FEDERAL REPUBLIC OF NIGERIA

PARLIAMENTARY DEBATES

SECOND PARLIAMENT

FIRST SESSION

1965-66

SENATE

VOLUME 18

Comprising Period
13th and 14th January, 1966

PRICE : 5s NET

THE FEDERAL MINISTRY OF INFORMATION, PRINTING DIVISION,
LAGOS

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SENATE OF THE FEDERAL REPUBLIC OF NIGERIA

Thursday, 13th January, 1966

The Senate met at 10 a.m.

Clerk of the Senate : In the absence of the President of the Senate from this day's Sitting and for the rest of this meeting, owing to unavoidable circumstances, I call upon the Deputy President to take the Chair.

(The Deputy President in the Chair)

PRAYERS

ANNOUNCEMENT

Resignation of a Member

The Deputy President : I have received the following letter from Chief R. A. Babalola :—

The President of the Senate,
Lagos.

Dear Sir,

This is to inform you that consequent upon my election to the Western House of Assembly on 11th October, 1965, my seat in the Senate is automatically vacant in accordance with Section 49 (1) (a) of the Constitution of the Federal Republic of Nigeria.

In conclusion, I seize this opportunity to express my sincere appreciation to the President of the Senate, my co-Senators and the Clerk for their co-operation throughout my tenure of office as a Senator. I wish the Senate God's blessings throughout.

(Signed) Chief the Hon. R. A. Babalola.

ORAL ANSWERS TO QUESTIONS
CABINET

Niger Delta Development Board

O.158. Senator Chief J. M. Egbuson asked the Prime Minister, whether, in order to silence the widespread clamour for the conferment of executive powers on the Niger Delta Development Board, he will consider the advisability of creating a Ministry for the Niger Delta Area Affairs.

Minister of State (Senator Chief J. I. G. Onyia) : No, Sir.

Deployment of Police

O.175. Senator Chief E. U. Uti asked the Prime Minister, how many police officers and men were detailed for duty during and after the Western Nigeria General Elections ; how many are indigenous officers, giving their Regions of origin and the total cost to-date of the operation to the Federal Government.

Senator Chief Onyia : It is not possible, at short notice, to compile the manpower statistics sought by the hon. Member for apart from the policemen stationed in Western Nigeria, various police units from other Regions have taken it in turns to serve in Western Nigeria so that the numbers have been continually fluctuating.

It has also not been possible to state the accurate up-to-date cost of the police operations in Western Nigeria as the operations are still continuing. However, the cost has been estimated at about £300,000 up to the end of 1965.

Illegal Importation of Arms

O.180. Senator Chief S. O. Longe asked the Prime Minister, how many persons have been arrested, prosecuted and convicted in each Region for illegal importation of arms and ammunitions into the country during the past three years.

Senator Chief Onyia : The number of persons prosecuted and convicted for illegal importation of arms and ammunition in each Region during the past three years is as follows :

Region	*Prosecuted*	*Convicted*
Northern Nigeria ..	8	8
Eastern Nigeria.. ..	1	1
Mid-Western Nigeria ..	38	31
Lagos	Nil	Nil

The figure for Western Nigeria is not yet available to the Nigeria Police Force Headquarters, Lagos.

O.181. Senator Chief S. O. Longe asked the Prime Minister, how many persons have been prosecuted and convicted in each Region during the past three years for the illegal manufacture of arms and ammunition.

Senator Chief Onyia : The number of persons prosecuted and convicted for illegal manufacture of arms and ammunition in each Region during the past three years is as follows :

Region	*Prosecuted*	*Convicted*
North	13	12
East	30	23
Mid-West	5	3
Lagos	Nil	Nil

The figure for Western Nigeria is not yet available to the Nigeria Police Force Headquarters, Lagos.

O.182. Senator Chief S. O. Longe asked the Prime Minister, in view of the mounting tension in some parts of the country, what steps he is taking to prevent the importation into the country of arms and ammunition and their illegal manufacture locally.

Senator Chief Onyia : The Nigeria Police are alive to the problem. Members of the public should report to the Police, all cases of illegal importation and manufacture of arms and ammunition of which they may become aware.

For security reasons, it is not advisable to disclose what plans the Police have for combating the illegal practice.

Police Dogs

O.183. Senator Chief Chukwubike asked the Prime Minister, if he will state how many police dogs there are ; how much the Government spends on each of them every year ; and how many successful investigations these dogs have so far carried out.

Senator Chief Onyia : The Nigeria Police have 15 dogs on duty in Lagos and 14 under training. 23 such dogs have been trained for the Nigerian Railway Corporation and are employed in Lagos and Port Harcourt, whilst the Nigerian Ports Authority have 3 in Lagos.

The cost of maintaining each dog is approximately £100 per annum.

Since the Dog Sections of the Nigeria Police, the Railway Police and the Ports Authority Police came into operation, 199 arrests have been made and properties worth £16,972-7*s*-6*d* recovered.

Western Nigeria Crisis

O.195. Senator A. O. Airewele asked the Prime Minister, whether, in view of the deteriorating situation in Western Nigeria caused by the general election of 11th October, 1965, he will make a categorical statement on how he intends to remedy the situation.

Senator Chief Onyia : It is the constitutional responsibility of the Western Nigeria Government to handle the situation in Western Nigeria.

O.196. Senator A. O. Airewele asked the Prime Minister, whether he has ordered any investigations into the attrocities committed by some Nigeria policemen who aggravated the situation in Western Nigeria by shooting and killing innocent people.

Senator Chief Onyia : No, Sir.

O.197. Senator A. O. Airewele asked the Prime Minister, how many people have been killed or disabled since the last general election in Western Nigeria.

Senator Chief Onyia : Official reports show that 153 persons have been killed and 504 injured since the last general elections in Western Nigeria.

Police Post for Idi-Araba

O.198. Senator Chief O. A. Fagbenro-Beyioku asked the Prime Minister, if he will now consider the establishment of a Nigeria Police post at Idi-Araba in Surulere ; and if he will make a statement.

Senator Chief Onyia : The Survey of Police Establishment did not recognise the need for setting up a Police Post at Idi-Araba as the area is adequately served by the Surulere Police Station.

Police in "E" Division

O.199. Senator Chief O. A. Fagbenro-Beyioku asked the Prime Minister, if he will consider making a substantial increase in the number of Policemen in "E" Division with Headquarters at Iponri, in view of the very large and scattered area covered by that Division.

Chief Onyia : The question of increasing the strength of the 'E' Division will be considered together with that of other divisions in Lagos within the next stage of the expansion programme of the Nigeria Police Force.

Effects of Regional Set-Ups

O.200. Senator Chief O. A. Fagbenro-Beyioku asked the Prime Minister, whether he is aware that regional set-ups give pronounced consciousness to tribal feelings in the country; and if he will state what improvements he considers can be introduced to combat the situation.

Chief Onyia : No, Sir.

BUSINESS STATEMENT

The Minister of Health (Senator Chief M. A. Majekodunmi): I wish to make the following Business Statement for the information of Senators :—

As Senators will already have noticed on to-day's Order Paper, the Senate will take only two Bills which are the High Court of Lagos (Amendment) Bill and the Criminal Procedure (Amendment) Bill 1966.

Tomorrow, Friday the 14th, the Senate will consider the following two Bills :

Legal Education (Amendment) Bill 1966;
Probate (Re-Sealing) Bill 1966.

On Saturday the 15th of January, the Senate will consider the Report of the Standing Orders Committee on the proposed amendment to our Standing Orders, copies of which have already been distributed.

In addition, the following two Bills will also be considered :—

The Special Constables Bill 1966;

The Interpretation (Amendment) Bill 1966.

Senators will have noticed that only two Bills are proposed for consideration on each day and I believe they will readily welcome this arrangement which will give them an opportunity of considering these Bills in great detail.

I hope to make another Business Statement on Saturday morning.

Senator Chief S. O. Longe : According to the Business Statement, on Saturday we shall have to consider the Special Constables Bill and the Report of the Standing Orders Committee. I think our time is going to be overcrowded owing to the fact that this Special Constables Bill is a controversial one and many Senators would like to contribute to the debate on the Report of the Standing Orders Committee. I do not know what arrangement can be made about this.

Senator Chief J. K. Nzerem : I notice that this morning, Questions on the Order Paper were disposed of in about ten minutes. We have hundreds of questions lying with the Clerk and I notice that every morning just a few questions are listed.

Questions have been listed for the 27th of January when there is no possibility of the Senate lasting until Tuesday next week. At the longest, it will last up to Monday. The House of Representatives is adjourning *sine die* on Saturday. I do think that we should be given more chance to ask Questions and opportunities to move Motions.

I filed a Motion which was not disposed of during the last sitting of Parliament. Now, it is not on the Order Paper. There is no possibility of moving any Motion this time because we shall not stay here—I am definite about that—till Tuesday next week.

I do think that the time has come when we ought to be given a fairer chance of ventilating our views either by way of questions or by motions.

Senator Chief P. C. Ndu : I wonder whether the affairs of the Senate are being taken seriously. For instance, the Senate is now meeting. Yesterday, it was not announced over the Radio that the Senate would be meeting to-day. This, it appears to me, is a disregard of the Senators.

Senator Chief E. U. Uti : In supporting the Senator who spoke last, I feel that the time has come when we should be taken seriously. If we are not taken seriously, there is no need for us to come here at all.

It is also high time our Ministers answered our questions adequately and not to say, simply "No, Sir." It means that Civil Servants are not doing their duties and it is painful that we should leave our respective places to come here only to get "No, Sir." for an answer.

We want to be supplied with all information regarding this Federation and we want to be better informed about it because we are sent here to know what is happening in the Federation. I am appealing that all our Questions during this sitting should be fully answered.

[SENATOR CHIEF MAJEKODUNMI]

It is our procedure in this House that this Motion, when seconded, should stand referred to the Standing Orders Committee of the Senate, whose Report will, in due course, be brought to the Senate for consideration. Senators will, therefore, have the opportunity of making their comments on these Standing Orders either in the Standing Orders Committee or in the Senate, when the Committee's Report is brought for consideration.

I beg to move.

Minister of State (Senator Chief J. I. G. Onyia): I beg to second.

The Deputy President: In accordance with our Standing Orders, this Motion stands referred to the Standing Orders Committee. It can be debated at the meeting of the Committee and also in the Senate when the Committee submits its Report.

THE HIGH COURT OF LAGOS (AMENDMENT) BILL 1966

Order for Second Reading read.

The Minister of Health (Senator Chief M. A. Majekodunmi): I rise to move—

> That a Bill for an Act to amend the High Court of Lagos Act for the purpose of enabling Prosecutors to appeal from decisions of that Court in certain cases, be read a Second time.

This Bill is not a controversial one. It is designed to enable prosecutors to appeal to the Supreme Court in certain cases from decisions of the High Court of Lagos in criminal cases. It would not allow a prosecutor to appeal against the sentence imposed by the High Court but would allow, firstly, appeal on questions of law alone from decisions of the High Court sitting at first instance, or an appeal from the Magistrates' Court.

Secondly, it would allow appeals on questions of fact alone or questions of mixed law and fact from decisions of the High Court sitting at first instance.

Leave to appeal will have to be obtained except in the case of an appeal on a question of law from the High Court sitting at first instance. The Bill also provides for the detention or release on bail of the accused person where the prosecutor gives notice that he intends to appeal.

This is necessitated by the fact that it is necessary for the prosecutor to obtain what the lawyers call "case law", that is the opinion of the highest court in the land on a question of law whenever the case is being prosecuted. If the prosecutor finds that in prosecuting an accused person, the accused person has been set free on a question of law, he would like an authoritative pronouncement to be made on that particular legal point. That is the real purpose behind the introduction of this Bill. It is not intended to prosecute any accused person or to prosecute anybody in particular but in order to fortify our law and to make the work of the lawyers easier by getting the pronouncement on a legal point by the highest Court in the land.

I beg to move.

Minister of State (Senator M. A. O. Olarewaju): I beg to second.

Senator A. E. Ukattah: As the Mover of this Bill has said, it is not controversial but it is suggestive of the fact that the time has come when the standard of prosecution should be raised in our courts. Perhaps, the necessity of presenting this Bill might have been eliminated if hitherto the appropriate people had been allowed to prosecute.

Senators know that prosecution at the moment is carried out mainly by police officers who depend mainly on experience rather than on legal knowledge and they always battle with lawyers who appear for the accused persons. So, on many occasions, cases have been lost either because they have been wrongly framed or because the wrong method of prosecution has been adopted. In fact, I witnessed proceedings in cases when the presiding Magistrate lost his temper and abused the police officer prosecuting.

I think the time has come when the Government and the Police Service Commission should think seriously of employing lawyers to do that aspect of police work that has to do with the framing of charges against accused persons and the carrying out of prosecution in court. This will indeed help to improve prosecution in our courts.

We have many young men and women taking special interest in legal education. I am sure that if thxy are sufficiently remunerated

they will like to take up appointments in the Police Force.

I beg to support.

Senator Chief S. O. Longe : In supporting this Bill, I have to direct the attention of the Senate to Section 3 (2*b*) where it is said that the High Court may make an order providing for the detention of the accused person or directing that the accused person shall not be released except on bail.

My contention is this. We all know what a case is. If a man who has been standing trial for, say, nine months or more is on a certain day lucky to be released, he will certainly like to go back home to his family. But according to this Bill, the Court will say "no" and he will have to be detained.

I do not know what the Police stand to lose if they allow the man to go, even if they are appealing. If the appeal favours them, there is nothing preventing them from arresting the man again and starting the case whether it is on a question of law or fact. This man should be allowed to enjoy his liberty until the case is heard by a higher court.

I think it is unfair for a man who has been standing trial for several months to be acquitted and then detained again because the Police want to appeal. I know the Judge may ask the accused person to find somebody to bail him but that fire still hangs on him until the case is finally heard.

I would suggest that the Attorney-General should delete this paragraph from the Bill. The Police should lodge their appeal and if they succeed, they can re-arrest the man.

I support the Bill.

Senator Chief Majekodunmi : I am glad that Senator Longe has raised this point and it shows that he has taken pains to study this Bill. Nevertheless, I would like to point out to him that what is contained in this Clause to which he is referring is already being practised in our criminal procedure.

It is left to the presiding Judge whether or not to grant bail or to detain an accused person. This question cuts both ways. At the moment, there are facilities for appeal by an accused person who has been convicted.

Here, we are seeking power for the prosecutor also to be able to appeal. At the moment, if a person who has been convicted in a Magistrate's Court wishes to appeal to the High Court he does not remain in prison if he has already been granted bail. If he has been granted bail, his people will bail him at the same time, while his appeal is being heard. And if he loses the appeal in the High Court and then wants to appeal to the Supreme Court he does not remain in the prisons while the appeal is being heard, if he has already been granted bail.

But if he is the type of person who should not be granted bail, that is an issue which should be determined at the moment of his arrest. The same thing is what is being provided for in the section to which Senator Longe has referred. And I think that it is the normal practice in our criminal procedure.

Senator Chief Asuquo Nyon : My first impulse was one of reluctance to support the Bill on the principle that an accused who had been tried and acquitted, if an application is made to the Court, could be detained pending an appeal to the Supreme Court. I am, however, in sympathy with this Bill.

If we really watch the trend of events, we will realise that this Bill applies particularly to the High Court of Lagos, not to the whole of the Federation. We have seen that in the Lagos High Court (Amendment) Law, 1960, the opportunity was given for the prosecution to appeal. It means now that the prosecutor will not only be allowed to appeal but can also apply to the High Court for the accused to be detained, or demand that he be granted bail.

Now, why I think that we should sympathize with the object of the Bill is this. The freedom of an accused may be turned on the question of interpretation of the law ; it does not mean that the person accused in fact committed the crime. It is all a question of law. We know that every crime that is committed is not against the complainant only but also against the community as a whole. And we notice that in Nigeria that there is a tendency for lawlessness and criminal offences to be indulged in by some people, depending more or less on the chance that they may escape through the intricacies of the law.

[SENATOR CHIEF NYON]

Then the question of law arises. Should we depend merely on the opinion of a single Judge because the average High Court here is presided over by only a single Judge although there is a provision in the Lagos High Court law for three Judges, with the permission of the Chief Justice, to preside over a particular case.

Indeed, we do not want those who are disposed to commit crimes to have an easy time. For that reason, I think that it is perfectly safe and reasonable to pass this Bill into law so that we can be sure of what we are doing. Law is highly technical. In most cases the criminals are successfully defended. Perhaps somebody may just be let off.

So, let it be a question that can be referred to the highest Court of the land as an unimpeachable authority to go by. After all, the law is intended to be a deterrent to these criminals and they must not escape easily just because of some interpretations.

I feel that the Bill as it stands here is deserving of our sympathy. It does not deal with the question of trying to curtail the liberty of the accused but the question of safe-guarding peace and order in the community.

I beg to support.

Senator Chief J. O. Ngiangia : It is really true that the Bill is not a controversial one. But there is only one point I would like to make on it.

I believe that the law, in principle, says that the accused at the bar is considered innocent until he is found guilty. If that is true, we all know, however, that an advantage is on the side of the prosecutor. The prosecutor has the best lawyers ; the law is in his hands ; the Judge is also more or less for him.

Senator Chief Majekodunmi : On a point of order, I think that everybody has acknowledged the impartiality of our Judiciary. They are never either for the posecutor or for the accused person.

Senator Chief Ngiangia : Now, the accused may be tried and found innocent and then acquitted. Then the prosecutor feels that justice was not given to him and would, therefore, appeal and get the accused arrested. I feel that if we want to consider the freedom of the accused we have to be very careful so that we may not labour under suspicion.

Here we have two points : one is the point of law and the other the point of fact. If we have a point of fact and appeal the case and detain him, then we might be labouring under suspicion. I feel that all rights should be given to the accused. If he wins his case we should regard him guiltless.

Many a time we have discovered that some police officers arrest a suspect who is taken to Court and is set free there. Then another set of police officers re-arrest him. Well, I think that our law, and those who interpret the law, should take cognisance of this point : whether the other police officers are incapable of doing their work well, or whether we are finding superior people to supersede them and to punish the same man.

We all know that many a time those who are sent to prison lose their cases on highly technical points of law. It is not everybody that we find in the prison yard that is, in point of fact, guilty of the offence he is being punished for. In the same way, if an accused person is struggling to get himself freed we must also give him the advantage to do so.

I should like to end my remarks with this suggestion. Caution should be taken in order not to try an accused with prejudice.

Senator Chief R. A. Umoh : I rise to support this Bill. In doing so, I must clearly bring out certain points. I have given much thought to this and it looks as if a kind of preliminary conviction has somehow been planned. I honestly feel that nobody should be punished until he has been found guilty.

For one to be accused of an offence does not mean that one is guilty. An innocent person may be accused of anything, but not until the Court has found him not guilty that he can be discharged and acquitted. If one is found guilty of an offence in a lower Court one is sometimes discharged and acquitted after an appeal to a higher Court.

What then is the great reason behind the fact that one is further punished by detention ? As a matter of fact, detention is part of imprisonment. A person can be put in detention for a whole year without trial. Does that not amount to inflicting punishment on a person even before judgment is given ? That side of this Bill boils down

to the fact that as soon as an accused person is set free a prosecutor could again pursue him, if he actually wanted to punish him and make him suffer, even if he is not guilty, by sending him to the Superme Court under arrest and detention until the case is finally decided, and he is set free.

No compensation will be given him for the time he has wasted in custody or which he could have used to serve his country.

Even when the Court finds one not guilty one could still be locked up for a couple of months or years pending an appeal. What is the benefit of this action ? I personally feel that there is no justification in detaining one who is not found guilty, because it is not within the jurisdiction of the Court now to determine one's detention.

On this point, the Courts should determine whether or not an accused person, who has not been found guilty, should be detained if his case is serious enough to warrant the detention.

In my view, this method of detention after a man has been discharged and acquitted is not justifiable. Even if there is no opportunity now for me to amend this, as it will appear as one man's opinion, because several others have already supported it, I do not see why detention should be allowed when a person is not found guilty of an offence. However, it has been decided that this should be so, and I cannot see my way through in opposing it. In any case, I have so far expressed my conviction on this matter.

Senator T. A. Idowu : I have heard a lot from Senators supporting this Bill. I must say that I would subscribe to the debate on this Bill with all humility.

I will not agree that this Bill is not controversial. The purpose of this Bill is two-fold. Firstly, it deals with appeals on questions of law alone from the decisions of High Courts or Magistrates' Courts at the first instance. Secondly, it deals with appeals on question of facts alone or questions of mixed law and facts from the decisions of High Courts at the first instance.

In going through this Bill there are two important factors which must be taken into consideration, the prime being the fate of an accused person. We can understand this fully in a simple case or in a minor offence which is quite different from a felonious one. In a case which goes to the High Court or the Supreme Court the Legal Department is expected to direct the constitutional process from the beginning.

As Senator, Ukattah has said, it is for the Legal Department to look into the case by sending a State Counsel to represent its interest at the first instance, even in the Magistrates' Courts, because an accused person will have to retain a solicitor right from the beginning. Such an accused person goes to a Magistrate's Court on points of law or fact, and it is sometimes for this reason that he is released.

However, since there is room for appeal from Magistrates' Courts then an appeal goes to a High Court from a Magistrate's Court, and the Legal Department is then expected to be represented there. Here I must emphasise that it will not cost the State more than the salary of the State Counsel who has to represent the interest of the State in the High Court at that stage.

Now, unexpectedly, the accused person is sometimes set free again. This Bill then paves the way for the prosecutor to send the accused person to the Supreme Court for another verdict.

This, in my view, is the reason why this Bill has been proposed. This provision has been made in order that a prosecutor may appeal or may be given the right by law to appeal. Nobody quarrels with the State for having such a right, because the interest of the State must be protected. However, we should not allow lilliputians like Second or First Class Constables to appear as prosecutors at the outset in a Magistrate's Court. Why can the Legal Department not be represented by a qualified lawyer—a State Counsel ?

Generally, each time an accused person goes to a Court he is represented by a solicitor who he retains, and he continuously retains a solicitor if the prosecutor feels that the accused person has to go to the Supreme Court.

We have to think of the fate of the accused person, because he has to spend money in defending himself. It may be that at such a time he will not be financially strong enough to retain a solicitor. He will, therefore, be alone when the State Counsel takes him to task in such a Court.

[SENATOR IDOWU]

After all, a High Court is presided over by a qualified lawyer, and so also is a Magistrate's Court. What then makes it necessary for us to give a prosecutor time to appeal on questions of facts when he could have done this in a Magistrate's Court ?

It will appear to be a dereliction of duty on the part of our Legal Department not to be well represented in a Magistrate's Court, and we should not condone such a thing by preparing a Bill to give the Legal Department an opportunity to shirk their responsibilities and make people suffer.

The Legal Department ought to send qualified lawyers to our Magistrates Courts to prosecute cases. At present, qualified lawyers from the Legal Departmrnt do not go there ; only Second Class Constables or Lance Corporals go to our Magistrates' Courts as prosecutors.

However, when an accused person goes to a Magistrate's Court he retains a lawyer who will state his case, and the accused person is, for that reason, sometimes set free.

According to this Bill, the prosecutor will now appeal to the High Court, and if he is again dissatisfied with the verdict of the High Court, he may further appeal to the Supreme Court. Do we mean here that our High Courts which are presided over by legal professionals and people who have spent more than ten years at the Bar cannot mete out justice again ? Are we inferring that we still need to have the verdict of the highest court of our land, after we have had one from a court presided over by a member of the honourable Bench ? Does it mean that our High Court Judges are inefficient, or are we condoning the dereliction of duty of the Legal Department headed by the Attorney-General ?

I would say therefore that this Bill should not be given a chance, because we have to think in terms of the common people or the peasants of our country. How many people have money enough in this country to be able to go from a Magistrate's Court to a High Court and from a High Court to a Supreme Court ?

If the Legal Department will not be serious about its duties we ought not to encourage it to be so. The Legal Department has the time to go to the Magistrates' Courts and the High Courts.

On the face of this, I oppose this Bill.

Senator E. A. Lamai : I want to emphasise one aspect of this Bill which, if the Senate permits, should be scrapped from this Bill and that is the question of detention after acquittal by the Magistrates' Courts.

I would have thought that the purpose of detaining an accused person, or a suspect, is to enable the Police to investigate the crime and get facts and figures with which to prosecute.

It beats my mind hollow to see in this Bill that a Prosecutor should be given power to arrest and detain a person who has been discharged and acquitted by a court. This aspect of the Bill, in my opinion, is giving the power of a Judge to a Police officer because when a Prosecutor brings an accused person to court he will find all ways and means in fact and law to get him convicted. If before the trial Judge this man is acquitted, the Prosecutor will not be very happy to see that the game he has been after has not been victimised. Surely, he will make up his mind to find another way of punishing him or placing him in an uncomfortable position.

It will be very wrong therefore, for the law to allow this sort of thing to happen. I would rather agree that the law allows for the arrest of a person where it is suspected that such a person will run away. To have him detained in any other way will be contrary to the principles of justice. I do not think that the freedom which such a man has got from a Magistrate or a Judge is allowed him if this happens.

Members have said that this Bill is noncontroversial. I think this aspect of it is very controversial. In support of the Senator who spoke last, if it is possible to do so, I would like this Bill to be deferred, looked into, and that aspect concerning detention after acquittal should be scrapped before the Senate sanctions this Bill.

With these few remarks, I beg to oppose.

Senator Chief Majekodunmi : I think we have all aired our views on this Bill and I just want to clear up what I believe to be a misunderstanding of the objects of this Bill. It is certainly not the purpose of this Bill, as Senator Idowu would appear to imply, that we are introducing this Bill in order to rectify

any inefficient handling of the prosecution in the early stages. That certainly is not the purpose of this Bill at all.

I think whenever a case is being prosecuted either in a Magistrate Court or in a High Court, the Office of the Attorney-General is always informed and the Police always have the benefit of the advice of the legal experts in that Ministry. Also, whenever necessary, State Counsel from that Ministry go out to prosecute cases.

Certainly, this Bill is not intended to rectify any mistakes that prosecutors might have made in the handling of their prosecutions. As I explained earlier, whenever there is any doubt on a point of law or point of fact and law mixed, on which either a Magistrate or a High Court Judge has made a pronouncement, it is sometimes necessary to test the validity of this pronouncement by appealing to a higher court. It is only by so doing that a body of case laws is built up which will be a guide to lawyers who conduct our cases.

Hitherto, these case laws have been built up only by the fact of the accused persons who from time to time appeal against judgments in the lower courts. There has been no opportunity for the Prosecutor also to appeal and it is necessary, in order to get this body of case laws built up properly, that the Prosecutor should also be free to appeal.

As I have already explained, this is not being introduced to create any hardship on any accused person. It is in order to enable us to clarify our laws. And whenever we find that the laws are deficient, the Ministry of Justice will come back to the Legislature to have amendments made to such laws if they do not justify the purpose for which they have been enacted.

I have already explained when dealing with the points raised by Senator Chief Longe that the question of detention after acquittal which is embodied in Clause 3 of this Bill, is not a new thing at all. I think that everyone of us here had the experience of an accused person who, at one time or the other, is apprehended and arraigned before a Magistrate. When this happens, his relatives will want bail for him and the Police may object to it. After arguments from both sides however, the Magistrate may decide that the accused person should be given bail and he is thus bailed.

At the conclusion of the case however it may well be that the accused person is convicted. If he fails to appeal against his conviction he will normally be detained in jail and will remain there. If he appeals against the conviction, the bail which was granted while he was under trial will still remain, and his people will still ask for bail on the same grounds on which he was bailed at the first instance.

Normally, I think he will be given bail. The same procedure is what this Clause wishes to provide for Prosecutors. Where an individual has been given bail after conviction he will not go into jail while an appeal is pending, and Senators must realise that this process is still a trial until the last appeal has been heard.

When a judgment is pronounced and the notice of appeal is given, that case is still under trial, and Senators will agree that no newspaper or anybody else can comment on it while it is still under appeal because it might well prejudice the final determination of the case.

Therefore, it is not a question of keeping a person in detention illegally because the person had been apprehended in any case, and nobody can know whether he is guilty or innocent until his case is finally decided. That is the reason why this provision is made.

I think this explanation is sufficient. After all, I am not a lawyer. I have just given Senators my understanding of the Bill.

Senator J. M. Egbuson : Mr Deputy President, Sir,—

Senator Chief R. A. Umoh : On a point of order, I think since the Minister has given his final comments on this Bill, there should be no further discussion on it.

Question put and agreed to.

Bill read a Second time ; immediately considered in Committee ; reported without Amendment : read the Third time and passed.

CRIMINAL PROCEDURE (AMENDMENT) BILL

Order for Second Reading read.

The Minister of Health (Senator Chief M. A. Majekodunmi) : I rise to move—

That a Bill for an Act to amend certain enactments which refer to conviction on indictment; to clarify the definition of "indictable offence" in the Criminal Pro-

[SENATOR CHIEF MAJEKODUNMI]

cedure Act; and to amend the Criminal Procedure (Northern Region) Act 1960, be read a Second time.

This Bill is a technial one designed for threefold purposes. Clause 1, is designed to eliminate from Federal enactments, references to conviction on indictment, since this form of proceeding no longer exists in the criminal procedure of the Northern Region.

Clause 2, clarifies the definition of "indictable offence" in the Criminal Procedure Act, Chapter 43, by making the wording accord with what has been said to be the true meaning of the existing definition.

Clause 2, inserts into the Criminal Procedure (Northern Region) Act 1960, a new subsection which in relation to the Northern Region, will translate any reference to summary trial or summary conviction, according to the Federal Act, into terms appropriate to the Criminal Procedure in the Region.

As I have pointed out, this is a technical bit of legislation to enable the smooth application of the Criminal Procedure Act in Northern Nigeria to be effected. As Senators would have noticed in the preamble to the legislation which I have just read to them in my introduction, the three Clauses in this Act are designed for just these purposes.

There is very little controversial in this Bill. It is only a means of making the work of the Northern Legislature smoother.

I beg to move.

Minister of State (Senator M. A. O. Olarewaju) : I beg to second.

Question put and agreed to.

Bill read a Second time and immediately considered in Committee.

CRIMINAL PROCEDURE (AMENDMENT) BILL : CONSIDERED IN COMMITTEE

Clauses 1-4—*ordered to stand part of the Bill. Schedule—*

Senator Alhaji Abubakar Garba : I would like to seize this opportunity to thank the Federal Government for providing Senators and Members of the Lower House with copies of our Law books. All these amendments would have been of no value to us, had not the Government provided us with Nigerian Law books. It is now left to us Parliamentarians to keep our copies up-to-date.

Once again, we thank the Federal Government.

Schedule agreed to.

Bill reported, without Amendment ; read the Third time and passed.

ADJOURNMENT

Motion made and Question proposed, That this House do now adjourn—(THE MINISTER OF HEALTH)

Question put and agreed to.

Resolved : That this House do now adjourn.

Adjourned accordingly at seventeen minutes past eleven o'clock.

SENATE OF THE FEDERAL REPUBLIC OF NIGERIA

Friday, 14th January, 1966

The Senate met at 9 *a.m.*

(The Deputy President in the Chair)

ORDERS OF THE DAY

LEGAL EDUCATION (AMENDMENT) BILL

Order for Second Reading read.

Minister of State (Senator Chief J. I. G. Onyia): I beg to move—

That a Bill for an Act to reduce to nine months the period of practical training required under the Legal Education Act 1962, be read a Second time.

The purpose of the Bill is to reduce from one year to nine months the period of practical training which a person must complete before he can be issued with a qualifying certificate under the Legal Education Act, 1962. It will be seen that this Bill is non-controversial.

I beg to move.

The Minister of Health (Senator Chief M. A. Majekodunmi): I beg to second.

In seconding this Bill I would like to point out to Senators that when the Legal Education Act was passed it was stated that the lawyers who qualified outside Nigeria or indeed in any of the Universities in this country before they can go to practise will have to undergo one year's training course in the Law School in Nigeria.

This one year's training course is meant to be one academic year, but since it has been set down in our law as one year, it has so far necessitated that these students have to spend twelve months in the Law School. It is now intended to amend this section of the Legal Education Act to make it clear that the one year which is referred to as one academic year, normally is nine months. That is why the period of training in this Law School has been reduced from one year to nine months.

Senator Chief J. K. Nzerem: As the Minister who introduced the Bill has said, this Bill is not controversial, but I think that it is controversial in the sense that we had looked forward to a considerable reduction being made in the length of time that this practical work in the Nigerian Law School would last.

If, perhaps, it is made applicable only to those who did their legal education in Nigeria, one could understand the necessity for the nine months additional practical training. Some of these people who are taking legal education in England are doing so at considerable expense to their parents. We know what our country is. Parents will not think twice before borrowing heavy sums of money to keep their children in the United Kingdom for legal education, and by the time a student returns the parents are in debt, sometimes to the tune of a thousand pounds. Naturally, they would expect their boy to go straight into practice.

When our students qualify in England, I understand that they do practical course there and since our law is based on the law of the United Kingdom, I do not see the need for a very long practical training in this country on their return.

I would have preferred a period of, say, three months for those who were educated overseas, so as to reduce the amount of financial burden on their parents.

If the Government will consider the necessity of further reducing this period to three months in the case of those who had their legal education overseas and perhaps six months for those who had their legal education in Nigeria, it is not my intention to oppose the Bill because I agree with the principle of this practical training.

I appeal to the Government to further reduce the period of training to three months for those who had their legal education overseas and six months for those who had their legal education in this country.

I beg to support.

Senator Chief S. O. Longe: In supporting this Bill, I would say that the Bill is a bit controversial. According to what the Minister of Health (*Senator Chief M. A. Majekodunmi*) who seconded this Bill said, a law had already been passed that the period of this training should be one year but in order to make it practical the period is now being reduced to nine months.

[SENATOR CHIEF LONGE]

Much as I would like the suggestion made by Senator Nzerem that the period of this training should be three months in the case of those who had their legal education overseas, I think that anything worth doing at all is worth doing well. This period of nine months should be allowed to remain.

I have a very serious matter to put before the Senate about the Bar Association. Recently a memorandum was dispatched to each and everyone of us by the Bar Association calling our attention to what they were experiencing. Senators who have read this memorandum will agree that the condition of our Nigerian lawyers is very deplorable. Four expatriate lawyers dominate the field of retainers. These four expatriate law firms are the retainers to fifty-nine firms and one of them is making as much as £175,000 in a year.

Senator A. E. Ukattah : On a point of order, Senator Chief Longe is referring to the Bar Association when in fact we are considering a practical training for our legal students. I feel that he is irrelevant.

Senator Chief Longe : We are discussing a Bill which affects our lawyers and what I am trying to bring before the Senate affects our lawyers too. They are our children and we must protect them. I do not see any point of disorder in this.

The Bar Association deserves our full support and Government should do something to protect it. We cannot leave our lawyers at the mercy of expatriate firms. There are many Nigerian lawyers who cannot even make £50 in a year.

Senator Chief O. A. Fagbenro-Beyioku : No ! That is a disgrace to the profession.

Senator Chief Longe : According to the ethics of their profession they are bound not to say anything. Senators should go to the courts and see them. That is my opinion and I know them. I know many of them who have had to live on overdraft from time to time. I leave that part of it.

What I am saying is that Government should do something to protect our own lawyers from these expatriates who come here to make money and repatriate it to their country. I hope Senators will support me by seriously appealing to the Government to see to it that a law is enacted which will make it an offence for a foreigner to practise law in this country.

Several Senators : No.

Senator Chief Longe : Senators may say no, but according to this memorandum there are many countries in the world—including United Kingdom—where one cannot even practise law unless one is a citizen of the place.

Senator Chief Fagbenro-Beyioku : There are Nigerians still practising in the United Kingdom.

Senator Chief Longe : This memorandum does not say so. I am appealing to the Senate to see to it that a law is enacted by Government which will prohibit expatriate lawyers from practising law in this country. This is my opinion.

With these observations, I support the Bill.

Senator Chief Fagbenro-Beyioku : I have not much to say on this Bill other than to lend support to the views aired by Senator Nzerem.

I remember fully well that when the original Act was passed here Members of the Senate spoke strongly against this question of one year additional training. In the past, most of our lawyers have proved very successful and, of course, in every bag of eggs there must be rotten ones. Whilst many have proved very successful, some might not have measured up to the gauge.

According to the Leader of the Senate, this reduction of three months is not a reduction in the real sense but an adjustment and a real interpretation of what is meant by an academic year. In an academic year there is a three-month holiday and then the remaining period of nine months is devoted to active study, so that it is still within that interpretation.

I would still appeal that something should be done. After all these people have studied the rudiments of the law ; they are qualified. The only thing is to acquaint them or get themselves acquainted with local practices and procedures. If a man with a very good educational background, leading to a law degree or his being called to the Bar could not acquaint himself with the local practice within a short

period, I wonder what stuff is in that man. I am still of the opinion that something should be done to reduce this provision further.

After all, a man becomes a good lawyer as he continues to practise, and he develops with the profession. When he enters into the profession and he starts to practise, people will know him by what he makes of himself. He acquires experience and knowledge as time goes on, and it is not necessarily the one or two years he is going to spend in the Law School here that will make him an excellent lawyer. No Sir. By the time a man becomes qualified, that is the beginning of it. His success will depend on how far he can adapt himself and how far he can surrender himself to the continuous study of law because as long as one wants to remain in practice one will have to study law continuously throughout one's life.

We are here to-day and we will pass several Bills and they will become Law. Whether a man goes to the Law School at Igbosere Road or not, if he does not take care to read and apprise himself of what changes are going on, it is useless. For that matter, I am still of the opinion that it is not the length of the period that matters but the willingness of the man to develop himself. I agree with Senator Nzerem that Government should give further consideration to reducing this period.

As regards this question of Legal Education, we have the Law School. I do not know, however, the extent to which the Law School compares with the Inns of Court in England or the Law Schools in the United States and elsewhere. I do not know whether this Law School is purposely for lawyers who are qualified to go there and spend nine months or for people who enter the Law School to start from the beginning.

For all I know, if one enters any of our universities, say the University of Lagos, one can complete one's degree course in Law and then go to Nigerian Law School. I do not know whether the Law School starts from the foundation so that a person can enter the School as a beginner without any previous university education. Particular provisions should be made there for beginners.

We have said that we want Nigerians to concentrate at home. If certain Nigerians who are studying outside Nigeria now feel like relinquishing their studies and coming home in order to pursue their course in Nigeria, what opportunities are there for them to opt for the Nigerian Law School at the stage they left their studies in any of the Inns of Court ? If opportunities are provided, I am quite sure that many Nigerians who are now overseas will prefer to come home to finish their studies rather than to stay overseas with all the hardship involved.

If this point has not been considered, I am appealing to Government to give sound consideration to this situation with a view to making provision for those of our sons who are overseas. There should be opportunity for them to come back and pursue their legal education in our own Law School at any stage, provided there is sufficient evidence that they have actually reached that stage elsewhere.

I beg to support.

Senator M. G. Ejaife : I would not like to make any discrimination between students who study law in England and those who study law here. I would like to draw a distinction between what people have called academic law and the Bar. I know that in England one may qualify with a law degree but he has still to do his course in one of the Inns of Court in England. I know some friends who had very good law tripos and yet failed the Bar examination two or three times before they actually passed it. So, there is this distinction between what people call academic law, law degree, and then the B.L.

I would also like to draw a parallel between the teaching profession and the law profession. If a teacher has a degree and is employed in a school, he may be called a graduate without a teaching qualification ; he is on a different scale from a teacher who gets a degree either before or after obtaining his teaching qualification. If he does a diploma course, say for one year or a post-graduate certificate of education course, he is on a different scale because he is called a graduate with teaching qualification. If he has a Grade II certificate before he goes to a university and then gets a degree, he is called a graduate with teaching qualification.

Now, with this in mind, I think one ought to consider some difference between the grades of lawyers. Whether a man had his degree in England or in one of the five

[SENATOR EJAIFE]

universities here, I think he should be bound to attend our Law School in order to acquaint himself with the processes and usages of law in this country.

On the other hand, if a person has undergone the Bar course in one of the Inns of Court in England he ought not to be bound to attend the Law School for as long as nine months because during his course of learning, he has encountered many of these practical steps. Some students after the Bar course attend some practical course on chamber work. I have examined the certificates of some people who, having got their B.L., attended also some practical course overseas and are now here to attend another practical course.

With due deference to the necessity for acquainting themselves with local customs—I know it is essential for them to do some course—I think three months will be enough for such class of people. For those who have done a degree course, whether in Nigeria or in England, I am sure that nine months will be necessary.

I also want to draw this distinction. Let us use the words "one academic year" instead of "nine months". If we are not careful we may even be put to court one day by some lawyers who may say that somebody has not done nine months in the Law School.

One academic year may be a little more than nine calendar months. Why do we not say one academic year? It is this one academic year that was wrongly interpreted to mean 12 months. I know that in some universities one academic year consists of only eight months. I think in the Ibadan University, an academic year runs from October to May, which is really only eight months. I think it is safer therefore to use the words "one academic year" rather than "nine months" because I am not quite sure that students are going to be there for exactly nine months. It may be a little bit more or a little bit less.

If we alter that I do not think it will be deleterious to the cause of this Bill. So, I am suggesting that instead of committing ourselves to nine months, we should make it one academic year.

With this proviso, I beg to support the Bill.

Senator Chief A. O. Airewele : I rise to associate my views with those of other Senators who have spoken on this Bill. If we view seriously this reduction from one year to nine months, we will find that there is no reduction at all. What it meant was 12 months beginning from October to June. The remaining three months are for holidays. I feel that nine months for those boys who have really laboured and have returned to Nigeria is too long a time.

We are told they are going to do some practical work in order to get them well acquainted with the local laws. What we must remember however, is that the present eminent lawyers we have in the country to-day did not do this nine months' course.

After qualifying abroad they came to Nigeria and started to practise. They are just like good teachers. Good teachers are those who prepare their notes of lessons irrespective of their qualifications. Once the notes of lessons are prepared before they go to the classes the next morning, they are quite prepared to answer questions from wherever the boys bring them out.

Some lawyers who feel they are qualified and who do not prepare their cases cannot do anything whenever they go to the law courts. The best lawyers we have to-day are those who prepare their cases before they go to the court.

So, I feel that it is not spending extra nine months that will give them more acquaintance with the local laws in order that they may become clever lawyers. This is arguable because, as I have said, our eminent lawyers to-day did not do that. I think that after somebody had studied and come back, if he was able to pass his examination, the highest period he should be asked to devote to practical work is just three months.

If this is added to what he had done and is prepared to do his work as it ought to be done, I feel he will eventually become a good lawyer. We should not make it nine months or more.

With these remarks, I beg to support the Bill.

Senator Chief U. A. Ekefre : In rising to support the Bill, I have very few observations

to make. To restrict from practising a lawyer who had already spent three to four years in a University studying law, for the purpose of practical training in Nigeria, is too much of a hardship.

The first Member who spoke on this Bill pointed out to this House that some of the parents of students who are studying overseas sometimes owe debts. They owe these debts hoping that as soon as their sons are qualified, they will return to Nigeria and start practising.

So, making the lawyers who have finished their courses in the Universities, and have been called to Bar to remain for another nine months will mean that the same parents, who have been owing debts with the hope of repaying them little by little when their sons returned from the law schools, will still go on owing.

We really know that practice is needed for proficiency. We know too, as a Senator mentioned earlier, that a good teacher prepares his lessons before he goes to the school. We have had very good lawyers many of whom are now Judges and Magistrates, who returned from the United Kingdom or from the Universities and did not undergo this type of practical training.

I believe that if the course is for a year or two, a lawyer who does not prepare his cases before going to court will not do well in the court. As long as a lawyer remains in practice, the more he practises the more he gains knowledge of the law. The law all over the world is changing from time to time. Remaining in the Law School for more than nine months to gain practical experience will not be the end of any lawyer wishing to be a good lawyer in Nigeria.

I feel that I am in line with the very first Senator to speak on this Bill, Senator Nzerem, that the period should be reduced to three months.

With these observations, I beg to support.

Senator M. B. Chukwubuike : I have not much to add to what many Senators here have said. From what I gather from the Minister who moved this Bill, the Bill, seeks to amend what we passed some two years ago. It was passed with a view of making it one academic year, as was rightly pointed out by Senator Ejaife. The Bill then made provision for one year, which means twelve months.

What Senators have tried to suggest, and what I think is in the heart of everybody here, is that the period should be three months. Perhaps we will be more practical if we move an amendment that this should be three months instead of nine months.

Many of us here who were in the last House will recall that when this Bill came to the House many Members spoke strongly against the introduction of the Bill. We foresaw hardship. Some parents of the lawyers are suffering now.

I quite agree that our lawyers should be conversant with the laws of our country. But I am saying that anybody who calls himself a lawyer should be able to study our laws within a period of three months. I am suggesting that we all here resolve that the period should be three months instead of nine months.

Senator T. A. Idowu : I rise to support this Bill. The purpose of the Bill is only to reduce the period of practical training which a law student must complete on his return to Nigeria to nine months. If we are suggesting any practical measure by saying that a reduction should be made to what this Bill provides, there is a way to do that. We can put forward an amendment in the way it should be done.

Already we have agreed that a similar Bill was brought here in 1962 and we all passed it.

What we are now saying is that it should be reduced to three months. We have all agreed that this Institution is like the Inns of Court. But there is a very important thing to which I would like to direct the attention of Mr Deputy President and the Members of this House.

We cannot say what will be the fortunes of these lawyers when they shall have left the school. And that is what my Friend, Senator Chief Longe, was talking about. He invited the attention of this House to the way lawyers practise in Nigeria. I would say that there is no novelty if the Legal Act is amended to include that no non-Nigerian should practise in Nigeria. I say that there is no novelty in this.

Time was when our eminent lawyers here were awarded the title of Queen's Counsel,

[SENATOR IDOWU]

But when we achieved independence we felt that it was undignifying only to copy exactly what is foreign. So, the title was withdrawn and these lawyers go by their degrees only.

With your permission, Mr Deputy President I shall quote one aspect of this issue which I think will appeal to the minds of Senators. Every member of this House has got a copy of a memorandum submitted by the Bar Association. The reply from England says as follows :—

No person may practise law in Britain unless he is a British citizen. A Nigerian cannot be allowed into Britain under the British Immigration law.

The Deputy President : That is out of order.

Senator Idowu : I agree with the Deputy President if he insists that I am out of order although I do not know whether it is on a point of irrelevancy. But I just want to say that much as we are agreed in principle that the mode of practice should be amended yet I think that something more should be done to the legal profession. It may be necessary for me, in the near future, to bring a Motion on this to this House.

I beg to support.

Senator Chief J. O. Ngiangia : I would like to make only one point. I am in support of the nine-month period contained in the Bill.

My reason is this. During the colonial days, our lives, laws and everything of our country were shaped by our colonial masters. And our mode of practice, I may say, was more or less shaped in that way. So, the people who studied and practised law in England could come right up to Nigeria to resume their practice. This was so because in those days a colonial Nigeria was part of the mother country.

Now there is need to make this practice relevant to Nigerian background. I disagree with those who say that reduction should be made in favour of those who study law outside Nigeria. Rather a reduction should be made for those who study law in Nigeria because they study law with the Nigerian background and they sit in Nigerian courts while they study. It is easy for them to go to court and to do some practice in the country.

But those who are studying law outside Nigeria have not got that facility. They are still studying with the background of the country in which they are studying. For this reason, they should spend longer time when they come to Nigeria to do practical work.

The point I am trying to make is this. As long as nine months is one academic year, they should spend nine months. There is no sense in asking them to spend three months. What does that mean ? Is it part of the academic year ; a fraction of it ? Why do we not just tell them to go and read for some weeks and go away ? By asking them to spend one academic year we will get them thoroughly acquainted with the system of Nigerian law.

I support the Bill. Those who study law in Nigerian and outside Universities should do a practical course in Lagos for nine months.

Senator Chief S. Lateju : I rise to support this Bill with a few observations. This Bill deals with the period of practical training which a lawyer must complete before he can be issued with a qualifying certificate, and it is on this point that I wish to speak.

If the Nigerian Law School is established for the purpose of giving practical training to lawyers who have qualified in England and Nigeria, I feel that that period of training should cover more than three months or six months. I support fully the method of adopting nine months' training which is one academic year for this purpose.

Experience has taught me to entertain some doubts about the capabilities of a few young-men who went to England to study law. Senators who had been to England would notice that around the Inns of Courts there were established many coaching establishments. It often happened therefore that some students attended lectures only for some months, and shortly before their examination period they paid some of the coaching establishments in order to be coached for their examinations within a short time. This type of law students passed their law examinations by cramming their work.

I would draw the attention of Senators who are teachers to the necessity and the advantage of practical training. The necessity and the

advantage of practical training are very pronounced in any profession. One expects a carpenter who has spent about five or six years as an apprentice to be able to make a box or a chair. If he cannot do so then there is no necessity for his apprenticeship and no advantage is gained from his practical training.

So, I think it is better for those lawyers who finish their courses in England or Nigeria to attend the Nigerian Law School and do the practical work.

With these observations, I support the Bill.

Senator Chief E. U. Uti : I wish to contribute a little to this debate. I am associating myself with those Senators who have suggested a reduction in the period of practical training.

In the first place, we all know that time is money. In addition, there are a lot of parents in Nigeria who are struggling to train their children by all means possible. In some cases they have struggled to obtain loans in order to train their sons and daughters in higher institutions for four or five years. So, when these students come out finally from those higher institutions in order to practise law, they are now being asked to attend the Nigerian Law School for an additional nine months. I am sure that any parent of a graduate who may be put in this position will be very unhappy.

I must emphasise, however, that I support the idea of inculcating into our law students the laws of our land in order to make them eminent lawyers. They should all attend the Nigerian Law School, because experience is the best teacher.

However, I suggest that a law student should attend the Law School for six months for the purpose of obtaining a qualifying certificate. If at the end of six months' practical training a law student still fails to grab the essence of our laws I doubt if he will achieve anything better after nine months' training. A law student ought to be able to get sufficient experience within a period of six months' practical training, and I strongly feel that he ought to be able to acquire the necessary experience as a legal practitioner and become a qualified lawyer in any of our courts.

It will be a great inconvenience to the parents of law students in this country if these students are required to waste time and money for nine months. We have got to consider from where that money will come. It does not matter whether the students or the parents pay for such a training.

So, it is fair that we make some corrections by reducing the nine months specified in this Bill to six or three months. It is high time that lawyers in Nigeria should be well checked, because some of our lawyers cannot argue effectively whenever they take up a case in a court of law—

The Minister of Housing and Surveys (Chief A. O. Ogunsanya) : On a point of order, I protest against the insinuation by Senator Chief Uti on my honourable profession.

Senator Chief Uti : As I was saying, it is high time we did something about the inefficiency of our lawyers. When lawyers are briefed in this country some of them are in the habit of postponing consultations indefinitely. Even when some lawyers have been briefed to appear in our courts of law, one discovers that they have not prepared the representations necessary to enable them appear in our courts of law. Anyone who falls victim of this circumstance is generally asked to pay again for certain allowances, like transport and so on, before documentary evidences can be prepared. Such practices must be stopped in the interest of the people of this country.

Senator Chief Majekodunmi : I am really surprised that a Senator said in one breath that it is quite unnecessary for lawyers to have practical experience, because they will eventually become good lawyers after they have been in practice for some time. In the next breath he said that they are of no use at all, because they cannot go to court and it is therefore dangerous to entrust one's important cases to their cares.

Well, I am sorry that this debate has degenerated to such a long one. I thought it was not controversial. When we were passing the original Act some time ago many Senators expressed misgivings about the length of the period of such a practical training which young lawyers are required to undergo. So, I should have thought Senators would welcome a reduction in the length of such a training which is now being proposed in this Bill.

[SENATOR CHIEF MAJEKODUNMI]

However, instead of that, Senators now wish Government to abolish the practical training altogether. I think it is most impracticable that such a suggestion should be implemented, because Senators will realise that we are living in a complicated world and laws are made to govern human affairs.

Our laws were never as complicated as they are now, because we were not developed as we are now. Anybody who has followed history in general will see that as soon as society gets complicated it is necessary for the laws which govern that society to be modified to accord with the development in that society. Therefore, since these laws are getting more complicated it is necessary that our lawyers should be given more training.

I think that whatever one can say here about lawyers will also apply to other professions such as engineering and medicine. There was a time that it took only five years to qualify as a doctor. Now, it takes seven years. In addition, they have to put in one calender year after those seven years for practical training in a hospital before they can get registered.

I cannot accept the argument of the Senator who has just suggested that lawyers should go and acquire experience. The price which one pays for such an experience can be imagined.

If an unbaked doctor were to be let loose on the community the price which the community would pay for giving that doctor an experience which he requires would be too much for any community to bear. It is the same thing for the legal profession, and any Senator who has had an important land case and entrusted it with an uncouth and unbaked practitioner will appreciate the importance of giving those youngmen practical training in the legal conditions under which they have to work.

This Bill is a progressive one, and I think it should be commended by the Senate. I do commend it to the Senate that we should accept it and make progress.

There are only two Bills this morning, and we should therefore make more progress than we are making now.

Question put and agreed to.

Bill read a Second time and immediately considered in Committee.

LEGAL EDUCATION (AMENDMENT) BILL: CONSIDERED IN COMMITTEE

Clause 1.—(REDUCTION OF REQUIRED PERIOD OF PRACTICAL TRAINING).

Senator J. K. Nzerem : As I said during the Second Reading of the Bill, I am perfectly in agreement with the principle of giving these young lawyers practical training. But I want to remind you, Sir, that in addition to a law degree in England, they have to do their professional work—the Bar Final examination. After the Bar Final examination, most of them now do three months post-call practice. If they come back to Nigeria and have three solid months' grounding on local conditions and local practices and they are not able to be good lawyers, then they can never be good lawyers at all.

Therefore, I move the following Amendment :

Section 1 delete "nine months" and substitute "three months".

I commend this Amendment to the Senate. Remember that they have done their degree examinations ; they have done their Bar examination which is the professional training ; and they have done three months' post-call practice in England. Why should we ask them to do another nine months on their return to Nigeria ?

I want that section 1 to be amended to read "three months" instead of "nine months."

The Minister of Housing and Surveys (Chief A. O. Ogunsanya) : Mr Chairman, the Amendment proposed is not accepted by Government.

I would like to say that it has been extremely interesting to listen to Members of the Senate debate this Bill. I realise that if one took an accurate census of the family connections of Members of the Senate, one would find a number of fathers and guardians of would-be lawyers, and I quite understand why the attitude in this House, especially very stoutly led by Senator Nzerem, is what it is.

I like to emphasise that our profession—the legal profession—at least in this country, is the most attacked. One hardly finds anything wrong in any doctor at all.

Senator Chief Majekodunmi : One finds nothing wrong because there is nothing wrong.

Chief Ogunsanya : People do not know, and there is no means of knowing it. Even where a patient is treated and unfortunately he dies, quite apart from the fact that the doctor has, by implication, the licence to kill, if need be, no one ever attacks the doctor who treated the patient.

Senator Chief Majekodunmi : On a point of order, I think my hon. Friend and Colleague, (*Chief Ogunsanya*) is mistaken in his interpretation of the licence which is given to doctors. All doctors have the licence to kill.

Chief Ogunsanya : That was what I said. That was exactly what I said. But to return to the main point, lawyers are born ; they are never made. A man may study law but may never be a lawyer. That is why, sometimes, members of our profession are attacked again and again.

I think the Government has regulated this to nine months now. If Members make a case and it becomes necessary in future to make any changes, this is a Government which is quite willing to look into every genuine case.

Now, the Amendment proposed by Senator Nzerem is on a wrong basis that when our young lawyers who are qualified go to the Law School, they go there to have practical experience. That is not quite true. It is to familiarise themselves with the volume of legislation, especially since independence that has come upon our country.

It is not true, on the facts on which the Senator based his argument, that in England lawyers have to have a university degree before going to the Inns of Court. As a matter of fact, many of us even from this country had our university law degrees and then went to the Inns of Court. But it was not everybody ; a number of lawyers did not.

It is not good argument to say that in England people do the law degree and then go to the Bar. No, that is not so. The Bar qualification is the only one essential to make one become a Barrister-at-Law in England.

This Amendment cannot be accepted now, and I think this House should leave the Bill as it is. In future if a really genuine case is made, I think the Government will be quite willing to look into it purely on its merit. I recommend to this House that the Amendment should be rejected and that the Clause sought to be amended be allowed to remain as it is.

Senator Chief O. A. Fagbenro-Beyioku : During the debate I held to the view that the period should be reduced. My very good Friend (*Chief Ogunsanya*) has alleged that perhaps taking a census of Senators there will be found fathers and guardians of would-be lawyers. I do not think that was the motive at all. When I expressed the view that the period should be reduced, I was not going to the extent of moving an Amendment immediately.

When the original Bill came to this House we gave expression to our feelings that the period was too long, and I am very happy that the Government has taken due cognizance of our feelings and is here to-day reducing the period to nine months. We want to tell the Government that the nine months period is still too long. It could still be reduced a bit.

It may be true that the period is regulated to fall in with the academic year, but I feel, perhaps, that Government is convinced that since the introduction of the Act many of our young men who have passed through the School have discharged their duties so creditably that Government now feels that instead of increasing the period with all safety, they should bring it down to nine months.

I bring this point to the attention of the Government because if our boys continue to assimilate their training with credit and Government finds that these young men are very well meaning and are quite serious—and it all depends on the people who are there now—this period should further be reduced. These young men will dictate the pace. Therefore, if these boys continue to dictate a very fast pace, nine months should not be considered as the final duration. Perhaps the Government will be in a position next month or next year to come here and reduce this period further to six months, and this would be after our boys have actually discharged themselves creditably.

We all know very well what the situation is like and we all agree that nothing but the best is good enough for Nigeria. Even then, we feel that if the boys continue to assimilate their training very effectively, the Government

[SENATOR CHIEF FAGBENRO-BEYIOKU]

should give consideration to reducing the period further.

In this case, I might, at this stage, like to appeal to my Friend to withdraw his Amendment.

Senator J. K. Nzerem : I would like to correct one impression in consonance with what my Friend Senator Ejaife said. The Government has made no reduction at all. The point is that in the original Act they said "one year" but they later discovered that one year means nine months because the students go on vacation for three months within one year. So actually, the Government has not reduced the period for practical training.

The Minister of Housing and Surveys (*Chief Ogunsanya*) has referred to people in Law Schools in England doing professional training only. Yes, but this was happening in those days. No lawyer will now go to England to do the B.L. Ninety-nine *per cent* of law students now do law degrees and some of them are not even content with the LL.B. They are all aiming at the LL.M.—that is doing another two years' course after the first four years. After doing the LL.B. in four years, law students do additional two years, and during this time they are getting their training in the Inns of Courts. I am talking from personal experience.

Chief Ogunsanya : On a point of order, the Senator is misleading the Senate. He has had no practical experience. I have had the practical experience and the LL.B. degree takes three years not four years. For the Bar, one needs not register simultaneously. It may be before or after the registration to dine in the Inns of Court for a limited number of Dinners—twelve. This has been reduced even in England.

It is not true, on census, that more of our students returning as lawyers have degrees. As a matter of fact, the accurate figures can be got across the road.

Senator Nzerem : When I talk of practical experience, it does not mean that I am a lawyer. After all, there are some people who study law without going into a law school. Is it not known that people study law by reading ? Is that not practical experience ? Do I not go to the courts ? I have lived in the same house in England with some students studying law. I have listened to their stories and got to know what they were doing. Well, if this is not practical experience, then I do not know the meaning of practical experience.

I am saying that the LL.B (Honours) degree takes four years in some universities. It is between three and four years, and during this time they gain practical experience in the Inns of Courts.

What about post-call experience ? Most law students do three months' post-call work before returning to this country. I still repeat that if a lawyer who has done good academic work in England comes back to our Law School and remains for three months and does not absorb as much as to enable him become a good lawyer, then he will never make a success at the Bar. It is not the nine months that will make him a good lawyer. As the hon. Minister of Housing and Surveys has said, lawyers are born not made. Therefore, it is not the nine months' training for practical experience in our Law School that is going to make our boys good lawyers. If they have got the essence of good legal education in them, they will do well with three months' practical training.

If the Government give an assurance that they will in due course reduce the period to three months, then I will be prepared to withdraw my Amendment ; otherwise, I will appeal to Senators to support me and let us throw away this period of nine months.

Quesion put and negatived.

Clause 1—(REDUCTION OF REQUIRED PERIOD OF PRACTICAL TRAINING)—*ordered to stand part of the Bill.*

Clause 2—*ordered to stand part of the Bill.*

Bill reported, without Amendment ; read the Third time and passed.

PROBATES (RE-SEALING) BILL

Order for Second Reading read.

Senator Chief Majekodunmi : I rise to move—

That a Bill for an act to provide for the recognition in Nigeria of a grant of probate or letters of administration made in a Commonwealth country and the recognition in any part of Nigeria of any such grant made in any other part, be read a Second time.

Senator Chief Fagbenro-Beyioku : We pray that Alhaji Abubakar Tafawa Balewa may kindly do everything within his power and within the reach of his Cabinet to see that the evil which has now descended upon the

because he is still young, unlike many of us who no longer have any more aspirations.

We must give honour to whom honour is due. Our Prime Minister has brought honour to

This Bill provides for the re-sealing in Nigeria of probates and letters of administration in respect of the estates of deceased persons granted by courts having jurisdiction in matters of probate in Commonwealth countries.

It also authorises the High Court of a Region or of Lagos to re-seal grants of probate and letters of administration made (as the case may be) in Lagos or in any other Region, and repeals the Probates (Re-sealing) Act (Cap. 161).

This is a progressive piece of legislation which seeks to bring up-to-date our law governing the re-sealing of probates in this country. I am sure Senators will readily accept it and I hope that it will not generate as long a debate as the last Bill.

Minister of State (Senator Chief J. I. G. Onyia) : I beg to second.

Some Senators : Aye ! Aye !

Senator Chief O. A. Fagbenro-Beyioku : It will not be fair for us just to shout "Aye" and get the Bill passed. This, we all admit, is a welcome Bill and it is something we all very much like because it relates to the administration of estates, particularly where someone who has taken the probate in any other Commonwealth country dies and the probate has to be re-sealed here.

But the only point I want to put across is that on reading through the main Act, I found that the question of place of domicile was not properly given interpretation to. This may raise some sort of controversy at a stage.

Take, for instance a case of a man who has lived in Canada for about twenty-five years ; he has an estate in Canada and he has, perhaps, his family in Canada ; but he is a Nigerian by birth. For one reason or the other, he comes back to Nigeria where he also has some estate and some of his family. Within a period of two years or eighteen months, he dies in Nigeria. But the bulk of his estate is till in Canada and some of his family are still in Canada where he has lived almost all his lifetime. In such a case, what is the man's place of domicile ? I found that our law is not quite clear on this point. A case like this one has effect on this Probates (Re-sealing) Bill now before us and I should be glad if, perhaps from the Government Bench, a little light could be thrown on it.

Minister of State (Alhaji Abdul Razaq) : The definition of domicile referred to in the Bill before us is quite appropriate. I should like to bring to the notice of Senator Chief Fagbenro-Beyioku that domicile is one thing and citizenship is a completely another thing. A man derives his domicile of origin from his place of birth in accordance with international law. That is to say that domicile is assumed to be the place in which a man is born. But one's domicile could also be elected after birth where a man elects his domicile to be in a different country from his domicile of origin. Then the new domicile he elects becomes his domicile.

In the instance cited by Senator Chief Fagbenro-Beyioku, if the man had indicated in the course of his life that his domicile is Nigeria then his domicile would be Nigeria. On the other hand, if the man did not indicate that he intended to elect a new domicile apart from his domicile of origin which is Canada, then his domicile remains so. Therefore, there will be no conflict whatsoever and the courts, in determining the man's domicile, take certain circumstances into consideration. Hence no one will die without a domicile. He will die only with one domicile and thus the difficulty envisaged in the speech of Senator Chief Fagbenro-Beyioku will never arise in the implementation of this law.

Question put and agreed to.

Bill read a Second time ; immediately considered in Committee ; reported, without Amendment ; read the Third time and passed.

ADJOURNMENT

Motion made and Question proposed, That this House do now adjourn—(THE MINISTER OF HEALTH).

TRIBUTE TO SENATOR NUHU BAMALI

Senator Chief O. A. Fagbenro-Beyioku : Mr Deputy President, I think we shall not be doing honour to ourselves if we do not take sufficient notice of one of us who is here to-day in a position different from what he was when he was here with us at the last Meeting. I wish to refer to our very good Friend, Comrade, and Brother, Senator Alhaji Nuhu Bamali. (*Applause*).

Senator T. A. Idowu : I rise to associate myself with the sentiments expressed by the Senators who have spoken insofar as the honour done to our Friend, Senator Alhaji Nuhu Bamali, is concerned.

In fact, I think we ought to learn from this. It is now that a Senator, a counterpart of a Member of the House of Lords, (and the Senate is in fact the House of Chiefs of the Federal Parliament) is appointed the substantive Minister of External Affairs, that we have the Commonwealth Prime Ministers coming to Nigeria. Perhaps if it had been somebody from the Lower House who had been appointed the Minister of External Affairs these Prime Ministers might not have come because we certainly cannot compare the wisdom of somebody above forty with that of the lilliputians under twenty-five, and this is why we are very proud and happy and grateful to God that Senator Alhaji Nuhu Bamali has been appointed the Minister of External Affairs.

I also associate myself with the sentiments expressed on the role played by the Prime Minister. We shall be saying this time and time again because it is a given fact that this man is a man of peace. The only place where I seem to differ, and very strongly too, is in the language used by my Friend, Senator Fagbenro-Beyioku, when he said that the evil that had descended on the Western Region—

Several Senators : What other name should it be called ? A blessing ?

Senator Idowu : I seek the protection of the Deputy President.

The Deputy President : Order. Senators can raise matters on the Motion for Adjournment if they have obtained the consent of the Minister responsible for such matters.

Senator Idowu : As I was saying, I loathe that language and I would say that there is no evil descending on the West and that none, by the grace of God, shall descend on the Western Region. It is nothing too strange for people to have some sort of misunderstanding and perhaps people who are now talking about these things here are relatives of the engineers and inspirers of these things.

Several Senators : No ! No !

Senator Idowu : I beg the Deputy President to save me from the clutches of these Senators. It has been emphasised time and time again that the affairs of the Western Region are the affairs of the Western Regional Government, and I do not know why our people like to trouble the Prime Minister and ask him to interfere in a matter which, constitutionally, he is not entitled to interfere in.

Several Senators : This is the concern of the whole country.

The Deputy President : The Senator is going out of order and the debate is degenerating.

Senator Idowu : The issue is quite clear. I would say that the so-called unrest is not spontaneous because if it had been as a result of the spontaneous opposition of the people in the West, it would have been clearly seen as such. At the moment, those people who are arrested are real criminals, the *Ogberegedes* of Nigeria. If there had been any serious trouble at all, the people would have come out boldly and they would have said so. After all, they have the courts to go to.

If anybody is dissatisfied with the results of the last elections he should go to court. And I would say that those people who are now laughing at these things should realise that it could come to their own turn sooner or later. I can assure them that it may be their own turn next. People who are now coming from the East—

Minister of State (Senator Chief J. I. G. Onyia) : I beg to move that the Question be now put.

The Deputy President : I do not expect this debate to degenerate to this level and I am now going to put the Question.

Question put and agreed to.

Resolved : That the Senate do now adjourn.

Adjourned accordingly at thirty-six minutes past ten o'clock.

INDEX TO SENATE DEBATES

OFFICIAL REPORT

SESSION 1965-66

13th and 14th January, 1966

EXPLANATION OF ABBREVIATIONS

Bills : Read First, Second or Third time=1R, 2R, 3R

Com. = Committee. Q = Question

Figures in italics refer to Appendix