

IN THE FIRST SESSION OF THE FIFTH PARLIAMENT OF THE
FOURTH REPUBLIC OF GHANA

SIXTH REPORT OF THE APPOINTMENTS
COMMITTEE ON H.E. THE PRESIDENT'S NOMINEE
FOR MINISTERIAL APPOINTMENT

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1.0 INTRODUCTION

His Excellency, President J.E.A. Mills communicated to Parliament for prior approval of the nomination of Alhaji Mohammed Mumuni for appointment as Minister of Foreign Affairs and Regional Integration pursuant to Article 78(1) of the Constitution:

In accordance with Order 172(2) of the Standing Orders of the House, Madam Speaker, on Wednesday 28th January, 2009 referred the nomination to the Appointments Committee for consideration and report.

The Committee subsequently met to determine modalities for the vetting of the nominee. The name of the nominee was published in the media in accordance with Order 172(3) and memoranda were invited from the public. The Committee also undertook due diligence to ensure that the nominee satisfies amongst others the requirements of article 94 of the Constitution.

2.0 REFERENCE DOCUMENTS

The Committee referred to the following documents during deliberations on the nominee:

1. The 1992 Constitution of the Republic of Ghana
2. The Standing Orders of the Parliament of Ghana
3. The Curricular Vitae of the nominees
4. Petitions and Memoranda from the public
5. Reports from security agencies.
6. Reports from revenue agencies.

Acc No: 3378

Class No: CR/M/09

3.0 PROCEDURE

As part of its procedures, the nominee at the request of the Committee took the oath of a witness. He also answered questions on issues ranging from his records of office, through the position to which he has been nominated and to general matters of national concern.

4.0 OBESERVATIONS AND RECOMMENDATIONS

4.1 ALHAJI MOHAMMED MUMUNI - Minister-Designate for Foreign Affairs and Regional Integration

BACKGROUND

Alhaji Mohammed Mumuni was born on 28th July 1949. He is a barrister at Law and holds an LL.M degree from the University of Ghana, Legon. He was a Member of Parliament for the Kumbungu Constituency from 1996 to 2004. Alhaji Mumuni has previously held several positions including a Member of the Governing Body of the Geneva based International Labour Organisation (ILO). He is a former Cabinet minister responsible for the Ministry of Employment and Social Welfare.

PETITION

The Committee received a petition against the nominee from a group known as Alliance for Accountable Governance (AFAG). The petition centred on a report of a forensic audit conducted by a private firm on behalf of the Auditor-General at the National Vocational Training Institute (NVTI) covering a period when the nominee was a Minister of Employment and Social Welfare.

The Committee held two in-camera meetings to try and reach consensus on the procedure to vet the nominee in respect of the petition and the fact of the pendency of cases which the nominee had taken to court. Unfortunately consensus could not be reached on the nominee's appearance before the Committee

When it came to the turn of the nominee, he took the oath and the chairman asked for the nominee's comments on the petition received. The nominee stated that the subject matter of the petition is pending in court. Significantly, he stated that he, having such great respect for our courts, is

apprehensive of the Committee discussing the matter. However, he took the position that if the chairman insisted he would grudgingly oblige.

At this point, the chairman indicated that he was about to rule but before that he needed the views of members. The Minority Leader pleaded that given the circumstances of the case it will be better for the committee to retreat for further consultations in-camera. The chairman insisted that he was minded to give his ruling because the Committee had earlier sat in-camera but could not reach any consensus on the matter.

The minority argued that in the circumstance, the nominee could not be vetted based on the following grounds:

1. The nominee's own caution to the committee on what he considers sub-judice;
2. our Standing Orders number 93 (1) which reads "reference shall not be made to any matter in which judicial decision is pending in such a way as may in the opinion of Mr. Speaker prejudice the interest of parties to the action";
3. the final report- Forensic Audit of the National Vocational Training Institute (NVTI) commissioned by and submitted to the Auditor-General in September 2004 has been submitted to the Speaker of Parliament and therefore is legally in Parliament.
4. the Whistle Blower Act, 2006, (Act 720) section 1(a) which states "a person may make a disclosure of information where that person has reasonable cause to believe that the information tends to show an economic crime has been committed, is about to be committed or is likely to be committed"
5. the Whistle Blower Act, 2006, (Act 720) Section 3 (1) which reads "disclosure of impropriety may be made to anyone or more of the following" persons, including Members of Parliament and that even if the report is not a report of a commission or a committee of enquiry, Parliament in plenary or at committee could and must investigate.
6. the Appointments Committee's own procedure for public hearing of Presidential nominees, No 10 "the major yardstick is the various provisions on disqualification of public officers e.g. criminal conviction, adverse findings of committees of enquiry, allegations of stated misbehaviour, abuse of office, fraud, misappropriation of public funds etc"

After the submissions by members, the chairman proceeded to give his ruling.

CHAIRMAN'S RULING

After several comments and interventions from members, the Chairman of the Committee ruled that the matter of the said audit report is currently before a court of law and therefore discussing it at the Committee would amount to *sub-judice* and would prejudice the interest of the parties taking into account the reliefs that the nominee was seeking in court.

Furthermore, the said audit report has not been laid before Parliament as required by law and therefore its authenticity cannot be verified.

He referred specifically to *section 23(1)* of the Audit Service Act, 2000 (Act 584) which states "*The Auditor-General shall publish the report on the public accounts and the statement of foreign exchange receipts and payments of the Bank of Ghana as soon as the reports haven been presented to the Speaker to be laid before Parliament*".

The Chairman stated that since it has not been laid in Parliament, the said audit report has not been published.

He further referred to *section 23(2)* of the Audit Service Act, 2000 (Act 584) which also states "*The Auditor-General shall submit copies of the published reports to*

- a. *the government archives*
- b. *all public and University libraries in the Republic*
- c. *the libraries of the Ghana Institute of management and Public Administration and the Management Development and Productivity Institute*
- d. *members of the Board, and*
- e. *any other institution approved by the Board*"

The Chairman explained that the matter in court was based on publication in the Daily Guide Newspaper which the nominee has taken to court on the grounds of libel.

He further stated in his ruling that the audit report which was prepared and presented to the Auditor-General by Baffour Awuah and Associates, a firm of private auditors is not a finding of a Commission of Inquiry or a Committee of Inquiry as stipulated in article 94(2)(d) of the 1992 Constitution and therefore cannot be used as a basis to disqualify the nominee. In other words, a Commission of Inquiry report is totally different from that of an Auditor-General's report.

The Chairman indicated that whilst *article 278* of the Constitution deals with the Commission of Inquiry and its appointment, *article 187* deals with the Auditor-General. A Commission of Inquiry is established by a Constitutional Instrument but this is not the case of the Auditor-General. Furthermore, the definition of a Commission of Inquiry in the 1992 Constitution does not include that of the Auditor-General.

He agreed with the Minority that article 94(2)(d) of the Constitution is relevant because it is a ground for disqualification of a person who wants to be a Member of Parliament since the qualification of a Minister is the same as that of a Member of Parliament. He however added that the document being referred to is not a report of a Commission of Inquiry. However from the reasons adduced above, he ruled that the vetting should proceed and that the matter is *sub-judice* and a discussion of the audit report would prejudice the interest of the parties to the action contrary to Order 93(1) of the Standing Orders of the House.

MINORITY WALK-OUT

After the ruling, the minority walked-out because they insisted the chairman's ruling was capricious, whimsical and bogus and was not foundationed on any rationality.

The rest of the Committee however proceeded to vet the nominee without the participation of the minority members.

RENEWING OF THE BAWKU CURFEW

The nominee was asked whether he had erred in signing a statement renewing a curfew on Bawku and its environs even though as the President's representative at the Ministry of Interior he was not a Minister. The nominee indicated that he did not err and that the action was taken on the side of caution in order to save life and property in the affected area. ✓

OBSERVATIONS

The Committee observed that from the background checks on the nominee, the nominee has not been served with any audit query by the auditors contrary to standard audit practice. Messrs Baffour Awuah and Associates however informed the nominee that they did that through the former Speaker of Parliament, Rt. Hon. Peter Ala Adjetey (now deceased). However, in a memo dated 24th July, 2004, the Speaker denied ever receiving any correspondence from the auditors. The memo (attached to this report and

marked Appendix "A") stated that "Investigations conducted so far have failed to disclose that Messrs Baffour Awuah and Associates either dispatched a letter to you dated December 19th 2003 through the Rt. Hon. Speaker of Parliament or that such a letter was received by or in the Office of the Rt. Hon. Speaker".

It is further observed that the said Auditor-General's report, even though allegedly presented to the Auditor-General, is not yet in the name of the Auditor-General.

RECOMMENDATION

The Committee *by Majority decision* recommends that the House approves of the nomination of Alhaji Mohammed Mumuni as the Minister for Foreign Affairs and Regional Integration.

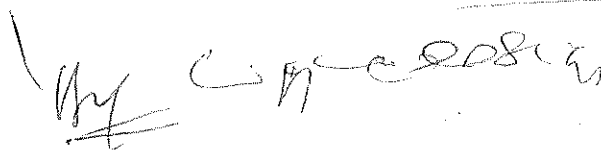
5.0 CONCLUSION

The Appointments Committee has carried out its duty diligently in accordance with the Constitution and the Standing Orders of this House in respect of the nominee Alhaji Mohammed Mumuni, Minister-Designate for Foreign Affairs and Regional Integration.

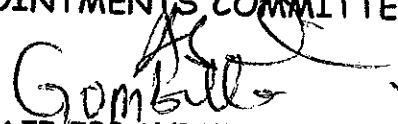
The Committee is satisfied that the nominee has met the requirements of the 1992 Constitution of the Republic of Ghana.

The Committee therefore respectfully recommends his nomination to the House for approval.

Respectfully submitted.




HON. E.T. MENSAH
VICE CHAIRMAN,
APPOINTMENTS COMMITTEE


ALHAJI IBRAHIM GOMBILLA
DEPUTY CLERK TO PARLIAMENT
19TH FEBRUARY, 2009

APPENDIX A

URGENT

MEMORANDUM

FROM : RT. HON. PETER ALA ADJETEY
SPEAKER OF PARLIAMENT

TO : ALHAJI MOHAMMAD MUMUNI, MP


DATE : 14TH JULY, 2004

SUBJECT : FORENSIC AUDIT REPORT ON NVTI

It is regrettable that even though I took immediate action upon receipt of your memorandum on the above-mentioned matter, to ascertain the facts in order to reply to your request, and even though I indicated that the matter was urgent it is only now that I have received information on the basis of which I can respond to your memorandum.

Investigations conducted so far have failed to disclose that MSSRS Baffour Awuah & Associates' either dispatched a letter to you dated December 19, 2003 through the Rt. Hon. Speaker of Parliament or that such a letter was received by or in the Office of the Rt. Hon. Speaker.

That is all that I can say in response to your request.


The Rt. Hon. Peter Ala Adjetey
Speaker of the Parliament of Ghana.