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**FEDERAL REPUBLIC OF NIGERIA**

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**Tuesday  
1<sup>st</sup> June, 2010**



# **NATIONAL ASSEMBLY DEBATES**

## **FOURTH REPUBLIC THIRD ASSEMBLY (SIXTH SENATE)**

### **THIRD SESSION**

#### **SENATE OFFICIAL REPORT**

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SENATE OF THE FEDERAL  
REPUBLIC OF NIGERIA

Tuesday, 1<sup>st</sup> June 2010

The Senate met at 11:00am

PRAYERS

(The President in the Chair)

VOTES AND PROCEEDINGS

The President: Distinguished Senators we have the Votes and Proceedings of Thursday, 27<sup>th</sup> May, 2010 before us for approval: Pages: 883, 884, 885 and 886.

Senator Nkechi Nwaogu (Abia Central): Mr. President, I rise to move that the Votes and Proceedings of Thursday, 27<sup>th</sup> May, 2010 be approved.

Senator Garba Yakubu Lado (Katsina South): Mr. President, I rise to second that the Votes and Proceedings of Thursday, 27<sup>th</sup> May, 2010 be approved.

Question put and agreed to.

Resolved: That the Votes and Proceedings of Thursday, 27<sup>th</sup> May, 2010 be approved.

ANNOUNCEMENTS

Conference on the Asset Management  
Corporation of Nigeria

The President: We have some announcements. First, the Conference to harmonise the Senate and House positions on the Asset Management Corporation of Nigeria (Est. etc) Bill, 2010 will take place as follows:

Date: 1<sup>st</sup> of June, 2010

Venue: Committee Room 107, New Senate Building

Time: 2.00 p.m. prompt.

All Conferees from the Senate are requested to be in attendance, please.

(Signed)  
Senator Justina Nkechi Nwaogu  
Chairman

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Acknowledgement of the Presence of Students of Economics Department, University of Nigeria, Nsukka: Staff and Students of Glory and Praise International School, Kuje, Abuja and Councillors of Etsako East Local Government, Legislative Arm, Agenebode, Edo State

I wish to acknowledge the presence of Students of Economics Department, University of Nigeria, Nsukka, Staff and Students of Glory and Praise International School, Kuje, Abuja and Councilors of Etsako East Local Government Legislative Arm, Agenebode, Edo State. They are all in the Gallery to observe our proceedings. (The Visitors stood for recognition)

We wish all of you fruitful observations. Good morning and please sit down.

Public Hearing on the Electoral Act

There will be Public Hearing this afternoon on the Amendment of Electoral Act at 1.00 p.m. prompt.

Please those who are members should endeavour to be there because we have called a lot of people. You know the interests that the Electoral Reform has generated and those who want to make personal contributions should please endeavour to be there. I will declare it open by 1.00 p. m.

Also, tomorrow all Senators should please endeavour to be here on time because we are going to vote on the Conference Report on the Constitution Amendment Harmonization from the House and the Senate and you know we need two-thirds votes of physically present members. If we do not have the number, we cannot pass it. It is harmonized already. We need to vote on it tomorrow and it is not voice vote. Everybody will come and answer his or her father's name here and then we will know where you stand on the issues.

Birthday Wishes

May I, on behalf of all of us, wish distinguished Senator Justina Nkechi Nwaogu, a happy birthday. She is incidentally the only democracy baby we have here. She was born on the 29<sup>th</sup> of May. The year is not relevant. She does not qualify for paid advert.

I will also want to, on behalf of all of us, wish distinguished Senator Ogbonna Chimanroko Nnamani a happy birthday. His birthday was on Sunday the 30<sup>th</sup> of May. He also does not qualify for paid advert.

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I will like to wish distinguished Senator (Elder) Anyim Chukwu Ude a happy birthday. He is the birthday boy in our midst - 1<sup>st</sup> of June. You will see his paid advert on the pages of newspapers. The Senate will congratulate you on the pages of newspapers.

I will also like to wish Senator Ehigie Edobor Uzamere a happy birthday, today is his birthday. He, certainly even in spite of his size does not qualify for paid advert.

MESSAGE FROM THE PRESIDENT,  
COMMANDER-IN-CHIEF

Distinguished Senator David Mark (GCON)  
President of the Senate  
National Assembly Complex  
Three Arms Zone  
Abuja.

Your Excellency,

SUBMISSION OF PROPOSAL FOR 2010  
AMENDMENT AND SUPPLEMENTARY  
BUDGETS

I wish to take this opportunity to restate my appreciation for the cooperation of the leadership and all the Distinguished Senators of the Federal Republic of Nigeria for your sincere, assiduous and patriotic efforts in passing the 2010 Appropriation Act.

However, I wish to bring to your attention certain challenges posed by the serious shortfall in projected revenue and the adverse implications it poses for financing the level of aggregate expenditure appropriated by the National Assembly. Specifically, recent revenue development indicates significant shortfalls in both oil and non-oil revenue which may well continue for the rest of the fiscal year, with adverse implications for the financing of the Budget. Consequently, given the recent drop in the international oil prices from US\$80 per barrel to under US\$70 per barrel, it is prudent to reverse the Oil Benchmark Price to a more realistic level.

On the expenditure side, it is necessary to re-evaluate downwards the aggregate level of expenditure from N4.608 billion approved in the 2010 Appropriation Act, and adjust the Budget details accordingly.

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Finally, as I had earlier indicated when I assented to the 2010 Appropriation Act, there were certain critical items such as Statutory Transfers, Debt Service, the Service-Wide Vote and other critical expenditure heads that were either inadvertently omitted or under-provisioned for. It has also become necessary to cater for certain unanticipated items of expenditure (e.g. Negotiated Civil Service Wage increase, CHN Arrears of Monetization and 50<sup>th</sup> Anniversary Celebrations). It is proposed to provide for all these expenditures through a Supplementary Budget.

Consequently, I am constrained to propose to the National Assembly with this request for:

- (a) a revision of the 2010 Fiscal Framework to adjust the Oil Benchmark Price on which the 2010 Budget is predicated;
- (b) an Amendment to the 2010 Budget to revise downwards the level of aggregate expenditure; and
- (c) a Supplementary Budget to provide for certain unanticipated key expenditure items.

It is my hope that the National Assembly will kindly consider and approve these requests expeditiously to resolve these challenges to the 2010 Budget. (See attached details).

Please accept Distinguished Senate President the assurances of my greatest consideration.

Yours sincerely,

(Signed)

DR. GOODLUCK E. JONATHAN, GCON

PRESENTATION OF BILLS

National Sugar Development Council (Amendment) Bill, 2010 (SB.395)

Senator Teslim K. Folarin (Oyo Central): Mr. President, the first business of the day is the presentation of an Executive Bill standing in my name on the National Sugar Development Council (Amendment) Bill, 2010.

You may wish to invite the Clerk of the Senate to read the Short Title of the Bill.

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National Sugar Development Council  
(Amendment) Bill 2010 ± (Executive) - read the First Time.

Customs, Excise Tariff, etc (Consolidation) Act  
(Amendment) Bill, 2010 (SB.396)

The second business of the day is the presentation of a Bill standing in my name. It is a Bill on Customs, Excise Tariff, etc (Consolidation) Act (Amendment) Bill, 2010.

You may wish to invite the Clerk of the Senate to read the Short Title of the Bill.

Customs, Excise Tariff, etc (Consolidation) Act  
(Amendment) Bill, 2010 standing in the name of  
Senator Teslim K. Folarin — read the First Time

Personal Income Tax Act (Amendment) Bill, 2010

The third business of the day is another Executive Bill standing in my name on the Personal Income Tax Act (Amendment) Bill, 2010 (SB.397)

You may wish to invite the Clerk of the Senate to read the Short Title of the Bill.

Personal Income Tax Act (Amendment) Bill, 2010  
– (Executive) - read the First Time

Casualisation Prohibition Bill, 2010 (SB. 399)

The fourth business of the day is the presentation of a Bill standing in the name of Senator Nimi Barigha-Amange on the Casualisation Prohibition Bill, 2010.

You may invite the Clerk of the Senate to read the Short Title of the Bill.

Casualisation Prohibition Bill, 2010 - standing in the name of Senator Nimi Barigha-Amange ± read the First Time

National Emergency Number Bill, 2010 (SB.400)

The fifth business of the day is the presentation of a Bill standing in the name of Senator Simeon O. Oduoye on the National Emergency Number Bill, 2010.

You may invite the Clerk of the Senate to read the Short Title of the Bill.

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National Emergency Number Bill, 2010 (SB. 400)  
- standing in the name of Senator Simeon O. Oduoye -  
read the First Time.

## PRESENTATION OF A REPORT

Report of the Conference Committee on the  
Review of the 1999 Constitution

The sixth business of the day is the presentation of Conference Committee on the Report of the Constitution, 2010.

You may invite the Deputy President of the Senate, Senator Ike Ekweremadu, who is also the Chairman of the that Committee to move the Motion for the Senate to receive this Report.

Senator Ike Ekweremadu (Enugu West): Mr. President, it is my pleasure and honour to rise to move that this Senate do now receive a Report of the Conference Committee on a Bill for an Act to Alter the Provision of the Constitution of the Federal Republic of Nigeria, 1999 and for Other Matters Connected Thereto 2010.

Senator James Ebiowou Manager (Delta South): Mr. President, I rise to second the Motion as ably moved by the Deputy Senate President.

Question put and agreed.

Resolved: That the Senate do receive the Report of the Conference Committee on a Bill for an Act to Alter the Provision of the Constitution of the Federal Republic of Nigeria, 1999 and for Other Matters Connected Thereto.

(Report Laid on the Table)

## ORDERS OF THE DAY

### CONSIDERATION OF REPORT

Report of the Committee on Water Resources:  
Hydrological Services Agency (Est., etc.) Bill, 2010

Senator Teslim Folarin: The first Order of the Day is the consideration of the Report of the Committee on Water Resources on the Hydrological Services Agency (Establishment, etc.) Bill, 2010 (SB. 177). You will recall that the Report of this Committee was laid in this hallowed Chamber on 25th May, 2010.

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You may invite Senator Gogwim to move the Motion for the consideration of this Report.

The President Distinguished Senator Satty Gogwin, you do not have to move a Motion for the Report to be received, present the Report?

Senator Satty Davis Gogwim(Plateau Central): Mr. President, the Senate at its sitting on Tuesday, 17th November, 2009 debated and read the Nigeria Hydrological Services Agency, Bill for the Second Time and referred same to the Senate Committee on Water Resources for further legislative action.

Membership of the Committee are as follows:

- |                                  |               |
|----------------------------------|---------------|
| 1. Senator Bassey Ewa-Henshaw -  | Chairman      |
| 2. Senator Simeon S. Ajibola -   | Vice Chairman |
| 3. Senator Satty D. Gogwin -     | Member        |
| 4. Senator Suleiman M. Nazif -   | Member        |
| 5. Senator Abubakar U. Gada -    | Member        |
| 6. Senator Chris N. D. Anyanwu - | Member        |
| 7. Senator Abba Bukar Ibrahim -  | Member        |
| 8. Senator Garba Y. Lado -       | Member        |
| 9. Senator Anthony O. Agbo -     | Member        |
| 10. Senator Dahiru B. Gassol -   | Member        |
| 11. Senator Ayodele S. Arise -   | Member        |

#### Committee Action

Four Bills including this one were read for the First Time at about the same period. However, while the other Bills were read for the Second Time between April and May, 2009. the Nigeria Hydrological Services Agency, Bill suffered some delay and was only read for the Second Time in November, 2009. Meanwhile, we held a Public Hearing on the Bills on July 21 ±22, 2009. Because this Bill was not available on the day of the Public Hearing, it was not formally listed as one of the Bills to be discussed. Notwithstanding, because we knew the Bill was coming and to avoid conducting two Public Hearings within a short space of time, submission on the Bill was solicited and obtained. Thus the Bill as it is today has benefited from the views of stakeholders.

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#### The Bill

The Bill itself is fairly straightforward with 25 sections contained in six Parts and an accompanying Schedule. Much of its original provisions are retained except for the follow:

1. In section 2(e) to (g) provisions have been made for additional representation on the Governing Board of the Agency for (e) the Federal Ministry of Environment (f) National Water Resources Institute and (g) the Federal Ministry responsible for Water Transportation.
2. In section 3, a single term of 5 years has been allowed for Board members instead of 4 years initially proposed in the Bill.
3. In section 9(3), provision is made for a 4 year term for the Director General renewable for another 4-year term instead of a single 5 year term. This is to allow for overlap with the Board and facilitate continuity.
4. In section 13(g), a new provision is introduced requiring the Agency to pay all internally generated funds into the Federal Government Treasury.
5. Sections 18 and 19 have been deleted completely as the Committee saw these sections as arrogating too much arbitrary powers to the Agency.

In concluding, the Committee would like to express its gratitude to the Senate for this opportunity to serve.

Thank you.

The President Is there any comment before we resolve into the Committee of the Whole?

Senator James E. Manager(Delta South): Mr. President, just out of curiosity. Looking at the Report, Senator Bassey Ewa-Henshaw is the Chairman, incidentally he is not in the Chamber, therefore, the mantle of leadership suppose to fall on the Vice Chairman, Senator Simeon Sule Ajibola, but when Senator Satty Gogwim stood up to present the Report, he did not say that it was with the permission of the Vice Chairman who is physically present that he was doing that. I do not know what is going on?

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The President Senator Satty Gogwim, did Senator Simeon Ajibola transmit any letter to you?

Senator Simeon Sule Ajibola (Kwara South): Mr. President, when it was apparent that the Chairman of the Committee, Senator Bassey Ewa-Henshaw and I were not to be around last Thursday, we both agreed and gave him the permission to present on our behalf and it was reflected like that on the Order Paper of Thursday, 27<sup>th</sup> May, 2010. The Secretariat was not aware that I would be around today and since his name reflected on the Order Paper to do the presentation that is why I did not raise any objection.

The President Senator James Manager, there was a verbal transmission within the Committee that is all right, we have taken verbal transmission in this Chamber before.

Senator Teslim Kolawole Folarin Mr. President, I move that this Senate do resolve into the Committee of the Whole to consider the Report.

Senator Maina Ma'aji Lawan: Mr. President, I rise to second the Motion as moved by the Senate Leader.

Question put and agreed to

Report of the Senate Committee on Water Resources on Hydrological Services Agency and for Matter Connected Therewith (Establishment, etc) Bill, 2010 ± CONSIDERED IN THE COMMITTEE OF THE WHOLE.

The Chairman: Distinguished Colleagues, I think this is a straightforward Bill and we can go through it very quickly.

Clause 1 - (ESTABLISHMENT OF THE NIGERIA HYDROLOGICAL SERVICES AGENCY) ± ordered to stand part of the Bill

Clause 2 - (ESTABLISHMENT AND MEMBERSHIP OF THE GOVERNING BOARD) ± ordered to stand part of the Bill.

Clause 3- (TENURE OF OFFICE)

Question proposed

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Senator George Thompson Sekibo (Rivers East): Mr. Chairman, I have an observation on Clause 3(a): For a term of four years and no more and the Amendment says: For a single term of five years and no more.

Mr. Chairman would recall that in most of the Bills we passed which are now Acts, we have either 4 or 5 years, but not one single term because when they appoint a Board, most of them in the first instance are learning about the environment. If they perform very well from the second or third year, sometimes if they are given another opportunity again, they perform better. Giving them only a period of one term, I think we should look at it again.

The other issue is that the office we are talking about is already in existence. They publish tenders for it early in the year and even last year. I am saying that we should let the Presidency know that if such Agencies are not backed by law, they should be careful in sending their names to us to appropriate funds.

The President Are you suggesting five years of two terms or four years of two terms?

Senator George Sekibo I am suggesting four years of two terms.

Senator Joseph I. Akaagerger (Benue North-East): Mr. Chairman, my observation is also on the tenure of four years. That appears as if there is a replication of four years from the previous Bill that is being amended now. In our executive and legislative experiences under a constitutional democracy, it has always been four years for the Executive and four years for Legislature. I believe this is what informed the initial four years. If we are to go by that, my suggestion is that a single term of four years and no more. This is because there is no basis by the Committee for doing what they did. I thought, perhaps, reasons would have been advanced in their Report telling us why they went their own way, but that was not done. Therefore, we have been left to reason on irrationality, it is on that irrational basis I suggest four years.

Senator Enyinnaya Abaribe (Abia South): Mr. Chairman, I am not a member of the Committee, I just want to lend my voice to support that it should be four years and renewable by the President if he so wishes, at the discretion of the President. Not one term, but four years renewable for another term and no more.

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**The Chairman:** Senator Simeon Ajibola, what is the reason for this five years of one term?

**Senator Simeon Sule Ajibola (Kwara South):** When we were considering the Bill, we thought of an idea whereby the Board Members would have a longer period than the Managing Director (M.D). The MD with four years renewable for two terms could overlap so that he will be part of two consecutive Executive Boards.

**The Chairman:** Your reason is that the members should have five years single term and the MD four years renewable. I will put the Question on the two options. We have had enough reasons and there is no need to advance more. You will just vote. I will first of all put the Question on this one as it is now in the amended Bill.

Amendment put and ~~negated~~

The next option is the four years renewable and not more than two terms.

Amendment put and agreed to.

**Senator Andrew Abidemi O. Babalola (Oyo North):** Mr. Chairman, I am aware that the Rules do not allow this, but we have done it times without number when we are doing Clause by Clause consideration of a Report like this.

**The Chairman:** Senator Babalola please, if you are aware that the Rule does not allow you to do it, the fact that I did it, I have to allow you, so do not take it as a right. You are taking it as a right that because I allowed it before, I must allow you to do it now. When we finish I will get back to it, because I will ask general question again on it.

**Senator Enyinnaya H. Abaribe:** Mr. Chairman, Clause 4(d), at an earlier time we were considering something, this still came up. What constitute serious misconduct in relation to some ones duty? We think that when a law is being made like this there should be some specifics that should guide, so that people do not hide under this to, maybe, do things that are not in the interest and then make the person concerned go to court to determine. Who determines what a serious misconduct is? I do not know whether it is in the interpretations.

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**The Chairman:** I know that this has come up several times; I am trying to figure out what we agreed on. I think we have always left it like that. The last discussion we had on it, if I remember correctly, is that it is standard and that it will not be misused. If I recall, that was what our decision was because it is virtually all government agencies.

**Senator Joel Danlami Ikenya (Taraba South):** Mr. Chairman, we can only be sure of what we are doing when we know what the interpretation Clause says about misconduct. This is because in terms of the Constitution on the process of impeachment, misconduct can only be interpreted by either the National Assembly, the House of Assembly or the Court. Therefore, for this one we should be very clear on that. Let us go to the interpretation and if it says something about misconduct, we can look at it again, re-examine it and if possible, put it very well.

**The Chairman:** It is not shown here, but we have always had it in almost all the Acts if I can remember correctly. Virtually, it looks like a permanent feature.

**Senator Chris N. D. Anyanwu (Imo East):** With regard to (d), I just agree with Senator Abaribe, it is something that is subject to abuse and that it might necessary for us at some point to come with a definition so that people do not abuse it.

Actually, my main observation is number (2) which says: If a member seizes to hold office for any reason whatsoever, before the expiration of the term to which he was appointed, another person representing the same interest as that member shall be appointed to the Board for the expired term.

Mr. Chairman, this hamstring the President. I do not think we have to be tying their hands like that. If a member leaves, it should be left to the prerogative of the President to reappoint anybody that he chooses to replace him rather than insisting that the person must come from that area. We are over doing this whole thing about ethnic balancing and geographical spread and the rest of it. It will at some point be dangerous to the system. So, I think that we should leave it open. I do not agree with what is here.

**The Chairman:** If you see the membership, there are people who are there by virtue of their profession and what they are saying is to keep that balance. If a man leaves because he is there by virtue of his position or profession, he should get a bank to represent him; a

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man to complete his unexpired term from the same profession. That one is not a big problem. On which page is the membership?

Senator Simeon Sule Ajibola Membership is on page 2.

The Chairman: It says here that: The Board shall consist of ±

- (a) Chairman;
- (b) One representative of the Federal Ministry of Water Resources;
- (c) One representative from Nigeria Meteorological Services;
- (d) Six persons, one from each of the six Geo-Political Zones.

It is saying that if a Member from Ministry of Water Resources leaves, you cannot bring a Member from anywhere else, it has to be from the Ministry of Water Resources. If a Member from Meteorological Services leaves, you cannot just bring anybody, it has to come from that body because these are specified. So, two is all right.

Senator Enyinnaya Abaribe, I think the solution to it is that, because we have maintained this in all our Bills so far, we will leave it and then if we have to make an amendment on it, we will try in future and amend it because this is in all the Bills that we have passed so far.

Senator Joseph Iorshagheer Akaagerger (Benue North-East): Mr. Chairman, on Clause 4(1)(e) on page 4, with your permission, if I may read: In the case of a professional, he is disqualified or suspended from practicing his profession in any part of the country by an order of a competent authority;

I think that this sub-clause is a mere surplusage which is also not justifiable. It is a mere surplusage because if you look at (b) he is convicted of a felony or any offence involving dishonesty or fraud or it becomes an order. Simply because someone is a professional, he should not be discriminated upon because that would offend Section 42 of the Constitution which talks about freedom from discrimination.

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If you look at the principles of fair hearing as enshrined under Section 36 of the Constitution, if a person is found guilty or is accused of an offence and he has been found guilty, then he takes the punishment. If he is merely suspended, then the matter has not come to a conclusion yet, it is merely being investigated. So, why should a person because he is suspended he can no longer be a Member of the Board. I think it is discriminatory against Section 42.

Secondly, it offends the principles of fair hearing under Section 36 of the Constitution and this matter has already been taken care of. I propose that it should be removed. If you could remember during the time elections came up when they put out some very curious Administrative Panels which tugs on some politicians, this is what they seek to bring here.

The Chairman: You are a member of a professional body Senator Iorshagheer Akaagerger and what it is saying there is that if you are disqualified or suspended. It is not just a mere administrative business here but that your professional body suspends or disqualifies you from practicing then something has gone wrong. Why should you then be a member of a Board because you said we should remove Clause 4(1)(e)? I do not buy your idea. I do not think you are correct.

Senator Felix Kolawole Bajomo (Ogun West): Mr. Chairman, suspension if and when it is imposed on a Member, is a punishment. It is an indictment by itself, a lesser indictment than outright disqualification. It is true that if you are suspended from practicing your profession for a period of time, you are just being prevented from outright disqualification. But if you are suspended pending the time that the case is acted upon that is a different story but if you are suspended as a sign of punishment for what you have done wrong then that is an indictment by itself.

The Chairman: You will express your views through the voting. I am going to ask on all of them, one by one. The explanation comes by answering here.

Clause 4(1) question put and agreed to.

Clause 4(a) question put and agreed to.

Clause 4(b) question put and agreed to.

Clause 4(c) question put and agreed to.

Clause 4(d) question put and agreed to.



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Clause 4(e) question put and agreed to.

Clause 4(f) question put and agreed to.

Clause 4(2) question put and agreed to.

Clause 4(3) question put and agreed to.

Clause 4— (CESSATION OF MEMBERSHIP) ordered to stand part of the Bill.

Clause 5 (DISSOLUTION)

Question proposed.

Senator Umaru Dahiru (Sokoto South): Mr. Chairman, Clause 5(c) should be deleted because it is just stated in the budget. By virtue of Clause 5(a) and (b), we are comparing powers of the Minister and (c) comes in to say whatever action has been taken, shall be valid for all intent and purposes. We are dealing on the budget, so I think it is misnomer and we are just over-emphasizing the provision of Section 5(a) and (b). I believe it should be deleted completely.

The Chairman: My fear is that it is you Lawyers who cause this confusion because if it is not expressly stated here, a Lawyer can go to court and say that they did not say the actions will be valid. For us laymen, it is very straightforward but for you Lawyers that is where the problem is.

Senator Ahmad Ibrahim Lawan (Yobe North): Mr. Chairman, I have a comment of a general nature and then a suggestion on Clause 5. Though it is a tradition here that we give the Minister the power that ordinarily the Board or Council would have but at the end of the day, the power is abused. The Board may not be constituted or it could easily be dissolved and then the Minister would become the sole administrator and abuse the process. I think we should give the timing within which the Minister would be acting. I suggest that the Minister shall within three months exercise all the powers of the Board. That would limit the time the Minister would take the powers of the Board. That would also enforce and guarantee that the Board would be in place.

The Chairman: Senator Ajibola, who has the power or the authority to dissolve the Board here?

Senator Simeon Sule Ajibola: I think it is only the President and the Advisory Board. We allowed Section 5, bearing in mind that it is possible that the Board might not be constituted on time. At times, we have situations where Boards are dissolved and it takes a

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long time before the constitution of a new Board and for that period, we believe that the Minister would act and perform the functions of the Board.

The Chairman: Senator Ajibola, the problem I have is, if you do not know who has the authority to dissolve the Board, a constituted Board could then be dissolved anyhow by anybody. That is what we must get right here before we move any further.

Senator Joel Danlami Ikenya (Taraba South): Mr. Chairman, I just want to say that all of us are living witnesses of our various Boards and Parastatals in this country whereby you find a new government coming in. It takes a long time to constitute a Board. We have given a limit to a Minister to cease to give directives. Just like what Senator Simeon has just said, you will find out that it is in the purview of the President to appoint Board Members of Parastatals. Therefore, it would be unfair for us to give a provision for time limit.

I am of the opinion that we leave it as it is and cure it by giving the power to President to dissolve a Board, not really a Minister.

Senator Bello Hayatu Gwarzo (Kano North): Mr. Chairman, I think the dissolution of Boards is approved by the President through the Minister. Therefore, I think we should consider the point made by Senator Ahmad Lawan to compel the Minister to constitute another Board within a period of time so that we would not allow the Ministers to abuse the functions of the Boards.

The Chairman: The point raised by Senator Ahmad Lawan is definitely a valid point. We have to be careful. I want to know actually whether a Minister can even dissolve the Board.

Several Senators: No.

The Chairman: Who then can dissolve it?

Senator Omar A. Hambagda (Borno South): Mr. Chairman, during the last Senate we witnessed a lot of abuses. In the aviation sector, every Minister that came removed the Chief Executive and they appoint their cronies. That created so many problems for the aviation sector. If any Board does not dance to the tune of the Minister, the Minister will make a recommendation to the President and the President dissolves it. We have passed many Bills creating Agencies. I do not remember any Bill where we made this provision. If

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somebody was not thinking about it, they would now begin to think about how to abuse this power. So, unless we provide very limited time the whole thing should be expunged.

Senator Anyim Chukwu Ude (Ebonyi South):  
Mr. Chairman, I want to draw your attention to Clause 2(1) on page 2, which we have already passed, which is on Establishment and Membership of Governing Boards, beginning from pages 2 to page 3(iii) which states thus: Members shall be persons with vast cognate experience in the field of Hydrology and Water Resources Management and shall be appointed by the President on the recommendation of the Minister.

The standard practice is that he who appoints also dissolves. Therefore, in the case of Boards, usually, they are appointed on the recommendation of the Minister and by the President. I agree with the point made by my distinguished Colleague that there should be a time limit when a Minister should oversee or act as a Board when it is dissolved because it is known that they always use the period to do many funny things and they may not even want any new Board. So, I agree with the idea of a time limit but it is not in doubt as to who appoints and he who appoints also dissolves or fires.

Senator Isiaka Adetunji Adeleke (Osun West):  
Mr. Chairman, we have to be very careful because I have been a victim. I was a Chairman of a Parastatal and by the time I got there, the Parastatal did not have any funds and I had to go to the Ministry of Finance to collect some money. I stupidly went and showed it to the Minister. The next day, he wrote to the Board asking that he had got permission from Mr. President to suspend the Board without any reason because he had seen money. It is corruption. We have to be very careful here if we are going to allow the Minister to do anything here. I would not support the idea of the Minister assuming the powers of the Board. He cannot be Sole Administrator.

Senator Umar Dahiru (Sokoto South): Mr. Chairman, Point of Order.

The Chairman: Point of Order, Senator Umar Dahiru.

Senator Umar Dahiru: Mr. Chairman, I am coming under the Interpretation Act - Laws of the Federation, Cap 123. I want to make reference to particularly Section 11 on the power of appointment. It reads thus: Where an enactment confers a power to

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appoint a person either to an office or to exercise any function whether for a specific period or not, the power includes:

- a) Power to appoint a person by name or to appoint the holder from time to time of a particular office;
- b) Power to remove or suspend him
- c) Power, exerciseable in a manner and subject to the limitations and conditions (if any) applicable to the power to appoint-
  - (i) To reappoint or reinstate him
  - (ii) to appoint a person to act in his place, either generally or in regard to specific functions, during such time as is considered expedient by the authority in whom the power of appointment in question is vested.

In other words, by virtue of this provision under the Interpretation Act, it is Mr. President who has the power to appoint and to dissolve the Boards if he so wishes.

The Chairman: The point raised by Senator Ahmed is generally accepted so we may re-word this because the President may come in and may not immediately appoint a Board; there is a gap and that gap should not be more than three months within which the Minister can act. That is the point that he made. So, if we re-word this to reflect that, are you re-wording or you are raising another issue?

Senator Anthony G. Manzo (Taraba North): Mr. Chairman, I want to refer us to Section 148 of the 1999 Constitution. Every action either of the Board or Minister or any servant in the Executive or whatsoever name called does that on behalf of the President. So whether the Board is in place for three months or not, it is on behalf of the President. People there are appointed on behalf of the President. Therefore, the Minister can hire and fire having consulted the President. So, there is no need for any three months gap because the President is there and he is the person elected, he would do all these things. That is my view.

The Chairman: If we continue we will just be going round in a circle. We have agreed on something that the Minister should not be given more than three months within which he can fire or hire or do whatever on behalf of Mr. President. There has to be a Board in

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place. In any case, this is good also, otherwise the President may decide not to appoint a Board at all, then the Minister will act for four years; we cannot allow that, that is what we are saying. So, there is no need for further interpretation as to who fires, who can employ and for how long, it is to re-word this properly now.

Senator Yisa Braimoh (Edo North): Mr. Chairman, I do quite agree with the concerns of Senator Lawan and Senator Ude with respect to considering this provision of three months for the Minister to do what he likes in the event of a Board being dissolved. But there are 350 or 400 Boards and agencies in Nigeria. Why do we want to treat this agency in isolation? That is the point I am making. We could not in good conscience treat this in isolation whilst the other situation remains for the other Parastatals/Agencies and Commissions. So, I think we should be very careful here. We can make a note of it and find a way of making a general imposition of this amendment if it is possible or leave it as it is. It is dangerous to treat this in isolation.

The Chairman: I am not sure that this is common to all the agencies but if it is, then that requires another thing entirely. This one is rather obvious and I think in every administration we should encourage the Boards to be inaugurated as early as possible in the system. There is no point in keeping a Board waiting till the last six months, then you begin to form it because in the interim the Minister will have all the powers to do whatever he wants to do and you cannot challenge him if he takes a decision.

Like the issue raised by Senator Adeleke, where the Minister was not aware until he went to him and the Minister told him that he got permission from Mr. President. He has no means of finding out whether, indeed, he consulted Mr. President or not. All he can do is just to say well, that is what Mr. President has said.

Senator Ahmad, you are the one who raised this issue, can you re-word it so that we say that the Minister has not got power for more than three months.

Senator Ahmad Ibrahim Lawan: Mr. Chairman, I reword it this way: Notwithstanding anything contrary in this Act, the Minister shall within three months exercise all the powers of the Board where (a) the Board has not been constituted (b) the Board has been dissolved and of course (c) which I do not have to read.

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The Chairman: It should be for not more than three months rather than within three months. Within three months is a different interpretation.

Senator Joseph Iorshagheer Akaagerger: Not later than.

The Chairman: The alternative has to be this three months business. If you want to re-word it go ahead.

Senator Anthony G. Manzo (Taraba North): It will read thus: Notwithstanding anything to the contrary in this Act, the Minister shall exercise all the powers of the Board while (a), (b), and (c) provided that such powers shall not exceed three months.

Amendment put and agreed to.

Clause 5 ± (DISSOLUTION) ± as amended ordered to stand part of the Bill

Clause 6 ± (ALLOWANCES OF MEMBERS)

Question proposed

Senator Joel Danlami Ikenya Mr. Chairman; just as they said that a member shall be paid such allowances as the Federal Government may from time to time direct, I think it should be Revenue Mobilisation, Allocation and Fiscal Commission who deals with allowances.

The Chairman: I will put the Question on the way it is now, and then I will put your own.

Question put and agreed to.

The Chairman: Now on Senator - R H O M I do I still put the Question?

Amendment put and negative.

Clause 6- (ALLOWANCES FOR MEMBERS): - ordered to stand part of the Bill.

Clause 7 ± (FUNCTIONS OF THE AGENCY)

Question proposed.

Senator Chris N. D. Anyanwu: Mr. Chairman, Amendment to Clause 7(1)(l) says: monitor hydrology components of the environment including ground and surface water pollution through if you flip to the next page we do not see a continuation of that sentence. We need to look at that carefully to ensure that we are passing something that is coherent.

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The Chairman: What is the complete sentence of what she pointed out? (Another copy of the Report shown to the Chairman) Senator Chris, you and I have the same copy but it is in some of the copies. The sentence says: ... *through industrial commercial and agricultural activities*. It is not on the copy that I have. The omission arose from the photocopying.

Senator Sola Akinyede (Ekiti South): Mr. Chairman, Clause 7(1)(b) says: *project, prepare and interpret Government Policy in the field of hydrology*. There should be an e after t in interpret

Secondly, Clause 7(1)(c) *Issue forecasts for floods*. That suggests that this Agency can run its own parallel meteorological services. I think in order to save money, it should work with Meteorological Agencies with a view to issuing forecasts of floods, if not, this Agency might decide to set up its own parallel meteorological services and that will be a waste of funds. I want to suggest that we should amend it to say: *Work with Meteorological Agencies with a view to issuing forecasts for floods*.

The Chairman: Is there any more Amendment on Clause 7?

Senator Chris N.D. Anyanwu Mr. Chairman, I need to understand the logic for deleting the word; *hydrology* in Clause 7(1)(d). When they delete it, it leaves an open ended sentence *promote services in agriculture, drought and desertification activities*, which is outside the realm of their defined functions.

The Chairman: I think the way it is to be worded is; *promote hydrological services in agriculture, drought and desertification activities*. That is the way it is to be read?

Several Distinguished Senators Yes.

The Chairman: That is all right. The main Amendment raised here, is that it should *work with Meteorological Services to issue forecasts for floods*.

Amendment put and agreed to.

Clause 7 ±(FUNCTIONS OF THE AGENCY) ± as amended ordered to stand part of the Bill

Clause 8 – (POWERS OF THE BOARD) - ordered to stand part of the Bill.

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Clause 9 (APPOINTMENT, ETC. OF THE DIRECTOR GENERAL) - ordered to stand part of the Bill.

Clause 10 – (APPOINTMENT OF SECRETARY/LEGAL ADVISER) - ordered to stand part of the Bill.

Clause 11 ± (APPOINTMENT OF OTHER STAFF)

Question proposed

Senator Anyim Chukwu Ude: Mr. Chairman, though it is just a matter of semantic, Clause 11(1) says: *The Board may deploy or appoint for the Agency other employees, upon such terms and conditions as may be determined by the Board* You have to appoint first before you deploy, so I think appointment should come before deployment. But most importantly, if we leave it like this, the chances are that the Board will go outside the normal Public Service standard and just do what they think they like. I would rather suggest that we add the words after Board that - *in accordance with the Public Service Rules and Regulations*. If we leave it open like this, the Board can abuse this position and could do something that is outside the normal standard in the Public Service.

The Chairman: The first correction you made is not correct. As it stands now, there is no problem with it. You do not have to appoint before you deploy. You can deploy people within the system from one Department to the other. So, that correction is not all right. As it is, it is fine. The order in which they have appeared, whether deploys or appoints comes first, does not really matter. When you deploy, you are deploying people within the system itself, move them from one department to the other. That is deploying the people and when you appoint, it is a different thing.

As to whether to be determined by the Board, I think the Board would be responsible, we should not assume that the Board would just wake up and begin to do things anyhow. Otherwise, everywhere we mention the Board here, you have to bring in the terms to say that the Board has to act in accordance with this. The Board would meet and be responsible enough. We should be all right with the phrase: *Upon such terms and conditions as may be determined by the Board*.

Question put and agreed to.

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Clause 11 – (APPOINTMENT OF OTHER STAFF) - ordered to Stand part of the Bill

Clause 12(FUND OF THE AGENCY)

Question proposed

Senator Ahmad Ibrahim Lawan: Mr. Chairman, I just want to draw the attention of the Senate to Clause 12(a) and 13(b) and (c). On Clause 12(a) there is going to be a fund into which shall be paid. All subventions and budgetary allocations from the Federal Government. In Clause 13 it says: The Agency shall apply the proceeds of the fund established under Section 12 of this Act

(b) to the payment of emoluments set cetera

They will be charging monies for services that they would render to whoever is interested, any stakeholder. It is only constitutional, that monies realised by the Agency should be first of all, be paid into the Federation Account.

Secondly, it is not normal that we allow them to take all the monies they get. For example, we could allow 50 per cent of what they get because there would still be monies from the Annual Budgets and I believe that there are many agencies that have found it very convenient to take budgetary allocations annually as well as utilise the internally generated revenue without any recourse to budgetary approvals. So, I just want to draw the attention of the Senate to it.

The Chairman: Senator Ahmad Lawan, the point you have raised has nothing to do with Clauses 12(a) and 13(b) which you have brought up. This is because Clause 12(a) is saying that, there is established for the Agency a fund into which shall be paid all subventions and budgetary allocations from the Federal Government. There is nothing wrong with that, they have to pay it into a fund. There is no problem with that. It is also saying that whatever money is given to them, they will use it for the purposes expressed in Clause 13(b).

Senator Ahmad Ibrahim Lawan: I have no problem with that.

The Chairman: So, the issue you have raised is a different issue.

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Senator Ahmad Ibrahim Lawan: I am talking about Clause 12(e)

The Chairman: Clause 12(e) says: Fees, charges and funds approved by the Board in respect of services provided by the Agency in the following. I think Clause 12(e) should not be there because Clause 12(e) should go to the Federation Account. Clause 12(e) should be deleted because what it is saying is that whatever money they get, they pay it into the fund which they control and they can dip hand into and expend. That is wrong. So, Clause 12(e) should be deleted.

Is there any other correction on that?

Senator Andrew Abidemi Babalola: I think what distinguished Senator Ahmad Lawan seeks to promote is the fact that we should insert here that all revenues must be appropriated by the National Assembly. What we need to change here is the opening statement of Clause 13 itself. Which says that: The Agency shall apply the proceeds of the fund established under this Section 12 of this Act. Provided such funds have been appropriated by the National Assembly. That is what we are trying to do in our own Committee.

The Chairman: The argument is that all the proceeds they realised from all the services should be paid into the Federation Account. If it is there we have to delete 13(e) because it is saying that it should be paid into their fund from which they would now payment emoluments and all that. Where is it in the Bill?

Senator Isiaka Adeleke: It is there on 13(g). Funds generated internally by the Agency through charges, fees and consultancy services shall be paid directly into the Federal Government Treasury. Yes, I think that has captured the point. But we have to delete 13(e) which says: There is established for the Agency a fund into which shall be paid (e) fees, charges and funds approved by the Board in respect of services provided. That would be deleted.

Amendment input and agreed to.

Clause 12 (FUND OF THE AGENCY) ± as amended ordered to stand part of the Bill.

Clause 13- (EXPENDITURE) – ordered to stand part of the Bill.

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Clause 14 – (ANNUAL ESTIMATES AND ACCOUNTS) - ordered to stand part of the Bill.

Clause 15- (ANNUAL REPORTS) - ordered to stand part of the Bill.

Clause 16– (PRIVATE DONATIONS TO THE AGENCY)

The Chairman: Senator Satty Gogwim, where are Clauses 16 and 17? Let me read Clause 16 out so that we can make progress?

Several Senators: Yes.

The Chairman: Clause 16 reads: The Agency may accept any gift of land, money or other properties on such terms and conditions as any, as maybe specified by the person or organization making the gift and the Amendment there reads: Provided such terms and conditions are not in conflict with the Act.

Question put and agreed.

Clause 16 - (PRIVATE DONATIONS TO THE AGENCY) - ordered to stand part of the Bill.

Clause 17- (BORROWING)

Clause 17 says: (1) The Agency may from time to time borrow by way of overdraft or otherwise such sums as it may require for the performance of its functions under this Act.

(2) The Agency shall not without the approval of the Board borrow money which exceeds at any time the amount set by the government as the limit of the authority of the Agency.

(3) Where the sum to be borrowed is in foreign currency, the Agency shall seek and obtain the approval of the Minister through the Board

Question put and agreed.

Clause 17 ± (BORROWING) ± ordered to stand part of the Bill.

Clause 18 ± (POWER TO ENTER LAND TO MAKE SURVEY, ETC) ± deleted

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Clause 19 ± (COMPENSATION FOR DAMAGES, ETC) ± deleted

Clause 20- (LIMITATION OF SUITS AGAINST THE AGENCY, ETC) – ordered to stand part of the Bill.

Clause 21 – (SERVICE OF DOCUMENT) – ordered to stand part of the Bill.

Clause 22– (RESTRICTION ON EXECUTION AGAINST PROPERTY): - ordered to stand part of the Bill

Clause 23- (INDEMNITY OF MEMBERS AND EMPLOYEES) – ordered to stand part of the Bill.

Clause 24 ± (POWER TO GIVE DIRECTIONS) - ordered to stand part of the Bill.

Clause 25 ± (FIXING OF THE SEAL OF THE AGENCY) ± ordered to stand part of the Bill.

Clause 26- (REGULATION) - deleted

Clause 20- (LIMITATION OF SUITS AGAINST THE AGENCY, ETC) - deleted

Clause 27 ± (INTERPRETATION) - ordered to stand part of the Bill.

Clause 28 ± (SHORT TITLE) – ordered to stand part of the Bill.

Schedule ± (PARAGRAPHS 1 TO 8) ± agreed to.

Long Title ± agreed to.

The Chairman: Senator Babalola, do you have a comment on page two?

Senator Andrew Babalola Mr. Chairman, Paragraphs 2 and 3 say; members shall be persons with vast cognate experience in the field of hydrology and water resources management and shall be appointed by the President on the recommendation of the Minister.

I think what they want to refer to is Director General because all the members of the Board cannot have this cognate experience. A Board is always with people of different experience. So, I believe what they wanted to say is Director General not members of the Board.

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**The Chairman:** I think members is still correct. It is correct to find people with cognate experience in each geo-political zone. I do not think there is anything wrong with that.

**Senator Ahmed Mohammed Makarfi:** Mr. Chairman, it is not connected to what he has pointed out. Though I came late but I am concerned about Clause 13 where it is said that revenues generated would be paid into Federal Government Treasury. There is a different between Federal Government Treasury and Federation Account. Federal Government, which means that the revenue belongs purely to the Federal Government and the Federation Account contains revenue belonging to the whole Federation. We need to clarify that. It should be paid into the Consolidated Revenue and not Federal Government Treasury.

**The Chairman:** We should note that correction that is Federation Account not Federal Treasury.

**Senator Teslim Folarin:** Mr Chairman, you may now report progress

**Senator Ahmad Ibrahim Lawan:** Mr. Chairman, I second the Motion that the Chair reports progress.

Question put and agreed.to

(Mr. President resumes the Chair)

**The President:** The Senate in the Committee of the Whole considered the Report of the Committee on Water Resources on the Hydrological Service Agency Bill, 2010 and approved as follows:

Clauses 1 and 2 as recommended

Clause 3 as recommended

Clause 4 as recommended

Clause 5 as amended

Clause 6 as recommended

Clause 7 as amended

Clauses 8 to 11 as recommended

Clause 12 as amended

Clauses 13 to 17 as recommended

Clauses 18 to 19 deleted

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Clauses 20 to 25 as recommended

Clauses 26 deleted

Clauses 27 as recommended

Short Title as recommended

Schedule: Paragraphs 1 to 8 as recommended; and

Long Title as recommended

Is this the true reflection of what happened in the Committee of the Whole

Several distinguished Senators Yes.

Third Reading

**Senator Teslim Folarin:** Mr President, I now move that the Hydrological Services Agency Bill, 2010 be read the Third Time

**Senator Mohammed Lawan:** Mr President, as the Acting Leader, I rise to second the Motion that the Bill be now read a Third Time

Question and agreed.to

Bill read the Third Time and passed

**The President:** We want to congratulate those who have worked on this Bill and hope that the Agency will do the assignments given to it because they are very serious and important functions assigned to this Agency and if they work properly the result will be very obvious and there would be practical results actually. Congratulations!

Suspension of Other Items on the Order Paper

**Senator Teslim Folarin:** Mr President, because of very important Public Hearing we have at 1.00 pm today I move that all other items on the Order Paper be stood down till another legislative day.

**Senator Mohammed Lawan:** Mr President, I second the Motion that all other items on the Order Paper be stood down till another legislative day.

Question put and agreed.to

(By leave of the Senate, all other items on the Order Paper stood down till another legislative day)

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**The President:** I want to once more announce that as many of us as possible should be here tomorrow because we will vote and we need 2/3 on the Harmonised Constitution Amendment between the Senate and the House of Representatives which was laid this morning. You shall all get copies of it. We will vote on it tomorrow. It will not be by voice vote, but by electronic voting so that we get the 2/3 required.

**Senator Enyinnaya Abaribe (Abia South):** Mr President we would have preferred it if we have copies of what we will vote on tomorrow so that we can deliberate on it tonight before we come tomorrow because this is Constitution Amendment.

**The President:** There is nothing actually to deliberate on because it is a harmonised version. There is nothing for you to comment on and there will be no room for you to change anything. It is either the House  
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would be taken.

The copies will be given but there would be no room for you tomorrow to amend this or that. It is a harmonised version, so anything that you see there would either come from the Senate or the House of Representatives.

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Again, as many of you as possible should be able to attend the Public Hearing this afternoon because it is on the Electoral Reform and you know that it is a topical issue at the moment.

## ADJOURNMENT

**Senator Teslim Folarin:** Mr President, I now move that this Senate do adjourn till tomorrow, Wednesday, 2nd June, 2010 at 10.00 a.m.

**Senator Omar Hambagda:** Mr President I second the Motion that the Senate do adjourn till tomorrow, Wednesday, 2nd June, 2010 at 10.00 a.m.

Question put and agreed to

**Resolved:** That the Senate do adjourn till Wednesday, 2nd June, 2010 at 10.00 a.m.

The Senate adjourned accordingly at 1.40 p.m.