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Extract from National Assembly Debates for 11th June 2015

VACANCIES IN THE NATIONAL ASSEMBLY

THE ACTING SPEAKER: I would like to inform the House that on 11th June, 2015, I was notified by Zimbabwe African National Union Patriotic Front (ZANU PF) that Hon. Ray Kaukonde, Member of Parliament for Marondera Central Constituency, Hon. Kudakwashe Bhasikiti, Member of Parliament for Mwenezi East and Hon. David Butau, Member of Parliament for Mbire Constituency have ceased to be members of ZANU PF and therefore, no longer represent the interests of the party in Parliament.

Section 129 (k) of the Constitution of Zimbabwe provides as follows: the seat of a Member of Parliament becomes vacant if the member has ceased to belong to the political party of which he or she was a member when elected to Parliament and the political party concerned, by written notice to the Speaker or the President of the Senate as the case may be, has declared that the member has ceased to belong to it. With regards to the same matter,

I must also notify this House that I have received an urgent chamber court application filed at the High Court by Hon. Bhasikiti and Hon. Butau seeking to interdict the Speaker from declaring the seats vacant in terms of Section 129 (1) (k) of the Constitution but that cannot stop the Speaker from exercising his duty in terms of the Constitution as he is not bound by a court application filed, as the order sought is not yet granted.

It is vital that at this point, I mention that the notification to the Speaker by the party that a member has ceased to represent its interests in the National Assembly and Parliament is all that is required at law to create a vacancy and for the Speaker to declare the seat vacant. The duty of the Speaker after receipt of the notification was clearly explained in the case of *Abednico Bhebhe and others vs the Chairman -National Disciplinary Committee MDC party*, SCB 85/2009 by Justice Cheda that upon receipt of the notification, the Speaker of the National Assembly is constitutionally bound to declare the seat in question as vacant. Hon. members, to that extent the position of the Constitution is unambiguous regarding the declaration of a vacant parliamentary seat. Consequently, the vacancies have arisen in Marondera Central, Mwenezi East and Mbire Constituencies by operation of the law.

The necessary administrative measures will be taken to inform His Excellency, the President of the Republic of Zimbabwe and the Zimbabwe Electoral Commission (ZEC) of the existence of vacancies in line with Section 39 (1) of the Electoral Act, Chapter 2.13 as amended.