

BILL WATCH 33/2008

[23rd August 2008]

Proclamation Summoning Parliament

The proclamation fixing the date for the swearing-in of members of the House of Assembly and Senators [Monday 25th August] and summoning Parliament to meet [on Tuesday 26th August at 12 noon] was gazetted late on 21st August in Statutory Instrument 119A/2008 [*Electronic version of statutory instrument available on request*].

Swearing-In

The House of Assembly swearing-in is at 10 am, followed by the election of the Speaker and Deputy Speaker. The Senate swearing-in is at 2.30 pm, followed by the election of the President and Deputy President of the Senate. The oath to be taken is the standard oath of loyalty set out in First Schedule to the Constitution: “I, [n], do swear [or solemnly affirm] that I will be faithful and bear true allegiance to Zimbabwe and observe the laws of Zimbabwe”. If there is a Speaker elected who is not a member of Parliament he or she will have to take the same oath.

Election of Speaker and President of Senate

If the positions are contested voting is by secret ballot.

The reported harassment of a number of MDC Parliamentarians is of concern because if these MPs are prevented from attending and voting for the Speaker, it would have serious consequences as the margin between parties is narrow in the House of Assembly.

There is no information yet on whether the names of the five appointed Senate Members and ten Provincial Governors [all of whom will be ex officio Senators] will be announced before the swearing in of the Senate. If they are not appointed before the voting for Senate President, the decisive votes for this office will rest with the Senator chiefs.

Office of Speaker

The Speaker is primarily the presiding officer of the House of Assembly. Some media reports have stated that the Speaker assumes Presidential powers temporarily if the incumbent President is absent or unable to perform the duties of office

through illness or death. That is incorrect. Section 31 of the Constitution, providing for an Acting President, clearly states that in such circumstances the duties of the President will be performed by a Vice-President or, if no Vice-President is available, a Minister designated for the purpose by the President [or, if the President has not done so, a Minister designated by the Cabinet].

Ceremonial Opening of Parliament

Shortly before 12 noon on Tuesday members of the House of Assembly and the Senate will meet in their respective chambers to hear the Clerk of Parliament read the proclamation summoning Parliament. The Senate will then join the House of Assembly for Mr Mugabe's speech, which will outline the Government's legislative programme for the first session of this Parliament. He ends the speech by declaring the session officially open. The two Houses will then resume in their separate chambers for the tabling of the customary motions for an Address in reply to the speech, and announcements by the presiding officers. Both Houses will then adjourn until a day proposed by a Minister. *[Note: no other motions may be tabled on opening day without the prior consent of the Speaker]*. In the past these proceedings usually come to an end before 1 pm.

Vice-President(s), Ministers and Cabinet

There is no information on V-Ps, Ministerial and Cabinet appointments. Press reports have stated that the Constitution requires appointments to the Cabinet be made before Parliament meets, but that is not so. As pointed out in previous Bill Watches, however, any existing Minister or V-P still without a seat when Parliament meets on Tuesday will immediately become ineligible to hold Ministerial office [and therefore Cabinet office] until he or she has once again acquired a seat.

Election-Related Court Cases

Election petitions

Eleven more election petitions have been dismissed by the Electoral Court for failure to comply with the procedural requirements laid down for such petitions by the Electoral Act. The total number of petitions dismissed on such grounds now stands at 21. The decisions affect both MDC and ZANU-PF petitioners. Appeals against the earlier decisions have been lodged in the Supreme Court. The appeals are unlikely to be heard before mid-September.

Application to set aside the Presidential election

Mr Justine Chiota has lodged a application in the Supreme Court for an order setting aside the Presidential election. On August 1st Mr Chiota and Mr Shumba won their Supreme Court case against the Zimbabwe Electoral Commission. The judgment was that the nomination court's refusal to accept the applicants' nomination papers was not in accordance with the law and therefore null and void. Mr Chiota is now seeking a Supreme Court order to nullify the Presidential election results. The matter has not been set down for hearing. It has been reported that Mr Chiota has also made a similar application to the SADC Tribunal.

Veritas makes every effort to ensure reliable information, but cannot take legal responsibility for information supplied.