**Wednesday, 11 May 2011**

*Parliament met at 3.04 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 have been impressed by your display of patriotism by attending this meeting in such big numbers. Please continue with the same spirit, and you are most welcome. We are coming close to the end of our tenure as I said, which expires on 18th May, but we have a lot on our table to clear. So, continue saving time for parliamentary work.

You have seen the Order Paper with a lot of Bills pending, but I have to adjust it a little to allow the Chairperson of the Equal Opportunities Committee to lay on Table the reports they have completed; and later we shall consider the business on the Order Paper which we can handle because tomorrow we cannot come since it is a public holiday. I do not know whether we can come back on Friday. [Hon. Members: “No.”]*(Laughter)* Patriotic Members of Parliament! *(Laughter)* Okay, we shall consider that.

3.07

**THE OPPOSITION CHIEF WHIP (Mr Kassiano Wadri):** Mr Speaker, I rise on a matter of national importance. A few days back, Rtd Col Dr Kizza Besigye was discharged from Nairobi Hospital, from where he has been receiving treatment for injuries inflicted on him during the brutal arrest which took place one and half weeks ago.

One of the things Government has been urging us, especially Members of the Opposition, is that in any case an action is to be taken, there has to be an agreement through dialogue. In relation to that, the whole of yesterday and the other day, Members of the Opposition were in close dialogue and meeting with Government in preparation for the return of Dr Kizza Besigye.

In particular, Government delegated the Commissioner for Police, Mr Assan Kasingye, who met senior members of FDC. During the meeting, it was agreed that Dr Besigye would arrive at Entebbe this morning at 9.10 a.m. and that he would be allowed to have a motorcade of three vehicles. The meeting also agreed that Dr Besigye would be allowed to make five stop-overs where he would greet people and Government proposed that the prayers would be held at Namboole Stadium.

After further discussion and noting that Namboole is very far and not many people could afford taxi fares to travel there, it was agreed that prayers be held at Nsambya Sharing Hall. As a result, my party went ahead and made all the necessary preparations which, among others, included provision of sitting facilities in Nsambya Sharing Hall.

This morning, we set off as agreed very early to go to Entebbe Airport and I arrived at 8.20 a.m. – I was actually the first person to arrive – and on the electronic notice board, it was clearly indicated that Flight KQ 410 would land at 9.10 a.m. I patiently waited and rang back my colleagues to find out where they were since I was already in the airport’s VIP Lounge where Dr Besigye was meant to address the press.

Later on, hon. Alice Alaso told me that she was leaving Najjanankumbi for town because she had received information from Nairobi that Dr Besigye was pulled off the airplane on allegations that if he remained on that plane, it would not be granted landing rights at Entebbe Airport. Soon thereafter, I was joined by other colleagues, including hon. Beatrice Anywar, hon. Patrick Amuriat, hon. Cecilia Ogwal, hon. Charles Gutumoi, hon. John Ken Lukyamuzi, hon. Semujju Nganda, MP-elect and other party members. We hoped that Dr Besigye would come as scheduled.

Mr Speaker, the reason I am bringing this is because the Government at first said we were not serious about talks and that we were not sincere in whatever we were talking. But now we have shown goodwill and a good gesture to Government. Up to last evening after Parliament adjourned, I talked to hon. Matia Kasaija who confirmed that they had assigned Commissioner Kasingye to handle this matter. Up to that point he could not tell me what the Government’s plan was.

Now, I begin to ask myself whether all these talks that have been proposed by Government that we should meet under the auspices of IPOD will be respected if we are having the art of hide and seek on matters of this nature – where you know what you are doing but you do not want to disclose it to us. We have already incurred losses in preparing the venue; hiring tents and chairs. All these could have been avoided if Government was sincere to us and said, “Dr Kizza Besigye is not allowed to come back.”

And as I speak now, I am sure that many of you have already received news that the Kenyan Parliament is right now debating the action of denying Dr Besigye exit from Nairobi to return to his country. So, I feel that Government owes us an explanation. I can see that the Minister of Internal Affairs and Minister of Foreign Affairs are not around, but Prof. Apolo Nsibambi, Leader of Government Business, who should be the shock absorber for all these ministers, is around. Therefore, through you, Mr Speaker *–(Interruption)*

**MR ANGIRO:** Thank you very much, Mr Speaker. I am from Entebbe Airport right now and I am with the latest information from Government, which was given to us by Assistant Inspector General of Police, Mr Kasingye, to the effect that Government has regretted what has happened as a result of offloading Dr Kizza Besigye and his family from the plane. And when we investigated, and according to the report, it was stated that the former President of Kenya, His Excellency, Arap Moi, was feeling uncomfortable sitting in that plane with Dr Kizza Besigye. We are also reliably told that in that plane was the Deputy Prime Minister of Kenya.

Now, from the Kenya Airways office, the report stands that they were told, and they thought, it was risky to allow Dr Kizza Besigye to travel on that flight. And if he did, the plane would not be able to land at Entebbe Airport. But then the question is, how could the plane carrying the former President of Kenya and the Deputy Prime Minister of Kenya not land at Entebbe Airport.

Mr Kasingye told us that His Excellency, the President of Uganda, was concerned. He raised his counterpart and the President directed that Dr Kizza Besigye comes tomorrow at 9.00 a.m. We discussed this and it was confirmed to us through a telephone conversation with the Inspector General of Police.

With regard to the programmes which were laid down, they agreed and directed that the programme will stand tomorrow as scheduled. So, we are waiting to see if that is not a pregnant lie which will be aborted again. We regret to inform this House and the country that it seems Dr Besigye has been exiled again. That is the latest information that we have and I am grateful to inform the House about that. Thank you.

**THE SPEAKER:** In view of the account which you have given, doesn’t it abort the request of the Chief Whip, because if you are saying he is coming back tomorrow, then what else?

**MR WADRI:** Mr Speaker, as I stood up here, I gave an analogy of events, which led to all the preparations that we made. And the time Government assured us that Dr Kizza Besigye was coming, but with the information that is being given, I cannot take it seriously because it is the same assurance which Government gave us up to yesterday evening, which did not materialise. So, I cannot take the information which he has given, and more so from my colleague. Mr Speaker, I still beg that we need an explanation from Government. I rest my case.

**THE SPEAKER**: So, you are saying we expunge his information from the record.

**MR WADRI:** I am not saying that we expunge his record. All I am saying is that now that he has come up with this explanation, it is hearsay. I want it from the horse’s mouth. Why would my shadow minister of defence talk for Government when Government is in front of us? We want to hear it from Government. Because yesterday it was the same assurance that we were given, which unfortunately they did not honour. We want to hear it from them.

3.20

**THE PRIME MINISTER/LEADER OF GOVERNMENT BUSINESS (Prof. Apolo Nsibambi):** Mr Speaker, the two ministers in charge of the Ministry of Internal Affairs are not here. But I did direct the princess, hon. Kabakumba, to make a statement; and I have no hesitation in requesting her to clarify these matters. But I am surprised that hon. Wadri is disowning hon. Angiro who has given us vital information. I thank you.

3.21

**THE MINISTER OF INFORMATION AND NATIONAL GUIDANCE (Ms Kabakumba Masiko):** Thank you very much, Mr Speaker. It is true that the Opposition and in particular the leaders of FDC are in touch with Government on the return of Dr Kizza Besigye. We have held several meetings and we have been briefed about the understanding we arrived at with the Opposition.

Until this morning, Government and the Opposition had agreed that Dr Kizza Besigye, on arrival, would be escorted from Entebbe to Kampala and he would be given an opportunity, as it has been stated by the Opposition Whip, to address his supporters along the way. Perhaps with that point we are in agreement.

Towards 9.00 a.m. a rumour by the leaders of FDC started circulating that Government had blocked the return of Dr Kizza Besigye. I would like to state categorically that Government did not block the return of Kizza Besigye and it has no intentions of blocking the return of Dr Kizza Besigye.

Dr Kizza Besigye had checked-in this morning and was due to land at Entebbe. The information we have is that KQ requested him to relocate - which is normal for airlines! They have that arrangement. KQ relocated him to Air Uganda. Air Uganda graciously agreed to bring Dr Kizza Besigye to Entebbe but Dr Kizza Besigye refused to come with Air Uganda and up to the last time I checked, he had been booked to come back this evening.

But suffice to mention, the travel of Dr Kizza Besigye from Nairobi to Entebbe is not the responsibility of Government. And indeed that is why we are working with the FDC to ensure that when he reaches Entebbe, from Entebbe onwards, we can take on the safety of Dr Kizza Besigye from Entebbe to wherever he wanted to go. So, for the record, the Government of Uganda did not block, and it has no intention of blocking the return of Dr Besigye. I thank you.

But it is also good to learn that H.E. the President of Uganda is in contact with the Opposition and he is talking to them directly. I will affirm that the NRM Government has been saying that it is willing to talk to the Opposition and the President is very sincere about it. I really appreciate that even the Opposition has information about what happened though the Opposition Chief Whip is trying to sweep it under the carpet. *(Laughter)*

3.26

**MS BEATRICE ANYWAR (FDC, Woman Representative, Kitgum):** Thank you, Mr Speaker. Before I seek the clarification from the honourable minister, I wanted to also be on record that this morning we all woke up ready to go and receive our leader, Dr Besigye from Entebbe. Actually, my boss, the Chief Whip, bypassed me this morning while I was being held at the roadblock at Kitooro.

When I approached the roadblock behind other vehicles, I was asked to identify myself and I told them, “I am Beatrice Atim Anywar, a Member of Parliament.” And the security personnel who were actually not in uniform asked me whether I had an air ticket and travelling out of the country. I said, “I am not travelling out of the country but receiving my people.” He said, “Can you identify yourself further?” I told him that if he doesn’t know me and is not satisfied with what I had told him, then he could probably ask his colleague and that is when he ordered that my car be parked aside and I get out. He literally wanted to remove the car keys from my driver.

So, really our journey to Entebbe this morning was not a smooth one. The security personnel were doing their work, but this time around, some of us seemed to have undergone extra screening which I witnessed when I finished the first checking that took about 30 minutes.

In the second one, there was a foreign passenger who was roughed up and they had a real exchange of words. I saw the media being denied entry and the one who tried to talk to me while I was being harassed was pushed away.

**THE SPEAKER:** The issue on the Floor is that of hon. Wadri.

**MS ANYWAR:** Yes, Mr Speaker, because we really need to testify as to what happened and I am coming to the point where the minister said in response that it wasn’t Government preventing Dr Besigye from coming back.

I too communicated with hon. Winnie Byanyima in Nairobi and she told me that they were bundled off the plane. And at the time I talked to her, she was demanding a written explanation from *–(Interruption)*

**MR NANDALA-MAFABI:** Thank you very much, my colleague, for giving way. Mr Speaker, the clarification I would like to seek is that whenever one travels and they don’t want you to use a particular plane, they tell you at the check-in counter and advise you on which plane to board. In this case, Dr Besigye was given a boarding pass for Kenya Airways*;* that meant that he was ready to board the Kenya Airways plane. At what point does the minister come and say that they came and said, “We have relocated you,” and yet he had got a boarding pass?

**MS ANYWAR:** Yeah, thank you, colleague. That is exactly the clarification that I needed because, hon. Minister, when you deny these things, you make us uncomfortable. The facts should be addressed. If you are now saying it was not done in bad faith, why is it that the very victim, Dr Besigye and the family, are saying that they were got off the aeroplane? Whose information should we believe?

We still think that the government should be here to tell us the truth other than just window-dressing for the sake of publicity. We would like the minister to reaffirm that what she is saying is the truth and that Dr Besigye, who is the victim, is lying to this country. Otherwise, I would have come in with a point of order. Please, tell us the truth and the truth will set you free.

**MS KABAKUMBA:** Thank you very much, Mr Speaker. It was not Government that relayed the events that went on to us. It was hon. Gutomoi who has just done it on this Floor. The issue of offloading the passengers from KQ is their responsibility; I am not privy to the reasons and I cannot talk on behalf of KQ. So, what I have stated is the truth and nothing but the truth.

3.24

**MR GEOFREY EKANYA (FDC, Tororo County, Tororo):** Thank you, Mr Speaker. This Parliament is not supposed to be abused. We have the rules and Members are supposed to be decent and honest. Therefore, is it in order for the Minister of Information to lie and also be mean with the truth that the Government of Uganda did not play a significant role in intimidating the Kenya Airways staff and ensuring that it does not allow Col. Kizza Besigye, the President of FDC and hon. Winnie Byanyima, Director for Gender at UNDP in the United Nations and their entire family, from returning to Uganda at 8.00 O’clock this morning?

With me, is the official communication from Kenya Airways which I would like to lay on this Table. It is categorical and with your permission, Mr Speaker, I could read to substantiate my point of order:

*“Wednesday, 11 May 2011.*

*Kenya Airways Statement:*

*Kenya Airways would like to confirm to its passengers, customers, investors and the public that Ugandan Opposition Leader, Dr Kizza Besigye, is now scheduled to depart on KQ414 on 11th May from Jomo Kenyatta International Airport for Entebbe International Airport at 1750 Hrs.*

*Dr Besigye was earlier denied boarding on KQ410 on the 10th May at 0800 Hrs following information from Kenya Airways internal intelligence sources that the aircraft would not be allowed to land at the Entebbe International Airport if he was on board. Dr Besigye thus could not board the aircraft as Kenya Airways had to first ascertain this information without inconveniencing the other passengers destined for Entebbe.*

*The airline has now confirmed and issued Dr Kizza and his wife tickets to depart Nairobi this evening. The airline takes earliest opportunity to apologise to Dr Kizza Besigye for any inconvenience caused.*

*Signed Titus Nikumi, Group Managing Director, Kenya Airways.”*

The most important issue is that Kenya Airways had been intimidated by the Government of Uganda that controls Entebbe International Airport because they would not allow the plane to land. Is the minister in order to lie to this country? I lay the document on the Table.

**THE SPEAKER:** There is no point of order here, what hon. Ekanya has read is from Kenya Airways intelligence. You need to verify whether the intelligence was correct or not. We can investigate from there. How far are we going to go with this issue? The issue was raised by hon. Wadri and he had contacted me about it. But now you are raising so many other issues.

3.37

**MR MATHIUS NSUBUGA (DP, Bukoto County South, Masaka):** It is good to be around for some time and I am going to say this because I am sure, Mr Speaker, you are aware. In 1980, when Prof. Lule was returning to Uganda to participate in the DP National Delegates Conference, this very issue that we are discussing today happened, when Prof. Lule was in the VIP Lounge in Nairobi and the Government then was the Military Commission chaired by the late Paul Muwanga and President Museveni was the vice chairman. We all went to the airport to wait for Prof. Lule – Prof. Kamuntu you were around and you can tell them the truth.

When we were at the airport, at 11.00 O’clock, and everybody had come, we were told that Prof. Lule would not return and the Government then said, “For us, we have no issues with Kenyan Government, if they want him to come, he can come.” We waited until the Government said: “You DP, is Prof. Lule, coming back as a President of Uganda?” - and of course they had overthrown him!

Back to this very issue, I am an airline man; once a passenger has been given a boarding pass and he is put on the passenger manifesto - passenger manifesto is a list - there is no way that passenger can be denied to board. The only problem is about the intelligence of Kenya Airways, as you said, Mr Speaker. Because the airline can take off with a passenger – and they are expected to declare the names of passengers that they have on board - but if they are denied landing rights, they only hover around, wasting fuel plus putting the lives of passengers in danger. So, I think the Government should remember that they were denying him exit to go for treatment, now they are denying him entry to come. I think Government should be held responsible and they should explain to us this issue.

3.44

**MR HASSAN FUNGAROO (FDC, Obongi County, Moyo):** Today it is Dr Besigye, it may be somebody else tomorrow, but ask yourself three simple questions: Somebody leaving the country for medical treatment being denied or being interfered with in the process of leaving and again when the person is returning to his country the journey is interfered with.

Communication from the minister varies from the communication we are getting from the individual. The ultimate summary is that there was interference. Therefore, I would like to ask this question -

**THE SPEAKER:** Let me ask this question because the debate is degenerating, people want to know: Can Dr Besigye safely return to Uganda? I expect an answer to this from Government.

**MS KABAKUMBA:** Hon. Speaker, as I stated earlier, Dr Kizza Besigye is free to return to Uganda any time.

**MR KYANJO:** Mr Speaker, I am standing on a point of procedure. I would like to thank the Prime Minister, first, who instructed the hon. Kabakumba to talk about this issue. This came as a condition because the Minister of Internal Affairs and that of Defence were not present. Now that the two ministers are here, can we get a different story?

**THE SPEAKER:** The record is that Besigye is free to return to Uganda anytime he wants.

Hon. Members, in the strangers’ gallery, we have a group of members from the Uganda Network on Law Ethics, HIV/AIDs and other civil society organizations. Would those people stand? Please join me in welcoming them to Parliament of Uganda! (*Applause*) I think this matter is exhausted. Hon. Odonga otto you came late and there was a message read by hon. Ekanya.

3.44

**THE MINISTER FOR SECURITY (Mr Amama Mbabazi):** Just to add to what hon. Princess Kabakumba said, the Government of Uganda obviously had no objection at all to Dr Kizza Besigye coming. We had all the arrangements to receive him today as agreed between the two parties and unfortunately there was that confusion and he did not come on the flight. He is now at the airport and he has picked his boarding pass and he is scheduled to leave on the 6.00 O’clock flight. Thank you.

3.44

**MS BEATRICE LAGADA (NRM, Woman Representative, Oyam):** I thank you, Mr Speaker.I rise on a matter which is on the Order Paper.

Earlier today, you indicated and in fact the House did understand that this is the last sitting of this 8th Parliament and I have looked at this Order Paper and I am seeing items No.6 and No.7. Item No. 6 is the Marriage and Divorce Bill and No.7 is the Anti-Homosexuality Bill.

Looking at the length of the Order Paper, I am worried that if these items are not re-organised, this House is going to close when the Marriage and Divorce Bill has not been debated and passed by this House, and that the Anti-Homosexuality Bill will not have been handled by this House.

From 2008 to 2010, I was Chairperson of the Committee on Gender, Labour and Social Development –

**THE SPEAKER:** Hon. Member, maybe you came a bit late. I said we adjust the Order Paper to allow the Chairperson of Equal Opportunities Committee to lay on Table the reports from that committee and later, we shall consider the business on the Order Paper and see how we are going to handle it and that will come at that time.

3.47

**THE PRIME MINISTER AND LEADER OF GOVERNMENT BUSINESS (Prof. Apolo Nsibambi):** Mr Speaker, yesterday I informed Parliament, in answer to a question that was raised, that ministers should hand over to permanent secretaries when their term of office expires.

His Excellency, the President, has reconsidered this matter and he has directed that in accordance with the Constitution of the Republic of Uganda, His Excellency, the Vice-President, the Rt hon. Prime Minister, ministers and ministers of state who were not affected by the recent Constitutional Court and Supreme Court decision on change of political allegiance, continue in their respective offices until he constitutes a new government. This is the information which I wanted to give to this body. I thank you.

**MR KYANJO:** I want once again to thank the Prime Minister for that landmark announcement extending the “life” of ministers in a transition that was cleared in the Constitution. But what I want to satisfy myself with is that very particular provision the President is referring to so that we do not find ourselves in a dilemma tomorrow afternoon. I thank you.

**MR EKANYA:** I would like the Prime Minister to clarify to me, the people of Tororo County and Uganda that suppose His Excellency, the President, was handing over office to another person, maybe Prof. Nsibambi tomorrow *–(Interjections)-* or hon. Ekanya, and the current head of state makes an extension, under which government would the ministers be working and who would be the head of state? What provision of the Constitution justifies that – what is the practice in the Commonwealth?

**THE SPEAKER:** Please answer.

3.50

**THE PRIME MINISTER AND LEADER OF GOVERNMENT BUSINESS (Prof. Apolo Nsibambi):** Mr Speaker – oh sorry, I had buttoned my coat wrongly *–(Laughter)-* and the Princess has advised me to correct it.

According to Article 119 –

**THE SPEAKER:** Excuse me, Prime Minister; here we call a princess a “Sir, Princess.” *(Laughter)*

**PROF. NSIBAMBI:** I thank you for your correction. *(Laughter)*

According to Article 119 of the Constitution, The Attorney-General is the one who interprets the Constitution. I am a professional and I do not want to tackle a matter which I may not conclude. I do not want to refer to Articles 99, 108(a), 114, 113 and 116. I would like to leave all this explanation to the Learned Attorney-General.

**THE SPEAKER:** Well, the Attorney-General is here.

3.52

**THE MINISTER OF JUSTICE AND CONSTITUTIONAL AFFAIRS/ATTORNEY-GENERAL (Dr Khiddu Makubuya):** Mr Speaker, I thank you for the opportunity although I do not understand the nature of the issue –

**THE SPEAKER:** Excuse me, what did you say? *(Laughter)*

**DR MAKUBUYA:** Mr Speaker, the Prime Minister came and made a statement and I thought he had clarified the matter. But I can give some ideas, for example, that – pardon me, Mr Speaker, but I will take some time because –

**THE SPEAKER:** Okay.

**MR KYANJO:** Procedure.

**THE SPEAKER:** Which procedure? He wants some time to be able to check with the Constitution before responding please give him time.

**MR KYANJO:** Mr Speaker, you are driving us in our last stretch as our senior steward in this House. I would be the first person not to wish the Government to be embarrassed at this moment. I would kindly request, therefore, that you suspend for a momentso that a proper interpretation can be fetched out and we come back on the Floor and we get abreast.

I am doing this in good faith because I do not know how a President who is going to be sworn-in tomorrow is going to extend the Cabinet when it is not sworn-in. It would be in the interest of the Attorney-General to do this business away from the eyes of everyone.

**THE SPEAKER:** We can allow the Attorney-General to go out and check and then come back. We want to proceed with the business. The Attorney-General is free to go and make consultations and come back in 20 minutes.

**MR KYANJO:** Mr Speaker, I am pleading with you that we all go out –

**THE SPEAKER:** To do what?

**MR KYANJO:** I am just pleading with you that we all go out – I am sure the Attorney-General will take a very short time.

**THE SPEAKER:** No, we have a lot to do, hon. Member. Please call the hon. Chairperson of the Equal Opportunities Committee.

PRESENTATION OF PAPERS

3.56

**THE CHAIRPERSON OF THE EQUAL OPPORTUNITIES COMMITTEE (Ms Sofia Nalule):** Thank you, Mr Speaker. On behalf of the Committee on Equal Opportunities of Parliament, I would like to lay the following five reports on Table: The first one is on the issues of ethnic minorities. I want to report that on this one, visits were done in the districts of Kibaale, Hoima, Masindi and Buliisa.

The second one is on a visit to the Parliament of Tanzania, which we made last year. The third one is about the operations of the newly created districts and how the issues of equal opportunities and equities are handled in those districts. The visits were done in the districts of Bukomansimbi, Rwengo, Buikwe and Mokono.

The fourth is about the visit of this committee to the National Assembly of Kenya, which was done this year. The last one is about the visit to the Parliament of India to see how they handle issues of equal opportunities.

Mr Speaker, I beg to lay the reports on Table. *(Applause)*

**THE SPEAKER:** Thank you very much, chairperson and members of the committee for that good work. Next item, please.

BILLS

SECOND READING

THE COMPANIES BILL, 2009

**THE SPEAKER:** No, hon. Members, before we proceed I want to draw your attention to the Order Paper that was given to you. When you look at it, you notice that there are different items that should be considered today. Obviously, we have a problem in that today is a Wednesday with tomorrow being a public holiday because of the swearing-in of the President. I don’t know whether we can give in Friday, but it seems you are not willing and maybe you will be tired after the events of Thursday. Otherwise, I don’t see how we can handle the business that is listed here. In the circumstances, what are your views? Which business do we handle?

**MS LAGADA:** Thank you, Mr Speaker. I rise to propose that we prioritize the business that we have today by bringing forward item No.6, which is the Marriage and Divorce Bill, 2009. I also move that we handle item No. 7, which is the Anti-Homosexuality Bill, after which we can handle the HIV and AIDS Prevention and Control Bill.

I propose this arrangement because for the Marriage and Divorce Bill, the women in Uganda have waited since 1962 – I think the men will also not be happy if this Parliament closes before passing this Bill; that will be a very big shame.

We spent a lot of time at UWOPA and with the Committee on Gender, together with the Uganda Law Reform Commission and development partners, consulting Ugandans in all the regions and at national level over this Bill. The report was read long ago. I think this Parliament owes something to the people of Uganda in passing this Bill.

Secondly, I have proposed that we deal with the Anti-Homosexuality Bill because it has been in the public arena for too long. When hon. David Bahati first presented this Bill as a Private Member’s Bill, it was done on behalf of a group of 50 Members of Parliament in this House. Unfortunately, it has become the “Bahati Bill” in Uganda and in the outside world.

As a result, hon. David Bahati has got to carry the weight of this Bill. He has been demonized and denied entry visas to certain countries. I also know that at one time one of his cousins was abducted at the end of 2010. So, it would be very unfair for this Parliament to close before disposing of this Bill. In addition, Mr Speaker, Members of Parliament are being accused of having been bribed to kill this Bill. So, it is only fair that we handle it now and let hon. David Bahati and his family enjoy peace.

Thirdly, on the issue of HIV/AIDS, there have been all sorts of words said. From the messages sent on our phones – it is only fair that we deal with it now.

In the circumstances, I do not see any issues that are urgent other than those three, which I believe should be handled before this Parliament closes. I beg to propose.

**MR ODONGA OTTO:** Thank you so much, Mr Speaker. I would like to suggest some principle that we should adopt in prioritizing which Bill to consider. One of the suggestions should be the degree of existence of the various opinions. I can assure you and I can even bet that if we start on the Marriage and Divorce Bill now, we will not finish it. I know that even in this House, there are Members who are not liberated yet to accept the provisions in that Bill, including myself.

Second, we would also want to get the opinions of the new Members as we appreciate this important law - those new Members are coming just next week – so that we can have more informed Ugandans bringing their opinions on the provisions of this very important law.

In circumstances, other than risking starting on the Marriage and Divorce Bill and we get stuck in it while still at committee stage, I would like to advise that this important legislation waits a little bit. In that regard, I would like to suggest that we handle the Anti-Homosexuality Bill first before we get to the Bill on HIV/ AIDS.

4.05

**MS FARIDAH KASASA (NRM, Woman Representative, Mubende):** Thank you, Mr Speaker. With all due respect to my colleague, the Chairperson of the Gender committee - I also cherish the Marriage and Divorce Bill – it should come because we all have our views, but we have an issue on the Uganda National Meteorological Authority Bill, which is here with us.

Hon. Members, the other Bills can be introduced just in case we don’t get there. Otherwise, I would like to move that we consider this Bill. The report is so short; we do not have many amendments. We give opportunity to the other people to contribute. I beg to move.

4.05

**MS BEATRICE BYENKYA (NRM, Woman Representative, Hoima):** Thank you, Mr Speaker. I am just kindly imploring upon the Members of Parliament to honestly be sincere. We have been seeing the way we run business here and we should also be sincere to ourselves that even if the body is here physically, but not everything is here. I will not go on to elaborate into issues; we are just here physically and we cannot handle even a Bill and finish it *-(Interjections)-* yes, we should be honest and sincere.

We cannot handle any Bill now in the next four hours and finish. Therefore, let us align ourselves along that line. We cannot handle any Bill and finish it yet on the Order Paper, there is so much business to do. So what is the way forward?

4.07

**MR NATHAN NANDALA-MAFABI (FDC, Budadiri County West, Sironko):** Thank you very much, Mr speaker. It is unfortunate that all these important Bills are coming on a day when it is remaining only one hour to 5.00 O’clock and that is where I get worried with Government priorities. We are worried that at this rate, this Government – surely, even when the President has extended their life time for another one week, I think he has done a wrong thing.

All these laws are very important; let me give an example of the Companies Act. It is a very vital law which is overdue and if you are trying to say that it is only the HIV Bill - no, even the Companies Bill is very important. It perfects many things. Even the HIV Bill will socket very well when the Companies Act is right.

Two, there are many Bills we are talking about. Recently, we passed a Bill here on condition that one Bill should be brought and if all of you remember - the Executive, do you remember what it was? They do not know. We passed the Retirements Authority Bill and on that, we had hinged that you bring the Liberalisation of the Pension Bill, which has been brought and that is the Bill for us to be in line with the other one which should have been passed. I think today is the liberalisation of the sector - the one we passed. It can *-(Interjection)-* I am just giving a general view.

I want to give a way forward. Let us decide that all these Bills have been passed into law and we go home *-(Laughter)-* because the government - in fact, the President is going to swear-in tomorrow and he should really not bring these retired people back. These retired people are the ones bringing us problems in this House. They are sleeping *-(Laughter and Interruption)*

**MS ERIYO:** Mr Speaker, I stand on a point of order. First of all, hon. Nandala-Mafabi mentioned something which is not true here that, it is the Executive that has delayed the work of Parliament. On the contrary, it is hon. Nandala-Mafabi and others who have been derailing the work of Parliament by debating things which are irrelevant, wasting time of Parliament and yet he is a chairman and, therefore, a Member of the Business Committee.

Is hon. Nandala-Mafabi in order to confuse Parliament and to deceive the whole nation that it is the Executive that has delayed the work of Parliament? Is he also in order to state that we should assume that all these Bills have been passed into law and yet these Bills are very important for this country?

My ministry also has a Bill to present on climate change which is on the Order Paper - item No.5 - which is a very important Bill on meteorology in this country. This has been with the Business Committee for so many months. Is hon. Nandala-Mafabi in order?

**THE SPEAKER:** Let us find a solution to what we really need. What do we do today? We are taking a lot of time but let me handle it this way. Hon. Lagada said we start with item No.6; what does the minister, the owner of this Bill, say? Are you ready?

4.12

**THE MINISTER OF JUSTICE AND CONSTITUTIONAL AFFAIRS AND ATTORNEY-GENERAL (Prof. Khiddu Makubuya):** Mr Speaker, thank you very much. The Committee on Legal and Parliamentary Affairs has produced a report. Technically, we are ready, but I have also been informed that there are some concerns moreover on both sides, the pro-Bill side and the anti-Bill side, and I am just wondering whether it is reasonable to proceed with the Bill in those circumstances. I stand to be advised, but in those circumstances, for me -

**THE SPEAKER:** You are not ready then.

**PROF. MAKUBUYA:** No sir, technically, I am ready -

**THE SPEAKER:** No, you are not ready.

4.13

**THE GOVERNMENT CHIEF WHIP (Mr Daudi Migereko):** Mr Speaker, the Marriage and Divorce Bill, 2009 -

**THE SPEAKER:** No, the owner of the Bill who is supposed to move the motion for second reading has said he is not ready.

**MR MIGEREKO:** And the Attorney-General has clearly indicated that he is not in a position to proceed right now because he has to undertake pertinent consultations. In the circumstances, therefore, I would like on behalf of Government to propose that we move onto the Companies Bill, 2009 which has been here with us for over a year and is highly critical to our investment agenda. Government is ready to move on this one and the committee is ready *–*

**THE SPEAKER:** I think we are going to waste the entire day on this.

**MR KYANJO:** Thank you, Mr Speaker. I want to repeat that this stretch is quite tough; it is the last rap. But, this is going to depend entirely on your guidance to this House. The judgement on whether we conducted neatly at the end is not going to depend on individual Members of Parliament, but on you. Many of us are on levels that are incomparable to others. So, it is crucial that you guide, and guide appropriately. Since I have the opportunity to be on the microphone, I would like to second the view of hon. Nyakayisiki. She said that we cannot debate perfectly and pass Bills as we are required –

**THE SPEAKER:** That is not true; we can – is the minister, owner of item No.3 here? Hon. Minister, what is the position?

**MR OKUPA:** Mr Speaker, is it right for us to proceed with the Companies Bill given the size of its volume - 367 pages - and we only have hours. It is clear we will not be able to complete this Bill. Why don’t we deal with the small Bills and complete them?

**THE SPEAKER:** Hon. Members, on this item of Companies (Amendment) Bill, I have seen the report of the committee which handled this Bill and it is proposing two amendments only. And this is in respect of Clause 4 and 14; others are intact. Therefore, it is easy to deal with this Bill in time. No other person has suggested an amendment.

**MR ODONGA OTTO:** Mr Speaker, it is true the committee may have two amendments. But we are introducing a new concept that this House has to appreciate thoroughly; where you can incomparably have a single member company. This is a complete departure from several jurisdictions.

So, even if it were just one clause, it is very dangerous for this House to hurriedly provide for sole member companies which automatically makes companies almost sole proprietors.

**THE SPEAKER:** Hon. Member, when the matter comes on, you will debate and your views will be considered.

**MR ODONGA OTTO:** Mr Speaker, even if there are four amendments, we still have to pronounce ourselves to over 500 clauses, for which we do not have time. Why is Government running away from the Anti-Homosexuality Bill? Why don’t we dispose of those six clauses?

**THE SPEAKER:** Hon. Members, I see you are sabotaging the day by wasting time. This is not being patriotic. I have already noted that you are very patriotic and, therefore, being patriotic, you should utilise the time we have maximally. Why don’t we handle business?

**MR EKANYA:** Mr Speaker, I am not opposing your proposal or that of Government. But I want to seek your guidance. You granted the Attorney-General 20 minutes to explain the extension of the office of the Cabinet ministers by H.E. the President. Therefore, I would like to seek you indulgence – this matter is very serious.

In the Constitution, Article 105 stipulates that the tenure of office of the President is five years. Therefore, there is no way he can extend his tenure and that of his cabinet when his term is expiring on 11th midnight. These are legal issues; for example, the Minister of Finance has a lot of power even to commit Government locally and internationally. So, we do not want to enter into legal gymnastics and then penalties where Government of Uganda will be sued in future and we pay huge costs.

**THE SPEAKER:** Okay, the Attorney-General is back. Can you give us your advice?

4.23

**THE MINISTER OF JUSTICE, CONSTITUTIONAL AFFAIRS/ATTORNEY-GENEARL (Mr Khiddu Makubuya):** Mr Speaker, I would just direct the attention of Parliament to view provisions in the Constitution. First of all, is the tenure of the President: In Article 105(1) *“A person elected President under this Constitution shall subject to Clause 3 of this Article hold office for five years.”*

Then, the information given to us by the Rt hon. Prime Minister mentions the Vice- President, and I direct the attention of Parliament to Article 108(5): “*The Office of the Vice-President shall become vacant if -*

*(a) the appointment is revoked by the President; or*

*(b) the incumbent resigns or dies.”*

The same information mentions the Rt hon. Prime Minister and for that one, we refer to Article 108A Clause 4:

*“(4) The Office of the Prime Minister shall become vacant if-*

*(a) the appointment is revoked by the President;*

*(b) the incumbent resigns or dies; or*

*(c) the incumbent becomes disqualified to be a Member of Parliament.”*

Attention is also directed to Article 116 of the Constitution marginal note, *“Vacation of the office of minister:*

*The office of a minister shall become vacant-*

*(a) if the appointment of the holder of the office is revoked by the President; or*

*(b) if the holder-*

*(i)resigns*

*(ii) becomes disqualified to be a Member of Parliament; or*

*(iii) dies.”*

Of course Article 99 provides for the executive authority of Uganda:

*“(1) The executive authority of Uganda is vested in the President and shall be exercised in accordance with this Constitution and the laws of Uganda.”*

And in Clause 4*, “Subject to the provisions of this Constitution, the functions conferred on the President by Clause (1) of this Article may be exercised by the President either directly or through other officers subordinate to the President.”*

The authorities on interpretation of the Constitutions or laws advised that in interpreting the Constitution or the law, you should endeavour to avoid absurdity. So, while for the President there is a specific timeline under Article 105(1), for all these other appointees of his, they serve at the pleasure of the President. To interpret these provisions and to say the President cannot ask a minister to hold over for a few days is to create an absurdity and a vacuum which cannot have been intended by the makers of the Constitution. Thank you.

4.29

**MR SAMUEL ODONGA OTTO (FDC, Aruu County, Pader):** Thank you so much, Mr Speaker, and I also want to thank the Learned Attorney-General for his legal opinion which should be binding on Government, anyway. [Ms Kabakumba: “No.”] No? Maybe just a free lecture, hon. Kabakumba; the opinion of the Attorney-General is binding.

But I appreciate the fashion in which the Attorney-General chose to interpret the provisions of the Constitution. It made me see that somehow in the drafting, the law is seemingly silent on the tenure of the Prime Minister and the Vice-President; but the rules of interpretation of the Constitution which the Attorney-General knows well - you may use the literal rule, you may use the mischief rule.

Those who drafted this Constitution were trying to cure a mischief. My understanding is that they did not want any situation where someone sits on the frontbench illegally. If you are fired by the President, you do not sit there. If you are not appointed by the President, you do not sit on the frontbench. That is the mischief which was being cured.

I want to draw the attention of the Attorney-General - assuming you were elected president in the last election and you are to be sworn-in tomorrow to replace Yoweri Kaguta Museveni, would it validate an extension of the terms of the ministers by one week? Different presidents! Would it validate because your mandate begins tomorrow from after swearing-in? Because the same Yoweri Kaguta Museveni is handing over power to himself, there is no way we can say that the extension of time is valid.

President Museveni’s term expires tonight at midnight. Tomorrow he gets a fresh term. He is a new person and whoever should work with him must be approved by Parliament. If I may read it for you, just for clarity. Prime Minister: *“There shall be a Prime Minister who shall be appointed by the President with the approval of Parliament.”* Tomorrow, it is a new President and he appoints you, you need approval of Parliament. Any extension by the President of your term, even by three minutes, is a nullity *ab initio.* *(Laughter)* I advise you not to embarrass yourselves.

So, we need a new President to take power tomorrow; the new Parliament comes next week. Whoever is delegated even for one day would need approval of Parliament. That is the mischief those who wrote this Constitution were intending to cure.

That letter is actually fake and should not be relied upon. The President should stop writing the law; the law is already written in a book called the Constitution. *(Laughter)* We should stop that habit. Thank you so much.

4.33

**MR NATHAN NANDALA-MAFABI (FDC, Budadiri County West, Sironko):** Thank you very much, Mr Speaker. It is unfortunate the Attorney-General who was interpreting the rules has a conflict of interest. That is why he wanted to tell the public that the thing is right because he is a beneficiary. If he had been a genuine person, there is no way where the Executive – the President is ending midnight tonight *–(Interjection)-* okay tomorrow after swearing-in; he has to appoint new members of his Executive who are supposed to be approved by Parliament. The Attorney-General who is a learned man comes and says the man is right. Let us wait for the instrument he will use after swearing-in. With that one we shall accept the extension, but it must be approved by Parliament.

We are calling on you colleagues who are on the frontbench to hand over all the property you have by midnight tonight*.* If we get it with you *–(Laughter)-* Government cars, you will be arrested*.* This is a serious matter. In fact, we shall surcharge you on holding Government property illegally. We are going to take your photos; we are going to say, “This day we saw you with this car.” Be careful. We advise you to vacate the offices *–(Laughter)-* by tonight. I thank you.

4.35

**MR JOHN ARUMADRI (FDC, Madi-Okolo County, Arua)**: Thank you, Mr Speaker. In school, I studied a subject called statistics. In statistics, there is what is called class limits. The important thing about class limits is that they do not overlap. (*Laughter*) In our case, the equivalent of a class limit is the term that is being served. Once it expires, be it midnight tonight, it means it cannot be extended even by a second. That is the way we should take it and we are giving this in good faith. I do respect the opinion of the learned Attorney-General, but in the courts of law, it does not serve us well if such an opinion is overturned. Better to take our small advice on the Floor of this House so that we can all save face. Thank you.

**THE SPEAKER**: Would it serve you if we say we have a suspension of proceedings so that you meet the brains from both sides and talk over this. Do you want to talk now? I suggest you have a meeting of some people from this side – No, I allowed him, but I have also posed this to you. Do you think meeting may help?

4.38

**MR HUSSEIN KYANJO (JEEMA, Makindye Division West, Kampala)**: Mr Speaker, I am supporting your view. I want to most honestly thank you very much for reconsidering the opinion over this issue where I had requested that we let the Attorney-General get out to have this matter resolved from there and we come back here with an arrangement that is going to be acceptable to all of us. We are most obliged. We could go and see what to do.

4.38

**THE MINISTER, OFFICE OF THE PRESIDENT (SECURITY)(Mr Amama Mbabazi):** Well, thank you, Mr Speaker. I rise to support the interpretation of the Attorney-General. I think we can have time and persuade those doubting Thomases about this interpretation by the Attorney-General. I do not think it is really a matter of debate. I respect my learned friend’s presentation and opinion.

I just want to say, in line with what he was saying that indeed this Constitution does not provide for any moment when the Office of the President is not functioning. And that is why in the many articles that we have in the Constitution, there is provision for the functioning of the office whenever the holder ceases to perform those functions. The President may be impeached, a president may die or a president may resign. The Constitution has an answer for all those situations. Each time something like that happens, there will be someone to perform the duties of President at any given moment.

Therefore, when we are talking about the President we must remember that continuity. There is no break. When the President, for instance, resigns, the Vice President assumes office. If the Vice President is unable to perform the functions of the President, there is the Speaker and so on and so forth. All this is in the Constitution. Therefore, there is no situation as hon. Odonga Otto was saying, where there is no president even for a few minutes. It does not exist.

It is true that the term of this president ends at midnight tonight. And of course it is true that he is going to be sworn in tomorrow. So, what happens in between? The Constitution applies. The provisions of the Constitution apply at all times. At any given moment, there will be a president.

That is why the Attorney-General is right in saying that for the appointment of these offices that were lifted for one to vacate that position, the Constitution specifies how; the President revoking the appointment; the holder resigning or dying or being disqualified from being a Member of Parliament. I think this applies to each one of them as the *-(Hon. Odonga Otto rose\_)-* Attorney-General said.

And of course he also read Article 99 and clause 4 about the powers of the President to delegate particular duties, the executive authority that he wields as the President. So, I think the Attorney-General is right in that interpretation and I think that the whole idea is simply to avoid having a vacuum. I know for sure that none of us on the Frontbench here wants to take a moment longer than we are legally bound to do. Why should we do that? It is not necessary. Absolutely not! And it is only for a few days. As you know, we begin to swear in the new Members of Parliament on Monday; we elect the Speaker next week; and the President presents his new team next week. What is the problem? There should be no panic. This is an action which has been taken simply to fill a possible vacuum that would obviously be created when that happens. Thank you.

**THE SPEAKER**: Hon. Members, I suggest we get some seven Members from the Opposition side and 10 on the ruling party side to meet and reconcile these divergent opinions. It is necessary. Proceedings suspended for 15 minutes.

*(The House was suspended at 4.44 p.m.)*

*(On resumption at 5.00 p.m., the Speaker presiding\_)*

5.01

**THE PRIME MINISTER AND LEADER OF GOVERNMENT BUSINESS (Prof. Apolo Nsibambi):** Mr Speaker and hon. Members, Government has heard your constitutional and political concerns. His Excellency the President after being sworn in tomorrow will announce the transitional arrangements regarding the Vice President *– (Interjections)–* alright, let me say Government. I was going to specify elements of Government. But the President is going to clarify those matters tomorrow. Thank you.

BILLS

SECOND READING

THE COMPANIES BILL, 2009

5.03

**THE MINISTER OF JUSTICE AND CONSTITUTIONAL AFFAIRS AND ATTORNEY GENERAL (Dr Khiddu Makubuya):** Mr Speaker and hon. Members, this is the Companies Bill, 2009, which was first presented to this Parliament on 18 August 2009. It was referred to the Committee on Legal and Parliamentary Affairs.

This Bill seeks to amend, replace and reform –

Mr Speaker I, therefore, beg to move that the Bill entitled, “The Companies Bill, 2009” be read for a second time.

As I was saying, by this Bill, we seek to amend, replace and reform the law relating to the incorporation, regulation and administration of companies and other associations and to cover related matters. The current Companies Act, Chapter 110 of the Laws of Uganda based on the United Kingdom Companies Act, 1948 has been revised several times in the UK while ours has not been. Therefore, this Bill seeks to revise the Company Law in a comprehensive manner; to replace the old thinking about companies and to bring in new thinking which is compatible with modern ways and rules of doing business.

With the passage of time, the improvement of policies, Uganda’s acceptance of international obligations and with the development of technology, some aspects of the Company Law have become outdated and need to be brought up-to-date.

We seek also to remove non-core matters and put them in the proper laws so that we remain with the core aspects of the Company Law. I thank hon. Odonga Otto for having read the Bill and knowing that one of the major developments there is the introduction of the one-person company. This law also seeks to open the Objects’ Clause to abolish the *Ultra Vires* rule because in real life, once a company is incorporated, it can do whatever it wants, provided it is lawful. There are some aspects of the Company Law which have not been written and we have been reading about them in the court cases, but they have been difficult to access by practitioners and business people. These have also been given statutory basis. For example, there was no law on the pre-incorporation agreement – oh! there was, but judgment law - It is easier to manage when you have given it a statutory basis.

The committee studied this matter and one of the major developments again is the code of corporate governance. This tool is new. Although the courts have been talking about social responsibility of companies, they were again difficult to ascertain because they were scattered in all sorts of judicial decisions. We have updated this and incorporated it in the code of corporate governance.

I commend this Bill very much to Parliament. The business community has been crying out for an updated law, which facilities rather than obstructs business. And the public interest is being taken care of in the code of corporate governance.

The laws, which have been scattered in court cases, being difficult to ascertain, have been brought within this Bill.

Mr Speaker, I beg to move.

**THE SPEAKER**: Thank you very much. Yes, chairman of the committee.

5.12

**THE CHAIRPERSON, COMMITTEE ON LEGAL AND PARLIAMENTARY AFFAIRS (Mr Stephen Tashobya):** I thank you very much, Mr Speaker. This is a report of the Committee on Legal and Parliamentary Affairs on the Companies Bill, 2009.

The Companies Bill, 2009 was read for the first time on 18 August 2009 and it was referred to the Committee on Legal and Parliamentary Affairs in accordance with Rules 112 and 113 of the Rules of Procedure of Parliament. In analysing the Bill, the committee was guided by Rule 113 of the Rules of Procedure of Parliament.

In the process of analysing the Bill, the committee held a stakeholders workshop and discussed the Bill with representatives from the following institutions, that is, from number one to 10.

The object of the Bill is to amend, replace and reform the law relating to the incorporation, regulation and administration of companies and other associations, and to make provision for related matters.

The current law on companies in Uganda is based on the United Kingdom Companies Act of 1948, which has been revised several times in the United Kingdom since its passage. The Companies Act of Uganda has, however, not been revised in a comprehensive manner since its enactment except for a few isolated amendments.

In 1996, the Capital Markets Authority Act revised only the registration and regulation of public companies. As currently written, the Companies Act, Cap. 110, while it will not obstruct private investment, nevertheless reflects an older jurisprudence and needs an overhaul to make it compatible with modern rules of business.

Due to the passage of time, some aspects of the law have become outdated, especially in the light of the present day policies, international obligations, globalisation and technological developments. Hence, the need to produce a new Bill that reforms completely the company law of Uganda and puts it on a basis fit for the 21st century.

Observations and recommendations

The committee observed the following:

1. The Bill seeks to introduce a single member company. This is an exception to the general principles of company law. The committee is of the opinion that the concept of a one man company is not desirable because it will confuse and expose the public to exploitation by unscrupulous individuals who may seek to hide under a corporate entity status that insulates their personal property/interests against the public/creditors.
2. The Bill introduces Table F, which contains principles of corporate governance. The committee hopes that these principles will promote efficient and proper management of companies while protecting all the stakeholders in a company. All companies should adopt Table F in whole and non-compliance with the code should attract a default penalty.
3. The Bill provides for procedures on how a company may be converted from one status to another. The current Companies Act does not provide for detailed procedures on how a company can change status.

The committee recommends that the Companies Bill, 2009 be passed into law subject to the proposed amendments. Thank you very much.

**THE SPEAKER**: Thank you very much, chairman and the committee.

5.17

**MR NATHAN NANDALA-MAFABI (FDC, Budadiri County West, Sironko):** Thank you very much, Mr Speaker. I thank the chairman of the committee for the report.

A single member company is a very dangerous thing. What it means in the Companies Act is that a company is a person, it can sue and be sued, it can commit and it can uncommit. Supposing one man forms a company and decides to defraud the public and says there’s the company. By the time you discover the motive behind this person, people would have suffered. I think it is not right for us now to think about a single member company. I want to thank the committee for that observation.

There are many clauses here, like in clauses 4 and 5, where they are talking about a single member company, but the committee is talking of only one clause. I don’t know why.

This Bill is very big. I hope the Bill is now trying to realign – I would have been happier if in this Bill you had told us the new articles that have been introduced, apart from the single member company that we have seen. We don’t know which other articles have been brought in and this can be dangerous.

So, we shall rely on the committee because these are legal men with legal minds. We hope they have gone through everything so that the law is good and protects the shareholders, the public and the creditors.

Having said that, I hope - again I do not see anything here talking about the Registrar’s Office. It is a nightmare to get information from the Registrar’s Office. And it is very important that people access information from that office. Companies are formed today and tomorrow when they have an issue, they say the file is missing. When it comes to change of shareholding and you go to them, you find that this is not reflected in the registry. I hope the chairman will help and show me where you have made sure that records in the Registrar’s Office are safeguarded and that changes are made on time and files are not hidden so that we can see them every now and then.

This being a big document, I cannot do much; I’ll raise my amendments later. But the issue of a single member company is one –

**THE SPEAKER**: I think what they do is that once you delete it as recommended, there will be consequential amendments wherever “one member company” appears in that it will be deleted subject to deletion of one man’s company.

5.22

**THE OPPOSITION CHIEF WHIP (Mr Kassiano Wadri):** Thank you very much, Mr Speaker. I would like to thank the chairman and the committee for the report that they have submitted. But I am not convinced about the issue of a one man company. What will be the difference between a one man company and a sole proprietorship? What is going to be the dividing line between them? Is it because you are trying to avoid unscrupulous persons from defrauding the public? Couldn’t that law still apply if they are considered as sole proprietorship? Aren’t we going into a situation where we are going to confuse the public the more?

**THE SPEAKER:** That is why they have recommended deletion. You know a person who forms this one man’s company limited of course avoids the personal liability. He or she avoids reaching his or her property. That is the idea of incorporating. But they are saying that it may be abused and that is why they are recommending a deletion.

**MR WADRI:** If they are deleting that provision, I have no problem. I thought that they were trying to bring in the Western world concept of having a one person company and yet we already have a provision for sole proprietorship in Uganda, which can after all cater for others. Even if I am a sole proprietor and I want to hide saying that, “This is not mine,” still there will be no value to be removed because all that is there is mine. So, whoever the creditor is, they should be able to use any of my property. If you are avoiding that issue of a one man company, that is okay. Thank you.

5.24

**MR FRANK TUMWEBAZE (NRM, Kibale County, Kamwenge):**  Thank you, Mr Speaker and hon. Members. I would like to thank and congratulate the committee for the good work and the report. I have a contrary opinion on the question of a single man company. I need to be educated on whether one man is synonymous with sole proprietorship?

I would like to invite colleagues to look at this case: I am a farmer and I have been an advocate of the farmers. We have been encouraging treating agriculture or farming as a business. Our farmers in the villages cannot supply agricultural contracts because some of them do not have companies. Some middlemen who have registered companies have to come and buy the produce from them and then supply in their names. It is actually of recent that World Food Programme realised it and started dealing directly with farmer groups and associations. But even then, supposing I am a stand-alone farmer, why should the law that you are now trying to make because of the mischief you are trying to cure – defrauding and so on - as if -

**THE SPEAKER:** They are advised to use a business name.

**MR TUMWEBAZE:** Yes, but when they say a one man company, it means I am the only director.

**THE SPEAKER:** A business name is not a limited company.

**MR TUMWEBAZE:** Anyway, I beg to be educated *– (Interjections)-* wait a moment, I will give you an opportunity - whether outlawing one man company is outlawing sole proprietorship? But my argument as a lay man - and I need the lawyers to make sense out of it – is that I am a farmer and I have my farm, and I am not even married so that I can bring in my wife and children, but I want Tumwebaze Farming Limited to be supplying you with seeds; can I register it as a single person? Maybe I can now take the information.

**MR NANDALA-MAFABI:** Mr Speaker, I would like to thank my brother, hon. Tumwebaze. Yes, a sole proprietor – you can say, “Frank” and not necessarily “Frank and Sons” and you can get a trading licence in that business name. What World Food Programme wanted to know from you was if you had a registered name. The purpose of registration is that when you run away, they can go to the Registrar of Companies and track you down, but not necessarily for a company.

**MR TUMWEBAZE:** I hope it is not prohibiting one man directorship? But the chairperson will tell us. My other concern, Mr Speaker, is the question of harmonisation with the region. Yesterday, we passed The PPDA (Amendment) Act, which I would like to thank Members for. But there was an amendment therein which required us to comply with the Treaty treating Kenyan companies and other companies in the region like domestic companies so as to allow them participate in domestic bidding; they can as well bid for stationery, tea and all that. So, I do not know whether The Companies (Amendment) Bill is catering for or has tried to look at how the practice is and whether the regional laws are all converging to one point. If we don’t have that in mind, then what is the essence of having one law here trying to comply with the treaty and then the other one is not paying attention to that economic integration requirement.

Finally, on page 3 is Table F, which talks about compliance with the code. Still, I request to be guided by the chairperson or the honourable Minister of Justice. We have had international companies that come here under the window of open international bidding and get the jobs because of their international profile, but run away without paying our taxes, either as a result of some internal corruption or collusion. So, does this code of conduct apply to such companies to an extent that the Executive Director and the Board of PPDA can base on such non-compliance to blacklist them? Thank you so much.

5.28

**MR DAVID BAHATI (NRM, Ndorwa County West, Kabale):** Thank you very much, Mr Speaker and I would like to thank the chairperson of the committee for the report. I want to focus my contribution on the objective of the Bill in my general contribution to the Bill.

The objective of the Bill among other things talks about reforming the law relating to incorporation, regulation and administration of companies. We have had so many issues relating to the Uganda Registration Services Bureau, where if you want to know the details of your company, you can’t find them because your file cannot be found. One of the reasons has been that this department is not fully automated and has been underfunded. I think, Attorney-General, it is important that we fund this organisation properly so that it is able to automate and be linked to the Uganda Revenue Authority to monitor the directors of companies and the flow of information in that department. I want an update from the Attorney-General as to how far they have gone in automating this bureau.

My second contribution is that it is important that we work rapidly on the laws that are related to this function - the Anti-Money Laundering Act, which had established in it The Financial Intelligence Unit, which would help us to monitor companies, their directors and relate it to the Uganda Revenue Authority. It is important that the Attorney-General moves very fast – I think it is the in-coming committee to move very fast on this Bill.

The committee makes observations and it is unfortunate that we do not have many copies in the House about the single member company. But what was the rationale of having a single member company? Can we also be updated on what was the rationale so that we can probably debate it from a knowledgeable point of view? Thank you, Mr Speaker.

5.31

**MR JOHN ARUMADRI (FDC, Madi-Okolo, West Nile):** Thank you, Mr Speaker. I want to seek clarification from the chair of the committee; does deletion of sub-clause (ii) and (iii) of clause 4 expressly prohibit the formation of one person companies? An individual can use a business name, but behind this business name, there is only an individual. When a case arises and there is the lifting of the veil, you will only find an individual. We are saying, this sub-clause is deleted, but practically you will find that the mischief is going on. What does this deletion entail in practical terms?

**MR TASHOBYA:** Thank you very much, Mr Speaker. I think hon. Mafabi and many others who raised their concerns in respect of a single man company, and I think what he was articulating were the same concerns the committee had in mind when we made the recommendation. We thought that having a corporate personality by single man companies may be an avenue for people to defraud the public. That is exactly what we had in mind.

I think on the matter of the Uganda Registration Services Bureau; the learned Attorney-General will make more comments on it. What I know is that we set up a law for it, but they had a problem of finance and personnel. Hon. Members are aware that this Parliament has approved money; I know they are also in the process of recruiting the staff, so I think with the approval, matters of –(*Interruption*)

**MR NANDALA-MAFABI:** Mr Chairman, you know that whenever they bring a Bill here, they also bring what we call financial implications, and when they brought the Bill to us, they said that we needed it yesterday. What was the rationale of delaying when they told us that they had committed themselves and money was available to form these institutions?

**MR TASHOBYA:** I think the honourable member has a good point only that it is addressed to a wrong person.

I share your concerns that Parliament should provide money and I think the learned Attorney-General will make comments on that matter.

I think hon. Tumwebaze’s point of whether or not individuals would be able to transact business was answered. They can trade as individuals and also register their business with the Uganda Registration Services Bureau (URSB).

Harmonisation; I am not aware that there is any neighbouring country that has a law in place regarding single man companies. I am also aware that there are some countries like England and Malaysia which have a law on the formation of single man companies, but I am not aware that we have this law in the region.

Hon. Bahati’s matter is more or less the same matter that was raised by hon. Nandala-Mafabi in respect of the bureau. I think I have also covered more or less the concerns of the Members in respect of the practical effect of a single man company.

3.34

**THE MINISTER OF JUSTICE AND CONSTITUTIONAL AFFAIRS/ATTORNEY-GENERAL (Dr Khiddu Makubuya):** Thank you, Mr Speaker and hon. Members. Let me begin with the question of open international bidding and whether the foreign companies are subject to these controls. I think the process of issuing international bids and so on is not a matter of company law; it is a matter of the procurement law and we have just passed the amendment Bill this week intending to strengthen the procurement process. Being part of the international bidding does not mean that you are above the law, and it should be part of the requirements, and I am sure it is.

Uganda Registration Services Bureau; first, there is a separate governing body and the purpose of this law was partly to detach the registration of companies and businesses from just being a regular civil service, and we will look at the composition of the board of directors of the URSB and how it incorporates the users of these services. Stakeholders such as the business community are represented - indeed the chairperson of the board of directors now is from the private sector.

I have to admit that historically, there was a bit of struggle when the traditional organisation was moving slow about establishing the autonomy and more or less independence of the URSB, but I think we have moved with a separate board of directors and with separate votes from those of the mainstream ministry.

The Ministry of Justice still takes political responsibility for it, but I think we have moved and part of the problem was that people were complaining about missing and misplaced files and so on. For many years, the records were purely manual, but we have moved tremendously. We have made big strides in the direction of computerising the company registry and the government is investing in it. Development partners, the World Intellectual Property Organisation and the World Bank are taking a lot of interest in this.

Although we are not yet there, I am sure that by mid-term in the next government, those who will be there will have achieved full computerisation.

One of the major innovations in this Bill is the single person company, and I would invite Parliament to be relatively open about this because under the existing law, a private company must have at least two persons.

In this Bill, we introduce the concept of a single member company - that individual should be in position to incorporate, form a company and enjoy the benefits of corporate personality.

What is the difference between the one-person-company and the sole proprietorship? Yes, the difference is that a person who would otherwise have been a sole proprietor is complying with the law of incorporation and forming a corporate person with practically all the advantages of corporate personality.

A single member company is a corporate entity with one shareholder. It is the corporate entity that is treated in law as a juristic or legal person, separate and distinct from the person forming it.

One of the advantages of corporate personality is to separate risks; the resources that you are willing to risk on a business line, and to put them under the company structure *-(Interjections)-* this issue of a single person company was raised by almost every contributor and I am trying to give the –

**THE SPEAKER:** I thought they appreciated it. The committee recommended deletion and I think everybody is supportive of it.

**MR NANDALA-MAFABI:** The clarification I want to seek is that, first of all, they are saying that for a meeting to take place, there will always be at least two shareholders.

In your law again, when you read at 171; “Every company shall at an annual meeting appoint an auditor…” I am just giving one of the – can a meeting take place with one person? [HON. MEMBERS**: ”**Yes.”] If it is true, then we need to amend the rules that there will be a sole trader, sole proprietor and no partnerships. We have the laws which govern an individual and a partnership.

Hon. Attorney-General, why do you want to change this? Why do you want to limit the – okay, because of liability - there are people looking for limiting liability and one person can try to limit his liability so that he defrauds people and that is why we are saying we should safeguard the public. Why do we not think about conceding to this?

**MR WILLIAM NSUBUGA:** I thank you. I just want the Attorney-General to assist me because it seems the intention of the Attorney-General in moving a single member company is that many companies today are registered with three – it can have three directors, but in the actual sense, the living person is one and others are just names *–(Interjections)-* yes, we have ever seen them. What I want the Attorney-General to assist me with is in the Bill –

**THE SPEAKER:** Why don’t we go to committee stage and legislate there? We are talking over the same issue.

**MR WILLIAM NSUBUGA:** If it can be ironed out here, then it would be easier because what I want is that if we are proposing to delete, then we must put a provision that the photos of directors are appended somewhere and if they are not, then deleting this clause will cure nothing.

**THE SPEAKER:** Then defend it during committee stage.

**DR MAKUBUYA:** We have other business models like sole proprietor, partnership, but these ones do not go with limited liability and incidentally, where is the guarantee that if there are three or five people in a company, they are not capable of defrauding the public, and that defrauding the public is the monopoly of the single person?

I do not really think so, but what we are trying to do is that we have been advised by the operators of this law and by the operators of business that it would be helpful if they were also granted corporate personality and limited liability as individuals to facilitate enterprise by making it easy to set up and grow a business to encourage the efficient allocation of capital by giving confidence to investors, by promoting long-term company performance through shareholder engagement and effective dialogue between businessmen and investors.

It would also make Uganda one of the more attractive places in the world to set up and run a business because this model is in place in the UK, China where we are running to buy things, South Africa and in Malaysia.

This is the Government position and the Government was advised by the private sector. Government collected information on the working of this model and was convinced that this would be a good thing to introduce in Uganda. I beg to move.

**THE SPEAKER:** Hon. Members, the motion is that the Company Bill, 2009 be read the second time. I now put the question to the motion.

*(Question put and agreed to.)*

*(Motion agreed to.)*

BILLS

COMMITTEE STAGE

THE COMPANIES BILL, 2009

**THE CHAIRMAN:** Hon. Members, this Bill, which is replacing the current Companies Act has only attracted, according to the report of the committee, two amendments on clauses 4 and 14. This means there are no other amendments that have been registered or submitted by any of you. Because of that, after dealing with the amendments, I am going to read – there should be no worries – I will put the right question so that all the other clauses become part of the Bill.

Clause 1

**THE CHAIRMAN:** Hon. Members, I put the question 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

**MR TASHOBYA:** Mr Chairman, the committee proposes an amendment by deleting sub-clauses (ii) and (iii) of clause 4. The justification is to protect unsuspecting members of the public from unscrupulous individuals who may seek to hide under corporate entity status that insulates their personal property/interest against the public-stuck creditors. And if this is carried, we would propose consequential amendments.

**THE CHAIRMAN:** Let us hear from the Attorney-General.

**DR MAKUBUYA**: Mr Chairman and hon. Members, it is my duty to oppose this amendment because the government policy is to extend the benefits of the incorporation and limited liability to an individual who seeks them for purposes of business operation. We think that as a country, we can lead by example in the region with others learning from us. This is one of the innovations that we need to move in business. I highly recommend to this Parliament that we retain clause 4 (ii) and (iii) in this Bill.

**THE CHAIRMAN:** Well, hon. Members, we have heard a protracted debate on this issue. While the committee recommends a deletion, the Attorney-General says no, we should retain it for reasons which he has given us. The issue now is to put the question to the amendment and I now put the question accordingly.

*(Question put and negatived.)*

**THE CHAIRMAN:** What? Okay, let me put the question to vote again. I put the question to the amendment to delete clause 4.

(*Question put and negatived.)*

**MR ODONGA OTTO:** Mr Chairman, just for clarity; we may be voting in good faith, but for different things. The committee has recommended that we don’t need a single-member company because that is very dangerous. So, if you are supporting the committee position, then your response should be “Aye”. Otherwise, it will put the committee in a very difficult position if Parliament disowns us yet we have been consulting for the last seven months.

**THE CHAIRMAN:** I think it is now clear, not so?

**HON. MEMBERS:** Yes.

**THE CHAIRMAN:** So, once again I put the question to the amendment as proposed by the committee.

*(Question put and negatived.)*

**MR NANDALA MAFABI:** I don’t think the “Nos” have it. I want to suggest that we vote by a show of hands because even the Ex-officials might have voted in chorus. The best thing is to do it by a show of hands. Otherwise all Members here are in agreement that this is quite dangerous.

**THE CHAIRMAN:** Attorney-General, what is your position? Now, also I can hear the issue of quorum being raised. Can you move that the House resumes?

MOTION FOR THE HOUSE TO RESUME

6.00

**THE MINISTER OF JUSTICE AND CONSTITUTIONAL AFFAIRS/ATTORNEY-GENERAL (Dr Kiddu Makubuya): Mr** Speaker, I beg to move that the House do resume and the Committee of the Whole House reports thereto.

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

*(Question put and agreed to.)*

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

REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

**THE SPEAKER:** Now, let me ascertain the quorum. First of all, the issue of quorum has been raised and then I have to ascertain whether the House will be competent to make decisions.

Well, currently you are 35. Quorum required is 80 so we do not have quorum. Can you ring the bell and we suspend the proceedings? Proceedings suspended for 10 minutes.

*(The House was suspended at 6.01 p.m.)*

*(On resumption at 6.12 p.m., the Speaker presiding\_)*

**THE SPEAKER:** Hon. Members, as we wait for more Members to come in, let me allow the Chairperson of the Natural Resources Committee to lay a report on the Table.

6.14

**THE VICE CHAIRPERSON, COMMITTEE ON NATURAL RESOURCES (Ms Faridah Najjuma):** Thank you, Mr Speaker. Allow me on behalf of the Natural Resources Committee to present a report into investigations on Namanve Forest Reserve.

**THE SPEAKER:** Thank you very much - you and the members of the committee - Excuse me clerk, could you count the Members?

**DR BARYOMUNSI:** Thank you, Mr Speaker. As we wait for the whips to mobilise Members to come, I request you to allow us to move to the next item on *“The HIV and AIDS Prevention and Control Bill, 2010”,* so that the report is presented as the Members gather and we can expedite the work of Parliament today *–(Interjections)–* I request that we proceed with item number four: *“The HIV and AIDS Prevention and Control Bill, 2010”,* so that the report is presented and maybe we debate it as the Members come. Later on, we can go back to the committee stage.

**THE SPEAKER:** Let me sort this out because even the report will be moved under a motion for second reading and we have to pronounce ourselves on the second reading.

**DR ASIIMWE:** Thank you, Mr Speaker. I request that you allow me to lay on Table a petition by Dr Othieno Joseph.

**THE SPEAKER:** Allowed.

PRESENTATION OF REPORTS

6.17

**DR CHRIS ASIIMWE (NRM, Ntoroko County, Bundibugyo):** Thank you, Mr Speaker. I beg to lay on Table a report of the Committee on Social Services on the petition by Dr Othieno Joseph. The committee looked into the matter.

6.18

**MR HOOD KATURAMU (NRM, PWD):** I beg to lay on Table a report of the Committee on Foreign Affairs.

**THE SPEAKER:** Allowed.

**MR KATURAMU:** Mr Speaker, I beg to lay on Table the report by the Committee on Foreign Affairs on the activities conducted between October 2010 and April 2011. I beg to lay.

PRESENTATION OF DOCUMENTS

6.18

**THE MINISTER OF WATER AND ENVIRONMENT (Ms Maria Mutagamba):** Thank you, Mr Speaker. I wish to lay on the Table a motion for a resolution under section 106 of The National Environment Act, Cap. 153 on the approval of the National Environment Climatic Framework Convention on Climate Change and Implementation Order of 2011.

**THE SPEAKER:** Let it be handled by the appropriate committee. Thank you very much.

**DR BARYOMUNSI:** Mr Speaker, I rise to seek your guidance. We have a number of Bills on our order paper and Members of Parliament have put a lot of energy to work on those Bills. But apparently, it is becoming a challenge to raise quorum. I would like you to help me understand whether it is possible, for instance, to save a Bill so that it is carried over to the next Parliament.

**THE SPEAKER:** Let me ask the Members; hon. Members, is it possible for you to agree to meet on Monday afternoon *–(Interjections)–* some can come because swearing in is going to be in alphabetical order; we are not all swearing in on the same day. Some will swear in on Tuesday and others on Wednesday.

**MR WADRI:** Mr Speaker, the suggestion you have made would have been good, but we must also look at the other side. A swearing-in occasion is of such great importance to a person who passed through a furnace to enter this House. They would want to sit down with supporters and make it a day to remember. And with a lot of ululation in the parking yard, it will be very difficult.

**THE SPEAKER:** Then give me Friday morning *–(Interjections)–* so, we agree to meet on Friday morning. The House is adjourned to Friday at 10.00 a.m.

*(The House rose at 6.21 p.m. and was adjourned until Friday, 13 May 2011.)*