

Sen. Olekina: Thank you very much, Mr. Speaker, Sir. On behalf of the people of Narok County, I would like to say welcome to the visiting delegation and request that they visit our county. I appreciate the work that they do in ensuring that African countries promote good governance. I know it is a big task, but I assure them that when our Members come there, they will help them achieve their objectives.

As my colleague from Kitui County has said, Kenya is a beautiful country and where I come from, we have the eighth wonder of the world, the Maasai Mara Game Reserve. Please make a point of visiting it so that when you go back to South Africa, you can tell them that you had a great time in Kenya. I welcome you, once again.

Thank you, Mr. Speaker, Sir.

Sen. Olekina: Mr. Speaker, Sir, on a point of Order. I would like to request that the response be deferred so that I am served with a copy for me to interrogate it.

Sen. Olekina: On a Point of Order Mr. Speaker, Sir.

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

Sen. Olekina: Mr. Speaker, Sir, I recall that the letter that the Chairperson is reading is the same letter that he read during the last Session. The issue of Agricultural Development Corporation (ADC) land is something which is very emotive. People and animals have been killed there, so when I ask this question for me to understand how to deal with it, the least I expected the Chairperson to do is to go to greater length and see the urgency and emotiveness of this matter.

It is imperative for the Chairperson to give my question, which is now part of this House, the urgency and the importance that it deserves.

Sen. Olekina: Thank you, Mr. Deputy Speaker, Sir. I rise to make my contribution to this very important Bill. I want to congratulate Sen. Wamatangi for bringing it albeit a little bit late. The process of taking over from your predecessor sometimes can be very challenging. I have witnessed in various counties where you would see that the governor elect would not have anyone to handover to him any of the instruments of power or any information regarding the previous term.

There are various items in this Bill that I support. I will make my contribution strictly to the ones that I support in two minutes. The ones that I do not support are the ones that I will spend most of my time on. Creating a committee for the assumption of office of the county governor is something very good. This committee must answer various questions in terms of continuity. I support the committee having one of the members of the CECs of the county government or the county secretary who will be leaving office to ensure a full fiducial responsibility. It is important that this county secretary remains in office whether he is retained or not for a period of 90 days before he leave the office.

When handing over to the governor-elect, there are various things that this Bill should consider. First, it is important to know the financial status of that county at that particular time. So, some of the things that Sen. Wamatangi ought to add in this Bill is a clear financial statement of the county as at the time we go for elections in that year.

The other issues that should be included in this Bill, which I noted were not very clear, is the duration that this Committee shall stay in office as they go through a smooth transitional period. As far as the committee and the swearing-in ceremony are concerned, I fully support this Bill, but the most difficult and confusing question is on a conundrum. The way the governor-elect will be coming into office is through an election. However,

when you look at Clause 14 of the Assumption of Office of the County Governor Bill, it seems to answer this very difficult question which was left out in the Constitution.

The process that a governor got into office was through a constitutional process; an election. During that time, he was required to choose a person of his liking and who he believes can deputise him. However, the Constitution is silent on what happens when the office of the deputy governor falls vacant. In my view, giving the governor-elect the authority to appoint a person who he wants to be his deputy after the one who was presented to the electorate or his constituents has vacated office either by resignation or death, is actually not the right approach, this should be through a constitutional recognised process.

I know the Supreme Court pronounced itself on this matter and on the issue of Nyeri and Nairobi City counties. They gave the governors of two counties 14 days to choose the person who they want to be their deputies and forward the names to their respective counties assemblies for approval. In my view, that is wrong. If the Supreme Court really wanted, in the spirit of the Constitution, to solve this conundrum, they should have also included the Senator of the county. This is because when the Senator, the entire county assembly and the governor is involved, it will be assumed that it is a picture of the entire county.

So, if we are going to follow the position of the Supreme Court, I will recommend that Clause 14 of this Bill be amended to either include the Senator to be part of the team of the vetting panel of the nominee or go back to the ballot and let voters vote for him or her as their deputy governor. In the first place, the governor was not voted for alone; he was voted for alongside his running mate. So, the people, under universal suffrage chose to vote for a governor and his running mate.

I am sure many people, let us say, Narok County, decided to support the Governor of Narok County because of the choice of his running mate. This is a ticket that had two people. So, in my view, trying to amend Article 182 (3) of the Constitution through legislation is against the spirit of the Constitution. I know this is a very difficult question and I know that the Bill attempts to solve this lacuna, but we have to be very careful. This is because we must ask ourselves the hard question that you asked: Why in the first place did the Constitution envisage in a place where there is a governor and a running mate who have got to be presented to the people to make that choice? So, if we pass this Bill the way it is, we will invite people to go to court and challenge its constitutionality.

Generally, the Bill is good apart from the areas that I have pointed out. In terms of trying to solve this problem, the drafter of this Bill ought to consider proposing amendments so that we do not get ourselves into a situation whereby we will be going back and forth to the courts to have the Constitution interpreted. Finally, the Bill itself envisages a smooth transitional period. However, if we pass it without taking into consideration what the Constitution says in terms of the vacancy in the deputy governor position, then we will be amending the Constitution through legislation.

With those few remarks, I beg to support the part that sets up the assumption of office of the county governor committee and the swearing-in. However, I strongly would request that the drafter of this Bill considers either entirely amending Clause 14 of this Bill or seek to have proper interpretation and inclusivity of everyone in the county so that it does not become problematic.

Thank you, Mr. Deputy Speaker, Sir.