

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 6th October, 2015

*The House met at the Senate Chamber,
Main Parliament Buildings, at 5.10 p.m.*

[The Deputy Speaker (Sen. Kembi-Gitura) in the Chair]

PRAYERS

The Deputy Speaker (Sen. Kembi-Gitura): Order! I notice that there are Papers that are supposed to be tabled. They are listed in the Appendix.

*(The Deputy Speaker (Sen. Kembi-Gitura)
Consulted with the Clerk-at-the-Table)*

STATEMENTS

The Deputy Speaker (Sen. Kembi-Gitura): Is there any Senator seeking a Statement? We shall follow the usual procedure. We shall seek Statements first and then move on to issuance of Statements. It appears there is none. There are two Statements listed, one from the Chairman of the Committee on Land and Natural Resources, and the other one also from the Chairman of the Standing Committee on Land and Natural Resources.

DESTRUCTION OF INDIGENOUS TREES IN THE NORTH RIFT REGION

Sen. Khaniri: Thank you Mr. Deputy Speaker, Sir. Indeed, both Statements are expected to be delivered today by my Committee. One of them that is being handed to me now, was sought by Sen. (Prof.) Lonyangapuo. However, I do not have the other one. I seek your indulgence to give me time to go through this with my Committee, so that I can get the approval from the Committee to deliver the Statement because I have just received it now.

The Deputy Speaker (Sen. Kembi-Gitura): As a matter of interest, I would like to know why the Statement is being handed to you now when you are standing on your feet. Is there any explanation given to you?

Sen. Khaniri: Mr. Deputy Speaker, Sir, when I noticed that we had Statements to issue, I called my clerk and he told me that he had just received the Statement this

afternoon. I asked him to send a copy to me and that is why I am receiving the Statement now.

Sen (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, as the Chairman has indicated, I have also seen the copy now. I ask your indulgence that the Chairman delivers it tomorrow afternoon or on Thursday.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Khaniri, we shall give you time until Thursday to go through it with your Committee, if need be. I do not want you to come tomorrow and tell us that you are not satisfied with the Statement. I would rather you take time to look at it and then let us know.

Sen. Khaniri: Mr. Deputy Speaker, Sir, my Committee is not meeting tomorrow. In any case, I think to be on the safe side and since the next meeting we will be on Thursday, the earliest we can give this Statement is probably on Thursday afternoon or Tuesday.

The Deputy Speaker (Sen. Kembi-Gitura): It is going to be Tuesday next week. Is that okay?

(Statement deferred)

ISSUANCE OF TITLE DEEDS IN MERU COUNTY

The Deputy Speaker (Sen. Kembi-Gitura): What about the Statement sought by Sen. Kiraitu Murungi? You said you do not have that one. In any event, since he is not here, again, we shall defer it to Tuesday next week.

(Statement deferred)

STATUS OF VARIOUS PROJECTS IN NAROK COUNTY GOVERNMENT

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, before you move to the next Order, I was directed to receive a written Statement from the county of Narok and issue it today. It is not on the Order Paper but I want to confirm that I have received that Statement. The conditions of that Statement were that over and above receiving it, we should be given an opportunity by the governor, so that we can interrogate him further on the background of the information that was sought.

The Deputy Speaker (Sen. Kembi-Gitura): What was it about?

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, it was from the Senator in respect of several projects and losses of money. We got a challenge since the governor did not turn up. However, the county secretary brought the Statement today.

The Deputy Speaker (Sen. Kembi-Gitura): The governor of where?

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, the Governor of Narok. He did not turn up and the county secretary brought the Statement today. I want to seek your indulgence that you direct me to give the Statement tomorrow after I have subjected it to Committee deliberations.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Ntutu, do you have any objection?

Sen. Ntutu: Mr. Deputy Speaker, Sir, I have no objection.

KILLINGS IN KITUI COUNTY

STATUS OF CASH TRANSFER PROGRAMME

Sen. Musila: On a point of order, Mr. Deputy Speaker, Sir. I stand once again for the third time since we came from recess to seek the indulgence of the Chair. I think last time the Chair ordered that the secretariat looks into the matter of bringing the Cabinet Secretaries (CSs) for the Ministry of Labour, Social Security and Services and Ministry of Interior and Coordination of National Government to answer the issues that have been pending since the last sitting.

As of now, I have not gotten any word as to whether the officials are coming. I think it is in the interest of this House and the people of Kitui County that this matter is resolved.

The Deputy Speaker (Sen. Kembi-Gitura): What matter is it, Sen. Musila?

Sen. Musila: Mr. Deputy Speaker, Sir, it is the matter of cash transfers for the Cabinet Secretary (CS) for Labour, Social Security and Services and the matter of security in Kitui-Tana River border, which continues to bring problems every now and then. Our people are suffering, being killed with guns when they do not have guns and we fear that this matter may continue to escalate unless action is taken.

We have been asking for the Cabinet Secretary (CS) for the Ministry of Interior and Coordination of National Government to come here since the Chairperson of the relevant Committee could not satisfy the House with the Statement that was given.

Similarly, the Acting Cabinet Secretary (CS) for Labour, Social Security and Services came but she did not complete the Statement. She said she would come back. It has taken a very long time and I fear that if we go this way, it will be meaningless for us to bring issues here.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Musila, what direction are you seeking from me?

Sen. Musila: Mr. Deputy Speaker, Sir, last time the Chair gave directions that the Clerk of the Senate facilitates the meeting with these officials and informs the House when these meetings are going to take place. However, so far, the Clerk has not given any indication whether he has taken any action. Could I request that you ask the Clerk now to tell us when these officials are coming?

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. Musila. I would like to transfer the matter to tomorrow. I will consult with the Clerk's office and find out the current position so that you can be given, from this Chair, a satisfactory answer to a very important question.

BILLS

Second Reading

THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE)

BILL (SENATE BILL NO. 35 OF 2014)

(Sen. Mutula Kilonzo Jnr. on 22.09.2015)

(Resumption of Debate interrupted on 22.09.2015)

Second Reading

THE OFFICE OF THE COUNTY PRINTER BILL
(SENATE BILL NO.42 OF 2014)

(Sen. Sang on 22.9.2015)

(Resumption of debate interrupted on 23.9.2015)

Sen. Mutula Kilonzo Jnr.: Mr. Deputy Speaker, Sir, according to my records - may be I am wrong and the clerks can check - Order Nos. 8 and 9 were completed and it is only Division that is remaining.

The Deputy Speaker (Sen. Kembi-Gitura): It is written there: "Division."

Sen. Mutula Kilonzo Jnr.: Mr. Deputy Speaker, Sir, but you read out: "Second Reading."

The Deputy Speaker (Sen. Kembi-Gitura): Yes, Division.

Sen. Mutula Kilonzo Jnr.: So, Second Reading, Division?

The Deputy Speaker (Sen. Kembi-Gitura): Yes, both of them.

Now, I do not know what the Whips have to say about this. I see Sen. Elachi is here. Order Nos. 8 and 9 are for Division. Do we have the numbers?

An hon. Senator: No.

The Deputy Speaker (Sen. Kembi-Gitura): So, we defer them again? This must be the third time that we are deferring these issues.

The Senate Minority Leader (Sen. Wetangula): Tomorrow is a voting day.

The Deputy Speaker (Sen. Kembi-Gitura): Since we do not have a threshold to go to Division, I will defer Order Nos. 8 and 9 to tomorrow. I hope the Whips will do what they have to do. We cannot keep on deferring voting all the time because it defeats the purpose. We have to defer it to tomorrow hoping that we will have the threshold.

(Bills deferred)

Sen. Mutula Kilonzo Jnr.: On a point of order Mr. Deputy Speaker, Sir. The Senate has established a practice that when we need to vote, a notification is issued through the Speaker's Office. Therefore, I think it is fair that you do the same.

The Deputy Speaker (Sen. Kembi-Gitura): Do you want me to ask Senators to come tomorrow to vote?

Sen. Mutula Kilonzo Jnr.: Mr. Deputy Speaker, Sir, no. I would like you to direct that the Speaker's Office, in the usual manner, sends the normal message.

The Deputy Speaker (Sen. Kembi-Gitura): We do not have a practice like that as far as I am concerned. That is the work of the Whips to ensure that their Members are here to vote.

The Speaker's Office cannot possibly deal with issues ---

An hon. Senator: They do!

The Deputy Speaker (Sen. Kembi-Gitura): Yes, it is courtesy but the Speaker's Office has no business with voting. Voting is a function of the House and the Whips have a function to play in seeing that Members are here to vote.

Sen. Sang: Mr. Deputy Speaker, Sir, I wish to confirm that, indeed, we have a practice in this House where we have ---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Sang!

Sen. Sang: Mr. Deputy Speaker, Sir, I am just confirming ---

The Deputy Speaker (Sen. Kembi-Gitura): Order! Take your seat!

Are you questioning what I said? Are you suggesting that what I said was wrong?

Sen. Sang: Mr. Deputy Speaker, Sir, I am not suggesting that what you said is wrong. I am confirming that we always receive messages from the Speaker's Office indicating to us that we have some Bills to vote on. So, I am not really contradicting you -

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The Deputy Speaker (Sen. Kembi-Gitura): You are completely out of order. That is why I asked you to take your seat. You are misleading the House. I will reiterate, at the risk of repeating myself, that it is not the Speaker's function to whip Senators to come and vote. That should be very well ingrained in every Senator's mind because that is the procedure. We have Whips in the House and it is their duty and role to whip Members to come and vote.

If you have received any message from the Speaker's Office, it is courtesy and not a practice for this House. I do not think it has happened.

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. I agree with you that it is not the work of the Speaker to carry out the duties of a Whip. However, in view of the fact that, indeed, Members have on many occasions received such messages from the Office of the Speaker, could you direct the Office of the Speaker or whoever is issuing those messages, that they should stop confusing the role of the Speaker with that of the Whip, so that they desist from deriving duties from Standing Orders that do not exist?

The Deputy Speaker (Sen. Kembi-Gitura): Are you asking me to direct the Office of the Speaker?

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, yes.

(Laughter)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, that is a very rare kind of request because you know it cannot happen. You are asking me to direct myself on what the Office of the Speaker should do. It does not happen.

Sen, Sijeny, I hope that is on a different issue now.

Sen. Sijeny: Mr. Deputy Speaker, Sir, if the Speaker's Office is proactive, there is nothing wrong with that. We should appreciate that.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you.

Shall we go to the next Order?

Order No. 10 will be deferred until Thursday for the Select Committee to move that Motion.

MOTION

ADOPTION OF REPORT OF THE SELECT COMMITTEE OF THE SENATE ON CONSTITUTIONAL AND LEGAL REVIEW

THAT, this House adopts the Report of the Select Committee Of the Senate on Constitutional and Legal Review laid on the Table of the House on Wednesday, 23rd September, 2015.

(Motion deferred)

The Deputy Speaker (Sen. Kembi-Gitura): Let us proceed to the next Order.

BILL

Second Reading

THE SENIOR CITIZENS CARE AND PROTECTION BILL (SENATE BILL NO. 43 OF 2015)

(Sen. (Prof.) Lesan on 29.9.2015)

*(Resumption of Debate interrupted
On 30.09.2015)*

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, the Floor is open. Sen. Murungi is the one who spoke last and he is not here to complete his contribution.

Sen. (Prof.) Lesan, there is no request for the Floor. Do I give you the chance to reply?

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, I am set.

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, thank you for giving me the opportunity to reply to the Bill. First and foremost, I want to thank all the Senators who contributed to this Bill. Their contributions gave me a further insight into the Bill and I want to appreciate all of them. I also wish to appreciate members of the public who turned up during the public participation process. From the public participation and from the Senator's contribution, I have noticed that there is serious interest in the senior citizens of this country.

Mr. Deputy Speaker, Sir, Article 57 of the Constitution is very specific and recognizes the presence, the dangers and the risks that the elderly people go through in this country. It has made specific provisions in which the State will come in and assist the elderly.

This Bill was meant to give effect to the provisions of Article 57. This has been provided for by several clauses in the Bill. There was debate as to who are old people in this country. There is a range of age that was given but the Bill has stated 65 years as the age for people who are old. Let me state that because of the environment in which we grow, there are many things in this Bill which have wide variations. One of the things is the age of senior citizens. Due to the hostile environment in the country and more so in the countryside, you will find that a person who is 45 years or 60 years old looks physically very old.

On the other hand, you will find some individuals who are close to 70 years---- I had the privilege of listening to the President of Tanzania who just spoke to us this afternoon saying that tomorrow is his birthday. He will be 65 years old and yet he looks very young. That is the case with some Kenyans who are 70 years old but look very young.

Mr. Deputy Speaker, Sir, our concern is people who are old but have a challenge in maintaining their livelihood or their means for survival. That is why we have the age limit stated as 65 years. This is for operational purposes rather than for selecting individuals to benefit. The persons who will benefit from this Bill are the deserving cases who are suffering due to their inability to provide for themselves. Most documents in the United Nations and World Health Organization (WHO) consider a 60 year old person as an elderly person in society and who needs to be assisted. For this purpose, 65 years is the age that we would want to use to define a senior citizen. This age is not compulsory but optional. It is not that every other person of 65 years of age would or must benefit because there are no compulsions or restrictions.

We know that in this country there are people who are 60 years and above who are unable to maintain a reasonable standard of living in this country. It is very important that Article 57 is utilized to make provisions for these people. Many Senators said that the African traditions are designed in a manner to take care of the older members of the society. I do not deny this but I am very conscious of the erosion and disappearance of certain African traditions to the extent that the African tradition at the moment is unable to take care of the elderly.

I know this because I come from an African society where I have noticed that in the last few years, there has been disintegration of the African society. We know that features like urban migration has had a great effect on the behaviour and practices of the African traditions and lifestyles. Other factors affecting the society include inter-marriages and present day lifestyles. Young people are global citizens and no longer reside in close proximity to the elder members of their society. This makes it very difficult for the society to take care of the elders.

Therefore, it is important that we design other ways of looking after the elderly. As the traditional societies disintegrate and break up, it is much more important that we design other ways of taking care of the elderly. This Bill proposes several ways in which we can take care of the elderly. One of the ways is through placing them where we can reach them. We know that there are very well designed and comfortable homes for the elderly where they can access the care stipulated in the Constitution.

In a country like ours where the retirement and medical schemes are not well developed, it is very important to design other ways of taking care of the elderly. This Bill is futuristic and it is looking at what is happening in society. Most of us in this House

are approaching that age in which we will need to be assisted to survive. We are aware of countries with excellent medical schemes but they still have homes for the elderly. While in China, I had an opportunity to visit a home for the elderly despite the fact that they have good pensions and excellent facilities. Therefore, it is not un-African to provide a situation in which we can take care of the elderly people. This will be more appropriate in the times to come.

Mr. Deputy Speaker, Sir, this Bill is important in this country because we do not have a welfare State. Neither do we have the necessary infrastructure where the State can take care of the elderly people. Article 57 of the Constitution has specifically stated that we should use the resources in the country to take care of the elderly in the society due to their vulnerability. The elderly in the society made their contribution to the society and the communities where they live. So, it is only fair that the younger generation takes care of the older generation.

I have also heard from several speakers that taking care of the old is an expensive venture. I wish to disagree with this view because I have looked at cash transfers where the money has been largely wasted. I am sure that counties have sufficient funds to enable support to the elderly. It is my view that there are sufficient funds in this country at this juncture to take care of members of our society who are vulnerable.

Mr. Deputy Speaker, Sir, as I conclude, I want to ask my colleagues to look at this Bill in a futuristic sense, in an effort to take care of members of our society and in time we shall be the people who will need to be taken care of. I am sure if I had 20 years to go, I would find a *mzee* who is toothless and probably from Kakamega or probably a former Senator. Therefore, he would need to be taken care of by getting a fair share of soup and other amenities. Since that *mzee* has been living in an urban area, he will need to sleep in clean sheets as he writes his memoirs to educate future generations. There is no better place to do that except in an elderly people's home.

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. I thought it was with a sense of humour when Sen. (Prof.) Lesan referred to me. However, he is going on referring to me, allow me to correct him.

The Deputy Speaker (Sen. Kembi-Gitura): Order! Sen. (Prof.) Lesan did not mention you. He said that there could be a person from Kakamega who will be toothless and needs to be taken care of.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, he said that it could be a former Senator. It is important that I stand my ground.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, I do not see you as toothless at any one time. You do not need to worry about that at all.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, allow the record to be clear.

The Deputy Speaker (Sen. Kembi-Gitura): What do you want to correct?

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I want to correct a small thing, but it is important. Whether I lose teeth or not, it is something we cannot predetermine at this time. But more importantly, my family has a tested history of ageing. We never die before the age of 88 years. Furthermore, if God blesses me and I reach there, my able sons and daughters will take care of me. I will not go to a home for the aged.

The Deputy Speaker (Sen. Kembi-Gitura): For the record, I will still maintain that Sen. (Prof.) Lesan did not mention you. You are the one who has mentioned yourself.

Sen. (Prof.) Lesan: Perhaps, Mr. Deputy Speaker, Sir, I can rephrase that to be “the former Senator for Bomet”. I know none of us will escape this kind of thing, except for a few who will die with their teeth. I know quite a number who will be toothless and will require some soup to survive.

I want to conclude by asking my colleagues to consider this Bill. As far as I am concerned, it is important. I know that there are thousands of elderly people who need the help of the State to live their last days with some dignity. If we support this Bill, it will be worthwhile to assist the elderly people. I want to request Senators to support it. I am also open to suggestions on amendment of the Bill at the Third Reading stage to improve it and make it functional.

Thank you.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Elachi, are you seeking the Floor? The Mover was replying and we cannot go for a Division now. You have to make a request for deferment.

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, pursuant to Standing Order 54(3), I would like to request that we defer the putting of the Question on this Bill to a later date.

The Deputy Speaker (Sen. Kembi-Gitura): It is so ordered.

(Putting of the Question on the Bill deferred)

Next Order!

Second Reading

THE HIV AND AIDS PREVENTION AND CONTROL
(AMENDMENT) BILL (SENATE BILL NO.4 OF 2015)

(Sen. (Dr.) Machage on 1.10.2015)

(Resumption of Debate interrupted on 1.10.2015)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Machage, if I remember correctly, you had a balance of 55 minutes to move your Bill.

Sen. (Dr.) Machage: Thank you, Mr. Deputy Speaker, Sir. Anybody in Kenya may have been a victim either through having a relative affected or infected by the HIV/AIDS virus. This is a scourge and pandemic that requires our intense participation in trying to change the knowledge, attitude and practice in order to control it.

Indeed, it requires that dissemination of services is not only done at the national level, but also pushed down to the grassroots. The Constitution of Kenya 2010 gave us a valuable tool; the establishment of the county governments - not only governments of management but even financial muscling. We also know that the health function has been devolved to the county governments. Therefore, it remains the important primary area where the management of the HIV/AIDS pandemic has to be critically considered. This calls for an amendment to the mother Act.

Mr. Deputy Speaker, Sir, I have amended Section 2. I have also added a new clause. But the important clause is 12A which creates the county control committees.

This Bill seeks to amend the HIV/AIDS Prevention and Control Act to ensure that there is participation of county governments in the management, prevention and control of HIV/AIDS as a health issue, which is a devolved function under the Constitution.

The Bill also seeks to include the participation of county governments in formulation and implementation of policies and strategies formulated by the National AIDS Control Council for prevention and control of HIV/AIDS in the counties. The Bill also seeks to provide for the establishment of the county HIV/AIDS prevention and control committees at the county level due to the fact that access to health facilities and medication for the management of HIV/AIDS in Kenya continues to be a challenge at all levels of medical facilitation.

It is important to note that this is not a money Bill. The key issue is to facilitate the county governments to make decisions at all levels of the control of this scourge. This includes education of the people, facilitation on proper diagnosis of patients, starting early treatment with Anti-retroviral medication, management of the already afflicted and infected cases and knowledge to the people not to be infected.

This Bill intends to do that through the establishment of a committee within the department responsible for health within the county. The county HIV/AIDS prevention and control committee shall consist of one person with knowledge and experience in matters relating to HIV/AIDS prevention and control, appointed by the county governor who shall be the chairperson of that committee. It shall also consist of a person nominated by the county executive officer in charge of health in the county, who shall be the secretary to the committee; one man and one woman, with knowledge and experience in matters relating to health within the county, nominated by the councils and last but not least, one man and one woman appointed by the county governor to represent such special interests within the county, as the governor shall determine.

These persons will have terms of service and shall be competitively recruited by the county public service board and appointed by the county governor, by notice in the county gazette for a period not exceeding three years. Therefore, the governor will not just pick but propose names to the county public service, so that a properly qualified person will be now picked to take a position.

These persons shall be paid such allowances as the county executive committee member shall determine in consultation with the Salaries and Remuneration Commission (SRC). So, they will not just be paid an arbitrary salary. It has to be within the terms of employment in the Government.

The functions of this committee include implementation of policies, guidelines and strategies devolved by the council in the prevention and control of HIV/AIDS. They will be required to carry out activities to improve the education, training and skills of health professionals involved in prevention, detection and control of HIV/AIDS within the county. They will also be required to collaborate with the council in the implementation of HIV/AIDS prevention initiatives, including research, education and public policy development and implementation within the county. They will have to initiate, undertake and participate in the collection, preparation, production and dissemination of data that is useful in prevention and control of HIV/AIDS within that county. They will have to develop and disseminate findings derived through evaluation and collection of data.

They will have to collaborate with the council in the establishment of counseling and support group centres for persons affected by HIV/AIDS. They will ensure that issues concerning HIV/AIDS prevention and control are incorporated within the programmes and strategies of that county, including appealing to the county assembly to allocate enough funds. They will have to monitor and evaluate the performance of the county in the implementation of policies, initiatives and plans on health and in particular, HIV/AIDS prevention and control, formulated by the national Government. So, information from the national government will not just have to be taken as the biblical truth. It will have to be digested and its relevance computed to see that it fits well with the strategies at that level.

They will have to develop and disseminate public information and education programmes for the prevention, detection and control of HIV/AIDS within that county. They will collaborate with the council and relevant agencies in the county in the establishment of a coordinated approach in facilitating access to health care facilities and treatment within that county. They will have to establish linkages and networks with local and international research institutions and development partners in mobilizing and sourcing for funding and other resources for prevention and control of HIV/AIDS within that county.

The other function will be to advise the council on the activities of the committee regarding the implementation and interventions in the county and their impact on the control, care and treatment of persons infected with HIV/AIDS within that county.

This committee shall be under the control and direction of the governor. It is important that this committee is facilitated through law. In the early years, at the advent of the discovery of HIV/AIDS in Kenya, we had many quacks. Interestingly also, there are even doctors who came up with a lot of concoctions. We remember the advent of KEMRON that was initially pushed by a very highly qualified doctor, Prof. Obel. He also came up with other herbal medicines whose effectiveness was actually doubted. It had not been properly understood at that time, at molecular level, which area was to be hit. But since the early 1980s a lot of advances in science have been done, especially in developed countries. In Canada, early diagnosis is made because of their very readily available facilities for detection of HIV/AIDS, such that right now patients infected with HIV/AIDS actually live longer than the normal population.

I believe this can be done here if the treatment and management of HIV/AIDS is structured to include and involve all levels up to the county government level. This is because they are the people handling the infected and affected at the grassroots level. Early detection is very important because early treatment can be initiated. Information and education is necessary for the population, so that they can avoid infection. The ABC of control can be very much implemented at that level.

We know that "A" stands for abstinence. We also know what "B" is all about. "C" stands for the famous condom. This information may really sound as if it is common sense; that a person can be told to be faithful to one partner. Some traditions do not accept that, but if they know the consequences, at their level and through a language they can understand at the county level---

The information that is usually disseminated from the national level may not be well understood. For example, when somebody talks about wife inheritance from the national level, he may not even understand the culture of the Luos, Luhyas and other

communities that live in western Kenya. But if it is handled by the local structures, then dissemination of this information will not only be heard in detail, but accepted because it is being done by their own.

We need to take the important steps that we need in this country to make sure that HIV/AIDS is not only history, but those that are infected and affected by HIV/AIDS do not suffer. That is the essence and importance of passing this amendment that is so well elucidated in this Bill.

Mr. Deputy Speaker, Sir, as I conclude, I beg everybody in this House to put themselves in the shoes of a HIV patient. What do you think they go through? Put yourself at the county government level where there is no facilitation, no funding to make sure you are well taken care of, in terms of medication and laboratory services that may test how infected you, so that you can know what dose of medication you need.

Put yourself in the shoes of that family that loses a patient due to lack of facilitation at the county level or in the shoes of that school child who is infected at the age of 9-12 years, just because there was no education from the teachers to him/her on the dangers of exposure to early sex.

I beg that this House listens to me and passes my Bill.

I beg to move and request that Sen. (Dr.) Khalwale seconds the Bill.

Sen (Dr.) Khalwale: Mr. Deputy Speaker, Sir, it is my pleasure to second this Bill and congratulate Sen. (Dr.) Machage for coming up with this Bill. On the face of it, it may look like a simple thought of amending this Act, until one looks at the complexity of this particular Bill. I also congratulate the doctors in all areas of the medical profession for the strides that they have made since the challenge of HIV/AIDS came in the world.

Before I forget, allow me to differ with Sen. (Dr.) Machage on his remarks on Prof. Arthur Obel, my lecturer of Pharmacology, a scholar of international repute who continues to be respected to date. It is also my pleasure to disclose that Prof. Obel was my friend and also came from my place in Busia.

The efforts that Prof. Obel made can only be comparable to Michael Faraday's. Before Faraday was celebrated for his role in the science of electricity, he tried 400 different experiments. Every time he failed, he was never condemned because he said, "I have found yet another method through which it will not work." He repeated the phrase until after 400 times when he found that one method that worked. So we must celebrate and be proud of him.

This Bill will require that, in the Third Reading, we go through the entire Bill because an attempt is being made by Sen. (Dr.) Machage to look at Sections 4 and 11 of the Bill alone. There are many issues in the other areas, some of them clerical, that we will require that the Bill is aligned with the county governments, and to devolution, to some extent.

In the parent Bill, which I am proud to have participated in passing in the House, there are many areas where we speak to the Minister. It requires that in each one of those areas, we replace Minister by that specific officer we want to assign responsibility in every county government. I see Sen (Dr.) Machage has made an attempt to assign responsibility to the entire County Executive Committee.

On a serious and specific issue like this, you cannot give it just to the cabinet. You must single out. If we shall eventually agree at the Committee stage with Dr. Machage, it

will be nice for the County Executive Committee Member (CEC), in charge of health to play the role played by the Minister in the parent Bill.

I thank the doctors for the efforts they have put up-to-date. May I share with Members that when the first HIV headline hit the world, I was a student of medicine in the 1980s and it was a sad story. Patients in Kenyatta National Hospital (KNH) used to come from the countryside and they would be locked, quarantined in a room. Food would be thrown to them, relatives would not go in, hospital workers would not enter that cubical and we were doing the ward rounds through the window. We would look in and see that particular patient. It was very pathetic.

Patients could stink because there was nobody to clean them. Relatives would be told that the patients would die just like they are treating Ebola. I thank the steps made to bring us where we are today.

Going specifically to the Bill, allow me to laud the Global Fund on HIV and AIDS, Malaria and Tuberculosis. This is the backbone of improved survival rates that we see amongst HIV and AIDS patients. I therefore, appeal to Dr. Machage that during the Committee stage, he moves an amendment to change the title of this Amendment Bill. Instead of being limited to the HIV and AIDS Prevention and Control, (Amendment Bill) (Senate Bill 2015), I want to appeal to Sen. (Dr.) Machage that it should read the; 'HIV and AIDS, Malaria and Tuberculosis Prevention and Control (Amendment Bill) of 2015.'

Dr. Machage, because the Global Fund--

The Deputy Speaker (Sen Kembi-Gitura): Order, Sen. (Dr.) Khalwale. You are not addressing Sen. (Dr.) Machage, are you?

Sen (Dr.) Khalwale: Thank you, Mr. Deputy Speaker, Sir. Because the Global Fund comes as a package of HIV/AIDS, Malaria and Tuberculosis, if you isolate one, it will be difficult for you to convince the European Union (EU), Canada and The United States of America (USA) who are the principal supporters of programme, that you bring the money and separate it, so that, part of it goes to HIV/AIDS and the balance remains with Malaria and Tuberculosis. So, it will be nice for us to package it that way.

Furthermore, the complexity of HIV/AIDS, Malaria and Tuberculosis is that once you are infected with one, you become more vulnerable and susceptible to the others. So, it will be a useful amendment.

The second amendment I would like to speak to is in Clause 12(A) (2), where Sen. (Dr.) Machage, is establishing the County AIDS Control Committee. I support him. He says:-

“The County HIV and AIDS prevention and control committee shall consist of:-

- (a) One person with knowledge and experience in matters relating to HIV and AIDS prevention and control appointed by the county governor and who shall be the chairperson to the committee;
- (b) One person nominated by the county executive officer in charge of health in the county who shall be the secretary to the committee;
- (c) One man and one woman with knowledge and experience in matters relating to health within the county nominated by the Council;
- (d) One man and one woman appointed by the county governor to represent such special interest within the county as the governor shall determine.

I urge him to accept that we add the CEC in charge of health. When you just put these other people, you will notice that the people appointed are from outside. You need people

from inside the county government to sit in this committee to be the bridge between the committee and the county government mainly because of access to funds.

We also have to go and interrogate the ministry of Health in Nairobi because at the moment, there is a quagmire now on how global funds for HIV and AIDS, Malaria and Tuberculosis can be used. At the moment, officers are sent from Afya House to go and do things in the counties and the absorption rate for the funds of the Global Fund has completely dwindled. In this Bill, we have an opportunity to design a structure that will allow global funds not to be controlled from Nairobi, but to cascade to the 47 counties for them to be absorbed better. There is a lot of resistance from Afya House because it wants to control the hundreds of millions in global funds. Therefore, we must have a law that forces them to release the money to cascade to the counties.

I would also like to suggest a further amendment to Clause 12(b) (2) where the Senator attempts to allow for sitting allowance for the members of this committee. I advise him that when he leaves it the way it is, he will be opening room for them to pay themselves any amount that they might choose. Global funds are abundant. Therefore, I will not be surprised when they start paying themselves Kshs40,000 or Kshs50,000 as sitting allowance. We, as Senators must remember that even of high profile as we are, we have a sitting allowance of only Kshs5,000. Therefore, why can we not prescribe how much sitting allowance they will receive? According to me, these are the kind of people who should be paid Kshs3000 as sitting allowance and be reimbursed transport whenever they go for meetings at the headquarters.

Mr. Deputy Speaker, Sir, I also propose an amendment to Clause 12(d) where the Senator proposes that the county health officer in each county shall designate officers within the department responsible for health. I suggest to the Senator that the County Executive Committee (CEC) member for health is the most senior person who should be controlling. The function of controlling should be given to the CEC in charge of health.

Finally, but not least, I persuade the Senator that Clause 6, which is proposing to amend Section 45 be amended to replace the word "Minister" with "County Executive Committee Member." As I have said earlier, in all the other aspects of the parent Bill, the Senator should accept that we replace that with the CEC member in charge of health.

Mr. Deputy Speaker, Sir, those are the amendments that I wish to propose. I urge the Committee on Health to take this Bill very seriously. To this extent, we will rely on them to make sure that the other things that are there in the parent Bill which are not concurrent to the principle of devolution in the country, that this is the time for us to correct them. I would like them to cast the net much wider.

With those many remarks, I thank Sen. (Dr.) Machage for allowing me to go on record for being the second person to have spoken on this Bill that affects all the villagers and the rich in this country. I have many parents and patients in Kakamega today who are on Anti Retrovirals (ARVs). At this stage, I urge the national Government to make sure that the little challenges and bottlenecks that ARVs pose to patients are removed.

Mr. Deputy Speaker, Sir, I would like us to specifically include in this Bill the need for the county government to support HIV/AIDS patients with nutrition. It is now one of the most important reasons why patients who are on ARVs will either die or live. This is because the ARVs are double edged swords. They can cut you to death if you are not eating well. Most of these people are poor or have exhausted the savings they made when they were still active. Therefore, before the county governments rush in to build

homes for the aged, they have an important role to play by giving money to these people to support their nutrition on a monthly basis.

I beg to second the amendment Bill.

(Question proposed)

Sen. (Prof.) Lesan: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this amendment Bill. I would like to thank my colleague, Sen. (Dr.) Machage for coming up with this amendment which I think will have far reaching implications when it is passed and implemented.

I would like to correct Sen. (Dr.) Machage who said that Prof. Obel, who was my teacher as well, came up with KEMRON. That KEMRON was a product of Prof. David Koech who was the Director of the Kenya Medical Research Institute (KEMRI) at that time. Secondly, I would like to thank the pioneer scientists who did their best at that time to come up with an attempt to create medication for the serious challenges that were brought about by HIV/AIDS. I am sure that it is on the blocks of those scientific discoveries that we have today made significant improvement on how we manage HIV/AIDS patients.

Mr. Deputy Speaker, Sir, HIV/AIDS patients must be treated in a special way because it is a special kind of ailment.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Lesan, Prof. Obel came up with something. Did he not?

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, Prof. Obel came up with a herbal medication.

The Deputy Speaker (Sen. Kembi-Gitura): I think it is important we put the record straight.

Please, proceed Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, allow me to inform Sen. (Prof.) Lesan that Prof. Obel came up with *Pearl Omega*. He further came up with *Pearl Indica*. He did a lot of research. I remember that I brought two patients from Kakamega to him; a teacher and a priest. He took care of them for six years before they died.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Lesan, I believe that you are now informed.

Please, proceed.

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, I thank my colleague, Sen. (Dr.) Khalwale. I know that it is Prof. Obel who came up with Pearl Omega and some other concoction which made a significant contribution to not only Kenyans, but the whole world. I know that there are also some Europeans who came to Kenya to seek his medication.

Mr. Deputy Speaker, Sir, all in all, I thank the first scientists because I know the environment in which they attempted to produce the medication was difficult. HIV/AIDS is a very difficult case to handle. It is important that we have special Bills to address some of the challenges that we have. One of the things about HIV/AIDS is that it directly affects procreation. It is important to note that HIV/AIDS affects procreation. Therefore, it should be controlled. We know the difficulties which HIV/AIDS patients go through in order to procreate and have their own children. This is what makes it a very difficult

disease to manage. However, more significantly, it is very worrying to note what is happening today among our youth. Last night, there was a report about hundreds of youths in Eldoret, which is in Uasin Gishu County. Earlier, I thought that it was in Kakamega.

That was indiscriminate behaviour of those young individuals. You can imagine the very danger that those youths exposed themselves to by that kind of behaviour. It is, therefore, important, that we continue looking at Bills that will help us to prevent and control some of the results of such kind of behaviour.

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. Is Sen. (Prof.) Lesan in order to cast aspersions on the entire community of Kakamega by saying that when he first heard of the unacceptable behaviour of about 500 children who had been arrested in a police swoop, he first thought that it happened in Kakamega? Is he suggesting that it is only in Kakamega where we have truant children?

Mr. Deputy Speaker, Sir, truancy is everywhere in the world. We are proud of having good children and also truants, thank God they were found in Eldoret. For your information, those children who were found in Eldoret came not just from Eldoret alone but also from Kakamega, Kitale and Nairobi to go and do their things there. So, let us be Kenyan parents and not just Uasin Gishu, which is a small place inhabited by Luhyas, Kalenjins and Kikuyus.

The Deputy Speaker (Sen. Kembi-Gitura): Order!

Sen. (Prof.) Lesan, what had you said about Kakamega?

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, I only implied that when I got the news the first time---

The Deputy Speaker (Sen. Kembi-Gitura): What had you said?

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, I said that I thought that the children who were found misbehaving were from Kakamega, but I came to realise that Eldoret is in Uasin Gishu County. However, that was not my intention at all.

The Deputy Speaker (Sen. Kembi-Gitura): You will have to withdraw that because it is actually not funny when you say that you thought they were from Kakamega out of the blues like that, unless you have a very good reason to do that. This is a very serious issue because I also read about it.

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, I appreciate that it is a serious issue. Therefore, I withdraw the statement.

Mr. Deputy Speaker, Sir, if you allow me to continue, this is a very important Bill. It seeks to bring in counties which, I think, is where most of the targeted individuals or patients we are talking about come from.

Recently, we had instances of misuse of Anti-retrovirals (ARVs). ARV drugs have been very useful in the management of HIV. However, problems are cropping up as a result of the drugs. One of them is, of course, noncompliance by individuals supplied with the drugs. I remember there was a case in Migori where patients were given ARVs but a lot of the drugs were found dumped by the roadside. This, of course, is noncompliance. Therefore, it is very important that we develop a policy of conducting civic education in the counties for the individuals to comply regarding the usage of the drugs. If this is not done, very soon, we will have a very high level of ARV resistance.

ARVs are the only drugs we have at the moment. There will be far-reaching consequences if there is resistance to the drugs. Therefore, the role of counties is

significant. I am happy that this Bill suggests the role of counties through committees that will be set up to educate the public, including, talking about the stigma associated with HIV/AIDS. This can only be dealt with through civic education and encouraging people to come out in order to manage the condition using the information available.

There is also the element of deliberate HIV/AIDS infection. This is a criminal activity. I am sure that there are provisions in the law regarding how that can be dealt with. However, civic education will be required at the county level to manage and control any intentions of anyone of the infected individuals to deliberately spread the disease to other members of the community.

Mr. Deputy Speaker, Sir, I also support the amendments suggested by my colleague, Sen. (Dr.) Khalwale, that the best person to take care of this at the county level is the County Executive Committee (CEC) member in charge of health. They shall be responsible for the entire committee that will deal with the issue at that level.

Secondly, financing and funding of this condition has been entirely from external sources. We, therefore, must continue to safeguard and guard the sources of funding so that we fund this. We should do that to all other opportunistic infections related to HIV/AIDS – these are malaria, tuberculosis and the like – it is important to make a small amendment to the Title of this Bill so that we continue using funds directly on HIV/AIDS and also all the associated diseases.

Mr. Deputy Speaker, Sir, this Bill will also encourage counties to play a role in trying to manage and prevent the condition. In fact, the best medicine that has assisted us in managing HIV/AIDS is control. Therefore, we should enhance this. Counties are in the best position to do that.

With those remarks, I beg to support.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Chelule, you have two minutes.

Sen. Chelule: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to support The HIV and AIDS Prevention and Control (Amendment) Bill (Senate Bill No.4 of 2015) that was brought to this House by Sen. (Dr.) Machage.

I support it because of two reasons. The issue of HIV/AIDS needs a lot of sensitization or civic education. Therefore, if managed by county governments, community members will receive the right education about it. It should not only be about sensitization on the stigma about HIV/AIDS but also relate to the economic activities that the people are supposed to get from the county governments.

All of us know that if you are not infected, then, definitely, you are affected. This is because very many people at the community level have been taking care of those infected. This group needs a lot of economic activities planned through the proper structure. Therefore, I support the idea that county governments should manage HIV/AIDS sensitization. That needs a lot of education. I know that many die of stigma. That is because they do not receive the right information. That is why some are very stressed to the point of even dying, not because of the ailment but the stigma.

Mr. Deputy Speaker, Sir, I support the amendment Bill that was brought by Sen. (Dr.) Sen. (Dr.) Machage. The issue of HIV/AIDS prevention and control should be managed by county governments, specifically, the CEC member in charge of health.

With those few remarks, I beg to support.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Chelule, you can go on because you still have a lot of time.

ADJOURNMENT

The Deputy Speaker (Sen. Kembi-Gitura): Order, Senators. It is now 6.30 p.m., time to adjourn the House. Therefore, the Senate stands adjourned until tomorrow, Wednesday, 7th October, 2015, at 2.30 p.m.

The Senate rose at 6.30 p.m.