**Tuesday, 5 October 2010**

*Parliament met at 2.53 p.m. in Parliament House, Kampala.*

PRAYERS

*(The Speaker, Mr Edward Ssekandi, in the Chair.)*

*The House was called to order.*

COMMUNICATION FROM THE CHAIR

**THE SPEAKER:** Hon. Members, I welcome you to today’s sitting. I hope you had a successful weekend. My simple appeal to you is that we should be courteous to each other. We should also respect the institution to which we belong. I am saying this because I was amazed by “an honourable member” who insulted people who are coming to sit here. I wondered. May God bless her!

**MR ODONGA OTTO:** Thank you so much, Mr Speaker. I rise to seek your guidance. With all due respect to you as the head of this institution, you carry a lot of powers including summoning Members to your office for counselling. So, the way your communication ended did not make some of us very comfortable.

**THE SPEAKER**: Maybe I am already doing that; leave it to me.

**MR ODONGA OTTO:** Thank you so much.

2.57

**DR FRANCIS EPETAIT (FDC, Ngora County, Kumi):** Thank you very much, Mr Speaker. I rise to make an observation in regard to business for today’s plenary. I note that we, among other things, have the Supplementary Appropriation Bill and the Appropriation Bill itself.

But I would like to inform the House that there are some businesses that we differed twice; for example, the motion seeking a resolution of Parliament to stop the Ministry of Public Service from setting up a Civil Service College. I thought we would include it because it has a bearing on the appropriations that we are about to handle today. My view is that we should handle that motion before we take on the Appropriation Bill.

**THE SPEAKER:** Maybe when we come to that item we shall see what to do. Otherwise, I realise you had a motion with hon. Mukitale over the public service college or something like that – yes, this morning he informed me that he got a write-up from the responsible ministry; he is studying it and once that is done, we shall be able to accommodate you.

PRESENTATION OF PAPERS

2.59

**THE MINISTER OF STATE FOR FINANCE (INVESTMENT): (Mr Aston Kajara):** Mr Speaker, I beg to present papers to Parliament on the proposal to borrow supplementary funding of US $17 million from the International Fund for Agricultural Development (IFAD) to support on-going activities and the Community Agriculture Infrastructure Improvement Programme (CAIIP). I beg to present.

**THE SPEAKER:** Okay, let the appropriate committee study and make a report to Parliament.

STATEMENT ON THE ESCALATING FUEL PRICES

3.00

**THE MINISTER OF STATE FOR ENERGY (Mr Simon D’Ujanga):** Mr Speaker, I would like to inform Parliament that a technical team from my ministry led by the permanent secretary has just returned from Nairobi, Kenya, where it has been for five days discussing this matter with the authorities in Kenya.

So, I would like to request that Parliament allows us to incorporate that team’s findings into our statement before we present it tomorrow. I beg to request.

3.03

**THE GOVERNMENT CHIEF WHIP (Mr Daudi Migereko):** Mr Speaker, the honourable minister was supposed to appraise Parliament in regard to the fuel situation and the escalating fuel prices in the country today. What the minister has reported on this issue is that Government had to send a team to Nairobi with a view to resolving certain issues with the Kenyan Government to ensure there is steady flow of fuel. That team has just returned; they are trying to make sure their findings are incorporated into the report to be presented to the House tomorrow. That is why the minister is asking for more time.

**THE SPEAKER:** Well, that can be solved, but what the House wants to know is why this has happened. What I know is that sending a team to Nairobi is only about providing a remedy. The two are not in conflict – you could say that incidentally we have sent a team to Nairobi and Government hopes it will find a solution. But, that does not stop you from telling us the genesis of the situation.

**MR MIGEREKO:** Mr Speaker, I request the minister to help us out on this.

**MR D’UJANGA:** Mr Speaker, it is the activities at the Port of Mombasa that have impinged on the flow of fuel into this country. But we know that some of these activities can be controlled by the Government of Kenya. That is exactly why our team went there. The purpose was to see how these activities can be improved upon.

I would like to request that you allow us to incorporate some of the decisions that have been arrived at into our report to enable us give a clear picture of how the Government of Uganda will corporate with the Government of Kenya to handle this intermittent problem of fuel shortage.

So, I really would like to earnestly request that we be given 24 hours to get this report done so that tomorrow we can discuss it in detail.

**MS ANYWAR:** Thank you, Mr Speaker. The country is suffering as a result of the increase of fuel. This means that all of us, even if you are a Member of Parliament, but worst of all the ordinary Ugandan out there, have been waiting for this honourable House to update them and arrest their fears as the fuel prices escalate.

Last week I raised this issue and you directed that the minister comes up to address this issue to the nation. I am very disappointed that the ministry seems to be acting in a reactionary way. Up to now we have been suffering as a country because of escalating fuel prices and shortages and the ministry has waited until we raised the issue for them to send a technical team, which we have to wait for and yet the economy of this country is shrinking. This is very sad!

I hope that tomorrow, without fail, we shall have all the details concerning this issue to address the plight of Ugandans who are looking at us as legislators to come and speak on their behalf. Going to consult with counterparts in another country doesn’t take away the obligation of the minister to address this issue as it arises. They should always be pro-active rather than being reactive. I thank you.

**THE SPEAKER:** Well, I think we have noted the concerns expressed but since the statement is not there; let us hope tomorrow there will be a complete statement informing us what has happened and also the solution that is being provided to address the problem.

BILLS

SECOND READING

THE INCOME TAX (AMENDMENT) BILL, 2010

3.05

**THE MINISTER OF STATE FOR INVESTMENT (Mr Aston Kajara):** Mr Speaker, I beg to move that the Bill entitled, “The Income Tax (Amendment) Bill, 2010” be read for the Second Time.

**THE SPEAKER:** Seconded.

3.06

**THE CHAIRPERSON, COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (Mr Frank Tumwebaze):** Mr Speaker and Members, I have the honour to present the report of the Committee on Finance, Planning and Economic Development on the Income Tax (Amendment) Bill, 2010.

**THE SPEAKER:** Incidentally what happened - are you the owner of the Bill or are you the chairperson?

**MR TUMWEBAZE:** The chairperson of the committee.

**THE SPEAKER:** The owner of the Bill should have moved a motion.

**MR TUMWEBAZE:** But he moved.

**MR KAJARA:** Mr Speaker, the objective of this Income Tax (Amendment) Bill is to define certain terms used in the Act. It is also to provide for the taxation of income earned by a contractor from activities other than petroleum operations.

The Bill is also to prescribe the allowable contract expenditures that may be deducted for the purposes of ascertaining the chargeable income of the contractor from petroleum operations.

The Bill also seeks to provide for the transfer of interest in a petroleum agreement.

It also provides for the calculation of withholding tax in relation to petroleum operations.

Mr Speaker, the Bill that is under proposal is to provide for offences and penalties, and also to provide for the valuation of petroleum. I beg to move.

**MR TUMWEBAZE:** Mr Speaker, the report of the Committee on Finance, Planning and Economic Development is on the Income Tax (Amendment) Bill Supplement No. 9 of 2010 referred to by the House on the 23 August 2010.

The committee held five meetings to consider the Bill. It interacted with the Minister of Finance who was always accompanied by the technical staff of the ministry as well as the Commissioner-General of the Uganda Revenue Authority and her team.

The committee, in considering the Bill, requested for written submissions from the stakeholders. This later formed the basis for the discussions on the Bill before the committee met to take decisions on the proposed amendments.

The objectives of the Bill include - I apologise for my voice -

(a) define certain terms used in the Act;

(b) provide for the taxation of income earned by a contractor from activities other than petroleum operations;

(c) prescribe the allowable contract expenditures that may be deducted for purposes of ascertaining the chargeable income of the contractor from operations;

(d) provide for the transfer of interest in a petroleum agreement;

(e) prescribe for the calculation of withholding tax in relation to petroleum operations;

(f) provide for arms length transactions, maintenance of accounts for contract areas in shillings and US dollars and for the conversion of currencies in petroleum agreements;

(g) provide for the valuation of petroleum;

(h) provide for the application of certain parts of the Income Tax Act Cap 340 to petroleum operations;

(i) provide for the filing of petroleum revenue returns on a quarterly- It is advisable to take water. I oblige. I am not used to the water on this Table -

**THE SPEAKER:** I want to advise Members that you should continue to sit in the House because there are decisions we have to make but I see people walking out as if - *(Laughter)*

**MR TUMWEBAZE:** Thank you, Mr Speaker and I beg to continue.

(j) empower the Commissioner General to undertake audit for the purpose of this Act;

(k) to provide for offences and penalties; and

(l) amend the Eighth Schedule.

Consideration of the Income Tax (Amendment) Bill, 2010

Background

The Income Tax (Amendment) Bill, 2010 is intended to strengthen the legal framework on the taxation of income earned by the contractors dealing in petroleum operations; provide for the transfer of interests in a petroleum agreement; to provide for the evaluation of petroleum and provide for offences and penalties in the non-compliances with the law.

Salient Features of the Bill

The committee wishes to highlight salient features of the bill as set out before.

Clause 1, provides for the time the law is to come - *(Interruption)*

**MS ANYWAR:** Thank you, Mr Speaker. I appreciate this Bill but the issues, which are raised in this Bill, are referring to the Petroleum and Production Sharing Agreement mentioned in here. Early this year, we actually forced the ministry to come and bring copies of the Production Sharing Agreement, which was laid in this House and referred to the Committee of Natural Resources where I sit. As we talk, we have not yet internalised the details of this agreement; and Members here today are meant to make a pronouncement on this Bill.

Mr Speaker, I am seeking your guidance whether it would not be prudent that the Members get to know the details of the Production Sharing Agreement and the terms therein for us to appreciate it and link up with this Bill so that we pass it when we know what we are really passing. I seek your guidance.

**MR ODONGA OTTO:** Mr Speaker, I did not want to interfere with the good committee report. But I am just wondering, on a technicality, whether we are going to amend the laws relating to petroleum in the Income Tax Act because we needed a substantial law on petroleum products and our Constitution is clear that oil shall not be a mineral. Now by default, we are trying to legislate on very sensitive areas of the petrol industry using the Income Tax Act and yet on petroleum we are still at policy level.

So, I am wondering whether it will be right to proceed in the way we are proceeding where we do not have any substantial law on the current oil extraction and petroleum issues and then we are coming directly in the Income Tax (Amendment) Act to talk about the tax when we even do not know how much is being extracted. So, how are we proceeding on this issue?

**THE SPEAKER:** I think what we have to do is to look at page 2 and see the objectives of the Bill. The objective of the Bill is not the sharing et cetera; the objective of the Bill is to collect money. The question of how it is shared does not concern them. It is the question of tax assessment rather that sharing petrol that concerns them. Therefore, the Minister of Finance is just preparing himself but there is the Minister of Energy who is concerned with petrol. I think that there is no contradiction; we can proceed.

**MR TUMWEBAZE:** Thank you, Mr Speaker, for your ruling. The clauses detailed in the report are self explanatory. Mr Speaker, I beg that I go to the observations of the report in order to save time.

The observations are contained on page 17 of our report.

Observations of the committee on the Bill

Page 11, the chairman’s report is numbered in a different way. So, let us harmonise the pages; yours is page 11 and mine is 17 but that does not change the object of the Bill. So, let us move on.

The committee observed that clause 1(2) gives retrospective effects to the provisions that deal with the taxation in order to preserve the Production Sharing Agreement entered into by 1997 and thereafter.

The minister told the committee that the retrospective commencement of the provision is intended to realign the law with the Production Sharing Agreement and that this does not negatively affect the rights of the oil companies or create any liability to them.

The committee noted that the amendment in clause 3 seeks to make it mandatory for a taxpayer to get the authority of the Commissioner General, URA, before changing the method of accounting.

The committee, however, recommends that the Commissioner-General URA should issue practice notice detailing guidelines and applications for those seeking permission to allow a taxpayer change their method of accounting.

The committee observes the need to have the term “Immovable properties” used in this Bill defined in clause 4 because it wasn’t defined. The committee will propose its amendment to this.

**THE SPEAKER:** Isn’t “immovable property” a legal term?

**MR TUMWEBAZE:** We believe it is.

**THE SPEAKER:** Doesn’t it have a definition?

**MR TUMWEBAZE:** We could not get it in the parent law.

**THE SPEAKER:** Hon. Lukwago, can you help; what is immovable property?

**MR LUKWAGO:** Mr Speaker, in Property Law, we have corporeal and incorporeal and then movable and immovable. Then we have fixtures and chattels. So, in this case when you talk of immovable property, you are talking about fixtures. Movable are chattels. And the fixtures are the assets and properties affixed to land and cannot be detached from land, which land is also inclusive. That is immovable property. *(Applause)*

**THE SPEAKER:** Thank you.

**MR TUMWEBAZE:** Thank you, Mr Speaker. The committee observes the need to make the law strict in dealing with companies carrying out petroleum exploration making it mandatory for them to keep separate books of accounts in order to avoid inflating recoverable costs. The committee will propose amendments to clause 5 in this regard.

In clause 11, the committee observes that section 89(L) of the principal Act had already been repealed and, therefore, an amendment will be introduced to substitute it.

In clause 12, the committee observes that where a company granted licence to explore oil but the oil extends to another country, there is need to have an agreement between Uganda and that country to guide the cross border petroleum activities for purposes of harmony and avoidance of conflict.

In clause 14, the committee observes the need for the minister to make a regulation with the approval of Parliament for determining the evaluation of the petroleum activities.

The committee was, however, concerned that these regulations would have already been in place so that the evaluation committee is enabled to monitor the pre-production period.

The committee also observed need for tabling the petroleum law urgently to cover up these gaps.

In clause 21, the committee recommends that no payment be made by the contractor to URA in kind.

The committee also proposes that instead of relying on rates compounded by London Interbank as provided for, the rates established by Bank of Uganda should instead guide. The committee will propose amendments to this clause in this regard.

In clause 23, the committee recommends that the penalties be provided for in percentages of the amounts of taxes due instead of the rates as given.

The committee also observes the need to empower the Commissioner-General to implement his or her mandate without restriction by any agreement and other laws. An amendment to this clause will be proposed.

In conclusion, Mr Speaker, the committee observes that because of the complexity of the petroleum sector, there is need for more consultation on the issues dealing with the management of petroleum and this also calls for the need for capacity building of the committee on petroleum.

The committee is also concerned that the Production Sharing Agreements were negotiated secretly and not made public and yet they form the basis of the discussion on this Bill. And it has, therefore, been unfair to the committee to have proceeded on the Bill without these agreements.

The committee has expressed its gratitude to you, Mr Speaker, for granting us the opportunity to scrutinise the Bill. We pay tribute to all stakeholders who appeared before the committee and uphold the unfailing assistance from the office of the Clerk throughout our deliberations.

The committee recommends that the House passes the Income Tax (Amendment) Act, 2010 with the amendments we shall propose at an appropriate time. I beg to move.

**THE SPEAKER:** Thank you very much chairman and committee for the report, you are now free to debate the report.

3.23

**MR ELIJAH OKUPA (FDC, Kasilo County, Soroti):** The issue raised earlier by colleagues is about the regulation. I think the Government should take it seriously otherwise we may get problems. We need the petroleum law and regulations that should be in place before we come to this point of providing for taxation. I am happy that the committee has brought this out.

It looks like the ministry did not give timeframe commitments to the committee. I would like the minister responsible to give us a timeframe within which they are going to bring these laws. We shall hit a dead end when we start from where we are supposed to end. I do not know why the Minister of Energy had to leave when issues concerning his ministry were being discussed?

The other issue about taxation; I want to seek clarification from the committee regarding dispute settlement in case of any matters arising from such transactions. The committee is proposing 100 percent deposit of the money before the matter is settled; how are they harmonising this with the existing laws which provide that where there is a tax dispute, there should be a 30 percent deposit by the taxpayer? I would be comfortable if those matters are settled.

I want to call upon the committee that was given the production sharing agreements to speed the process of scrutinising them. They should have produced this report much earlier. We expected the clerks’ office to make copies for us.

**MS ANYWAR:** I sit on the Committee on Natural Resources, copies were laid on the Table and since then, we have not been able to sit and look at them. We met our colleague from Ghana last week and he told us that a Production Sharing Agreement is not a document that should be secret at all. It is a public document in their country and its Members of Parliament have it.

**MR OKUPA:** Then you should be held responsible because this matter ought to have been raised in your committee. I remember at one time the committee Members were looking at the draft agreement.

**THE SPEAKER:** The hon. Members have told you that they have not been able to work on the assignment that was given to them. They have not prepared a report and what you are hearing is not an official position of the committee. The sooner the committee finishes its work the better for us because they will make that recommendation and we shall adopt it.

**MR OKUPA:** The ball is in the court of the committee because we need the report. We are waiting to hear from you other than just lamenting. The same applies to the ministry; you took Members for a retreat to look at the draft petroleum law. We will be happy to receive the Bill here.

3.29

**MR ABRAHAM BYANDALA (NRM, Katikamu County North, Luwero):** I thank the committee for the report and I just want to make a comment on 5.3.4; where the committee observes that they need to make the law more strict in dealing with companies carrying out petroleum exploration by making it mandatory to separate books of accounts to avoid inflating recoverable costs.

The question is not keeping books of accounts; the issue is about knowing what the costs are. The money they are talking about is not money given to them by Uganda Government. This is money of the Uganda Government shared with those companies exploring. We should be involved in the costing to know what is being put in the books of accounts. I propose that this should be treated as a public private partnership. The client should know what is happening; we should know what the cost is and not wait to be told.

The ministry should get a committee, which thoroughly understands this, to get these costs correct such that we know the refund to be asked for. I appeal to Government to ensure that we take keen interest in all these to make sure that proper costing is done.

3.32

**MR ODONGA OTTO (FDC, Aruu County, Pader):** At a later stage I will move that the entire Bill be differed. I am a member of “Save Our Oil, Uganda” and you can check on our website. I talk as one of the people whom oil exploration is taking place in their motherland. I have four observations. One, I want to re-echo what hon. Byandala has just raised, which is very important.

During a workshop organised for Members of Parliament by the Africa Institute for Energy Governance, we were told that Uganda lacks one thing – that oil exploration is being done by about four or five licensed companies in about 17 wells concurrently. The agreement between the Government of Uganda and those companies is that they cost their bill of exploration and then it will be factored over a period of one to 15 years for their recovery before it can be *“Ugandanised*” completely.

What we have at every oil exploration site is these international companies doing their costing independent of any dissenting voice from Government. Whether they find it rocky or use many chemicals, there is no one representing Government there. So, the bill they will present on the table is what the Government of Uganda will accept. This is already a problem.

I strongly feel that it is wrong for this Parliament to sit today and hurriedly pass this Income Tax Bill as if we do not know what is happening in Nigeria. In a space of 30 to 40 years, Nigeria has failed to change that law. Every time the law comes before Parliament - the Petroleum Act - money changes hands because these oil companies are very comfortable with the status quo – one billion per member – you will never change that law and they do not know what to do about it. *(Laughter)*

[Ms Winifred Kiiza: **“**Even Shs 5 million”] – yes, even Shs 5 million can change hands.

For example, the transaction that happened between Tullow and Heritage – the money that changed hands is 30 percent of the entire national budget of Uganda - just one transaction. Unfortunately, I did not know that we were talking about oil because I would haven give the exact data and why there is contest as to how much tax should be paid to Government.

This is the problem I see and I thank the chairman for this good report. We must not pass this law until we have a petroleum oil account different from the Treasury account of this country because where we are now *–(Interruption)*

**MR ASTON KAJARA:** Hon. Otto, with due respect, has alluded to money changing hands between who and who. To avoid suspicion, you should name the party and for what purpose so that the *Hansard* can be very clear between whom this money exchanged hands.

**MR ODONGA OTTO:** I thank you for that information. You are aware that the Heritage company sold all its interests and shares to Tullow Oil and hon. Minister you should be aware that the money that changed hands between these two companies is about US$ 3 billion.

We have been reading in the newspapers the problem your ministry has as to how much tax they should pay to the Government of Uganda. Right now, there are two contradictory reports before the President of Uganda as to how much tax should be paid. The contradictory reports are by Ugandan technocrats; others are saying so much while others are advising the President to accept less and they all have different interests. So, Mr Speaker -

**THE SPEAKER:** I want your assistance here. Supposing we do not pass the law on taxation, is that in the country’s favour; that we have no law on taxation of this oil? Will it be helpful to the country? Don’t you think we should have the law in place so that at least we can save something?

**MR ODONGA OTTO:** I thank you and I will get to that. But what I am suggesting is that, first of all, no one in this House knows how much oil is being extracted - forget about the taxes. We are now talking of the taxes even before the animal – the animal is just being led to the kraal and somebody is saying, “the tail is mine.” *(Laughter)* And yet there is a very high possibility that the animal may not get into the kraal.

So, by stopping this law, we are not trying to say *– (Interruption)*

**MRS MUKWAYA:** I thank you very much. There are some words that cannot be used interchangeably. When hon. Otto says, “we are already extracting”, it means we are already in production. I visited the 17 oil wells and what has been done is that this one well can produce so much, but there is no oil that has been extracted because these are samples. So, what is he talking about? I seek clarification.

**MR ODONGA OTTO:** In fact, that question is the more reason we should defer the Act because that means we have nothing to touch. *(Laughter)*

**MR TUMWEBAZE:** The information I would like to give hon. Otto, his other concerns notwithstanding, is that there is something to tax. There is need to empower URA and the ministry is to tax the pre-production activities.

You alluded to the sale of interests between Heritage and Tullow. This is not oil per se but sale of an interest. We may have other issues but this phase alone has activities that must attract tax.

**MR ODONGA OTTO:** I thank you. When the first oil well was opened, you saw in the newspapers that they decided because the pressure coming from the – unfortunately, I am not an engineer but the pressure coming from that content of oil which looked like shoe polish. These companies made a decision to ban it because once you open up, you cannot stop. But again the noise it was producing for the neighbouring community made them to make a decision that probably at the initial stages they have that particular product already sold to some company.

I have information that *–(Interjections)-* please, I am a consultant in this aspect *–(Laughter)-* without getting diverted, what I was saying is that if this Parliament could give it at most one month where we have the Minister table before Parliament and then a specialised committee consisting of engineers and technical people like hon. Byandala, we review and pass the Petroleum Act, because as of now, in many countries in the world, money generated from petroleum should go to a different account and not the Treasury account because it becomes very risky *–(Interjections)-* just this information; we have a problem in Venezuela; the oil money is not going into a separate account and because of that, the president has become the most popular president on this planet because he has a huge - ours is going to be a lot of money and it is even going to cause inflation in this country.

Inflation is simply a lot of money chasing few products. You are going to cause problems for our grandmothers where an egg in Hoima will soon be sold at Shs 2,000. So, if we do not think of a separate account, if we do not even start thinking of which countries in this world to invest these revenues being generated in Uganda, then you are going to cause big problems.

**MR BYABAGAMBI:** I thank you hon. Otto for giving way. First, I would like some clarification, because you said the wax which came out of the well was sold. Can we be clarified to whom it was sold and at how much?

Secondly, we are talking about the petroleum activities – taxing petroleum activities. Maybe you have also been bought to come here and oppose this Bill by those big companies which do not want to be taxed; since you said that money changes hands in Nigeria, that is how the law has never been amended. So, could it be that you have also been bought for the law not to be passed and there are taxes also.

**MR ODONGA OTTO:** And these are the ministers we have in Uganda. *(Laughter)* Mr Speaker, I just want to make my case. I appeal to this Parliament that if we hurry to pass the Income Tax Act and then we bring the Petroleum Tax Act later, it may become more difficult to amend the Income Tax Act because of conflicting interests. *(Interruptions)*

**MR LUKWAGO:** Thank you, Mr Speaker and my colleague for giving way. When I look at this Bill, on that point hon. Otto is raising, in Clause 14, the Bill talks of inserting a new clause 89(k)(a) “Valuation of Petroleum” and this is what it says: *“*For the purposes of determining a contractor’s growth income delivered from petroleum operations from a contract area, petroleum shall be valued and measured in accordance with the provisions of the petroleum agreement, subject to any further procedures that may be agreed in writing between the government and the contractor”.

The point here is, the Petroleum Act shall make provision –*(Interjections)–* but I am giving information; Mr Speaker, I request my colleague to be patient because the Bill still stands, we have not amended even a single clause; those are proposed amendments.

The framers of this Bill had it in mind that there shall be an agreement between the contractor and the government and that agreement must be regulated by an Act of Parliament, not this Income Tax Amendment Bill.

Therefore, this valuation shall be predicated on that provision which shall be provided in the Petroleum Act. This is why on page 14 the committee has put a very serious disclaimer; in paragraph two: “The committee is also concerned that the production sharing agreement was negotiated secretly and not made public yet they form the basis of the discussions on this Bill.” And it has, therefore, been unfair for the committee to have proceeded on the Bill without these agreements.

This means that we must come up with a law to regulate these agreements and after that then we can pass this Bill. This is why the committee is saying that Government was very unfair to this House. That would pre-suppose that they could not execute their mandate in accordance with the law without those agreements. And this brings in the issue of first enacting that law before we come to the Income Tax Amendment Act. Thank you.

**MR OKELLO-OKELLO:** Thank you, Mr Speaker. The Bill we are debating is very important; it will affect most if not all Ugandans. Unfortunately, this Bill comes on the Floor of the House soon after the Members have been away fighting for their political life. And by the debates that have been going on, it is clear that we are not with the Bill. We have not studied the Bill and the debate is not going on smoothly.

If we pass this Bill as it is, there will be no other need to bring any other Bill on petroleum; it will not come because this Bill will be the basis of all the transactions regarding oil which would be very unfair to this country. I appeal to this House to defer this Bill and urge Government to bring the main petroleum Bill, we debate it and pass it and then we can come to this. This should fit in the other one not the other way round.

This is a very important Bill, and if you rush it, this Parliament will be responsible for whatever consequences that follow. I appeal to you. Thank you, Mr Speaker.

**MR ODONGA OTTO:** Thank you, Mr Speaker. People in Amuru are just seeing machines going around and they do not know what they are doing. So, if we their leaders are putting preliminary objections, at least, we can communicate in English, but some of them there do not even know English, yet they see machines there, busy, day and night. So, if we caution Government to go slow on this, it is in good faith so that everyone is brought on board.

We do not want a situation where we get another useless war because of oil because it is the politicians who will go and tell the people there, “Cut the pipe because we have failed in Parliament”; and some of us will do that with pride. We are not going to sit here and see international companies running to buy stock in New York and coming back to Uganda to sell our oil. We just read about it in the newspapers. So, this is the time for Members of Parliament to stand firm and say, “Let us do first things first”.

Lastly, could the minister tell us where the money that was generated from the last transaction was deposited? Thank you, Mr Speaker.

3.52

**MR NATHAN BYANYIMA (NRM, Bukanga County, Isingiro):** Thank you, Mr Speaker. For the few years I have been here, the Income Amendment Bill which we normally have is quite different. This one gives us a message that we are still getting oil. But the way the chairperson has concluded this report makes us feel very uncomfortable.

I know we must pass the budget with the Income Tax Amendment Bill finished. But this one is too loaded. I must add my voice to the colleagues who have spoken; it is very dangerous for us to have this Bill in this form. The chairman said, “The secret document -” who are we, Members of Parliament; if they can take our documents to court, why should we be denied these documents? This is our country.

Of all the Parliaments I have seen, this is a very good Parliament, it is very honourable because at times we pass some things after being guided by the ministers. But this time, we cannot afford to be served lunch at midnight. This is serving us lunch at midnight. Let us have the usual Income Tax Amendment, pass it - because here it is too loaded. We need some people to guide us about the oil. If some of us would know how people are chartering planes into Entebbe and then to the other place; you would imagine Uganda – we are really blessed. We have oil, but how can somebody say – somebody will evaluate in this report. We need our people to be there so that whatever we get goes to our coffers.

We are really -(*Interruption)*

**MR ASTON KAJARA:** Thank you, Mr Speaker and my colleague, for giving way. We are debating these provisions of the Income Tax Act as if it was news. I would like to make clarification to this House that that part of taxation - it is actually part 89(p) of the Income Tax Act - was passed by this Parliament in 2008 Section 89(a). There were further amendments in 2009 [Mr Okupa: “Can you read those amendments?”] and that was to make special provisions for taxation of petroleum operations. Since 2008, 2009, these provisions have been in place.

The proposals we are making are to improve the special oil provisions which are already in the Income Tax Act. As a matter of fact, all these amendments relate to the law that was passed in 2008 and further amended in 2009. So, since we are also advancing; we are advancing in exploration, in production; we have to cope with the situation. That is why we have to bring this as an improvement. So, it is not new. These provisions were in place.

Further information, which I would like to give about what was alluded to by hon. Otto that Government is not represented when these activities are taking place, I want to inform the House that the Ministry of Energy under the Permanent Secretary, has constituted what they call an advisory committee, which meets regularly, discusses and agrees on the budgets of all the players, the stakeholders in the field. It also scrutinises the expenditures. In addition, the advisory committee does a 24-hour monitoring of all drilling activities. So, it is not true that these people will justpresent to you what they are doing*. (Interjections)* I am just giving this information for the House to take note. Thank you, Mr Speaker.

**MR BYANYIMA:** Mr Speaker, I do not see why the minister is labouring with a lot of pain to tell us what we all know. We are saying that this report itself, read by the chairman next to you, makes it very clear that we are yet to understand this document. And I want to say that let us be honest with ourselves. Hon. Kajara, I have been with you for some time here; that is not the way things are done. Do not take us for a ride. This is our country and we want to understand the oil business so that whatever comes to us is for this country. Otherwise, we cannot pass this Income Tax Bill the way we have been passing others*. (Interjections)*

With due respect, I want this Cabinet in front of us not to take us for a ride. Respect us. We cannot continue like this. I thank you.

**MR TUMWEBAZE:** Mr Speaker, the concerns of Members about the need to understand the complexities of the industry are valid, but there is one point I would like to invite Members to appreciate, particularly raised by hon. Otto. I wish hon. Otto could appreciate this point. The industry – as Members of Parliament – that is why our committee will point out the gaps; that is why we point out the need for capacity building. The oil companies are more capable than the government, than the Auditor-General, than URA. But hon. Members, you need to appreciate one point; that we are in the pre-production period. Activities are taking place. Hon. Otto already alluded to companies selling their interests amongst themselves. The dilemma Government has, all those issues notwithstanding is, how we tax these pre-production activities. Why not prescribe a law that amends the Eighth Schedule of the Income Tax, empower taxation and thereafter it can be in the *–(Interjections)-* let me finish my point.

**MR ODONGA OTTO:** Thank you, Mr Chairman. According to these international companies, the Early Production Scheme (EPS) begins in November or December this year. That is their postulation. They even have a graph on when we shall start having the initial products on the market. Let us not deceive ourselves that we may have to hurriedly tax the sale of shares of one company to another. We are expecting production at the end of this year.

Two; which is a legal issue, Article 244 of this Constitution on minerals says, *“Mineral means any substance, other than petroleum, whether in solid, liquid or gaseous form occurring naturally in or on the earth…”* That means petroleum is not regulated by the Minerals Act. Someone has put it in this Constitution; I was in the Constitution-making process. We did not do this. We did the reverse. The other time I raised it to the Speaker, he gave me an opportunity to bring the *Hansard*. Now if petroleum is not a mineral and is not regulated by the Minerals Act, which law is now regulating the petroleum that you want to tax? There are more complex issues than what we are seeing and I really appreciate but I just want to remind you – these companies, Tullow, the Early Production Scheme is November or December this year. So, we should not hurry.

**THE SPEAKER:** A lot has been contributed on this issue but I want to refer to what hon. Okello-Okello has said. It seems the detail account you have heard is the report. It seems most of you have not read the Bill in respect of which the report is made. That is causing you the problem and I think hon. Okello-Okello said it. What you need to do is read the Bill so that you understand what the committee says about that bit.

It is not that there is a conflict. There is no problem processing this Income Tax law even if you do not know the details because the Income Tax law is going to give you a formula as to how the taxation will be done. This cannot cause a problem. You have not read the Bill. So, what do we do? Do you want a day to go and internalise the Bill so that we can continue with the debate instead of bringing an excuse that it is going to cause a problem? It is not going to cause a problem because it is giving you formulas of taxation.

**DR EPETAIT:** Thank you very much, Mr Speaker. Hon. Okello-Okello was right that even as we debate, Members do not have copies of the Income Tax Bill itself. But in addition, this Bill has dwelt a lot on the petroleum sharing agreement; Clause 1, Clause 6, Clause 11, 12, 14, most of the clauses have –

**THE SPEAKER:** Supposing there was no sharing and there was production, wouldn’t it be taxed?

**DR EPETAIT:** I was of the opinion, Mr Speaker –

**THE SPEAKER:** No, supposing there was no sharing but there is production, don’t you get a formula of taxing that oil production?

**DR EPETAIT:** Mr Speaker, I think we would be complete and wholesome if we had both reports from the Committee on Natural Resources on the production sharing agreement –

**THE SPEAKER:** They have not done anything.

**DR EPETAIT:** They have not done anything. We could give them some timeframe –

**THE SPEAKER:** That is what hon. Anywar said; that they have not started on anything. So, that would affect the robust committee because of weaknesses in one committee. Hon. Okello-Okello, I think you had a point when you said that honourable members have not read the Bill. They need time to read the Bill to understand the report.

**MR WILLIAM NSUBUGA:** Thank you, Mr Speaker. In reference to what hon. Okello-Okello has just said, and now that the production sharing agreement was tabled by this Parliament, I want to request that this production sharing agreement be availed to the committee, because when you look at –

**THE SPEAKER:** Does the committee have a problem accessing it? If they have not started, the question of availing them with a copy doesn’t arise.

**MR WILLIAM NSUBUGA:** Mr Speaker, in the conclusion on page 14, the MPs were just sympathetic because the owner of the report disclaimed it.

**THE SPEAKER:** I think those are lame excuses; has the Parliament refused the committee to access it? So, the relevant committee that was supposed to scrutinise it has not started work.

**MR WILLIAM NSUBUGA:** Mr Speaker, I think it is no problem for this Parliament to direct the finance committee to access the agreement such that they can enrich their report and guide Parliament in debating this Bill. Thank you.

4.06

**MR JOHN ODIT (UPC, Erute County South, Lira):** Mr Speaker, let me try to make one last plea. When I was the Chairman of COSASE, we investigated the National Drug Authority and there was an accounting officer whom we wanted to hold responsible without listening to his case, but with your advice, he appeared before us and we cleared him. Now this committee seems to be more efficient than the Committee on Natural Resources which has handled the production sharing agreement. Why can’t you direct the Committee on Natural Resources to surrender the production sharing agreement to this committee so that within 24 hours, they are able to look at it and incorporate the views into this report; because, certainly, this disclaimer is very revealing to us. We cannot, therefore, proceed without a single view on what they would feel about the production sharing agreement. I thank you.

4.08

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (INVESTMENT) (Mr Aston Kajara):** Thank you, Mr Speaker. I would like to appreciate the views of the Members, but this Bill has been in the possession of the committee since 23 August of this year. However, of utmost importance is to pass this Bill because the businesses we want to tax are not waiting. Already, hon. Odonga-Otto alludes to money exchanging hands between the stakeholders, but we have no avenue to capture these people. We need this tax because without it, we cannot maintain the macro-economic stability to avoid inflation as hon. Odonga-Otto would like to say.

The ministry is also in advanced stages of amending the Public Finance and Accountability Act which will provide for the accountability of these oil revenues. So, we have to pass the Appropriation Bill and this Bill among other things is going to benefit from the taxation, and this is part of the taxation that we are going to pass; and if we do not, it means we shall leave it out of this budget. So, it is important that we consider all these issues. It is possible that honourable members may not have frankly looked at this Bill, but we should have a level of trust because what we are doing is for the benefit of this country. We are not hiding anything and as I have just told you, most of these provisions have been in the law since 2008 and the industry is always advancing. So, if you say that we cannot capture some of the revenue because we cannot pass the law today, then it becomes a problem to this country and it becomes a problem to balance our budget –*(Interruption)*

**MR LUKWAGO:** Thank you, hon. Minister, for giving way. You insist on capturing this revenue from this transaction between Heritage and Tullow, and you are imploring us to seriously put it into consideration. I wonder whether that transaction is lawful because for Government to get revenue, it must come from lawful transactions, and for you to ascertain whether that transaction is lawful or not, you must look at the law. So, the clarification I am seeking is whether there is a law that regulates that transaction between Tullow and Heritage before you talk of taxation.

**MR KAJARA:** Mr Speaker, there is a law which governs income tax and agreements. First of all, between Government and the contractor, there is a production sharing agreement. But besides that, we have a law in income tax which provides for 30 percent taxation of what has accrued. That law exists; but as you know –

**THE SPEAKER:** Let us not confuse the two issues. One issue is that the agreement is locked somewhere and we want to look at it. Therefore, there is an agreement but the problem is that you do not know the details. So, you cannot say that there is no agreement. There is even a contractual law but you want to see the details. I think let us solve that first. Can you see the details? But you cannot say that there is no document regulating the relationship.

**MR OKUPA:** Mr Speaker, I appeal to you, once the document is laid in this House, it is the Office of the Clerk to avail Members a copy. Can you direct the Office of the Clerk to avail copies of this –

**THE SPEAKER:** Honourable members, I think you do not remember what hon. Beatrice Anywar said; that we gave them an assignment to scrutinise but they have not been able to assemble. So, I direct that the Committee on Natural Resources starts its work tomorrow and be given access to the document. (*Applause*)

**MR OKUPA:** Mr Speaker, that notwithstanding, I would appeal to you that these copies are also availed to Members such that when we are debating -

**THE SPEAKER:** Of course, when they have scrutinised it and they are producing their report, they will give us the copies.

**MR OKUPA:** Thank you. The other directive that I would appeal to you to explore with the minister is about the Petroleum Bill. In May, I got a draft that I have here of the Petroleum Exploration, Development, Production, Value Addition Bill, 2010 that is in the coffers of the ministry. Could they please speed up the process of bringing this Bill to Parliament because we were given these drafts in the consultative meeting that we had regarding the oil and gas legislation in May this year? We had expected by now this bill to be here. Could the ministry avail it or table the Bill?

**THE SPEAKER:** Who is the minister you are referring to?

**MR OKUPA:** The Minister for Energy and Mineral Development. The Chief Whip is there; the Leader of Government Business is there, and he should take this seriously so that we are able to have this by the end of this week.

**MR KAJARA:** Thank you, Mr Speaker. There are many pillars to this revenue law, the taxation law and the whole management of the revenue industry. We are generating a law to allude to resource management and the Bill is in the process. We also have the Bill on taxation and it is the one which is ready. We have “Managing Revenue Collected in Treasury” and that is the one I was talking about on accountability and so on. We are also in the process of processing that legislation.

We have another aspect of investing in the industry. That is also being processed. Now, all these laws will be brought to this Parliament as soon as they are ready. All we are saying is that the tax law is ready and activities are going on which are subject to taxation. We cannot proceed to tax them until we have our tax law properly passed and streamlined by Parliament. So, that is what we are talking about, Mr Speaker. I thank you.

**MR ODONGA OTTO:** Hon. Minister, it is the government that issues licences to these exploration companies and it is the same government that cancels them. You may be aware there is one company whose licence you have cancelled. So you should not create an impression that we are in a hurry and yet you have the authority to tell those companies, “Stop the production; Parliament is still cleaning its house.”

Now, the impression you are trying to create to this Parliament is that we do not have an enabling law to tax the transaction between Tullow and Heritage. That is why you are saying we should retrospectively take this law backwards. But the mistake you are making – you know just like I know that this conflict between Tullow and Heritage, under the PSA, has even gone to the international arbitration. They are saying this because they are paying taxes in other countries they are operating in like Madagascar, which would amount to double taxation in Uganda. You know this very well and you are not telling the MPs.

So, we should not be hurried. In fact, my position is a conservative one: Without the Petroleum Act, I will be the last to support any law regulating petroleum. If I fail, I will extend my influence somewhere else. (*Laughter*) So, we need the law, we need first things first. Let them stop producing oil until January, February or March next year, but we need the law. We need to clean our house first.

**MR KAJARA:** Mr Speaker, what we are discussing today -

**THE SPEAKER:** No, you see, as I said hon. Okello-Okello was right. Even as of now, although we are dealing with the report on the Bill, it seems Members have not read the Bill. That is why we are having these wild arguments. When you get this Bill, it provides as follows:

“The object of the Bill is to amend the Tax Act, Cap. 340, to define certain terms used in the Act; provide for the taxation of income earned by a contractor from activities other than petroleum operations; prescribe the allowable contract expenditures that may be deducted for the purposes of ascertaining the chargeable income of the contractor from petroleum operations; provide for the transfer of interest in a petroleum agreement; prescribe for the calculation of withholding tax in relation to petroleum operations; provide for…”

You know, it is just giving you the formula to use to calculate tax. It has nothing to do with who is going to take - it is only the formula that has been given here. Please read. Should I give you two hours to familiarise yourself -(*Laughter*)- or I give you overnight so that tomorrow you will be fit? I think this is what I should do; to give you overnight so you go and internalise and then tomorrow, we revert to the Bill.

BILLS

SECOND READING

THE SUPPLEMENTARY APPROPRIATION BILL, 2010

**DR FRANCIS EPETAIT (FDC, Ngora County, Kumi):** Mr Speaker, immediately after your communication, I had made a proposal to amend the Order Paper in order for us to dispose of a long pending motion to do with the public -

**THE SPEAKER:** No, but as I told you, we agreed with your colleague. He was in my office and says this will come tomorrow. This was the argument. Even before we started the proceedings, we were aware and I saw the document which the Minister of Public Service gave out and said, “You go so that you narrow your differences.” I think we shall do that tomorrow. Liaise with your colleague.

**DR EPETAIT:** We had already liaised and that is what we had agreed upon. (*Laughter*)

4.21

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Fred Omach):** Mr Speaker and hon. Members, I beg to move that the Supplementary Appropriation Bill, 2010 be read for the second time.

The object of this Bill is to provide for supplementary appropriation out of the Consolidated Fund under Section 16 of the Public Finance and Accountability Act, 2003, of a sum of Shs 333,977,675,000 to meet additional expenditure for the financial year 2009/2010. I beg to move.

4.22

**THE CHAIRPERSON, BUDGET COMMITTEE (Ms Rose Akol):** Thank you, Mr Speaker. This is a report of the Budget Committee on the Supplementary Appropriation Bill, 2010.

The Ministry of Finance, Planning and Economic Development presented to this House a Supplementary Appropriation Bill, 2010 in accordance with Article 156(3) of the Constitution –

**THE SPEAKER:** Hon. Member, can you go to the substance?

**MS AKOL:** Okay, Mr Speaker. Let me start with the observation as indicated on page 3 because the rest is routine. Thank you for that guidance, Mr Speaker.

Observations

Vote 008: Ministry of Finance, Planning and Economic Development

The committee noted that contrary to the decisions taken by the House to reject capitalisation of Phenix Logistics (U) Ltd by Shs 1.5 billion under Supplementary Schedule No.1, the Supplementary Appropriation Bill still contains this item.

As reported earlier by the Budget Committee during the debate on Supplementary Schedule No.1, Phenix Logistics appears to be having no economic merits. During the financial year 2008/2009 Supplementary Expenditure, Phenix Logistics received Shs 1.349 billion as a revolving fund to be repaid to Government. This was in addition to the previous Government interventions in the company.

The committee recommended that Government comes up with a strategy on how to make that company self-sustaining to justify further fund allocations from Government. The committee notes that the minister did not have Parliamentary approval for the Shs 1.5 billion and recommends that the decision of the House be upheld.

The committee also recommends that this sum should be reduced from Shs 333,978,675,000 to Shs 332,478,675,000. We further recommend that Shs 1.34 billion earlier on advanced to Phenix Logistics as a revolving fund, be treated as a recoverable advance since it is supposed to be repaid to Government.

In light of the above, the development expenditure for Ministry of Finance, Planning and Economic Development, in the Bill should, therefore, be adjusted to zero.

Vote 134 – Health Service Commission

The committee observes that whereas Shs 100 million was approved under Vote 134 in regard to the Health Service Commission, in the Appropriation Bill, it appears under Vote 143 for Uganda Bureau of Statistics.

The minister informed the committee that this was a typographical error, which should be corrected to read Vote 134 for Health Service Commission. I would, therefore, like to recommend that the Bill entitled, “The Supplementary Appropriation Bill” be passed into law subject to the amendments. I beg to move, Mr Speaker.

**THE SPEAKER:** Thank you very much, chairperson and members of the committee for the report. Apparently, there appears to be only one query. The other ones just need corrections on the typographical errors. But to be fair, let us give the minister time to explain why he did what he did.

**MR OMACH:** Mr Speaker and honourable colleagues, on the item under Vote 134 for the Health Service Commission, I would like to say that we had a typographical error, but which has been corrected –

**THE SPEAKER:** That is okay, but –

**MR OMACH:** As regards to the capitalisation of Phenix Logistics, I would like to inform the House that Section 12 (1) of the Budget Act, 2001 and Section 15 of the Public Finance and Accountability Act, 2003 allow the minister responsible for Finance, Planning and Economic Development to spend up to three percent of the appropriated budget and report to Parliament within four months from the date of the expenditure –

**THE SPEAKER:** No, you know this is not such a situation. The situation, according to the report, is that we rejected it. So, the question of using the other avenue cannot arise. How can we reject something and you say you want to use the other avenue – no, I think you might have to find another way of doing it because if we rejected it, we now cannot say that you can use the other provisions when actually the issue was formerly handled.

**MR OMACH:** Mr Speaker, by the time we presented the Supplementary Schedule No.1, this expenditure had already been incurred –*(Interjections)*– that is what the law says.

**THE SPEAKER:** No, no, my understanding is that if you came with Phenix and said, you wanted us to appropriate Shs 10, we debate it and our resolution is a pure no, you cannot go back and decide to use another law. Maybe we can consider what is here and advise you to look out for other ways of finding money for Phenix (U) Ltd.

**MR OMACH:** Mr Speaker, what we agreed on as Ministry of Finance, Planning and Economic Development was about the sentiment of Parliament. But as far as the expenditure is concerned, by the time we brought Supplementary Schedule No.1, this money, Shs 1.5 billion had already been used –*(Laughter)*– to capitalise Phenix Logistics. And this –

**THE SPEAKER:** Well, that is the reasoning you should have given to them. If you had done so – but apparently we just got into arguments where we got to realise that that issue was rejected on merit. This is how I understand what the chairperson was saying. What do you have to say, Mr Minister?

**MR OMACH:** Mr Speaker and honourable colleagues, as far as Government is concerned, this is a strategic investment – *(Interjections)*

**THE SPEAKER:** I think what they are telling us, Mr Minister, is that they need a session to debate this issue, but as far as your supplementary appropriation is concerned, they have no other problem. You can come back to us so that we see –

**MS AKOL:** Mr Speaker, in the meeting the minister committed himself to give us a status report on Phenix Logistics in two weeks. What I would like to say is that it would be prudent for the House to uphold its earlier position by having Shs 1.5 billion rejected. But later on, after the minister has finished presenting the status report on Phenix Logistics, the House can review its position. Thank you.

**THE SPEAKER:** Yes! Hon. Minister, you concede -

**MR OMACH:** Mr Speaker, it is true that the Committee of Budget did pray that we would give a statement on the status of Phenix Logistics to this House within two weeks and we stand by that commitment.

**THE SPEAKER:** So, we will give you space on another day to bring this issue, but as of now, consider correcting the figures and come next time. Okay?

**MR OMACH:** Much obliged, Mr Speaker.

**THE SPEAKER:** He has conceded and we are not considering that figure. The other figures were approved.

**MR BYANYIMA:** Mr Speaker, I think the Ministry of Finance can use their wisdom to see where they are putting the money. Phenix has already closed and everybody knows about it. Now what story are you waiting for? The issue is that even if you had the three percent leverage, I thought you would spend on contingencies -

**THE SPEAKER:** Hon. Member, as far as we are concerned, we have not considered this yet. He is going to come back to us in two weeks or so and then he will say, “Phenix is closed.” That will be one of the reasons to persuade us to do it one way or the other. So, I think with this, can I put the question?

*(Question put and agreed to.)*

**DR EPETAIT:** Mr Speaker, from the Appropriation Bill there were three foreign missions which did not get capital development budget, but I am glad that in the Supplementary Bill Vote 208 of the Uganda High Commission in Nigeria and Vote 211 Uganda Embassy in Ethiopia, they have got a development budget. But I am still concerned and I would like to enquire what has happened with the mission in Rome. It has not got any development budget this financial year in Vote 220. Is it that there is no such requirement for the Rome mission? I wanted to be clear on that.

**THE SPEAKER:** I think you have merit on that, but if it is found necessary, they will bring another requisition for a supplementary expenditure and we shall deal with it instead of using this - because these figures have been approved and we have not considered your case. But I think they have taken note and soon they will bring us a supplementary.

BILLS

 COMMITEE STAGE

THE SUPPLEMENTARY APPROPRIATION BILL, 2010

4.36

*Clause 1 agreed to.*

*The Schedule agreed to.*

MOTION FOR THE HOUSE TO RESUME

**THE CHAIRMAN:** What we have done is to correct the Vote for Health Commission and we have also deducted the other one.

4.37

**THE MINISTER OF FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Fred Omach):** Mr Chairman, I beg to move that the House do resume and the Committee of the Whole House reports thereto.

**THE CHAIRMAN:** I put the question.

*(Question put and agreed to.)*

*(The House resumed and the Speaker presiding.)*

REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

4.38

**THE MINISTER OF FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Fred Omach):** Mr Speaker, I beg to report that the Committee of the Whole House has considered a Bill entitled, “The Supplementary Appropriation Bill, 2010” and passed it with amendments. *(Laughter)*

MOTION FOR ADOPTION OF THE REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

4.38

**THE MINISTER OF FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Fred Omach):** Mr Speaker, I beg to move that the report from the Committee of the Whole House be adopted.

**THE SPEAKER:** Hon. Members, I now put the question to the motion.

*(Question put and agreed to.)*

*(Report adopted.)*

BILLS

 THIRD READING

THE SUPPLEMENTARY APPROPRIATION BILL, 2010

4.39

**THE MINISTER OF FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Fred Omach):** Mr Speaker, I beg to move that the Bill entitled, “The Supplementary Appropriation Bill, 2010” be read the third time and do pass.

**THE SPEAKER:** Hon. Members, I now put the question to the motion.

*(Question put and agreed to.)*

A BILL FOR AN ACT ENTITLED,

“THE SUPPLEMENTAY APPROPRIATION ACT, 2010”.

**THE SPEAKER:** Thank you and congratulations, Bill passed! *(Applause)*

BILLS

 SECOND READING

THE APPROPRIATION BILL, 2010

4.40

**THE MINISTER OF FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Fred Omach):** Mr Speaker, I beg to move that a Bill entitled, “The Appropriation Bill, 2010” be read the second time.

**THE SPEAKER:** Bill seconded.

**MR OMACH:** Mr Speaker, the object of this Bill is to provide for the authorisation of public expenditure from the Consolidated Fund of the sum of Shs 6,642,293,097 for the financial year ending 30 June 2011. I beg to move.

4.41

**THE CHAIRPERSON, COMMITTEE ON BUDGET (Ms Rose Akol):** Thank you, Mr Speaker. The report of the Budget Committee on the Appropriation Bill, 2010. I will go straight away to the observations and recommendations.

On Vote 004, Ministry of Defence, the committee noted that Shs 112.577 billion was provided for under AU support to UPDF peace-keeping mission in Somalia. Under corrigenda number three submitted to Parliament, the committee was informed by the Ministry of Finance that the nature of expenditure to be incurred using the AMISON funding was of capital nature and should, therefore, be categorised under donor funding development. The committee, therefore, recommends that these funds worth Shs 112.577 billion be moved from the recurrent budget to the development budget within Vote 004.

Vote 005, Ministry of Public Service. The Chairperson, Committee on National Economy appeared before the Budget Committee and requested that the budget of the Ministry of Public Service be reduced by Shs 8.0 billion and that amount transferred to Uganda Management Institute to replace funds that it should have received from a World Bank loan retained by the Ministry of Public Service contrary to the recommendations of Parliament.

According to the Chairperson of the Committee on National Economy, Parliament when passing the loan rejected a decision to establish a civil service college and directed that funds be provided to boost UMI. The Ministry of Public Service is, however, in the process of establishing a civil service college.

Mr Speaker, the committee did not have enough time to investigate this matter and, therefore, recommends that the relevant committee institutes an investigation before a decision is taken on this matter.

Vote 008, NPART. The committee was concerned that funds worth 450 million were still being allocated to NPART despite the fact that its legal mandate expired and no effort has been made to renew or wind it up.

The minister informed the committee that the 450 million provided was meant for payment to the skeleton staff left to wind up NPART operations. The committee recommends that Parliament upholds the decision of the Finance Committee to relocate this money to the office of the Auditor-General and that no funds should further be provided to NPART until the legal requirement is satisfied.

Custodian Board

The committee was similarly concerned that Shs 200 million was allocated to the Custodian Board despite the fact that their operations are unclear and they collect rent from properties. The minister promised to provide the committee with a status report on the Custodian Board within two weeks and explained that the funds in question were meant for the board salaries only.

The committee recommends that the Minister of Finance should immediately source for an additional Shs 1.8 billion required by the Custodian Board to expedite the Auditor-General’s recommendations on the Custodian Board affairs where 3,226 unsold properties are due to be inspected, valued and sold accordingly.

Vote 130, Treasury Operations

The committee observed that Shs 2.0 billion has been provided for Treasury operations under the Contingency Fund. As earlier noted by the Committee on Finance, Planning and Economic Development, this fund is not yet operational since the law operationalising it is not yet in place. The committee notes that 2.0 billion was provided to the fund last year but was utilised without the relevant law in place.

In light of the above, the committee recommends that the 2.0 billion be relocated from Vote 130, Treasury Operations, to Vote 008, Ministry of Finance development for investment in the bio-fuel project which is in line with the recommendations of the Finance Committee.

The committee further recommends that Ministry of Finance expedites the Bio-technology and Bio-safety Bill. *(Applause)*

Vote 229, Juba Embassy

The committee noted that the House applied Shs 954,362,000 to Juba Mission as recurrent expenditure. The Appropriation Bill, however, reads Shs 953, 362,000 creating a difference of 1.0 million. This error should be corrected for the record.

Vote 577, Maracha District

The committee noted that Vote 577 has been reflected as Maracha-Terego District under page 21 of the Bill. It should be corrected to read: “Maracha District.”

Vote 604, Napak District

The committee also noted that Vote 604 has been reflected as Imapak District under page 32 of the Bill. It should be corrected to read: “Napak District.”

Conclusion

In conclusion, the committee has scrutinised the Appropriations Bill, 2010 and made the above observations and recommendations. The Budget Committee, therefore, recommends that the Bill be passed into law subject to the amendments recommended above. I beg to move.

**THE SPEAKER:** Thank you very much. Minister, do you have anything to say?

4.48

**THE MINISTER OF FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Fred Omach):** Thank you very much, Mr Speaker. I would like to thank the Chair of the Budget Committee for the report.

Ministry of Defence, we do agree with this on page 1, that this amount goes under development.

On page 3 under NPART, Mr Speaker, the Bill is still at Cabinet level and we are praying that this amount remains to enable the three skeleton staff that are handling the issue of the winding up of NPART to continue so that at least they have their salaries and to meet their other obligations for the winding up of NPART.

On the issue of Custodian Board, we do concur with the committee.

On the issue of Vote 130, Treasury Operations, we do concur with the committee report.

On the Juba Embassy, yes there was a difference of 1.0 million and we do concur.

The other one of Maracha-Terego, it is Maracha District rather than Maracha-Terego.

The last one, Vote 604, we do concur with the committee report. I thank you, Mr Speaker.

With the Public Service, we also concur that they continue with investigations but the status quo remains.

**THE SPEAKER:** Okay.

4.49

**MR FRANK TUMWEBAZE (NRM, Kibale County, Kamwenge):** Thank you, Mr Speaker. Two clarifications are required from the minister in regard to NPART. We agreed with the minister in the Committee of Finance. There were two issues that needed funding; there was a funding gap for the Office of the Auditor-General. We agreed with the minister that the new function the OAG was to take on needed more money that we had not provided for. Now, we later agreed that unless more funds which were separate had been provided for the Auditor-General that is when NPART could have this money. If you retain this on the NPART budget, how are you going to provide for the shortfall we have already agreed on for the Office of the Auditor-General?

Secondly, on the Custodian Board, the committee has pledged, through its report, to make a detailed follow-up inquiry and we will do that; but we want to know -

**THE SPEAKER:** I thought the minister said he agrees with the committee’s recommendations. Then what is the point?

**MR TUMWEBAZE:** I agree with you, but this House needs to know where the current rent from the properties is going? It is something of interest, whether we are voting money or not.

4.51

**MS OLIVER WONEKHA (NRM, Woman Representative, Bududa):** Thank you, Mr Speaker. I thank the committee for the report. I would particularly like to thank them for having highlighted the fact that under Treasury Operations, the Ministry of Finance should expedite the Bio-technology and Bio-safety Bill.

Mr Speaker, now that this issue has been raised in this report, I would like to hear what the minister has to say about this Bill because in many fora where agriculture is involved, everybody does not know where the Bill is; everybody thinks it should be the Ministry of Agriculture. Please, let the minister say something. Where is the Bill, because as it is right now in Kawanda, bio-technology research is going on? In Kasese we have cotton being tested; supposing these products which are known as GMOs get out there in our communities, we do not have a law to safeguard the work that is going on and yet bio-technology is going on in this country.

**THE SPEAKER:** This is the work of the Leader of Government Business; to tell us the home.

4.53

**THE GOVERNMENT CHIEF WHIP (Mr Daudi Migereko):** The Bill on bio-technology and bio-plants is supposed to be handled by the Ministry of Agriculture. I am going to take up this matter.

**THE SPEAKER:** What we wanted is the home of this; the Ministry of Finance could not take it.

**MR MIGEREKO:** I should be in a position to establish the status tomorrow after I have carried out the inquiries.

4.53

**MR JOHN ODIT (UPC, Erute County, Lira):** This subject has been with us for a long time, spanning a period of seven years. It is not even under the Ministry of Agriculture. National Council of Science and Technology has been securely handled by the Ministry of Finance and they do not see it as a priority. This is why an appropriate sector in Government should reclaim this programme.

**THE SPEAKER:** Is there anything wrong for it to be in Agriculture?

**MR ODIT:** We are only asking that the Ministry of Finance cooperates with the Ministry of Agriculture.

**THE SPEAKER:** But the Leader of Government Business has directed that it should be in Agriculture; so you cannot revert it again to Finance.

**MR ODIT:** It is under the Ministry of Finance as of now. Maybe they can release it to the Ministry of Agriculture. There is much more than the Ministry of Agriculture because even the Ministry of Health has a portion of it.

**THE SPEAKER:** I think the handling of such is the work of the Executive. We have told them the problem and we hope that they will sort it out. We cannot make allocation as Parliament.

4.55

**MR STEPHEN MUKITALE (NRM, Buliisa County, Buliisa):** I want to thank the chairman, budget for that report, and more so by emphasising the assurance by the Ministry of Finance while borrowing money for the Public Service institute. The minister then, Ezra Suruma, did undertake that Uganda Management Institute will be given support. We were not trying to move a motion last week for the sake of moving a motion. There is hegemony between UMI and Public Service. UMI has spent money to plan and build an institute. Public Service is planning the same thing and they are all spending Government money.

It is a lie to Parliament for us to borrow money for UMI and two years later no single coin has ever reached there. I thought that by now this matter should be brought to rest because we gave enough time to the minister. We need to settle the matter once and for all so that this hegemony between UMI and the Ministry of Public Service is put to rest.

**MS WINIFRED KIIZA:** The assurance was made on 14 August 2008; it was regarding the civil service college and the Prime Minister said that this money be left to be managed by Uganda Management Institute not the Public Service Ministry.

I would request that as a country, we should be conscious of the assurances that we make to our people. The Minister of Finance should respect the assurance given by the Prime Minister of this country.

**THE SPEAKER:** Is it necessary to continue with the debate because it appears that we agree with the committee?

4.59

**MR ANTHONY YIGA (NRM, Kalungu County West, Masaka):** I thank the chairperson of the Budget Committee for her report. I am not comfortable with the issue concerning Vote 005, that is to do with the civil service college. We need to be careful while handling these national and sensitive matters. We have got several committees in Parliament doing similar work.

I was surprised that the Chairperson of the Committee on National Economy could go to the Budget Committee alone and try to undo the work which was done by another committee. I think that they should have invited that committee so that we harmonise positions because some of us support the establishment of the civil service college.

I want to suggest that we leave this money as it is to the Public Service Ministry. This loan was secured under the Public Service reform programme and not Ministry of Education. I think three committees should sit and harmonise their positions so that they come up with one decision.

**THE SPEAKER:** The constitutional function of allocating schedules is entirely with the Executive. It is not Parliament to do this; I think we should leave the Executive to do its work.

5.01
**DR FRANCIS EPETAIT (FDC, Ngora County, Kumi):** I think it is important to give credit where it is deserved. I want to thank the Ministry of Finance, Planning and Economic Development for hearkening to the call of Parliament to give Uganda AIDS Commission its separate vote. It has been a big battle for many years and I think Members do appreciate.

Mr Speaker, you have just advised that it is the Executive’s function to allocate what belongs to where - to allot who should take charge of a particular vote. However, I was also concerned that Parliament on 14 August 2008 took almost two and a half hours debating that particular matter of the Uganda Management Institute - the motion that we were about to bring up here. In no uncertainty, it was by consensus, including from the Prime Minister and Leader of Government Business - in his statement, he said that after a number of consultations with the relevant stakeholders - and that one is in the *Hansard* - it was decided that the college for Public Service should be handled by the Uganda Management Institute.

We have received a response from Public Service that is really wanting in fact. So, for me I sometimes feel let down when parliamentary resolutions or recommendations are not adhered to. I think it would show as if we were just here doing some rhetoric and then the opposite is implemented. I think this is not very good for the image of our Parliament. I thank you very much.

**THE SPEAKER:** Hon. Members, Parliamentary resolutions are of two kinds; mandatory ones and advisory ones. If you give advice and somebody does not take it and then something goes wrong, you say, “But I advised you.” There are resolutions which the Executive may adopt and there are resolutions that the Executive must adopt. So, we have to specify.

Now, what do we do with this report? Do we adopt the report of the committee on the Appropriation Bill? I now put the question

*(Question put and agreed to.)*

**THE SPEAKER:** I have to announce that subject to the comments, the Bill be read for the second time and then we go to the committee stage. The motion is to have the Bill read the second time. So, we have to dispose of it. I now put the question that the Appropriation Bill, 2010 be read the second time.

*(Question put and agreed to.)*

BILLS

COMMITTEE STAGE

THE APPROPIATION BILL, 2010

Clause 1

**THE CHAIRMAN:** I propose that Clause 1 stand part of the Bill.

*(Question put and agreed to.)*

*Clause 1, agreed to.*

*Clause 2, agreed to.*

*Clause 3, agreed to.*

*Clause 4, agreed to.*

Schedule

**MS AKOL:** In accordance with what was submitted in the Budget Committee report, I have the following amendments to pronounce.

Vote 004: The transfer of Shs 112,577,000,000 from recurrent expenditure to development expenditure. The new total reads as follows: Vote 004 - recurrent expenditure is now Shs 475,897,320,000 and development expenditure should, therefore, read Shs 147,671,880,000. I beg to move.

**THE CHAIRMAN:** Have you finished all the amendments?

**MS AKOL:** No.

**THE CHAIRMAN:** You read all the amendments.

**MS AKOL:** Okay. The justification is that this is funding of a capital nature and hence should appear under the development budget.

Vote 008: We recommend re-allocating Shs 450 million supplied to NPART to Vote 131 - Office of the Auditor-General.

I beg to submit that in the appropriation by vote, that was the money that was supplied by Parliament; the OAG total amount takes into account the re-allocations from the finance committee and, therefore, the adjustment is only on Vote 008 by Shs 450 million on recurrent. The new total, therefore, for recurrent for Vote 008 should read Shs 57,148,650,000.

On the development budget, there is a recommendation to transfer from Vote 130 - Treasury operations, under Contingency Fund Operations (CFO) - to Vote 008, Ministry of Finance, Planning and Economic Development’s development budget. So, the development budget for Vote 008 should be adjusted to read Shs 238,095,388,000 and the Vote 130 recurrent budget should remain as stated as we supplied; it should remain at zero. I beg to move.

Those were adjustments to do with the figures. Further amendments were to do with Vote 229, Juba Embassy, which was supplied Shs 954,362,000 and the Appropriation Bill here reflects Shs 953,362,000. The adjustment, therefore, is that the Appropriation Bill should be corrected to read Shs 954,362,000 for Juba Embassy.

Vote 577 - Maracha District; there is correction of an error to read Maracha and not Maracha-Terego on page 21 of the Bill. Vote 604 there is also correction of an error to read Napak District and not Imapak District as reflected under Page 32 of the Bill. Those were the amendments we had and I beg to submit.

**THE CHAIRMAN:** Do you have an amendment?

**MR OMACH:** Yes.

**THE CHAIRMAN:** Why don’t we dispose of hers?

**MR OMACH:** Yes. I agree with the amendments as moved by the chairperson. She mentions the Shs 450 million meant for NPART. As I mentioned earlier, the winding up Bill is already with Cabinet and it should soon be in Parliament. It is my prayer that we give these funds to enable the skeleton staff that is remaining to be able to wind up the operation. Otherwise, I concur with all the amendments that have been made.

**MS AKOL:** Thank you, Mr Chairman. The basis for this amendment was that the NPART mandate has expired and has not been renewed and there is also –

**THE CHAIRMAN:** But when it expires, do you just close it down without letting people pick up their bags?

**MS AKOL:** Mr Chairman, we expect the Minister of Finance to know and, therefore, prepare for that. However, the House can take care of that *–(Interjections)–* I hope the minister brings the law soon.

**THE CHAIRMAN:** Okay, subject to the amendments by the chairperson of the committee and subject to the amendment of the Shs 400 million, I put the question.

*(Question put and agreed to.)*

*The Schedule, as amended, agreed to.*

*The Title, agreed to.*

MOTION FOR THE HOUSE TO RESUME

5.15

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Fred Omach):** Mr Chairman, I beg to move that the House do resume and the Committee of the whole House reports thereto.

**THE CHAIRMAN:** I put the question.

*(Question put and agreed to.)*

*(The House resumed, the Speaker presiding\_)*

REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

5.15

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Fred Omach):** Mr Speaker, I beg to report that the Committee of the whole House has considered the Bill entitled, “The Appropriations Bill, 2010” and has passed it with amendments.

MOTION FOR THE ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE HOUSE

5.16

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Fred Omach):** Mr Speaker, I beg to move that the report of the Committee of the whole House be adopted.

**THE SPEAKER:** Hon. Members, the motion is that we adopt the report of the Committee of the whole House on, “The Appropriation Bill, 2010”.

*(Question put and agreed to.)*

BILLS

THIRD READING

THE APPROPRIATION BILL, 2010

5.16

**THE MINISTER OF STATE FOR FINANCE (GENERAL DUTIES) (Mr Fred Omach):** Mr Speaker, I beg to move that the Bill entitled, “The Appropriations Bill, 2010” be read for the third time and do pass. I beg to move.

**THE SPEAKER:** Hon. Members, the motion is that Bill entitled, “The Appropriations Bill, 2010” be read for the third time and do pass.

*(Question put and agreed to.)*

A BILL FOR AN ACT ENTITLED, “THE APPROPRIATIONS ACT, 2010”

**THE SPEAKER:** I thank you very much; the Bill is passed. I thank you for your contributions. With this we come to the end of today’s business. House is adjourned to tomorrow at 2.00 p.m. Please, I appeal to all of you to turn up and even persuade others to come.

*(The House rose at 5.17 p.m. and adjourned until Wednesday, 6 October 2010 at 2.00 p.m.)*