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**SENATE OF THE FEDERAL
REPUBLIC OF NIGERIA**

Tuesday, 17th May, 2016

The Senate met at 10:54 a.m.

PRAYERS

(The Deputy President in the Chair)

EXECUTIVE SESSION

Sitting suspended: 10:57 a.m.

Sitting resumed: 11:58 a.m.

The Deputy President: The Senate in the Closed Session deliberated on the increase in the pump price of PMS by the Federal Government and the threat by the organised labour to embark on a nationwide strike over the matter and resolved as follows:

1. That we sympathise with the ordinary people of Nigeria on the hardships they are going through. The Senate will engage the Federal Government to find sustainable ways of improving the welfare of the people of Nigeria.
2. That we call on Government to continue to engage the organised labour and other stakeholders to resolve the issues in order not to ground the system and impose more hardship on our people.
3. That government should immediately start implementing palliative measures contained in the 2016 Appropriation Act passed by the National Assembly.

Is this a true reflection of what transpired in the Closed Door Session?

Several Distinguished Senators: Yes.

VOTES AND PROCEEDINGS

The Deputy President: Distinguished Senators, we have the Votes and Proceedings of Thursday, 5th May, 2016 before us for approval. We will start consideration from page 709 to 712.

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Senator Muhammad Adamu Aliero (Kebbi Central): Mr. President, I move that the Votes and Proceedings of Thursday, 5th May, 2016 be approved.

Senator Ogola Foster (Bayelsa West): Mr. President, I second the Motion that the Votes and Proceedings of Thursday, 5th May, 2016 be approved.

Question put and agreed to.

Resolved: That the Votes and Proceedings of Thursday, 5th May, 2016 be approved.

ANNOUNCEMENTS

Special Invitation by Senator Dino Melaye

The Deputy President: This special invitation is from Senator Dino Melaye and it reads:

His Excellency,
Senator Abubakar Bukola Saraki, CON,
The President of the Senate,
National Assembly,
Abuja.

**SPECIAL INVITATION TO ATTEND MY
THANKSGIVING SERVICE**

I am highly delighted to formally request with pleasure, the honour of the presence of distinguished Senators at my Special Thanksgiving Service, scheduled as follows:

Date: Sunday, 22nd May, 2016

Venue: The Apostolic Church, Oke Ayo, Iluaafon Assembly, Ayetoro Gbede,

Time: 9:00 a.m. prompt.

Distinguished Senators may wish to note that this is a season of reflection for my family and the entire Kogi West Senatorial District. It is a season to count our blessings and return all praises to God for his Goodness.

I would like to use this opportunity to invite distinguished Senators to please join me for Reception and Empowerment programme immediately after Church service at Alhaji Atiku Abubakar Square, Ayetoro Gbede, Kogi State.

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My distinguished Colleagues, your presence will make complete this very special and memorable event.

Please, accept as always, the assurances of my esteemed regards and loyalty.

(Signed)

Senator Dino Melaye
Chairman FCT Committee

Visitors in the Gallery

The Deputy President: I will like to acknowledge the presence of Members of Nigerian Association of petroleum Explorationists, Petroleum Training Institute Students Chapter, Effurun, Delta State; Members of Students Representatives Council, Federal Polytechnic Bida, Niger State; Staff and Students of Oak Heights School, Lugbe, Abuja; and Members of the Youth Assembly of Nigeria, National Assembly, Abuja.

They are all here to observe our processes and proceedings of today.

(Visitors stood for recognition.)

You are welcome, please sit down.

PRESENTATION OF BILLS

Senator Ali Ndume (Borno South): Mr. President, the first Business of the Day is the presentation of five Bills; you may wish to invite the Clerk of the Senate to read the Short Titles of the Bills.

Federal Audit Service Commission Bill, 2016

Federal Audit Service Commission Bill, 2016 (HB.107) – presented by Senator Ali Ndume (Borno South); *read the First Time*

Capital Expenditure Budget Roll -Over Bill, 2016

Capital Expenditure Budget Roll-Over Bills, 2016 (HB.164) – presented by Senator Ali Ndume (Borno South); *read the First Time.*

Abduction, Wrongful Restraint and Conferment Bill, 2016

Abduction, Wrongful Restraint and Conferment Bill, 2016 (SB.118) – presented by Senator Isah Hamma Misau (Bauchi Central); *read the First Time.*

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Nigeria Security and Civil Defence Act No. 6 2007 (Amendment) Bill 2016

Nigeria Security and Civil defence Act 6 2007 (Amendment) Bill 2016 (SB.131) – presented by Senator Mao Oluabunwa (Abia North); *read the First Time.*

Pension Reforms Act P4 LFN 2004 (Amendment) Bill, 2016

Pension Reforms Act P4 LFN 2004 (Amendment) Bill, 2016 (SB.281) – presented by Senator Aliyu Wammako (Sokoto North); *read the First Time.*

National Hospital for Women and Children Act (Amendment) Bill, 2016

National Hospital for Women and Children Act (Amendment Bill 2016 (SB. 282) – presented by Senator Olanrewaju Tejuoso (Ogun Central); *read the First Time.*

ORDERS OF THE DAY

CONSIDERATION OF REPORTS

Frivolous Petition Bill 2016

Senator Ali Ndume: Mr. President, the first Order of the Day is the presentation and consideration of the Report of the Committee on Judiciary, Human Rights and legal matters on Frivolous Petition Bill 2016.

Distinguished Colleagues, you will recall that the Report of the Committee was laid on Tuesday, 26th April, 2016. Mr. President, you may wish to invite Distinguished Senator David Umoru, the Chairman of the Committee to move the Motion for the presentation and consideration of the Report.

Senator David Umoru (Niger East): Mr. President, I move that the Senate do consider the Report of the Committee on Judiciary, Human Rights and legal matters on Frivolous Petitions Bill 2016 (SB 143).

Senator Barau I. Jibrin (Kano North): Mr. President, I second the Motion moved by Distinguished Senator David Umaru.

Question put and agreed to.

Senator David Umaru: Mr. President, the Report of the Senate Committee on Judiciary, Human Right and Legal Matters on a Bill for an Act to Prohibit Frivolous Petitions and Other Matters Connected Therewith.

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Background:

The Frivolous Petitions (Prohibition, etc.) Bill, 2015, (SB.143) was sponsored by Senator Bala Ibn Na'allah.

The Bill was read for the First Time on Thursday 24th November, 2015. On Wednesday 2nd December, 2015, the Senate debated on the general principles of the Bill. After extensive deliberations, it was read the Second Time and referred to the Senate Committee on Judiciary, Human Rights and Legal Matters (Vide Order of Reference Dated 3rd December, 2015), to report back with its recommendations.

Methodology:

After the referral, the Committee held a series of meetings and agreed on the following legislative framework, that is:

- (i) Consult widely on the justifications for the passage of the Bill.
- (ii) Conduct a Public Hearing in order to collate views of stakeholders and members of the general public; and
- (iii) Resort to any other matter, which would assist the Committee in the discharge of its assignment.

Objectives of the Bill:

The objectives of the Bill, in the Committee's view, are as follows:

- (i) Prohibits the submission and/or use of any petition or statement concerning the conduct of a person except same is accompanied by an affidavit, duly deposed to at either the High Court of Justice of a State or the Federal High Court;
- (ii) Prohibits the use of print and electronic media or any other medium to publish or cause to be published any allegation, statement or petition that are maliciously intended to discredit or set the public against any person, group of persons or institutions of government;
- (iii) Prohibits posting of false, inciting and abusive statement as tweets, whatsapps or through any social media; and

- (iv) Finally, prescribes various penalties for infractions.

Committee Action:

The Committee in furtherance of its activities on the Bill, relied on the legislative framework, enumerated in paragraph (2.0) above. Accordingly, the Committee at one of its meetings, held on Thursday 14th January, 2016, resolved to conduct a Public Hearing on Monday 7th March, 2016, in order to collate opinions/views of stakeholders and the general public on the proposed legislation. This, of course, is in addition to a wide range of consultations with stakeholders as well as in-depth comparative analysis of the provisions of the Bill with other existing laws.

The Committee, in order to keep faith with the usual tradition of the Senate and also in line with the 8th Legislative Agenda of involving the general public, civil society organisations, etcetera in the activities of the Senate, the Committee placed advertisements in print and electronic media and invited memoranda from stakeholders and the general public. The rationale was to enlighten and sensitise the public on the provisions of the proposed legislation, ahead of the Public Hearing.

It should be mentioned here that the response to the call for memoranda was encouraging. The Committee received submissions from the under listed stakeholders:

- (1) The Hon. Chief Justice of Nigeria,
- (2) The Attorney General of the Federation and Minister of Justice,
- (3) The Nigerian Law Reform Commission
- (4) The Nigeria Police,
- (5) The National Human Rights Commission,
- (6) Professor C. O. Okonkwo, SAN,
- (7) Paradigm Initiative Nigeria,
- (8) Freedom of Information Coalition, Nigeria, (FOICN).
- (9) Adopt a God for Development Initiative,
- (10) Opinion.com,
- (11) New Media.
- (12) PDP
- (13) Enough is Enough Nigeria,
- (14) Spaces for Change,
- (15) Publisher, Breaking Times,
- (16) Concerned Stakeholders,
- (17) Cyber Security Experts,
- (18) Legal Practitioners.

It is important to note that apart from memoranda submissions, the Committee also received oral presentations during the hearing from members of the public.

Public Hearing:

On Monday 7th March, 2016, the Committee conducted a Public Hearing at the Senate Conference Hall, Room 022, New Wing. The Guest of Honour, His Excellency, Senator Dr. Abubakar Olubukola Saraki, CON and President of the Senate, was represented by Distinguished Senator Godswill Akpabio, CON, the Senate Minority Leader, who declared the Public Hearing open.

In his keynote address, His Excellency, Senator Dr. Abubakar Olubukola Saraki, CON, President of the Senate, welcomed stakeholders and invited guests to the Public Hearing organised by the Senate Committee on Judiciary, Human Rights and Legal Matters on the Frivolous Petitions (Prohibition, Etc.) Bill 2015 (SB. 143). He said that apart from other important purposes Public Hearings serve, they permit Committees to collate information on proposed legislations through exchange of ideas with stakeholders.

He stated that the intent and purport of the Bill is to make it mandatory for petitions, for purposes of investigations, inquiry or inquest, be accompanied with duly sworn affidavit in the High Court or a Federal High Court, confirming the content to be true and correct and in accordance with the Oaths Act. He stressed that it is common knowledge that after the introduction of the Bill and subsequent referral to the Committee for further legislative action, the media was inundated with reactions and comments. These reactions, he stated, were not unexpected as it is one of the good features of democracy whereby people react to matters that relate to their welfare and well-being.

He averred that the Legislature, as an Arm of Government, has the primary responsibility to make laws for the peace, order and good government of the Federation. And in doing this, the legislature involves the general public. This is why the mechanism of Public Hearing on Bills in the law-making process, he reiterated, is imperative. He said that the National Assembly is mindful of the fact that laws are made for the people and for any law to stand the test of time, the process leading to its passage must be all-inclusive.

He assured the gathering that the National Assembly would not pass any Bill to gag the media or infringe on the rights of the citizenry, as it is aware of the critical roles played by the media to enhance good governance and in deepening democracy. He also stated that a Bill before the National Assembly, may or may not, be passed in its original form; its outcome depends largely on the opinions of stakeholders and the general public, canvassed during Public Hearings.

He expressed confidence that the Committee would be guided in its recommendation to the Senate by the views canvassed during the Public Hearing.

Furthermore, he stated that the 8th Senate would be guided by its Legislative Agenda, to ensure that Bills, Motions and other legislative proposals are treated expeditiously without compromising on legislative due processes. He reiterated that the National Assembly would be conscious of the yearnings of the people and ensure that the dividends of democracy were delivered to the citizenry through appropriate legislative interventions.

In conclusion, he stated that the task of nation building, and consolidating on our democratic values, is a collective responsibility. It is a task that all Nigerians must be prepared to perform for the purpose of leaving an enduring legacy for posterity.

On that note, he formally declared the Public Hearing open.

Presentations:

We wish to state that the Public Hearing witnessed a huge turnout of stakeholders, especially, from the justice sector, on-line and cyber experts and members of the public. In our view, stakeholders made far-reaching contributions for and against the passage of the proposed legislation. We would like to state for the avoidance of doubt that whilst seventeen (17) stakeholders made written submissions, five (5) oral presentations were received from members of the public. Out of the seventeen (17) written submissions that were presented, fifteen (15) of them opposed the passage of the Bill while two (2) supported its passage. But let me quickly state for the record that out of the two stakeholders that supported the passage of the Bill, one gave reasons but the other did not justify its position. I will come back to this later.

In our candid view, the preponderance of views expressed at the Public Hearing, were against the passage of the Bill. These stakeholders were in the majority and they include:

- (a) The Federal Ministry of Justice,
- (b) the Nigerian Law Reform Commission,
- (c) the National Human Rights Commission,
- (d) Professor C. O. Okonkwo, SAN,
- (e) Paradigm Initiative Nigeria,

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- (f) Freedom of Information Coalition, Nigeria (FOICN),
- (g) Adopt God for Development Initiative, Opinion.com,
- (h) New Media,
- (i) PDP,
- (j) Enough is Enough Nigeria,
- (k) Spaces for Change,
- (l) Publisher, Breaking Times,
- (m) Concerned Stakeholders,
- (n) Cyber Security Experts, and
- (o) Other members of the public such as Legal Practitioners and individuals who made presentations at the Public Hearing.

They were all unanimous in their presentations that the Bill should not be passed by the National Assembly. Below are the highlights of their presentations.

Firstly, it was canvassed by stakeholders that, despite the seemingly laudable objective of this Bill, which is to prevent frivolous petitions, its implementation will unduly constrain or fetter the right of citizens to report crimes as well as fetter the discretion of law enforcement agencies to investigate and prosecute crimes and the internal administrative mechanisms of government agencies, generally.

Secondly, it was also submitted that the requirement that a petition, statement or complaint should be accompanied by an affidavit, could be a disincentive; if not a discouragement to potential whistle blowers, especially, having regard to the level of illiteracy in our society and the limited number and even location of High Courts of States and Federal High Courts. This requirement, they said, could constitute a clog in the wheel of progress as regards the war against corruption, which is the major policy thrust of the current administration.

Thirdly, it was stated that what the Bill seeks to address has been sufficiently covered in our criminal laws. For instance, Sections 60, 373 – 376, of the Criminal Code and Sections 391 and 392 of the Penal Code, provide for the offences of criminal defamation, injurious, falsehood and the punishment for same.

They argued that any person can approach the court to seek redress for any wrongful damage to his person or character.

Fourthly, it was canvassed that the implementation of this Bill would entail constant monitoring of private conversations of citizens in the social media. This, apart from being an expensive venture, will unduly constrain the right to privacy and freedom of expression of citizens. The attendant negative consequences of such censorship of social media, far outweighs the advantage of the protection of an abused person, which the Bill seeks to achieve. This is particularly so in the light of existing civil remedies including defamation, that are available to an aggrieved person. Against the above backdrop, they cautioned the legislature to refrain from enacting any legislation that has the tendency to gag the press or that may be perceived as capable of unduly abridging the fundamental human rights of the citizens to privacy and free speech.

Fifthly, they contended that the Bill seems inappropriate in our present circumstances when useful information is required to address the various ills afflicting the nation, especially, in the fight against terrorism, corruption, insurgency, security threats and other criminal activities, etcetera. The provisions of the Bill appear oppressive to persons who have grievances to complain against or information to give, which could be helpful to security agencies, anti-crime agencies and other relevant security agencies.

They also canvassed the points that anti-crime agencies have, in the course of performing their duties, benefitted immensely from reports, statements or information contained in unsworn and anonymous petitions in the prosecution of crimes; but the passage of this Bill will put a stop to that. This, it was argued would also undermine confidentiality of certain petitions, statements or information, which ought to be confidentially treated.

Furthermore, stakeholders were of the concerted view that the requirement of a sworn affidavits as precondition to the exercise of one's right to freedom of expression and press freedom, would interfere with the exercise of that right and consequently inconsistent with section 1(1) of the Constitution of the Federal Republic of Nigeria 1999, as amended. As such, if this Bill is passed into law, the consequences are better imagined, as it will open a floodgate to litigations and other unsavory consequences.

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Further, they stated that for the benefit of hindsight that the National Assembly enacted into law, the African Charter on Human and People's Right (Ratification and Enforcement Act Cap. 1-LFN 2004), which vests every individual with the right to receive information; specifically, Article 9(2) of the Charter, bestows upon every individual the right to express and disseminate opinions, within the ambit of the law. This Article is similar to section 39 of the Constitution of the Federal Republic of Nigeria 1999, as amended.

Finally, they emphasized that Nigeria, as the largest economy in the African Continent, which has over 15 Million Facebook users and its technology sector is expanding rapidly as is the case worldwide, the passage of this Bill will restrict, constrain and discourage innovations and research as well as deter foreign direct investment.

It is noteworthy to state at this point that even though majority of the stakeholders at the Public Hearing unanimously, in no uncertain terms, opposed the passage of the Bill, the Judiciary and the Nigeria Police Force, expressed their support for the passage of the Bill into law. In their comments and suggestions on the provisions of the Bill, the Judiciary decried the upsurge in multiple anonymous frivolous petitions, which have been the order of the day across all the three tiers of government and submitted as follows:

Firstly, that the main objective of the Bill is to ensure that the public is given the correct information, free of bias, sentiments and ill-motivation and also to ensure that objective opinions always prevail. They also stressed that the principle behind the Bill is to safeguard innocent individuals, corporate or governmental bodies against false accusations that could have lasted and damaging effects on their integrity and performance.

Secondly, they canvassed that the idea behind the proposed "Frivolous Petitions (Prohibition, etc.) Bill, 2015" is very laudable and auspicious, because by the very use of the word frivolous, it connotes un-seriousness, ill motivation and suggestive of bad faith which is not within the contemplation of the Constitutional provision of freedom of expression.

Thirdly, they averred that any measure aimed at curbing the excesses of frivolous petitions is not intended to serve the purpose of denial of access to information, nor is it meant to do away with checks on the Executive, Legislative and Judicial recklessness as well as accountability of stewardship in all facets of public office.

The intent of the Bill, in their humble view, is to ensure that whatever information that is disseminated to the public, must come from a legitimate, genuine and a known source which is identifiable and meant to safeguard the best interest of the general public for the purpose of good administration and governance. It is to check against information given in bad faith with the intention to serve ulterior motives, that the passage of this Bill becomes necessary.

Finally, they stated that the freedom of expression within the ambit of the Constitution, as laudable as it may be, must be exercised within boundaries and limits, especially with the exuberant, frivolous and unguarded write-ups in the print media, social media platforms like, Facebook, Twitter etcetera, in recent times.

In summary, it is to be noted with due respect that the word 'petition', which is central to the entire concept of the Bill, was not defined anywhere in the Bill.

However, the proponents of the Bill have taken the liberty to define 'petition' and 'complaint', which are used interchangeably in the Bill, as – *a statement in which you express your dissatisfaction with a particular situation*. This, in the Committee's view, is the basis upon which their submissions were anchored.

They espoused that for a petition/complaint in which a petitioner/complainant, wishes to express his/her dissatisfaction with a particular situation, it must meet some acceptable standards or criterion, which with due respect, we would endeavour to highlight here. In a nutshell, what they seek to propose and indeed propounded, in order to discourage frivolous petitions is suggestive of setting up of a regulatory body that would ensure that a petition or complaint, adheres to certain standards before it is acted upon by the regulatory body, namely –

- (1) Suggestive time limit within which a complaint/petition must be made,
- (2) Form of Complaint,
- (3) Initiation of Complaint,
- (4) Action by the receiving officer,
- (5) Withdrawal of Complaint
- (6) Action by the Preliminary Complaint Assessment Committee (PCAC),
- (7) Composition and Function of Investigation Committee,
- (8) Reference to an Investigation Committee,
- (9) The Report of Investigation Committee,
- (10) Proposed Disciplinary Action – notification and final decision.

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In conclusion, they summed up their presentations by stating that the menace of incessant frivolous petitions in our nation, if not addressed and nipped in the bud, will constitute a very serious clog in the wheel of our Democratic values and progress.

Legislative Summary:

We have endeavored to provide a legislative summary of the Bill, which seeks to provide a detailed clause-by-clause analysis of the provisions of the Bill. The summary no doubt provides the underlining reasoning for our observations, findings and recommendations.

Clause 1

Requires that a person who wishes to submit a petition or statement reporting the conduct of any person for investigation, inquiry or inquest must do so by means of an affidavit sworn in a High Court “confirming the content to be true and correct”.

What this provision, in effect, does is to put on the petitioner the duty of doing an investigation which task belongs to a government agency. It requires that the petitioner must have investigated and found his allegations to be true before he petitions by means of a sworn affidavit. Government Agencies have powers to search, seize, enter premises, and summon persons, etcetera, in the course of investigating a suspicion or an allegation of crime.

They have budgets for their investigations. Does the ordinary citizen who is required to confirm on oath the truth of his allegations, have the powers, the means and facilities available to these agencies to find out the truth of an allegation? Obviously, ordinary citizens do not possess this capacity.

Furthermore, if the petition relates to a matter which is or should be confidential, the requirement of an affidavit undermines that confidentiality. Anti-crime agencies, we are sure, have in the course of their work, benefited immensely from reports and information contained in unsworn and anonymous petitions, this provision will restrict the availability of many helpful information.

Clause 2

This clause provides that a petition which is not accompanied by an affidavit is incomplete and shall not be acted upon by any government institution.

This provision is not helpful in any way. It merely has a negative effect on dealing with petitions and complaints and will work against the interest of Government. It implies that if the allegations in a petition are patently true, the petition shall not be acted upon because it is not backed by an affidavit. For example, if X writes to his Permanent Secretary alleging that his immediate boss has included a list of twenty (20) fictitious names in their payroll and furnishes the names and other details, according to clause 2, this petition must be ignored by the Permanent Secretary. If he investigates the allegation, then by clause 3(2), he commits an offence punishable with imprisonment for two years or a fine of ₦200,000:00. So, this provision prevents him, under threat of punishment, from protecting the interest of government.

Clause 3 (1)

This clause punishes anyone who unlawfully uses or publishes any petition which is not accompanied by an affidavit.

This provision infringes the fundamental right to freedom of expression guaranteed under the Constitution. The clause also imposes a punishment of six (6) months imprisonment without option of a fine. This, in our opinion is quite severe.

Clause 3(3) and (4)

The provisions of clause 3(3) and (4) are substantially covered by the offence of Defamation in the Penal Code (sections 391 and 392), the Criminal Code (section 375) and the offence of Injurious Falsehood (section 393 Penal Code). Section 140 of the Penal Code, quite appropriately punishes any person who gives to a public officer any information which he knows or believes to be false, intending thereby to cause the public officer to do anything, which he ought not to do if the true facts were known to him.

On a general note, after a careful perusal of the provisions of the Bill by the Committee, we observed that setting up of a regulatory body to monitor making of petitions, statements and complaints, was not contemplated by this Bill. This is a task that this Committee will not embark upon now, having regard to our rules.

Observation:

It is important to note that from the presentations made at the Public Hearing and our subsequent consideration of the Bill in our mark-up session, we observe as follows:

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- (1) That the intendment of this Bill is to check the upsurge in multiple, anonymous frivolous petitions and publication in the social media, especially, since the emergence of democratic experiment in the country.
- (2) That majority of the stakeholders at the Public Hearing vehemently opposed the passage into law of the Bill, as it is perceived as a step that will take the country back, especially now that the world has become a global village.
- (3) That the use of the words, “petitions”, “complaints”, “statements”, “investigations”, “inquiry” and “inquest” in the Bill, are too open ended and appeared to have unwittingly extended the scope of the prohibition imposed by the Bill to all complaints and reports (written or oral) made to law enforcement agencies and other government institutions that have powers to investigate or make inquiries (including internal administrative inquiries relating to staff) or inquest.
- (4) That in a democratic society, any law that is perceived to obviate or is capable of unduly abridging the fundamental rights of the citizens to privacy and free speech, should be jettisoned and or modified by the legislature, so as not to unduly restrict the hard earned freedom, guaranteed by the Constitution.
- (5) That the Bill seems to oppress persons who have grievances to complain against, or to give information, which could be helpful to security agencies, anti-crime agencies in the fight against terrorism and corruption.
- (6) That the Bill tacitly imposes on the petitioner, the duty of conducting investigation before reporting any crime or matter. This, to us, is a task that belongs to government agencies that are funded to carry out such assignments.
- (7) That Clause 2 of the Bill implies that even though, allegations in a petition are patently true, the petition shall not be acted upon, unless it is backed by an affidavit.
- (8) That the provisions of clauses 3 (3) and (4) of the Bill are substantially covered by the offence of Defamation in the penal Code (sections 391 and 392), the Criminal Code (section 375) and the offence of Injurious Falsehood (section 393, Penal Code).

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- (9) That even though the position of the Judiciary as expressed in their presentation, is in favour of the passage of the Bill, upon critical evaluation and analysis of their submission, we could infer that they are advocating for the setting up of a regulatory body, which is not the intendment or within the contemplation of this Bill.
- (10) That the application of the Bill as presently drafted, will affect the internal mechanisms of resolution of issues within government agencies, since such agencies will be unable to investigate complaints of their staff, which are unaccompanied by affidavit.

Findings:

Flowing from the foregoing observations, we hereby make the following findings:

- (1) That as laudable, commendable and innovative as this Bill might be, its passage into law in its current form cannot be supported as it will affect the anti-corruption war, which is one of the major focal points of the present administration.
- (2) That some of our extant Acts, such as the Penal Code, the Criminal Code, the Cybercrime Act, etcetera have sufficient provisions to address the issues that the Frivolous Petitions (Prohibition, etc.) Bill, 2015, seeks to address.
- (3) That even though the Bill has a tacit implication of discouraging frivolous and malicious petitions aimed at discrediting or setting the public against any person, group of persons or institutions of government, its passage into law in this current form, will do more harm than good.
- (4) That the passage of this Bill into law will conflict with some provisions in some of our extant Acts, which make provisions for whistle-blowers protection in Nigeria e.g. Economic and Financial Commission Act (Section 39(1); Independent Corrupt Practices Commission Act (Section 64); Terrorism Prevention Act (Section 31); Trafficking in Persons (Prohibition) Enforcement and Administration Act (Section 46); etcetera. Passing this Bill will expose them to more dangers and threats to life.

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- (5) That what we need to do now as legislators, is to amend and update some of our extant Acts to accommodate emerging global trends rather than having a new law that may be a duplication of other existing laws and counter-productive;
- (6) That the passage of the Bill will bring about hardship to citizens living in places distant from High Court and Federal High Courts premises as they would be required to first incur transportation costs to the Court and also pay for drafting, typing and filling of affidavit, before they could report alleged breaches of peace or commission of crime.
- (7) That the forms of communication such as text messages, tweets, WhatsApp or other social media platforms, that the Bill seeks to restrain, are regulated by the Nigerian Communication Act of 2003. The application of this Bill will lead to role conflict.
- (8) That the purport of the Bill is closely related to the offence of defamation, which may be civil or criminal that are covered in some of our extant Acts mentioned earlier.

Recommendation:

The Committee on Judiciary, Human Rights and Legal Matters to which was referred a Bill for an Act to Prohibit Frivolous Petitions; And Other Matters Connected Therewith, having considered same, reports negatively thereon and accordingly recommends as follows:

“That the Senate do withdraw the Bill for an Act to Prohibit Frivolous Petitions; And Other Matters connected therewith”.

We so move.

Conclusion:

On behalf of members of the Committee, I wish to express our gratitude for this opportunity to serve you, our colleagues and our nation, Nigeria.

The Deputy President: Distinguished Colleagues, we have gone past through Second Reading of this Bill, so we are not going to re-introduce the Bill for Second Reading.

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We will just consider the recommendations of the Committee but before we do that, we will just take one or two comments and then we will put the question regarding the commendation.

Senator Dino Melaye (Kogi West): Mr. President, though I was not here when this Bill was moved but a lot of insinuations went on the social media that I am a critical supporter of this Bill. Maybe some people have celestial power to read people's mind. This Bill will be against the Police information gathering medium that is ongoing where people go to the police to freely give information.

Having gone through the Bill, I can say that this will impugn on the relationship between the public and the Police in terms of information gathering. We cannot over-emphasise the fact that this Bill is also against the anti-corruption war of this administration because the anti-corruption war is one of our cardinal agenda in the 8th Senate. As one of the co-sponsors of the Freedom of Information Act in 2008, I will find it very difficult to support a Bill that will also impugn on the right enjoyed in that Act by Nigerians. Any law that is perceived to be capable of unduly abridging the fundamental right of citizens to privacy and free speech should not be encouraged by the Senate of the Federal Republic of Nigeria.

We have already in our extant law and rules enough laws that will take care of frivolous petitions and abuses and privileges as the case may arise. This Bill, as presently constituted, will also gag not only the Nigerian press but the generality.

The Deputy President: Senator Dino Melaye, we are not presenting the Bill for Second Reading, I just want you to comment.

Senator Dino Melaye: Mr. President, I support the withdrawal of this Bill and it is ought to have been withdrawn even before now as against the whistle blowers even like this before the Senate.

Senator Shehu Sani (Kaduna Central): Mr. President, I must commend the Committee led by Senator David Umaru for this foresight and their principle and courageous position in standing in the side of free speech. We are in a democracy and freedom of speech is the strength, the soul and the spirit of a democratic system. People in the position of power must learn to tolerate and accept when people questioned their authority. This Bill attempts to stifle freedom of speech, it also attempts to stifle the right of Nigerians to criticise their leaders. I will say in all honesty that the withdrawal of this Bill will salvage the image of those who seem to be in support of this Bill.

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From the presentation that was made, it is very clear, from the article of memorandum and also submissions that were given to the Committee, that there is an overwhelming opposition to this Bill. To save democracy, to save the fundamental rights of Nigerians to freely express themselves, we must tolerate that the social media, twitter, Facebook and other channels are the only places where Nigerians could reach out to their leaders. We cannot preside over them and at the same time clip their mouths. I say it in all honesty that this Bill, as it is going to be withdrawn, should be supported by all.

Senator Godswill Obot Akpabio (Akwa-Ibom North West): Mr. President, I happened to be the Vice Chairman of this Committee and, of course, in line with the submission of the Committee, I also agree that this Bill be withdrawn. However, for purposes of emphasis, during the public hearing, we have very erudite and fantastic submissions from the Chief Justice of Nigeria in support of the Bill and they were able to identify the difference between a normal petition and a frivolous petition. The Nigerian Police also supported the Bill. When I listened to comments on this, it seems that we are trying to suggest that all petitions that are going to different agencies ought to go through affidavit; No! The intention is that for people who knowingly wish to malign corporate organisations and individuals that these procedures should be adopted.

Sometimes, the amount of damage done by frivolous petitions to the integrity of individuals and corporate organisations cannot be quantified, and sometimes you cannot even repair the damage thereafter. That was why the Judiciary and the Nigerian Police supported it. They took cognizance of the fact that most of the frivolous petitions must be looked into. In this critical period of economic hardship, we have to spend a lot of money in going through most of these investigations, and at the end of the day, billions of Naira would be lost, there will be distraction on the part of security agencies and they will arrive at the conclusion that yesterday this was a frivolous petition and not really petition. Why I support the withdrawal is because of the fact that we are in a democracy and the majority must always have their way.

This Bill is something that when you look at it, the intent of that Bill was to bring sanity to the system and stop the continuous outflow of public funds, we do not have enough security agencies in the country. During the last general election, we could not have one Policeman per polling unit across Nigeria because we do not have enough security. We do not have enough policemen to man one polling units, so they have to drag in Civil Defence, Youth Corps and the rest with uniform to go to some polling units in the country.

By the time they deploy security services towards the frivolous petition and you leave the real petition, at the end of the day, you will find out that you are frivolous because it was intended to malign and defame individual's characters and corporate organisations the person goes to, and moneys are lost. Irrespective of the good intention of distinguished Senator Bala Ibn Na'allah, as it is today, the public opinion must have its way.

I support the withdrawal but I still believe that we must find a way to stop incessant frivolous petitions. We are not talking about petitions but frivolous ones!

The Deputy President: Thank you very much Distinguished Colleagues. On behalf of the Senate, let me thank the Chairman, Senator David Umaru and members of the Committee for the brilliant work they have done on this Bill. We did a good analysis of the Bill and the most important part is that there are already laws in our statute books that check this kind of complaint, namely the law on defamation, and I am aware that there is also an offence of giving Police false information. We cannot continue to duplicate our laws but people must be protected and their good names must also be protected by our laws. There are existing laws giving such protection, therefore, we do not have to continue to multiply our laws but the important point is that what we have seen today is the beauty of our legislative process.

It is now clear to Nigerians that the fact that the Bill is before us does not translate to the fact of passage. Nigerians must also give us the benefit of doubt to debate Bills, send it to our Committees that will do proper analysis and consult with our people and be able to make a final recommendation for us to consider. But we will never be intimidated by any person or group of persons from running away from our responsibilities as provided for in the Constitution. All we owe our people is proper consultation before we take a final decision, just as what we have seen today. It is now obvious that not every Bill that comes here will automatically translate to passage; this is one of the things the public must also know.

I would like to thank all of us again for given this proper consideration and we just do hope that with this decision, Nigerians will continue to give us the benefit of doubt and also know that we always consult them before we take a decision on any Bill that comes before us. Once more, thank you Senator Umaru David for the brilliant work and we do hope that we will continue to analyse our Bills in this manner so that we will have an informed opinion that will allow us to take proper decision.

Question put and agreed to.

2501

With the leave of the Senate, Bill is accordingly withdrawn.

Suspension of other items on the Order Paper

Senator Mohammed Ali Ndume: Mr. President, in view of the fact that we have some very important Public Hearings to conduct, I move that we stand down the rest of the other items on the Order Paper to another Legislative Day.

Senator Godswill Obot Akpabio: Mr. President, I second the Motion ably moved by the Leader.

Question put and agreed to.

(With the leave of the Senate, other items on the Order Paper stood down till another Legislative Day.)

2502

ADJOURNMENT

Senator Mohammed Ali Ndume: Mr. President, having exhausted the items on the Order Paper, I move that this Senate do stand adjourned till Wednesday, 18th May, 2016 at 10:00 a.m. prompt.

Senator Godswill Obot Akpabio: Mr. President, I second the Motion moved by the Leader.

Question put and agreed to.

Resolved: That the Senate do stand adjourned till Wednesday, 18th May, 2016 at 10.00 a.m. prompt.

The Senate adjourned accordingly at 1:07 p.m.