

Sen. Olekina: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon Lusaka): What is your point of order, Sen. Ladema?

Sen. Olekina: Mr. Speaker, Sir, I concur with my colleague, but the statement was issued pursuant to standing order 46(2)(a). It does not require to be committed to a committee. We have already proceeded to other businesses on the Order Paper. In as much as I agree with you that it is important, you are out of order to raise that now. The Standing Orders are clear.

Sen. Poghio: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon Lusaka): What is your point of order, Sen. Poghio?

Sen. Poghio: Mr. Speaker, Sir, when a Member rises on a point of order, he is out of order. So, we are all out of order.

(Laughter)

I am worried that my good friend, Sen. Olekina, is taking over the Speaker's roles in determining what is in order and out of order. Is he in order? You should rule him out of order.

The Speaker (Hon Lusaka): Order, Members! The Standing Order that the Senator used to raise the statement does not require the Speaker to refer it to any committee. However, it is up to the committee concerned to pick up the matter if they feel it is a matter of national importance.

Next Order!

Sen. Olekina: Thank you, Mr. Speaker, Sir, for giving me an opportunity to make some brief comments on the importance of having a County Attorney. If you take the report of the Controller of Budget for all the 47 counties, you will realize---

(The Speaker (Hon. Lusaka) spoke off record)

As I was saying, if you take the report of the Controller of Budget and look at the last five years, you will be astonished at the amount of money which was used by counties for litigation. In some areas, they used close to Kshs1 billion. Nairobi City County is one of the counties which have contributed to a lot of the current pending bills.

I support this Bill, but I am a little bit shocked with the way it was drafted. There are certain things which are unnecessary. Certain things are covered by, for instance, the Advocates Code of Conduct. When you look at the personal conduct, for instance, there are certain things which are a little bit vague. I would recommend to the Committee that they reread the Bill and make certain changes. There are few things that I like about the Bill which is what I will refer to. I will also request that it be expanded because certain things are a little bit vague.

Mr. Speaker, Sir, it is important for each county to control how much they can spend in litigation. By having this Office of the County Attorney, it will then be responsible in responding to all cases for or against the county. One area that will need to be reworked on this Bill is the issue of non-disclosure agreement.

I would recommend to the drafters of the Bill to be very specific that each County Attorney who is recruited must begin by signing a non-disclosure agreement. That issue must be very specific because during their tenure, they come across a lot of sensitive information relating to a county.

The other issue relates to conflict of interests, which I do not think there is anything wrong with a county being gifted. If the County Attorney is travelling and he is given a gift, that gift belongs to the people of that county. So, it would be un-African to refuse to accept a gift. He or she should accept the gift, declare it and consider it to be property of that county. This is because, if you refuse to accept gifts and yet when you have visitors you gift them, it would be playing double standards.

Mr. Speaker, Sir, when I looked at the Bill, one of the areas that I thought should be amended is with regard to the qualifications of the County Attorney. One very important thing is for us to respect our societies. Since we have got the Law Society of Kenya (LSK), the drafter should consider adding a clause in the Bill that states that for a person to qualify, he or she must be an active member of the LSK and must also have current membership status. He or she must also have practiced in this country for quite some time, to be conversant with the way matters are decided here.

Another issue which I thought might be a little bit too harsh is where you give the County Attorney the power to summon any officer in the County Public Service to explain any matter. We should use a better word instead of "summon." This is because, a "summon" is an order. So, it should be to invite any officer in the County Public Service to explain any matter which is subject of litigation. However, when you summon, they might not take the order politely.

I like the fact that when you look at Clause 8(2)(c), it says:-

"The County Attorney shall comply with any direction of the court, tribunal or any such other administrative body on the nature of pleadings or measures to be taken for purposes of giving effect to the effective discharge of the duties of the Office."

When you traverse this country of Kenya, you will find that a lot of orders which are given by our Judiciary to specific counties are never complied with. So, you will find someone has spent so much money fighting in court and then he or she is awarded costs. However, when he takes it to the governor, the governor keeps it aside and says; "We do not have money to comply with this." So, that is something very good that will help people because this County Attorney would be protecting the interests of both the people of that county and the county government.

The other issue is with regard to personal conduct. This is a matter that does not need to be in this Bill. It is unnecessary legislation since it is provided for by other legislations. You would assume that an advocate is somebody who carries himself or herself with high esteem. So, the drafters ought to change that.

Mr. Speaker, Sir, finally, we should add another Clause so that any gift which is received is declared publicly and when a matter is brought, before it is decided on who should be given, in the case of a consultant, the consultant must come from a pool of advocates who should be approved by the County Attorney. So, the role of shortlisting advocates who can act on behalf of each county must be given to the County Attorney so that he can engage a consultant from his or her pool.

With those few remarks, I support.