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FEDERAL REPUBLIC OF NIGERIA

NATIONAL ASSEMBLY DEBATES

**FOURTH REPUBLIC
THIRD ASSEMBLY
FIRST SESSION**

HOUSE OF REPRESENTATIVES OFFICIAL REPORT

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HOUSE OF REPRESENTATIVES
FEDERAL REPUBLIC OF NIGERIA

Wednesday, 7th November, 2007

The House met at 2.35 p.m.

PRAYERS

(The Speaker in the Chair)

VOTES AND PROCEEDINGS

The Speaker: Hon. Members, I have examined and approved the Votes and Proceedings of Thursday, 1st November, 2007.

PUBLIC PETITIONS

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

Appeal against Dismissal from the Nigerian Army

Hon. Innocent U. Ugochima (Ikwo/Ezza South): Mr. Speaker, Sir, the Petition is in respect of Private Emeka Nwafor from my constituency. He was an Army personnel with No. 94/NA/38/1578 and his matter reads thus:

That on 20th April, 2006, he was on duty at Ikeja Military Cantonment. While on duty, he was accused of wandering after work, and without due process, without asking questions and without allowing him to express himself, he was dismissed from the Army. All efforts made through several letters to the Army authorities to rescind the decision failed. In his mind, he believes that this House of Representatives is the last resort, hence he has channelled his Petition through me who is representing that constituency.

The reliefs sought for are, first, that the matter be investigated and that he should be allowed to defend himself. Secondly, that if at the end of the investigation, he is found not to have committed the offence which he was accused of, he should be returned to his job; or in the alternative be allowed to be discharged without any tag on him.

I present this Petition with the firm belief that the House will do justice through the appropriate Committee.

(Petition laid)

Appeal against Unlawful Removal from Service

Hon. Samson R. Osagie (Orhionmwon/Uhunmwose): Mr. Speaker, I have two Petitions from two of my constituents alleging grave injustice when they were prematurely removed from service without being retired or dismissed. Both of them - Mr. Osarheweme Ben Ihiovbehe and Mr. Bartholomew Evhalahieme - are asking this honourable House to intervene in their precarious situation which has put them in a serious problem to the extent that they can no longer feed their families. They were removed from service without being retired and no benefits paid to them.

Mr. Speaker, I beg to lay these petitions on the Table of this honourable House.

(Petition laid)

Hon. Chile Igbawua (Kwande/Ushongo): Point of Order, Mr. Speaker.

The Speaker: Order what?

Hon. Chile Igbawua: It is Order VIII, Rule 3(6), at page 26 of our Standing Orders. It reads: *The House will not receive any petition on any matter for which there is a judicial remedy.*

I have listened to some of the Petitions we have taken in this House and they are matters violating the fundamental human rights of persons. Like the one just submitted, it is a matter violating the rights of fair hearing which is covered in the Constitution and it is justiceable in the courts in Nigeria. There is no evidence that these matters have been taken to court.

If the intention of Order VIII, Rule 3(6) was to ensure that the Court is allowed to do its job while the House proceeds with the business of legislation, then we should be careful to consider those matters for which judicial remedy duly sought has neither been denied nor delayed.

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The Speaker: I think this is quite clear. The matter should be referred to the House Committee on Public Petitions.

Appeal against Unjustifiable Dismissal from the Nigerian Customs Service

Hon. Kayode Amusan (Abeokuta North/Obafemi Owode/Odeda): Mr. Speaker, I have this Petition from one of my constituents, Mrs. Agboolade, who claimed to have been unjustifiably dismissed from the Nigerian Customs Service where she has served for many years. She further claimed that all attempts to get her reinstated proved abortive. However, she recognises that the National Assembly is the Masses' Court where justice is delivered without favour and without payment to any Legal Aid. She is, therefore, asking and praying that this House should look into her case in order to obtain justice so that she can be reinstated into the services of the Nigerian Customs Service.

This House remains the last hope of the hopeless and I will appreciate a due consideration of this Petition with a view to upholding the rule of law.

May I, please, lay the petition, Sir.

(Petition laid)

Appeal against Denial of Rights to a University LL.B Degree

Hon. Ishiyaku Joshua Shara (Askira-Uba/Hawul): Mr. Speaker, this Petition is from Mr. David Daniel who was a 400 level student, Faculty of Law, Ahmadu Bello University, Zaria. He is appealing that we should intervene because he was denied his right to his Bachelor of Law (LL.B) degree certificate. His complaint is very clear in this petition and all the necessary attachments are here.

May I present before this House the copy of this Petition for it to be addressed properly.

(Petition laid)

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Unlawful discharge of Fire-Arm by a Police Officer: Appeal for Compensation

Hon. Gbenga Elegbeleye (Akoko North/West): Mr. Speaker, this Petition is from one of my constituents, Mrs. Bosede Ehinto. She is a trader by profession. According to her, on the 5th of November, 2005, while going from Lagos to Ikare in Ondo State, she was in a commercial bus and a policeman stopped the bus driver and asked for ₦20, which the driver refused. In annoyance, the Constable shot into the bus and the bullet hit her on the right leg. Ever since, she has not been compensated by the Police, except that one Constable Abu came to meet her in the hospital and gave her only ₦5,000. The DPO also came there and promised that the Police authorities would take care of her case and pay the medical bills. Up till now, nothing has been done as the DPO and the Police Constable in question have been transferred.

She is praying this House to intervene to compel the Police authorities to please look into her case by paying her medical bills and give her a form of compensation since she is still alive.

Mr. Speaker, with your permission, I would like to drop the Petition on the Table.

(Petition laid)

Appeal against Unlawful Dismissal

Hon. Busayo Oluwole Oke (Obokun/Oriade): Mr. Speaker, I have a Petition from one of my constituents, Mr. Owawe Sunday Babatunde. He worked with the Council of Legal Education, Nigerian Law School, Bwari. In his Petition, he claimed that he was unjustifiably sacked from his place of work and he is seeking the intervention of this House so that he can get justice. With your kind permission, may I present this Petition.

(Petition laid)

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Wrongful Dismissal from the Nigerian Air Force

Hon. Moruf Akindelu Fatai (Oshodi/Isolo I): Mr, Speaker, I received a Petition from one of my constituents, former Lance Corporal Famolayo Tolulope Muyideen who was dismissed without fair trial from the Nigerian Air Force and also detained at the Provost Guard Room of the Air Force Base, Ikeja, from the 16th to 23rd October, 2003. Mr. Famolayo, who was of the 407 Equipment Supply Depot, Ikeja, was tried and wrongfully dismissed from Service by Wing Commander, now Group Captain A. B. Akanbi, on the 16th of October, 2003 as a result of personal disagreement with one Mr. Suleiman Salami, who he claimed was unwilling to pay the balance of an handset he sold to him.

Mr. Famolayo believes that his case was handled badly because Mr. Suleiman Salami is a personal staff of Group Captain Akanbi, who was the sole judge on the matter as no other person served in the Panel.

Former Lance Corporal Famolayo is now calling on this honourable House to intervene in the matter in order to reject the injustice by asking the Nigerian Air Force to re-do a trial and if found innocent, absorb him back into the Air Force as well as pay his salary and all the entitlements from October 2003 till date.

I so submit.

(Petition laid)

Unjustifiable Retirement from the Nigerian Air Force

Hon. Mohammad Saleh (Sabon Gari): Mr. Speaker, Sir, this Petition is from one Wing Commander Yusuf Garuba Mshelia who was a very Senior Air Force Officer. He was just commissioned and immediately after that he was untimely retired without any justification whatsoever. This made it necessary for him, earlier on, to send a Petition directly to our Hon. Speaker. In response to that, this honourable House re-directed him to send the Petition through his elected representative, which he has done. I have gone through the Petition and I believe that he has a very strong case.

With the kind permission of Mr. Speaker, I want to present the Petition.

(Petition laid)

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

(Petitions accordingly referred to the Committee on Public Petitions)

MESSAGES

Message to the Senate of the Federal Republic of Nigeria

The Speaker: Hon. Members, following the election of the Speaker and Deputy Speaker at the sitting of the House on Thursday, the 1st of November, 2007, I hereby order as follows:

That a message be conveyed to the Senate of the Federal Republic of Nigeria, informing that Body that Hon. Dimeji Bankole, representing Abeokuta South Federal Constituency in Ogun State, has been elected the Speaker of the House of Representatives, in accordance with Order II, Rule 8 of the Standing Orders of the House of Representatives.

That a message be conveyed to the Senate of the Federal Republic of Nigeria informing that Body that Hon. Usman Bayero, representing Dukku/Nafada Federal Constituency in Gombe State, has been elected the Deputy Speaker of the House of Representatives, in accordance with Order II, Rule 8 of the Standing Orders of the House of Representatives.

Message to the President, Commander-in-Chief of the Armed forces of the Federal Republic of Nigeria

That the Clerk to the National Assembly do notify the President, Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria, that Hon. Dimeji Bankole, representing Abeokuta South Federal Constituency in Ogun State, has been elected Speaker of the House of Representatives, in accordance with Order II, Rule 8 of the Standing Orders of the House of Representatives.

That the Clerk to the National Assembly do notify the President, Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria, that Hon. Usman Bayero, representing Dukku/ Nafada Federal

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Constituency of Gombe State, has been elected the Deputy Speaker of the House of Representatives, in accordance with Order II, Rule 8 of the Standing Orders of the House of Representatives.

I so order.

ORDERS OF THE DAY

MOTIONS

Joint Sitting of the National Assembly

The Speaker: The First Order of the Day is a Motion on the Joint Sitting of the National Assembly, standing in the name of the Deputy Speaker, to enable the House to sit jointly with the Senate to receive an Address by the President of the Federal Republic of Nigeria, on the 2008 Budget.

I, therefore, call on the Deputy Speaker to move the Motion.

Hon. Usman Bayero (Dukku/Nafada): Mr. Speaker, may I move that this House do meet with the Senate in a Joint Session on Thursday, 8th November, 2007 at 12.00 noon to receive an Address by the President, Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria, on the 2008 Budget.

I so move.

The Speaker: Is there any Seconder?

Hon. Ogbuefi Ora Ozomgbachi (Ezeagu/Udi): The Rt. Hon. Speaker, hon. Colleagues, with the indulgence of the Speaker and the leave of the House, may I second the Motion, as moved by the Rt. Hon. Deputy Speaker.

Question put and agreed to.

Resolved: That this House do meet with the Senate in a Joint Session on Thursday, 8th November, 2007, at 12.00 noon, to receive an Address by the President, Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria on the 2008 Budget.

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PRIVILEGES

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

The Speaker: Order what?

Hon. Olufemi Gbajabiamila: It is Order V, Rule 1(a), at page 11. It says as follows:

Privileges are the rights enjoyed by the House collectively and by the members of the House individually conferred by the Legislative House (Powers and Privileges) Act, 1990 and other statutes, practices, precedents, usages and customs.

Hon. Speaker, hon. Colleagues, I chose this time before we move on to raise this matter. I would like to join this particular Rule and read it together with Order IV, Rule 2(2), (4) and (5) as well as the Constitution of the Federal Republic of Nigeria.

Order IV, Rule 2(4) says that the House shall sit on Mondays, Tuesdays Wednesdays and Thursdays. Sub Rule (5) says: *On Fridays, the House shall meet at 9.00 a.m. and if not previously adjourned, shall sit until noon.*

Section 63 of the Constitution of the Federal Republic of Nigeria says:

The Senate and the House of Representatives shall each sit for a period of not less than 181 days in a year.

I have it on record that I brought this matter up sometime ago.

In moving this House forward, it is important that we start on a sound legal and constitutional footing. We were, unfortunately, not able to address the issue frontally at the time I brought it up on the Floor of this House. As it is today, we have sat for 33 days. It is absolutely almost impossible if we continue to sit on Tuesdays, Wednesdays and Thursdays for us to meet the constitutional requirement of 181 days.

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We are aware that we have a Judiciary at this time that is very active and alive to its responsibilities. The Judiciary is moving and prodding around looking for wherever there are infractions of the law and we must pre-empt this. We cannot rule out the possibility of any one who will rightly so have the locus to sue this House or sue any of the Members for not meeting the constitutional requirements.

We are in deficit of 150 days or thereabout; we cannot afford to side step this particular issue. Some may argue that the sitting includes oversight functions and Committees. It is better to err on the side of caution because we do not know what the outcome of this is going to be. The answer is very simple.

We are beginning to forge a new way forward. Our House Rules actually require that we sit on Mondays and Fridays. So, all I am asking for, so as to pre-empt this possibility of a legal quagmire, is that we begin to sit on Mondays and Fridays which would give us the additional days necessary (*Interruptions*). It is easy at this point for some Members to frown at the prospect of sitting on Mondays and Fridays. But, quite honestly, it is a constitutional requirement; it is not in our hands. It is not negotiable and there is nothing we can do about it. It is a constitutional requirement.

I so move. Thank you.

The Speaker: Please, I think we should get the Chairman of Rules and Business to make a comment on this issue.

Hon. Ita Solomon James Enang (Itu/Ibiono Ibom): Thank you, hon. Speaker and my Colleagues. Hon. Members. I would first refer to the top left hand corner of the Order Paper. It says: number 55. We have sat for 55 days as at today, and Mondays are sitting days of the House. The different Committees of the House meet and that is counted as sitting days. On Fridays, the various Committees of the House meet from 9.00 a.m. in Committees until about 1.00 p.m. when meetings are suspended to enable our Muslim Brothers go to the Mosque. So, as at today, we have sat for 55 days. So, we do not have any deficit.

With respect to my Brother, Hon. Femi Gbajabiamila, when he raised this matter yesterday, we discussed and we agreed that we are going to discuss more so that we would acquaint him of the number of days we have actually sat and the plans that are made

for us to accelerate the sittings of the House. But as it is, we are not likely to run into any constitutional crisis.

I so submit.

The Speaker: Hon. Members, I think we can provide a very easy solution to this.

Hon. Ita Enang, could you, please, acquaint Hon. Femi Gbajabiamila with these point and facts that you have, and then we can move on from there.

Designation of the House of Chief B. O. Atuchukwu at Amichi, Nnewi South Local Government Area, Anambra State, as a National Monument

The Speaker: The Second Order of the Day is a Motion on the Designation of the House of Chief B. O. Atuchukwu at Amichi, Nnewi South Local Government Area, Anambra State, as a National Monument. The Motion is standing in the name of Hon. C. I. D. Maduabum.

Hon. C. I. D. Maduabum is invited to move the Motion.

Hon. C. I. D. Maduabum (Nnewi North/South/Ekwusigo): Mr. Speaker, may I respectfully move that this House do designate the House of Chief B. O. Atuchukwu at Amichi, Nnewi South Local Government Area of Anambra State, as a National Monument.

The House:

Notes, that the Nigerian-Biafran War technically ended on January 13, 1970 at Chief Benjamin Obijiofor Atuchukwu's House at Amichi, Nnewi South Local Government Area of Anambra State (hereinafter called *THE BUILDING*);

Further notes, that the President of the Federal Republic of Nigeria on January 13, 2006 unveiled a PLAQUE at the Building to commemorate the event where the then Col. Olusegun Obasanjo received the Biafran instrument of surrender from Col. Effiong;

Observes, that The Building hosted the ceremonies marking the cessation of hostilities between the Nigerian Federal Troops and the defunct Biafran troops

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which was attained through a negotiated Agreement that took place in "The Building" in Amichi town, Nnewi South Local Government Area, Anambra State on January 13, 1970;

Further observes, that the President, Commander-in-Chief of the Nigerian Armed Forces visited 'The Building' on 7th January, 2006, and expressed the intention of the Federal Government of Nigeria to declare "The Building" a National Monument, and a National Centre for Peace and Conflict Resolution in view of the historic national importance and national significance of "The Building" as the place where cessation of hostilities and ceasefire between the Nigerian Federal Troops and the defunct Biafran Government took place;

Further notes, that the Government of Anambra State on 13th January, 2006 consented to the designation of *the Building* as a National Monument and a National Centre for Peace and Conflict Resolution by, among other acts, unveiling the plaque aforesaid on behalf of the President of the Federal Republic of Nigeria;

Accordingly resolves as follows:

(i) That as from the 13th day of January, 2006, the building known as Chief Benjamin Obijiofor Atuchukwu's House situated and being at Amichi Town in Nnewi South Local Government Area, Anambra State, shall be a National Monument and a National Centre for Peace and Conflict Resolution in view of the role of the building in hosting the meetings, negotiations and ceremonies on the cessation of Hostilities between the Nigerian Federal Troops and the Defunct Biafran Troops on 13th January, 1970;

(ii) That having been so designated a National Monument, the Federal Government of Nigeria, through the National Commission for Museums and Monuments, shall take over *the building*, pay adequate compensation to the OWNER, develop it, and allow the public access to the building;

(iii) That a National Centre for Peace and Conflict Resolution shall be established by the Federal Government at the site of the building - and at other places to be determined by the Federal Government to enable the centre

function more effectively as a research institute.

I so move, Mr. Speaker.

The Speaker: Is there any Seconder?

Hon. Stanley O. Ohajuruka (Umuahia North/South Ikwunano): Mr. Speaker, may I most humbly second the Motion, as moved by Hon. C. I. D. Maduabum.

The Speaker: Hon. C. I. D. Maduabum, you may lead the debate now.

Hon. C. I. D. Maduabum: Mr. Speaker, this Motion is brought pursuant to various Sections of the 1999 Constitution, specifically, the Second Schedule, Part I, which shows the Legislative Powers of the National Assembly. It states the Exclusive Legislative List and if you go to item 60 of the Exclusive Legislative List, which with your kind permission, I will read, it says that the National Assembly has the Exclusive Legislative authority to do the following:

60. The establishment and regulation of authorities for the Federation or any part thereof -

(b) to identify, collect, preserve or generally look after ancient and historical monuments and records and archaeological sites and remains declared by the National Assembly to be of national significance or national importance.

What this means is that the National Assembly has the authority to establish authorities for the Federation to look after ancient and historical monuments and records. Pursuant to this section, the National Commission for Museums and Monuments was set up. But this organisation can act only in respect of monument areas declared, according to the Constitution, by the National Assembly to be of national significance or national importance. The power to do the declaration of a place as a national monument resides with the National Assembly. He has not donated this one out and he cannot so do by virtue of the Constitution. That is why this Motion is asking the National Assembly to so declare this building as a building of national significance and of national importance.

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If you go further to the Concurrent Legislative List, Part B, item 3 there is titled: *Antiquities and Monuments*. If I could have your further indulgence, because it is relevant to our discussion, it says:

The National Assembly may make laws for the Federation or any part thereof with respect to such antiquities and monuments as may, with the consent of the State in which such antiquities and monuments are located, be designated by the National Assembly as National Antiquities or National Monuments but nothing in this paragraph shall preclude a House of the Assembly from making laws for the State or any part thereof with respect to antiquities and monuments not so designated in accordance with the foregoing provision.

I have demonstrated by this Motion and I have letters to also show that the State Government has so consented to the quest to designate this building as a national monument. In fact, the plaque which was unveiled in January 2006 was done by the then Governor of the State.

The question to ask, therefore, is: why this route of a Motion instead of a Bill? For that, I would find refuge in the Second Schedule, too, Part III, item No 1. With your kind permission, I will read further again and it says:

Where by this Schedule the National Assembly is required to designate any matter or thing or to make any declaration, it may do so either by an Act of the National Assembly or by a resolution passed by both Houses of the National Assembly.

That is what the Constitution says. I have, therefore, chosen to come through the route of a Resolution of the National Assembly. Indeed, it is a binding Resolution; it is a law-making Resolution; it is not a Resolution that can be ignored. We are making law by passing the Resolution. It would only need the concurrence of the Senate and it becomes law. It would not require the assent of the President by virtue of the provision. This is because we can do this designation by an Act of the National Assembly or by a Resolution. An Act of the National Assembly necessarily means that the President must sign it before it becomes law. But by the Resolution of the National Assembly, it only requires the concurrence of the Senate for this declaration to become law.

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Therefore, I am, respectfully, inviting my Colleagues to make this declaration. It has already been done by the former President by making the announcements, but we are in a regime of laws; the current Administration places a premium on the rule of law and constitutionality. Therefore, in order to assist the process of following due process and for the National Assembly to begin to assert the powers so generously donated to her in the Constitution, I have come here today to ask our Colleagues to please exercise the powers directly given to us by the Constitution and designate this building a National Monument which clearly, I think, is of historical and national importance.

I so submit.

Hon. Dave Salako (Remo): Mr. Speaker, we have listened to the beautiful presentation by our Colleague, Hon. C. I. D. Maduabum, and there is no doubt that he has done his homework very well. You will all agree with me that he has cited several reasons why his Motion should fly and why it is not coming by the way of a Bill. If you look at his presentation, to my mind, I think we do not need to belabour this issue. The building, as being tagged in this Motion, is very significant.

We all agree that the Nigerian Civil War devastated a lot of things in this country and it was in this very house that peace was negotiated by the then Colonel Effiong and, of course, as he then was, Colonel Olusegun Obasanjo.

In 2006, we were told that this same Colonel Olusegun Obasanjo, now General and, of course, the former President of Nigeria, raised an intention that this house be made a monumental building. Also, the Anambra State Government has equally consented.

I think we do not have anything to do than to support this Motion. In asserting our Resolution in this House, it is just good that I should call on all our Colleagues to please support this Motion so that this house can become a monumental building.

The Speaker: Hon. Igo Aguma, you have the Floor, please.

Hon. Igo Aguma (Port Harcourt I): Mr. Speaker, I believe that in creating history as a House of Representatives of the National Assembly, we should, indeed, be presented with the facts. I believe that in

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passing a Resolution like this, we have to do it with some form of in-depth knowledge so that we do not do things that will tomorrow become a subject of criticism in the eyes of the public. This is because the knowledge about the Biafran War, surrender or whatever, are well documented and I thought that my Colleague would come here with additional documentary evidence that would enable post-war children like us to take decisions.

Secondly, I also believe that if this monument, as he wants it to be designated, is of utmost importance in the scheme of things, the Executive arm, having fired the first salvo by a plaque being unveiled, could have used the necessary machinery to present these things before us on the Floor of the House. When you say that this is a monument, it carries with it budgetary obligations; it becomes part of our budget because it must be maintained.

We have not seen precedence where a mere Resolution of the House had been adapted into the Nigerian Budget before, except we want to try it out for the first time. A law is a law; if we want to proclaim this as a national monument, it should either come by a Private Member's Bill or it should come as an Executive Bill.

So, I think there is some form of short-circuiting here (*Interruptions*)

Hon. Dino Melaye (Kabba/Bunu/Ijumu): Point of Order!

The Speaker: Hon. Dino Melaye, which Order?

Hon. Dino Melaye: It is Order IX, Rule 3(2)(a) at page 34 and with your permission, I read: It says:

During the debates on all motions, the Speaker shall allow speeches for the merits and demerits of the motion.

Mr. Speaker, we are still taking merits; you have not given directives for demerits. That is my point of Order.

The Speaker: That is all right; it is noted. Hon. Aguma, you may continue, please.

Hon. Aguma: Mr. Speaker, I want to say emphatically that what is worth doing is worth doing well. Let us not be seen as toothless bulldogs. If we see this as a national monument and we have historical fact to prove that it is a national monument, my Colleague can bring it as a Private Member's Bill, and we will push it forward and then it would get the normal assent; or the Executive arm can present it if they consider it necessary. I am saying this because of the cost implication attached to declaring such a building a national monument.

I rest my case.

The Speaker: Hon. Sokonte, you have the Floor, please.

Hon. Sokonte D. Davies (Degema/Bonny): Mr. Speaker, I really want to use this opportunity to commend the Mover of this Motion, the reason being that in life, we learn so much from history and if a people's history is not well documented, they leave coming generations with little to learn from.

The Nigerian Civil War is a major land mark in our political development and a building such as this, that played a significant role in the process of cessation of hostilities and actually caused hostilities to stop, should not be taken for granted and should not be looked at lightly.

Some of our problems in this country are that we have forgotten to diversify our revenue base. In other countries, places like this are intensive revenue generation points, too, apart from their significant historical purposes. I, therefore, believe that if this building is so designated, as being suggested, it is not only going to help us to study how to live among ourselves as a people, but it is also going to tell people that we value objects which define our nationality.

Therefore, I want to align myself with the Mover of this Motion that this building be so designated and be given a paramount place. And like you said, it should be made an Institute for Study of Conflict Resolution. In fact, some of the reasons why we have conflicts even in the Niger Delta are because our understanding of conflict resolution is always alien. We have not developed some of the local contents. I think this is a question of local content that if we have

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such an Institute which would be well funded, we shall have a lot of manpower which will help us to move our nation forward.

I think this Motion is appropriate and it should be passed.

Hon. Agoro Lanre Adeniran (Irepo/Orelope/Olorunsogo): In aligning myself with the Motion, I totally submit to the constitutional provisions cited by Hon. C. I. D. Maduabum. Also, I want to say that I am fired by the spirit of nationalism which I believe Members also have. Most importantly, this very Motion is coming at a time when I am a Member of the Federal House of Representatives of the National Assembly, and I believe that it is worth supporting. I do not want to go into the legality of it because it has been properly taken care of by the Mover of the Motion.

However, I would like to say that historically, a nation or an individual that does not have history is bound to go into perdition or extinction. The most important thing is that Nigeria fought a civil war that came to an end in 1970. America also fought a civil war and have all their monuments preserved, which lay credence to the fact that they had history which they maintained. I do not know why we should not have history in Nigeria. Such monuments should be preserved to tell us that we also, as a nation, are coming from some place and we are going somewhere. Where we are coming from stems from the fact and from the point of view that we had Amalgamation in 1914 and the nation fought a civil war that came to an end in 1970.

Those monuments - and there are still more to be identified - must be preserved for a purpose, not for us, even though Mr. Speaker was born in 1970 when the civil war came to an end. They should be preserved for our children who would come after us. It is not enough to have records, but to have them properly kept in such a way that all records relating to the war in Nigeria must be found and be made accessible to whoever intends to write or tell stories about the civil war.

There is also a Commission on National Monuments and Museums. All we need do is ask the Commission to take over the building while proper funding would be properly done.

I so submit.

Hon. Mayor Chukwudi Eze (Orlu/Orsu/Oru East): Mr. Speaker, in supporting this Motion, I want to bring to the notice of my Colleagues that no nation on earth has survived two civil wars. The lessons of the Nigerian civil war have played a role in stabilising the polity in Nigeria. This is because whenever people remember the catastrophic effect of the war, we resolve to throw blows instead of throwing bombs.

We are talking about nation-building. The problems of third world countries, unfortunately, are still about infrastructural development. The way we live together as Nigerians and the way we talk as Nigerians means without doubt that Nigerians still want to live peacefully together. The building, when it is so designated, will, no doubt, act as a reminder that there are no more wars in Nigeria so that generations unborn, those who did not witness the civil war, whenever they go there, would be reminded of what happened.

Prayer (iii) says as follows:

That a National Centre for Peace and Conflict Resolution shall be established by the Federal Government at the site of the building and at other places to be determined by the Federal Government to enable the Centre function more effectively as a Research Institute.

Hon. Speaker, Sir, we know that when it functions as a Research Institute, it will no doubt highlight the effects of war, that no nation can continue to fight war and make progress and that is why the dictum: *the belief in Nigeria presently is that every effort is hinged on nation building.*

I so submit.

Hon. Raphael Okeke (Anambra East/West): Mr. Speaker, the subject matter here is peace - declaring a house *National Monument for Peace*. It speaks for itself, and it falls within our jurisdiction to do it. The Constitution has stated that you either do it by an Act or by a Resolution of the House. Without history, there would be no nation. The Biafran/Nigerian civil war was a very big event in this country. This Motion is well thought of and I would like to thank the Mover of the Motion. I want to urge hon. Colleagues to join me in making sure that the Motion sails through.

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Hon. Darlington Onuabuchi Okereke (Ivo/ Ohaozara/Onicha): Mr. Speaker, this Motion is an important one and I call on my fellow Colleagues to support it. It is, indeed, important because we have a history in this country which has to be documented and kept as a monument. We have a history of a civil war and the end to it. The beginning of the civil war in Nigeria was a mistake that was made and the end of it marked the correction of that mistake. It is monumental that we had an end to that civil war. It is monumental in the sense that it has brought peace and unity to this country; it is also monumental in the sense that today we live together as one people, one great nation. It is monumental in the sense that the end of this civil war has brought about progress, development and the making of a great nation - Nigeria - because we tend to use it to correct our mistakes and to grow.

It is, indeed, this that prompts me to really support this Motion, that we have a national monument in honour of the house where cessation of hostilities and ceasefire between the Nigerian Federal Troops and the defunct Biafran Government took place.

It is based on this premise that I call on our fellow Members to support this Motion because it is a Motion that is well thought out; it is a Motion that is indeed worth supporting.

The Speaker: Hon. Members, at this point, six Members have spoken for and one against. So, I would like to encourage anyone who wants to speak against so that we can make up the numbers.

Hon. Labaran Y. Dambatta (Dambatta/Makoda): Hon. Speaker, mine actually has to do with the fact that there is a Commission for National Museums and Monuments. I think it is appropriate for that body to take up the challenge and bring it by way of a Bill to this honourable House.

A lot of funding is required. For instance, we have to determine the cost of taking over that house because certainly there should be finances attached to that. In so doing, I think we should have the basic facts at our disposal before we could take any decision on this Floor.

I submit that the National Commission for Museums and Monuments should look at the possibility of sending in a Bill or even a private Bill to the House so that, at least, all the associated costs will

be clearly enunciated. This will enable us know what we are talking about in terms of money. There must be other ways of funding it because having taken it over, it means there would have to be some staff to manage that building and this has a budget item.

I think the appropriate thing is for the National Commission for Museums and Monuments to take it over.

I so submit.

Hon. Chinyere Emmanuel Igwe (Port Harcourt II): Mr. Speaker, the protagonist of this Motion has done a wonderful job, a well articulated argument to recognise contribution to nation building.

With all intent and purposes, I want to say that my Colleague, Hon. Maduabum, should have gone through the due process of the law. He has quoted the relevant Section of our Constitution which is the statute that guides all our proceedings.

At the Second Schedule, Part II, Sub-section B, where we have *antiquities and monuments*, the law clearly spelt it out. If you go further down to Second Schedule, Part III - *Supplemental and Interpretation* - sub-Section (2) clearly notes issues under which we can use a Motion.

Mr. Speaker, by your permission, may I read. It says:

In this Schedule reference to incidental and supplementary matters include, without prejudice to their generality, references to -

(a) *offences,*

(b) *the jurisdiction, powers, practice, procedures of courts of law; and*

(c) *the acquisition and tenure of land.*

You will agree with me that the Constitution clearly spelt out those areas or issues under which you can come by way of Motion. You will further agree with me that the issue under discussion is an institute, and we must take into consideration the amount of money that the government will expend in establishing it, the manpower resources and all what not.

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I am sure that this House will remember the efficacy of a Motion and the efficacy of a law. If you go by way of a Motion I am sure that we will, at the end of the day, not achieve the desired purpose because it will be left at the discretion of the Executive arm of government to either implement or not. But if we pass a law and our Colleagues at the other Chamber see the rational behind the law they will support us and I am sure the President will have no other choice than to accept it and give its due implementation.

I, therefore, urge this honourable House to direct our Member to go back and do a proper work, which I think he has done, by presenting this issue as a Bill.

Hon. Friday Itulah (Esan North East/South West): Mr. Speaker, as the saying goes, *a good wine needs no bush*.

If you look at this Motion critically from the very designation and all the arguments in support of it, I dare say that it is a very perfect work. A lot of research work has gone into it and the Mover has given us the chronological order in such a sequence that nobody can fault.

He has said that this building should be designated a national monument and he has given all the back ups necessary for this to be done. There can be no doubt that it is going to be very difficult to fault this Motion.

Now, we do know that the civil war that Nigeria had between 1967 and 1970 was a very sad chapter in the history of this country. I would say that even those that did not witness the war would want to know what actually happened in order that a repetition might not be made. So, somebody has thought very seriously about having a monument, a centre where we would be able to hear the history as to what happened and what led to cessation of the war. I believe that that is in order.

My only point of departure is in prayer (iii) and that is the reason I am speaking at this time. It says:

That a National Centre for Peace and Conflict Resolution shall be established by the Federal Government at the site of the building and at other places to be determined by the Federal Government to enable the centre function more effectively as a research institute.

The prime Mover has moved from the issue of designation of the building as a national monument to bringing in a research institute. I want to say that this last prayer has nothing to do with the prayers that he has sought in prayers (i) and (ii). So if we leave out prayer (iii), which was not supported by all the arguments in the Motion, all of us, without hesitation, should support this Motion.

I would like to end my submission by referring us once again to a notable quotation of Booker T. Washington that he rendered in Atlanta in 1895 in which he said:

In all things that are social, we can be separate as the fingers; yet as one like the hand in all things essential to mutual progress.

This is one Motion that if passed by all of us we would be supporting mutual progress because the civil war that happened in Nigeria is the one that we would not want to go back to, save for prayer (iii) which I pray the House to delete as we put the Question on the various preambles and prayers.

Thank you.

Hon. Bala Ibn Na'Allah (Zuru/Wasagu/Sakaba/Fakai): Mr. Speaker, I have a point of Order.

The Speaker: Which Order?

Hon. Bala Na'Allah: It is a constitutional Order.

The Speaker: Please, go ahead.

Hon. Bala Na'Allah: I think it is important to put this matter clearly. With your permission, I would like to read item 60(b) of the Exclusive Legislative List. It says: *To identify ...* It is very difficult for you to make a law that will anticipate identification of something. So, the word *identify* here refers to the action of the Parliament in identifying something. It further says:

...collect, preserve or generally look after ancient and historical monuments and records and archaeological sites and remains declared by the National Assembly to be of national significance or national importance.

The issue here is whether a building where the peace of this nation was achieved by way of signing

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the necessary documents can conveniently be described as *of national significance or national importance*. Procedurally, if you look at item No. 3(B) of the Concurrent Legislative List under *antiquities and monuments*, it says:

The National Assembly may make laws for the Federation or any part thereof with respect to such antiquities and monuments as may, with the consent of the State in which such antiquities and monuments are located, be designated by the National Assembly as National Antiquities or National Monuments...

This Motion is clear and straightforward. In fact, the Mover of the Motion is even helping this House by going out of his way to identify what can conveniently be described as *national importance* and calling on us to exercise these powers, as conferred on us under Item 60(b) of the Exclusive Legislative List of the 1999 Constitution. It is as simple as that. The procedure adopted has been encouraging. If you read Item 60(b) further, it says:

...but nothing shall preclude a House of Assembly from making laws for the State or any part thereof with respect to antiquities and monuments not so designated in accordance with the foregoing provisions.

Part III (1) of the Second Schedule under *Supplemental and Interpretation* gives the procedural way in which it can be done. May I have your permission to read it so that we can put this matter to rest? It says:

Where by this Schedule the National Assembly is required to designate any matter or thing or to make any declaration, it may do so either by an Act of the National Assembly or by a resolution passed by both Houses of the National Assembly.

It gave these two options. What the Mover of the Motion is seeking is a Resolution of this House to identify the place and name it as a monument of national importance or national significance. I am in difficulty to appreciate whether there is any problem in respect of this Motion. May I respectfully call on my Colleagues to support the Motion.

The Speaker: Hon. Colleagues, Hon. Na'Allah has taken this to a legal level. Can I please appeal to

you that we allow a lawyer-Colleague to respond to what he has just said.

Hon. Agoro Lanre Adeniran (Ogbomoso North/South/Orire): Mr. Speaker, when I was making my contribution, I did say that the legality of it all has been done by the Mover of the Motion. I want to align myself with the Mover of the Motion and the light shed by Hon. Ibn Na'Allah that we have to identify first. The Exclusive Legislative List is so clear about it. We do not have to doubt the authority of the National Assembly to identify this. Most particularly, this object has been identified and the next arm is to preserve for the purpose of history.

I want to emphasise and re-emphasise it again that it is *to preserve for the purpose of history*. The stage at which we are is preservation of that particular monument that has been identified. It is important that we also look at the Concurrent Legislative List. The State in which this particular monument is sited has consented. We do not have to seek any written consent from that particular State again.

Be that as it may, during the Military era, it was shown by what we have heard and read that the nation as a whole has also consented to using that particular place as a national monument. What we want to do now is to give it a force of law. We can only do this by the power conferred on us in Part III of the Second Schedule of the 1999 Constitution. This says that we can only make such declaration via an Act of the National Assembly or a Resolution passed by both Houses of the National Assembly. Perhaps, if we have to go further, we have three types of Resolutions. One is persuasive. The other one of the two is the one we are going into.

I am particularly delighted that we are giving it a force of law. We must test all provisions of our law. There has been clamour for constitutional alterations. Part III of the Second Schedule of our law states that we can use either an Act of the National Assembly or Resolutions by both Houses of the National Assembly to pass this Motion. Let us test it. The problem that people seem to have is for the Resolution to be effective. It can only be effective if we put the item of that particular Schedule into law; that is, the Resolution of the House of Representatives and that of the Senate.

Now that we are about to pass it, and I know it will succeed, let us send our resolution to the Senate and

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see what they will do with it. By the time we have that aspect of law, then we will see how it works.

The Speaker: Hon. Members, with all due respect to the legal profession, this has been brought to the Floor of the House and we will decide it as you have said. I am with you; so, let us go ahead with the debates.

Hon. David Onobi Idoko (Ado/Ogbadibo/Okpokwu): Point of Order!

The Speaker: Order what, Hon. Idoko?

Hon. David Idoko: I will rely on Order XII, Rule 1(3). It says:

On the introduction of a bill, a compendium of background information and financial implication of such bills if passed into law shall be delivered to all members.

Let us go back to the second Resolution. It says:
... take over the building, pay adequate compensation to the owner.

The third prayer says, among other things, that an Institute will emerge. I believe that if we want to pass a law or a Resolution that will carry the force that is required, we should pass a Resolution that is enforceable. If you pass this Resolution, you cannot enforce it because you cannot have appropriation that would back it. If you cannot appropriate by Resolution, then we can go ahead. But I must also caution that if you look at the wordings, as put in the Constitution, it says it has to be by an Act or a resolution passed by the two Houses of the National Assembly

You will recall that a Resolution passed by the two Houses can come as an Act. I submit, too, that because this Motion before us is of utmost importance and because it has its historical implication and is good for our generation and generations to come, I support it but the Mover of the Motion should be given the opportunity to fine tune it.

The Speaker: Hon. Idoko, you raised a point of Order, but you are now debating. Can we continue with the debate? We must allow others to contribute. With the record on my Table here, six Members have spoken in favour of the Motion while four have spoken

against it. Let us have two more and then we can put the Question.

Could we have Hon. Patrick Akhariale, please?

Hon. Patrick A. Akhariale (Esan Central/West/Igubeben): Mr. Speaker, there is no gainsaying that the Motion before us is one that will naturally generate a lot of concern, interests and, maybe, to some extent, sentiments. But without mincing words, I want to state categorically that the Mover of this Motion, no doubt, has done his best in the circumstance.

Along the line, he has taken us through the gamut of laws that is to assist this House in enabling this Motion to go by way of a Motion as it has come, and not necessarily by way of a Bill. But having said that, we cannot approve and at the same time reprobate.

It does appear to me that reference to Part III of the Second Schedule, which he referred us to, is being read disjunctively. And it is always dangerous to read laws, more particularly constitutional provisions, disjunctively and not read them in totality.

If you look at sub (2) of the Part III which he referred us to, the grounds or areas where the two Chambers of the National Assembly, that is, the House of Representatives and the Senate can make a declaratory law by allowing it to pass by a way of Motion is very clear and with your kind permission, I read:

2. In this Schedule, references to incidental and supplementary matters include, without prejudice to their generality, references to –

(a) offences;

(b) the jurisdiction, powers, practice and procedure of courts of law; and

(c) the acquisition and tenure of land.

Anything short of these three sub-heads will be dangerous and unconstitutional to assume that this Motion can pass and would get the effect of law that we desire to have here.

So, I want to align myself with the previous speakers against this Motion and say that the Mover of

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this Motion should please come to this honourable House by way of a Bill and not by way of a Motion that we are looking at this afternoon.

The Speaker: I will now call on Hon. Danlami who will also be the last speaker on this issue.

Hon. Danlami Hamza (Fagge): Mr. Speaker, ordinarily, anything that has to do with the Civil War is a fact of life to Nigerians. We fought the Civil War which ended successfully and peace agreement was signed, as enunciated by the Mover of this Motion.

Having said that, I also want to make it clear that there are countless monuments in memory of the Civil War. I have been to the Nigerian Museum and the Army Museum in Jos. There are even weapons such as the *Ogbunigwe* which was made by the Biafran side.

So, we are not in shortage of monuments in remembrance of that War. But that does not mean that we do not need additional ones. It is fine; we will support it. But the way this is going is not clear. Somebody even tried to rub up your soft side by saying that he wants you to put a constitutional provision to test.

I do not want us to make a mill out of this because the end of it all is that it is either we have passed a law or we have passed a Motion. And what is the effect of a Motion? Certainly, if you bring this by way of a law, you will receive an overwhelming support from Members of the House of Representatives. But if you bring this the way it is and we pass it and send it to the Executive, Mr. President could very politely throw it back to you and say: *Well, where is the money to do this?* Or better still, ignore it.

Therefore, my Hon. C. I. D. Maduabum, please step this down and bring it by way of a law and we will support you. (*Interruptions*)

The Speaker: Please, I will allow two more contributors - one for and one against.

Hon. Henry M. Shawulu (Jalingo/Yorro/Zing): Mr. Speaker, the Motion before us is a very sensitive one and I do not want to mince words in urging this honourable House to be cautious in taking decision on this issue.

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Prayer (ii) has something to do with compensation. In Prayer (i), the Mover of the Motion also made mention of the name of the person that owns the building. He has not made available to this honourable House whether or not the owner of the building has actually accepted to release this particular house to Nigeria in order to make it a National Monument.

Secondly, we are not actually in control of finances so as to know whether there is money voted for this or not. Originally, the Mover of the Motion also made it clear that it was actually suggested by the Executive that this particular building should be made a National Monument.

I would like to caution this House to ask the Mover of this Motion to go back to the person that actually suggested that that building should be a National Monument to come up with this issue as a Bill to this honourable House. This is because there are so many implications underneath. The last prayer there made a suggestion of bringing up an Institution, which was not supported at all in his argument.

Based on these, I am hereby moving against this particular Motion and asking the Mover of the Motion to go back and re-submit it as a Bill so that this House can consider it as an issue of National Monument, please.

The Speaker: All right, let us give Hon. C. I. D. Maduabum the opportunity to be the last speaker in support of his own Motion.

Hon. C. I. D. Maduabum: Mr. Speaker, I do not want us to trivialise the issues we are facing here. Some people are shocked that the Constitution says that we can make a binding resolution but, unfortunately, you cannot change the Constitution. It is there in black and white. You can, by a Resolution, supported by both Houses of the National Assembly, declare a particular place a National Monument. The Constitution is not ambiguous on the issue; it is only the National Assembly that can make a Declaration.

For your information, as we speak now, this place had already been declared by President Olusegun Obasanjo as a National Monument when he visited the place. But we are saying that this power which has been so exercised by the Executive belongs to this

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House. So, why are you afraid of exercising the powers given to you by the Constitution? Please, the law is not in dispute; once you pass the Resolution, the Constitution is clear.

An hon. Member made mention of irrelevant things like Part III, Section 2 of the Second Schedule of the 1999 Constitution. It says: *In this Schedule, reference to incidental and supplementary matters include, without prejudice to their generality, references to –*

(a) offences;

(b) the jurisdiction, powers, practice and procedure of courts of law; and

(c) the acquisition and tenure of land.

There is no issue of incidental or supplementary matters being mentioned here. If you look at the Exclusive Legislative list, item 68 says: *any matter incidental or supplementary to any matter mentioned elsewhere in this list...* (that is, list 1 to 67).

What it means is that it is for the Exclusive Legislative list which is mentioned from items 1 to 67; and item 68 says that anything mentioned here, if you want to prescribe offences for it, that is, *jurisdiction, powers et cetera*. The fact that anything as an item has been mentioned, the power to make provisions by the National Assembly for offences and others are supplementary and incidental; it has nothing to do with a declaration of a National Monument. It is so clear.

The issue is this: Do we consider the building as a national significance or importance? If we think that it is of national significance or importance, we have only one way to go: to so designate it. If we do not think so, we should say no. With due respect, that is the question before us.

The Speaker: Hon. Members, let me put the Question. The Question is on the designation of the House of Chief B. O. Atuchukwu at Amichi Nnewi South Local Government Area, Anambra State, as a National Monument.

Question put and agreed to.

Resolved:

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(i) That as from the 13th day of January, 2006, the building known as Chief Benjamin Obijiofor Atuchukwu's House situated and being at Amichi Town in Nnewi South Local Government Area, Anambra State, shall be a National Monument and a National Centre for Peace and Conflict Resolution in view of the role of the building in hosting the meetings, negotiations and ceremonies on the cessation of Hostilities between the Nigerian Federal Troops and the Defunct Biafran troops on 13th January, 1970;

(ii) That having been so designated as a National Monument, the Federal Government of Nigeria through the National Commission for Museums and Monuments shall take over the building, pay adequate compensation to the owner, develop it, and allow the public access to the building;

(iii) That a National Centre for Peace and Conflict Resolution shall be established by the Federal Government at the site of the building and at other places to be determined by the Federal Government to enable the centre function more effectively as a research institute.

BILLS

Value Added Tax Act, 1993 (Amendment) Bill, 2007

A Bill for an Act to Amend the Value Added Tax Act, 1993 and for Matters Connected Therewith, 2007 (HB 6) -

Order for Second Reading

The Speaker: The Third Order of the Day is commencement of debate on the General Principles of a Bill for an Act to Amend the Value Added Tax Act, 1993 and for Matters Connected Therewith, 2007.

I invite Hon. Shuaibu H. Abdullahi, to move that the Bill be read the Second Time.

Hon. Shuaibu H. Abdullahi (Awe/Doma/Keana): Hon. Speaker, I move that the Bill for an Act to Amend the Value Added Tax Act, 1993 and for Matters Connected Therewith, 2007 be read the Second Time.

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Hon. Ajatta Joseph (Oshodi Isolo II): Mr. Speaker, I would like to second the Motion moved by Hon. S. H. Abdullahi.

Question proposed.

The Speaker: Hon. Abdullahi, you may please lead the debate.

Hon. Shuaibu H. Abdullahi: Mr. Speaker, I want to begin by saying to the hon. Members that it is an Amendment to an existing Act which has already been gazetted and distributed to Members some time ago. I can assure Colleagues that you would be able to follow the debate.

It is simply a one-Clause Amendment to the existing Value Added Tax Act. What we have this afternoon is the Principal Act. We are to make reference to that Section, which is Section 38 and the proposed Amendment which, as I said, had earlier being gazetted.

By way of background, this honourable House would recall that the Executive Arm of Government had proposed in the 2007 Appropriation Bill, a doubling of the Value Added Tax rate from 5 per cent to 10 per cent. A similar attempt was made under the 2006 Appropriation Bill. Also, when the nine Tax Reform Bills were forwarded to this House for consideration in 2005, the Amendment in respect of VAT which the Executive had sought was to the effect that it should be raised from 5 per cent to 10 per cent.

All these three requests were, however, rejected by the National Assembly for lack of merit. However, what happened thereafter was that the Parliament kind of killed the snake but did not cut off the head. This is because it actually reared its ugly head recently.

The Executive did resurrect the issue when the Ministry of Finance announced an increase in the VAT from 5 per cent to 10 per cent effective from 23rd May, 2007. How were they able to do that? They were able to do so because of Section 38 of the Principal Act that empowered the Minister of Finance, by Order, to alter the rate of VAT and the Schedules to the Value Added Tax.

They said Section 38 allows the Minister to:

(i) Amend the rate of tax chargeable; and

(ii) Amend, vary or modify the list set out in the First Schedule to the Act.

Now, we must admit that this was a hang-over of the military rule. As we can see, VAT started in 1993. So, the military regime could delegate such powers to the Minister to administratively change the rate of VAT anytime it becomes necessary. That was why they attempted severally to do so even under this democratic dispensation, but the National Assembly, as I pointed out, had continued to reject the increase proposed on the VAT.

Now, we would record that towards the tail end of the last Administration, this increase in the rate of VAT was one of the reasons that led to the general strike that was called by the NLC and TUC. This continued until there was a change of government and the present Administration of President Musa Yar'Adua agreed to the demand by Labour to reverse the rate of VAT increase. However, for us to have a lasting solution to this problem, it becomes necessary that we look at this matter and treat it legally by way of amending the relevant legislation which is the VAT Act, 1993.

As Representatives of our constituencies and as a Parliament we cannot shy away from this responsibility which is bestowed on us by the Constitution.

Taxation and the Evolution of Parliament historically are closely linked. Nobody can argue that it is the powers of Parliament to levy taxes, impose taxes or change taxes anytime it becomes necessary. It is provided in Section 59 of our Constitution which deals with the mode of exercising Federal Legislative Power in relation to money Bills.

The Parliament exercises this power in two ways. It does so as stipulated in Section 59 (1)(a) by way of Appropriation, Supplementary Appropriation Bill, *et cetera* or like the revised Appropriation Act which we did recently.

The second aspect of exercising Legislative Power regarding money Bills can be found in Section 59 (1)(b) - *Imposition of or increase in any tax, duty or fee or any reduction, withdrawal, cancellation thereof.*

So, the Constitution is very clear on where the power resides as far as taxation is concerned. However, due to perhaps an oversight, the National Assembly, as I pointed out, when we were considering the Value

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Added Tax Amendment Act, 2007 earlier this year, did not amend that Section of the Value Added Tax law. It is this anomaly that is being corrected by this Amendment which I am here proposing.

The proposed Amendment is in conformity with similar Amendments that were effected by the House when we were handling the Company Income Tax, Petroleum Profit Tax and Personal Income Tax, but we did not do similar treatment to the Value Added Tax Act.

Even the Customs and Excise (Amendment) Bill recently passed by the House, which was sponsored by Hon. C.I.D. Maduabum, was in a similar vein. As I said also, it is in line with the basic tenets of democracy and in particular the adherence to the rule of law.

Therefore, the proposed Amendment is just one Clause. For those who do not have a copy it reads as follows, as we have it in the gazette:

The VAT Act, in this Act referred to as the Principal Act, is hereby amended as set out in this Act.

Section 38 of the Principal Act is amended by substituting the existing Section with the following:

The National Assembly may by resolution of each of the Houses of the National Assembly -

- (a) *Amend the rate of tax chargeable; and*
- (b) *Amend, vary or modify the list set out in the First Schedule to this Act.*

The schedule we are talking about is where goods and services that are exempted from VAT are listed or where goods that are zero-rated, as far as VAT is concerned, are also listed. So, it should be the power the National Assembly to amend that Schedule as well as approve what is the rate of tax that should be payable on VAT.

With the passage of this Amendment, the executive can no longer unilaterally vary the VAT rate. The approval or the consent of the Legislature has to be sought with convincing arguments as to the necessity

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for any proposed change. When it becomes inevitable to increase the VAT rate, our measures to ameliorate any hardships or negative effects would have to be worked out. It does not necessarily mean that the Legislature would always frustrate any tax measures brought before it. What is necessary is to have justification for any proposed change to give it legal backing.

In conclusion, I wish to urge hon. Colleagues to support this proposed Amendment as this will not only plug the loopholes, but it will be another step forward in restoring the dignity of the Parliament and in particular its authority and exclusive jurisdiction over tax legislation.

I thank you all.

Hon. David Onobi Idoko: Mr. Speaker, let me commend my Colleague, Hon. Shuaibu, for a brilliant exposition and compilation of a Bill to amend the VAT Act. I want to take us back to some time last year when we woke up and we were faced with the sudden increase in VAT rate and there were clearly discordant voices in all the phases of the society. The Labour rose against it, the House rose against it and people came here with Motions and Resolutions trying to fight those unholy increases.

I believe that what my Colleague seeks to cure is that aspect of introduction that does not seek input from the people and specifically from the Representatives of the people. My Colleague has also enumerated and clearly, too, that if this Amendment is appended to, we would have the privilege of being informed of why there is a need for an increase in VAT at any time there is that need and what would be done to ameliorate the disequilibrium that would be caused by such an increase.

I want to urge my Colleagues that this does not need very heavy debate because it is clear that there is the need for this House to seek and get that power so that we can jealously protect any unruly increase in the VAT issue at any time it comes.

I submit as such.

Hon. Ike Chinwo (Obio/Akpor): Just like the previous speaker has said, we commend Hon.

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Abdullahi for bringing this Amendment. This is because we are in democracy and if there is any power that this Parliament has, it is the power about money Bills. It is totally unacceptable for anybody to just wake up and increase taxation, no matter the form.

At the end of the last Administration, we saw how they increased VAT through the back door and we were in this country and saw the hues and cries from our people. Each time they increase these taxes, they give example: oh! Nigeria is the least among those that pay. In Ghana, it is 15 *per cent* and in Ivory Coast, it is 20 *per cent*. But the question they have not bothered to ask is: *in Ghana, do you suffer people to buy generator or fuel anyhow?* There is twenty-four hour power supply. People eke out their living and there are small scale industries here and there. People are not spending much in maintaining those facilities. But here, what is the situation? We see industries closing up everyday. What is the state of the textile industries today in Nigeria? It is almost zero. Of course, we all know that this is the type of industry that employs a huge number of people in this country. So, when they begin to make this justification for increases, they should realise that we are not yet there.

We as a Parliament should reserve the right at all times to know when, and if it is justifiable we would, of course, accede to it. After all, if we are talking about development and taxation is a form of it, since we are all interested in development, we should be happy. The incentive to pay tax all over the world is that people see the worth of their payment. Is it in road infrastructure, for example, or what have you?

So, I believe that this Amendment is very apt. We should just adopt it, and even tomorrow call for a Committee of the Whole so that we can consider it. It is a one-Clause Amendment that does not need Public Hearing or anything of such.

Thank you, Sir.

Hon. Andrew Igbonule Uchendu (Ikwerre/Omuma): Like the earlier speakers, I want to congratulate my Colleague for coming up with this Amendment. This is a straight forward Amendment. It tries to bring back power to the people where it should reside. It tries to eliminate the discretionary powers of the Executive.

In this particular area, from our experience in the last Administration, it was used in such a way that

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when it pleases the very Minister in office, and he or she likes a particular face, he or she can then either reduce or increase VAT and that particular item would flood the market. I think that is not good for the economy, because if we are to continue to sustain our macro economic indices and ensure sustainability then we must remove these elements of discretionary powers and, indeed, politicisation of the major economic instrument. Therefore, I would urge my Colleagues to support this one line Amendment. It is good for the economy.

Thank you.

Hon. Leonard Okuweh Ogor (Isoko North/South): This Amendment is timely and you will appreciate that there are lots of Amendments that we actually need to address.

I believe the issue of tax is purely the function of this National Assembly. The imposition of tax cannot be done by any Minister. It is totally wrong. It is a constitutional issue. Looking at this, you will agree with me that we have similar situations like this, inasmuch as I would not like to digress into those issues. This is a very straight forward Amendment. It also borders on even what the Inland Revenue is doing at the moment - that is, collecting funds they are not supposed to collect. The Customs Services is also doing something similar, which is also a clear violation of Section 162 of the 1999 Constitution.

If you look at Section 162(10) of the Constitution, it has defined what revenue is. The law says that every single kobo should go into the Federation Account, but I am not going into that. I believe that this Amendment is a very straight forward one and everybody must support it.

I so submit.

Hon. Olumuyiwa Bamidele Obadina (Ifẹ/Ewekoro): I actually want to speak in support of this Amendment. I believe very strongly that it could not have come at a better time than this moment, more particularly when there have been some news concerning VAT of late. I think the Amendment is coming at the right time on the issue of VAT.

We all know particularly what is going on concerning VAT authorities in Nigeria. Everybody has spoken in favour of this and I also want to speak in support of it. Not too long ago, there was a scenario

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sometime about somebody who actually wanted to set up a business. There was no light, no water and, indeed, nothing. He went to the bank and succeeded in getting a loan and everything. The very first day the business was to commence was when the tax authorities came up.

What I am just trying to say is that it is important that we regulate VAT matters in this country, particularly tax generally. I think it is within the ambit of the National Assembly. I want to speak in support of this and I commend the earlier speakers for this.

The Speaker: All right, he is the fourth person speaking in favour of it. Is there any Member who wants to speak against it?

Hon. Habeeb A. B. Fasinro (Eti-Osa): Can I just use this opportunity to just look at ... (*Interruptions*)

Hon. Ita Solomon J. Enang (Itu/Ibiono-Ibom): Point of Order!

The Speaker: Hold on, please, Hon. H. A. B. Fasinro. Yes, what Order and page?

Hon. Ita Solomon J. Enang: It is Order IX, Rule 3(2)(b) at page 36. It reads:

During the debates on all Bills, the Speaker shall allow speeches on the general principles, merits and demerits of the Bill.

I want to say that he is not speaking for or against, but he is speaking on the General Principles of the Bill. So, if my Brother is speaking, let him be mindful of this fact.

The Speakers: I have noted it. Thank you.

Hon. Habeeb Fasinro: I guess my dear Colleague is even helping my case. Basically, I will start up with the title of this Bill, which says that it is a Bill for an Act to amend the Valued Added Tax Act, 1993 and for Matters connected therewith.

Mr. Speaker, based upon that, I guess that from my State, we have been agitating for issues regarding the Valued Added Tax. We also believe that the Valued Added Tax or Sales Tax has residual taxes. These are the kinds of things that I would want us to look at in our own position. This is because rather than looking at

a one-line Amendment to do with the powers of the Minister and that of the Legislators, I think it would be important if we look at it holistically and all that is contained in the issue of the Valued Added Tax.

On our part, my State has made our position known about the issue of tax. Basically, we have gone through it and have a two or three-paged paper. With your kind permission, if you would bear with me, I will go through what our arguments are on the issue of VAT.

I think the key thing for us is that in 1983 when the Military Government took over power, they enacted the Valued Added Tax under Decree 102 of 1993. By virtue of the Decree, the Federal Government sought to impose tax on the consumption of specific goods and services. The tax actually took effect on the 1st of January, 1994. VAT is of the same nature and class as Sales Tax, but VAT covers a wide range of goods and services and it is charged at all stages of the manufacturing and distribution chain.

It is a significant fact that the VAT Decree was supposedly promulgated for the States in response to cash flow problems being encountered by the States at the time. The original idea was to expand the scope of sales tax, as we knew it, purely for the benefit of the State Governments. In fact, at the inception of the Decree the Federal Government did not have a substantive share of the proceeds. It was only to retain a portion of the VAT proceeds to cover cost of administration and collection. The rest went to the States and the Federal Capital Territory.

It is, therefore, clear that at that time, VAT was meant purely as a Sales Tax. (*Interruptions*)

Hon. Leonard I. Ogor: Point of Order!

The Speaker: What Order, please?

Hon. Leonard I. Ogor: Order IX, Rule 1(4), page 32. It says:

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

Mr. Speaker, the subject matter here is an Amendment that has been proposed, and it is just a one-line Amendment. If my Colleague is interested in

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introducing or amending or creating another opportunity, I think he should probably be prepared to take that issue at the appropriate time and let us continue with this Amendment.

The Speaker: Hon. H. A. B. Fasinro, could you please limit yourself to this Amendment?

Hon. Habeeb Fasinro: The subject matter under No. 3 of the Orders of the Day says: *A Bill for an Act to Amend the Valued Added Tax Act, 1993 and for Matters Connected Therewith*. I do not see how I am going outside the Title of this Bill and the matters connected therewith. It is very clear, Mr. Speaker.

The Speaker: Hon. Fasinro, this is a one-line item, please.

Hon. Habeeb Fasinro: Mr. Speaker, it does not say that it is a one-line item in the Title.

The Speaker: Hon. Fasinro, you are protected. Please carry on with your contributions.

Hon. Habeeb Fasinro: Thank you very much for your protection, Mr. Speaker. I shall continue where I was interrupted.

It is, therefore, clear that at that time, VAT was meant purely as a State tax, as envisaged by the 1979 Constitution. The Federal Government was only a collection agency. Also, the Local Government Councils were not part of the equation at all. Upon the enactment of the 1999 Constitution, sales tax registration reverted to State Governments and all the relevant provisions of the 1979 Constitution, as was interpreted by the Supreme Court in the Agberugba Case, remained unchanged.

This is why both the study group and the working group on taxation in Nigeria acknowledge the fact that the VAT Act cannot be legal unless the relevant aspects of the Constitution are amended. This view was confirmed by the High Court in the case of Manufacturers Association of Nigeria and Sixteen Others versus the Attorney General of Lagos State, Suit No. ID/105/M/2001, which also declared the Sales Tax Law of Lagos State valid.

However, it has been extremely difficult to implement since the Federal Government has insisted on maintaining the VAT structure as it is now, rather

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than attend to the commensurate returns to the States on basis of the gain. (*Interruptions*)

Hon. Igo Aguma: Point of Order!

The Speaker: Please, another Point of Order has been raised. Let us have your point of Order, Hon. Igo Aguma.

Hon. Igo Aguma: Mr. Speaker, my point of Order is still on Order IX, Rule 4. Before we came here, the procedures in treating a Bill, the Amendment Bill and the Principal Act were given to us. The Mover of this Amendment Bill did clearly lead a debate and the debate referred specifically to amending Section 38.

I believe that if my Brother, Hon. Fashinro, wants to amend the entire Bill, he should avail me with the document he has there in form of his own Amendment for me to be able to go through it. The Mover has availed me with only Section 38. We have an Order in the House and we should follow it.

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

The Speaker: There is another point of Order on the Floor. Hon. Itulah, can we have your point of Order, please?

Hon. Friday Itulah: My point of Order is Order IX, Rule 1, which says:

Rules of Debate – A member shall not read his speech save if he is moving a motion or presenting a Bill.

The hon. Member has been reading a text book before us and we know that he is not moving a Motion neither is he presenting a Bill. The rule of debate is meant to be observed and we must follow it *stricto censo*.

The Speaker: Thank you, Hon. Itulah. Hon. Fashinro, I am going to put the Question now.

Hon. Fashinro: I thought you were asking me to make a response before you put the Question.

The Speaker: Hon. Fashinro, I have just ruled on the Order.

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Hon. Members, the Question is that the Bill be now read the Second time.

Question put and agreed to.

Bill accordingly read the Second Time and committed to the Committee of the Whole.

Hon. Fashinro: Mr. Speaker, would you please permit me to make a comment?

The Speaker: I do not permit you.

In order to move quickly on this Bill, I refer the Bill to the Committee of the Whole House because it is only a one-line item.

Hon. Colleagues, because of the time limit, I crave the indulgence of the House to stand down the fourth Order of the Day till tomorrow.

ANNOUNCEMENTS

Return of Hon. Aminu Waziri Tambuwal as Deputy Chief Whip by the North West Caucus

The Speaker: It has been communicated to me by the North West Caucus of the PDP that Hon. Aminu Waziri Tambuwal has been unanimously returned as the Deputy Chief Whip by the Members of the PDP from the North West Zone (*Applause*) – Signed by Hon. Bala Ibn Na'Allah.

Notification of the Death of the Mother of Hon. Salisu Yusuf Majigiri

I have here with me a Notification of Death that reads as follows:

I regret to inform you of the death of Hajia Aisha Labo, mother of our Colleague, Hon. Salisu Majigiri, representing Mashi/Dutse Federal Constituency of Katsina State. She died in a ghastly motor accident along the Matumfashi/Dekafo/Debai highway in Katsina State last week Friday, 2nd November, 2007. She was 75 years old.

This accident involved another brother of Hon. Salisu Majigiri who also died. His name was Murtala Mohammed Lamis, aged 23. They have both been buried according to Islamic injunctions.

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May their souls rest in perfect peace.

Thank you.

Hon. (Engr) Bala Almu Banyei, *fnsc.*

Can we, please, all rise for a minute silence while Hon. Farouk Lawan gives us the Muslim prayers.

(A minute silence observed and prayers offered accordingly)

A Get-together Reception in honour of the new Speaker and the Deputy Speaker

The Speaker: Here is an Announcement that reads as follows:

Hon. Members, there would be a Get-together Reception in honour of the new Speaker and Deputy Speaker and the immediate past Speaker Pro-Tempore today, Wednesday, 7th November, 2007 at the Nicon Hilton Hotel.

Time: 8.00 p.m.

All Members are, please, invited to attend.

(Signed)

Whip Pro-tempore, Hon. Ogbuefi Ozomgbachi.

ADJOURNMENT

The Speaker: I now call on the Deputy Speaker to move for Adjournment till tomorrow.

Hon. Usman Bayero N. (Dukku/Nafada): Mr. Speaker, Sir, I hereby move that this House do stand adjourned till tomorrow, 8th November, 2007 at 10.00 a.m.

Hon. Ogbuefi Ozomgbachi (Ezeagu/Udi): I second the Motion, as moved by the Deputy Speaker.

Question put and agreed to.

Resolved: That the House do stand adjourned till tomorrow, 8th November, 2007 at 10.00 a.m.

The House adjourned accordingly at 4.55p.m.