This is a Constitutional issue and maybe you were not there when somebody raised a Point of Order and that is why I want to allow you to speak.

Hon. Overah O. Joyce (Okpe/Sapele/Uvwie):

Hon. Speaker, I am very happy to have listened to the views canvassed by my Colleagues here today with regard to the amendment of a section of the Constitution. What bothers me most here is this, over this period 1999 to date that we have been implemented this Constitution nobody has been able to explain to us that is it because we have not had time or limit for the Executives and that is why we have not been able to implement our budget.

I think in the wisdom of the crafters of this Constitution they saw that it is only proper for them to leave it fit for the Executive to know what is right to be done. What actually bothers our minds as Parliamentarians should be what has actually hindered the full implementation of our budget over these years? So I am of the opinion that inasmuch as that section has some lacuna, it is not an issue for Parliament tussle. What we should be looking at is giving the Executive the latitude to come up with the budget at a time and giving the Parliamentarians the time to go through the budget and see that we truly can look at it to make sure that we pass the budget for government to implement. I am saying that, that Constitutional provision there *anytime* for me it not a thing that we gradually look either.

I want to submit that we should allow the Executive the way it has been carved in Section 81 to act the way it has been.

Hon. Ahmed Idris (Wase): I want to lend my voice behind those who are for the passing of the Bill. I want to say that with all partisan I urge my Colleagues to support the Bill because the nature of our operation in this country.

I want to bring to the attention of hon. Members that so far so good. During the past Constitutional Review we have not had the best for this country simply because we have not been able to put the budget on a sound foundation and something that is built on a very wrong foundation cannot stand.

The presentation of a budget is a first stage towards the development of a nation. I want to encourage that as a Member responsible to my constituency, I want to see a situation whereby we would possibly get this budget in good time and present it before our constituents so that we can have their own inputs. It can only be achieved if we are able to have this budget presented in good time.

The Deputy Speaker: Hon. Colleagues, I think we have done well on this Bill. I call on Hon. Femi

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Gbajabiamila if he has anything to say; or if there is none then I would put the question.

Hon. Olufemi Gbajabiamila (Surulere I): Yes, you can go ahead and put the question, Sir.

Question put and agreed to.

Bill read the Second Time and referred to the Committee on Constitutional Review.

**National Sugar Development Council
(Amendment) Bill, 2009**

A Bill for an Act to Amend the National Sugar Development Council Act, Cap. N78, Laws of the Federation of Nigeria, 2004 by giving Additional Powers to the Council to Enable it discharge its Functions more efficiently and for Related Matters, 2009 (HB. 301) –

Order for Second Reading.

The Deputy Speaker: The Fourth Order of the Day is the commencement of the debate on the General Principles of a Bill for an Act to Amend the National Sugar Development Council Act, Cap. N78, Laws of the Federation of Nigeria, 2004 by giving Additional Powers to the Council to Enable it discharge its Functions more efficiently and for Related Matters, 2009 (HB. 301)

Hon. Members would recall that the Bill was read for the First Time on the 8th of October, 2009. I now invite Hon. Solomon Agidani to move that the Bill be now read for the Second Time.

Hon. Solomon U. Agidani (Apa/Agatu): Mr. Speaker, I move that a Bill for an Act to Amend the National Sugar Development Council Act, Cap. N78, Laws of the Federation of Nigeria, 2004 by giving Additional Powers to the Council to Enable it discharge its Functions more efficiently and for Related Matters, 2009 (HB. 301) be read a Second Time.

The Deputy Speaker: Is there any Seconder?

Hon. Isah Idris Umaru (Igabi): I rise to second the Motion ably moved by my Colleague.

Question proposed.

The Deputy Speaker: Hon. Agidani, before you continue let me read these announcements.

ANNOUNCEMENT

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Meeting of ECOWAS Parliamentarians

There would be a crucial meeting of the ECOWAS Parliamentarians immediately after today's session in Office Suite 3.06, New Building. That is Hon. Farouk Lawan's Office.

Signed
Hon. George I. Daika

Meeting of the Committee on Environment

The Meeting for the Committee on Environment is now 1:30 p.m. as against 2:00 p.m. as was written on the Order Paper.

Signed
Hon. Duro Samuel Faseyi
Chairman

The Deputy Speaker: All right, Hon. Agidani, you can now lead the debate.

Question proposed.

Hon. Solomon U. Agidani (Apa/Agatu): Thank you Mr. Speaker, the Act that we seek to be amended derives from Decree No. 88 of 1993, the Decree that set up the National Sugar Development Council. The Council was set up in 1994 following the promulgation of this Decree of 1993 to among other things collect 10% levy on all sugar import to Nigeria to develop the Sugar Industry in Nigeria and to create self-sufficiency in sugar production in Nigeria.

Now soon after Independence in 1960 Nigerian Government then thought it wise to establish the first foremost Nigerian Sugar Company in Baccita in 1964. After that three other Sugar Plants were established in Numan in Adamawa State, Savannah Sugar Company and then Lafiaji and Shunti. Lafiaji is in Kwara State while Shunti is in Niger State. All the four major Sugar Factories were to produce sugar for local consumption to reduce our import dependence of sugar.

In 1993 it became obvious that the fortunes of the four sugar plant in Nigeria were noose diving to a point where contemplation was now made for privatization. Indeed, today the four sugar plants in Nigeria are fully privatized. After privatization only one sugar plant has taken off – the Numan Sugar plant which was privatized and taken over by Dangote. At a point where Nigeria consumes and imports about 1.3 million metric tones of sugar annually, the Sugar plant in Numan is hardly able to produced 50,000 metric tones per annum. The other three are yet to take off. Still, 11 additional mini-plants were established by the sugar Council but because of the bottlenecks that are inherent in the laws establishing

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this Council, it has not been very easy for the Council to access its fund with the CBN to promote and support the production of sugar and sugarcane out growers' scheme in Nigeria.

What this Bill seeks to do is to attempt to remove those bottlenecks to create better efficiency within the funds. For instance, various people have quoted various laws to disabuse the minds of the Customs agents that collect the 10 *per cent* Sugar Levy. At various points the law is referred to as 5 *per cent* levy; another time it is called 10 *per cent* levy.

There are sugar business men that had brought in plants to refine sugar. What they do now is to import raw sugar into this country and when the sugar is refined in Nigeria, the raw sugar that was imported enjoys waiver. Take for instance in 2003, the total tonnage of sugar imported into Nigeria was 900, 000 tones; the levy then was 1.2 billion. In 2008, just last year, where we had 1.3 million tones of sugar imported into Nigeria, the levy was 398,000,000.

The Deputy Speaker: Was it the raw one or the fully processed one?

Hon. Solomon U. Agidani: The sugar that comes in comes as raw sugar; refined sugar. The raw sugar that is imported enjoys waiver. I do not know from where the government has got the mandate to give waiver on raw sugar but the raw sugar importers in Nigeria under the guides of import waiver on raw sugar now brings in raw sugar instead of refined sugar. Therefore, the quantity of refined sugar that comes in is so small and only 5 *per cent* levy is being charged.

What this Bill seeks to do is to re-emphasis in the original law there was no sugar transgression it was only sugar; here we have tried to separate raw sugar from refined sugar. We are now saying that if you bring raw sugar, pay in 5 *per cent* but if you refine the sugar here, you will still pay another 10 *per cent* so that it does not take away the fact that we need to support out growers' schemes.

The Deputy Speaker: Hon. Agidani, you said you will bring a raw sugar.

Hon. Solomon U. Agidani: The major point is in section 6. Let me read section 6 for you. It says;

The Principal Act as amended by substituting in the new paragraph (c) 10% so charge on refined imported sugar and 5% on raw sugar that is what we seek to do".

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Apart from that, since 1993, the Sugar Development Council has been having the 10 *per cent* sugar levy collected by the Customs and lodged in the CBN. Because they do not have the enablement, they do not have access to this money and the money has been used variously by other Agencies of Government without reference to the National Assembly. There have been unlawful withdrawals from this account. Where an average of one billion is collected annually for 16 years, what we expect to see in that account today is about ₦16 billion but what we see there only less than one billion.

Therefore, what we seek to do is to establish a fund and establish an MOU between the Sugar Development Council and the Bank of Industry so that when this collection is done, domiciled at the CBN, then the MOU will authorise the Bank of Industries to manage the fund on behalf of the Sugar Council.

We have also made provision for a percentage of this money to be used for research and development. This is because the clean sugar we are using in Nigeria today are the varieties that were used by Brazil and other countries ten to fifteen years ago. Sugar research is a continues thing and developing new varieties of sugar should be such that we have 4,5,10 institutes that will continue to revisit the varieties in the market and attempt to crossbreed them with more efficient varieties to be able to create other efficiency in the production of sugarcane.

These are some of the functions of the Bill and I believe that it is very simple and I expect Members to support this Bill so that it can go for second reading.

Hon. Abdul Ningi: Mr. Speaker, this is a typical Nigerian situation. An Agency that suppose to collect ₦16 billion and they have not collected it for over 16 years and what is in the account is less than one billion, what happened to fifteen point-something Billion Naira? If the matter has not been raised by this House, it would have been swept under the carpet. I am sure without even looking at the merits of this particular Bill; the Committee must be fully assigned to uncover this ₦15 billion Naira.

However, 20 years down the line we had Bachita, Shunti, and Lafiaji when we had almost 70 million Nigerians. Twenty years after when we have over 150 million, the only functional sugar industry which is not even operating in its full capacity is the Savannah Sugar and that speaks volume of the kind of economy, successive government, interest and the kind of probably I do-not-care attitude that we render to public services.

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This issue of unbundling the Sugar Development Council is necessitated by the fact that almost everybody in Nigeria takes sugar one time or the other. So, it is important that sugar levies and how sugar is developed in this country must be given adequate attention. This is a country that arable and can produce sugar not only for Nigeria but for the entire African sub-continent, yet, 85 per cent of our sugar in-take is imported.

What are we saying and where are we going? There is not vision or mission; in Nigeria, everything goes. It is important that we give this law the much needed attention so that we will put it on second reading and then finally ask the Committee to come up with ways to uncover this fifteen point-something billion public funds that somebody is sitting on.

Hon. Leonard Okuweh Ogor (Isoko North/Isoko South): Mr. Speaker, first let me commend the author of this Bill in trying all he can as a good law-maker in addressing a major challenge that is confronting our

industries, essentially the sugar industry when you look at the volume of import that comes from other nations. The whole essence is to try as much as we can as a people to develop our local industry. It is important that we support this Bill so that this Bill will go into a Committee level but I tend to have some specific observations as it borders on the levy which I think that probably during the consideration of the Report we might have to discuss this.

When I look at the provisions of section 162 of the 1999 Constitution, which I will seek your permission to read, it states very clearly that;

162 (1) The Federation shall maintain a special Account to be called 'the Federation Account' into which shall be paid all revenues collected by 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.

It went further to section 162 (10) to define what that revenue means, and it states very clearly here that;

For the purpose of subsection (1) of this section, 'revenue' means any income or return

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accruing to or derived by the Government of the Federation from any source and includes -

(a) any receipt, however described, arising from the operation of any law;

(b) any return, however described, arising from or in respect of any property held by the government of the Federation;

Why I am reading out this section is that we have passed some laws that are quite inconsistent with the provisions of the Constitution. Probably when this Bill gets to the Committee level, it is important for us to look at the illegality of some of this sub-charge and some accounts that we have established but whatever we can do as Parliament to support and make sure that our local industry grows, we must try as much as we can to do it within the confines of the Constitution, because our oath of allegiance as law makers is to defend the Constitution of the Federal Republic of the Nigeria.

I will therefore, appeal that we give all the necessary support to this Bill so that it can pass through the second reading.

I so submit.

Question put and agreed to.

Bill read the second time and referred to the Committee on Industries.

ADJOURNMENT

Hon. Tunde Akogun (Akoko-Edo): Hon. Speaker, I move that this House do adjourn till tomorrow, Wednesday 28th October 2009, at 2.00 p.m.

I so move.

Hon. Baba Shehu Agaie (Agaie/Lapai): I rise to second the Motion that this House do adjourn till tomorrow, Wednesday, 28th October 2009, at 2.00 p.m.

Question put and agreed to.

Resolved: That the House do adjourn till tomorrow Wednesday 28th October, 2009 at 2.00 p.m.

The House do adjourn accordingly at 1.00 p.m.