

OAU DRIVE, TOWER HILL, FREETOWN

PARLIAMENTARY DEBATES

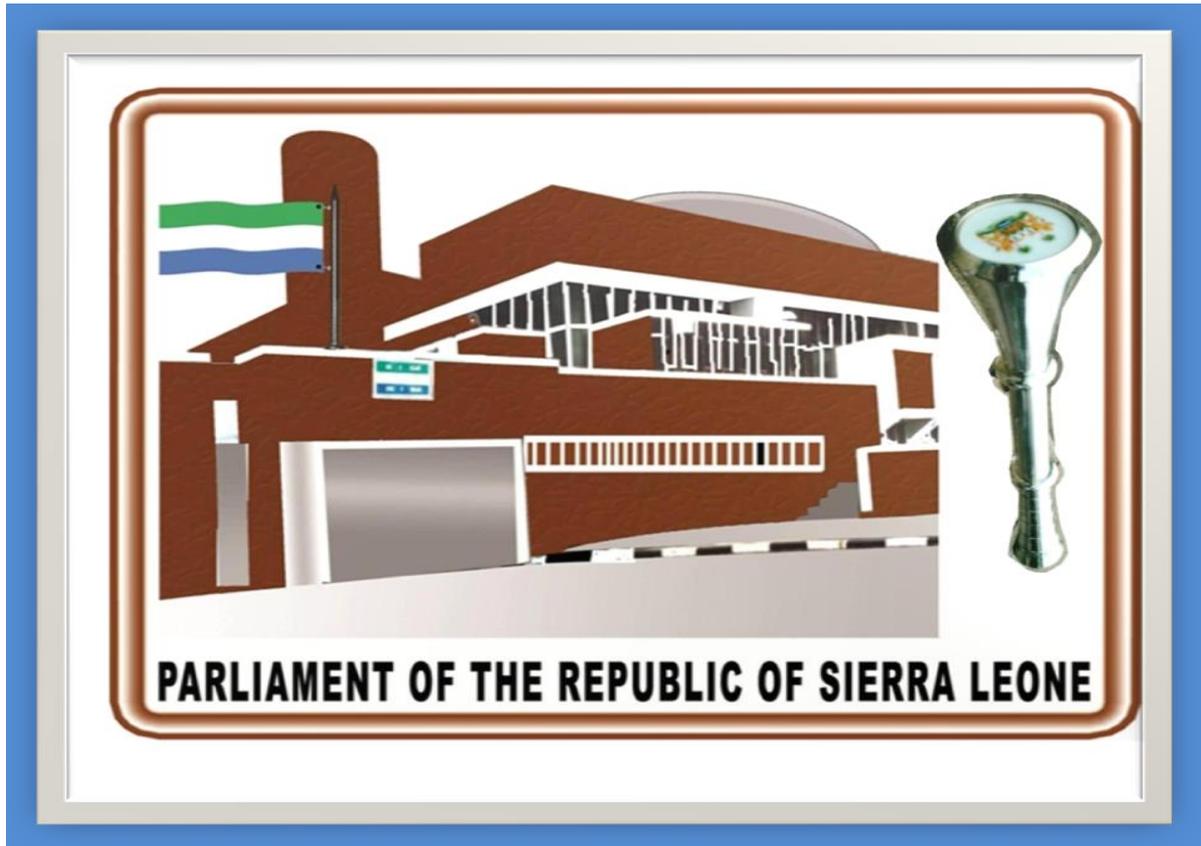
[HANSARD]

OFFICIAL HANSARD REPORT

FIFTH SESSION - FIRST MEETING

TUESDAY, 4TH APRIL, 2017

SESSION – 2016/2017



OAU DRIVE, TOWER HILL, FREETOWN

PARLIAMENTARY DEBATES

[HANSARD]

OFFICIAL HANSARD REPORT

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First Meeting of the Fifth Session of the Fourth Parliament
of the Second Republic of Sierra Leone.

Proceedings of the Sitting of the House
Held Tuesday, 4th April, 2017.

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SECONDER: HON. DICKSON M. ROGERS

BE IT RESOLVED THAT:

THE STATUTORY INSTRUMENTS, AS LISTED BELOW, WHICH WERE LAID ON THE TABLE OF THIS HONOURABLE HOUSE ON THURSDAY, 16TH MARCH, 2017 AT 10:00 A.M. BY THE ATTORNEY GENERAL AND MINISTER OF JUSTICE BE DEBATED CONSISTENT WITH STANDING ORDER 25[2].

[I] CONSTITUTIONAL INSTRUMENT NO. 43 OF 2017, DATED 15TH MARCH, 2017;

[II] STATUTORY INSTRUMENT NO. 44 OF 2017, DATED 15TH MARCH, 2017;

[III] STATUTORY INSTRUMENT NO. 45 OF 2017, DATED 15TH MARCH, 2017; AND

[IV] STATUTORY INSTRUMENT NO. 46 OF 2017, DATED 15TH MARCH, 2017.

[CONTINUED DEBATE]



THE CHAMBER OF PARLIAMENT OF THE REPUBLIC OF SIERRA LEONE

Official Hansard Report of the Proceedings of the House

**FIFTH SESSION – FIRST MEETING
OF THE FOURTH PARLIAMENT
OF THE SECOND REPUBLIC**

Tuesday, 4th April, 2017.

I. PRAYERS

[The Table Clerk, Mrs Fatmata Bintu Weston, Read the Prayers]

[The House met at 10:35 a.m. in Parliament Building, Tower Hill, Freetown]

[The Speaker, Hon. Sheku Badara Basiru Dumbuya, in the Chair]

The House was called to Order

II. CORRECTION OF VOTES AND PROCEEDINGS FOR THE PARLIAMENTARY SITTING HELD ON THURSDAY, 30TH MARCH, 2017

COMMUNICATION FROM THE CHAIR

THE SPEAKER: Honourable Members, we go through the record of Votes and Proceedings for the parliamentary sitting, held on Thursday, 30th March, 2017. As usual, Page 1? Page 2? Page 3? Page 4? Page 5? Page 6? Page 7? There being no correction or amendment, could somebody move for the adoption of the record of Votes and Proceedings for the parliamentary sitting held on Thursday, 30th March, 2017 as presented.

HON. BENNEH BANGURA: Mr Speaker, I so move.

THE SPEAKER: Any seconder?

HON. KUSAN SESAY: Mr Speaker, I so second, Mr Speaker.

[Question Proposed, Put and Agreed to]

[Record of Votes and Proceedings for the parliamentary sitting held on Thursday, 30th March, 2017 has been adopted as presented]

III. PRIVATE MEMBER'S MOTIONS

PROPOSER: HON. SUALIHO M. KOROMA

SECONDER: HON. DICKSON M. ROGERS

THE SPEAKER: Honourable Members, you would recall that we did start the debate on this motion, but it was not concluded. We reached a certain point where we found out that there were too many controversies. Therefore, I advised that members should go and engage the National Electoral Commission [NEC] and that was done. From the meetings that were held, it was reported to me that the NEC has admitted that Parliament was right. Mr Majority Leader, is that the case?

HON. LEONARD S. FOFANAH: Yes, Mr Speaker.

THE SPEAKER: Madam Minority Leader, do you agree?

HON. DR BERNADETTE LAHAI: Yes, Mr Speaker. They did say that they had breached the procedure.

THE SPEAKER: They breached the procedure, so if Parliament is right 'ipso facto' NEC is wrong. Mr Majority Leader, where are we now?

HON. LEONARD S. FOFANAH: Mr Speaker, Honourable Members, when we engaged the NEC in Committee Room 1, after some serious and spirited discussions, and when the NEC finally accepted that they did the wrong thing and that they have breached the 1991 Constitution of this country, I suggested and demanded that they give us a way forward. After that meeting, I made follow-ups and we told them again that they should withdraw the two of the Statutory Instruments that have been laid. They agreed to withdraw the two Instruments. We told them clearly that we would not compromise the existence of those other two Instruments before us, otherwise Parliament will be left with no option but to expunge them from our records and send them out of Parliament. That is the position of Parliament and that is what I am reporting to you, Mr Speaker.

THE SPEAKER: Madam Minority Leader, you have heard what the Majority Leader has heard to say. Any reaction?

HON. DR BERNADETTE LAHAI: Mr Speaker, Honourable Members, from our deliberations yesterday in Committee Room 1 and in the light of an earlier Statutory Instrument on the Provincial Act that was laid on the Table of this House, that particular Instrument has become law because the twenty-one days period has elapsed. There was no motion being moved to debate that Instrument. In that regard, that Act continues with the Statutory Instrument that was developed based on the existing constituency and ward boundary delimitations. I want to remind this House and the listening public that we now have five provinces and fourteen districts, excluding the Western Area. If we add the Western Area, we now have sixteen districts; and with the amalgamation of certain Chiefdoms, we now have more than one hundred and forty-nine Chiefdoms in this country. The document before us is based on twelve districts, plus the two in the Western Area, which will give us fourteen districts.

Mr Speaker, Honourable Members, we can no longer go back and use those administrative arrangements because we have a census data which informs what is to be the situation. So, we agree that without derailing the voter registration

exercise that is what the country wants. We have heard the people loud and clear that the voter registration can go on, but at the same time we should make some amendments in tandem with the new document. In that light, we are asking that we withdraw these two documents. We agreed in the meeting that they should withdraw these two documents and draw new administrative boundaries. They said when they shall have done that they will draw new administrative boundaries and bring back the registrants into their new localities without disrupting the whole process. That was the situation we agreed on and it was a unanimous agreement. They have to withdraw the two documents and the two remain, so that after completing that process, they will bring them here for a pre-legislative hearing before they are tabled in this House. That was what I think we agreed on. Thank you.

THE SPEAKER: Honourable Members, you have heard Hon Dr Bernadette Lahai, the Minority Leader of the House. The question is will the withdrawal of these documents not have some implications? Also, has the NEC accepted that Parliament was right and therefore, the NEC was wrong? This is an unpalatable implication because if the NEC has accepted that Parliament was right, then strictly speaking and having regard to our own procedure here, the documents are not properly before this House.

HON. ANSUMANA J. KAIKAI: Mr Speaker, Honourable Members, as far as this issue is concerned, this country is caught between the devil and the deep blue sea. The people of this country want the elections to be held on the 7th March, 2018. Therefore, our actions must be in consonant with the wishes and caprices of this country. We cannot afford to do otherwise. We have accepted and celebrated this date and we cannot afford another date for the forthcoming elections. As we are seated here, we just came from a meeting with the Attorney-General. We have made it known to the Attorney-General and Minister of Justice that he has a job to perform.

Mr Speaker, Honourable Members, this House has also been blamed by most people for not acting faster than this. In other words, we are now part of the blame game. They have included us into it, including Mr Speaker, the Deputy Speaker and all of

us. We have however warned both the Attorney-General's office and the NEC. We have told them that their actions were lackadaisical. This is an embarrassment for both aisles of this House. In other words, it is an embarrassment to Parliament.

Therefore, Mr Speaker, Honourable Members, I would call on this Parliament to do that which is right for the people of this country. I would like to recommend that the voter registration continues and all other issues that will slow down the election process should be put aside, so that this country would make progress towards the wishes of the people of this country. Laws can be made retroactively in the best interest of the situation as it is at that moment. A lot of resources have now been put into this process. I am only asking that we do that which is correct.

Mr Speaker, Honourable Members, some of us could remember that laws have been passed in this House retroactively. I am only saying Mr Speaker, Honourable Members that we do that which is correct... - *[Interruption]*.

THE SPEAKER: Honourable Member, I want you to be very careful, so that you will not sound inconsistent.

HON. ANSUMANA J. KAIKAI: Thank you very much, Mr Speaker. I will be careful, Mr Speaker. And in doing so, I have already said it and I stand on what I have said. We should stand on them as a Parliament. Let stand on what has been recommended. I thank you.

THE SPEAKER: The question of this Parliament standing on what has been recommended is very simple because we are here to do what is right and what is proper. To repeat what I have just said, as a Parliament, we owe tenaciously to what is right, what is correct and what is proper, being the accredited representatives of the people. We should do what they want, but not at the expense of what is right. The document in question has been declared as not been properly before the House. In that regard, there are so many implications, Honourable Members.

HON. CHERNOR R. M. BAH: Mr Speaker, Honourable Members, I want to join the previous speakers; i.e., the Minority and Deputy Minority Leaders of this House. I totally agreed with them that for the interest of the people, we allow the registration

to continue, but the two documents that are not being properly before the House are withdrawn and ensure that NEC does the correct thing.

THE SPEAKER: Honourable Members, I am absolutely in favour of the registration process to continue. However, I want us to be very careful, so that we would not be seen to be doing something illegal. It is only a piece of advice I am giving, as Speaker of this House. The registration is going on based on the document that has been submitted. Do we take it that these documents are accepted? If the answer is no, the where are we?

HON. FODAY RADO YOKIE: Thank you very much, Mr Speaker. Mr Speaker, I think the function of the Attorney-General is to advise us. If we are in this kind of situation, I think the Attorney General is here and should advise Parliament.

THE SPEAKER: Sorry Honourable Foday Rado Yorkie, I did not hear you.

HON. FODAY RADO YORKIE: Seemingly, we are at a crossroad and I am asking that the Attorney General is here and he is directly responsible to advise Government and the people of Sierra Leone. In a situation like this, I think he should be in a better position to advise this House.

THE SPEAKER: Honourable Members, let us be very careful. The Romans have a saying which says, "**Cessante ratione legis, cessat ipsa lex,**" which means that when the reason for a law ceases, the law itself ceases. I stand to be corrected by the lawyers, but I know that I am correct. Honourable Members, with deference to Dr Abass Bundu, he was my senior in school and he is an erudite Lawyer, I would not elaborate on that any more.

HON. LEONARD S. FOFANAH: Mr Speaker, Honourable Members, the Honourable Member from Bo suggested that the Attorney General advises Parliament. Be that as it may, I want to say that the Attorney General and Minister of Justice belongs to the Executive Arm of Government and we as Parliament are examining the functions of the Executive. Should we, at this stage, consult the Executive on a matter that is before us? Absolutely the answer is no; and in my capacity as Majority Leader of this House, I want to suggest here that whatever decisions we are taking today, it would be parliamentary decisions. With reference to the Deputy Minority Leader, I am not

a Lawyer, but retroactive laws are suspects in the world of constitutionalism, especially when we are about to conduct the general elections. Any laws that are made retroactive with respect to the elections that are pending would be suspect and open to a lot of criticisms. Therefore, I want to suggest that we continue our deliberations without seeking advice from the Executive. We have demanded that the two documents before us be withdrawn and that is the position of Parliament. I thank you very much.

HON. DIXON ROGERS: Mr Speaker, Honourable Members, on Thursday, this House invited the NEC to appear before this House when it was believed that the NEC has violated Section 38[5] of the 1991 Constitution of Sierra Leone. The Majority and Minority Leaders summoned the NEC to appear before Parliament in Committee Room 1. It was stated by the NEC Executive Chairman that he had earlier submitted these documents to the Attorney General and Minister of Justice sometimes in December; and therefore, it is not the responsibility of the NEC to lay that Instrument on the Table of this House, but the Attorney General and Minister of Justice. In that regard, if there is a breach of the 1991 Constitution of Sierra Leone, I think the Attorney General should be equally held responsible.

Mr Speaker, Honourable Members, I sent a letter to the Clerk of this House yesterday, quoting Standing Order 20[2] to invite the Attorney General and Minister of Justice for questioning. I wonder why that is not on the Order Paper because it is very important. When this House came to the conclusion that it was the NEC that violated the 1991 Constitution, this House summoned the Commissioner. The Commissioner told Members of Parliament that he had earlier on submitted those documents to the Attorney General and Minister of Justice. The blame has been shifted that the NEC has done its own job, and that it was the Attorney General's Office that failed to lay the documents earlier than we expected. Therefore, I am moving a motion to invite the Attorney General and Minister of Justice to come and answer to these questions. I thank you very much.

THE SPEAKER: Honourable Members, the Honourable Dickson Rogers is a contradiction to himself. We have a very important issue before us. Honourable Dickson Rogers, you are Honourable and I expect you to behave honourably. I

would like to see you in my office later. I expect you to behave honourably consistent with what you are. That matter would be treated later. You said you sent your letter to the Clerk's Office and that does not mean that it has been shelved aside. We have a very important issue to address.

HON. PC BAI KURR KANAGBARO SANKA III: Mr Speaker, Honourable Members, I am sure the world is listening to this Parliament. I am sure what we are doing here today or have done would be in the records of this nation and the world as a whole. We have listened keenly to what has been said and we have to take consideration of the present situation, reflect on the past then look forward to the future. What we are saying here is something that is very important because if Parliament says no to the registration exercise, where are we going to get the money to meet the cost of elections in 2018? Again, if we go ahead with the registration exercise, we have to take cognisance of the fact that we are 124. If the Speaker of this House and the President of this nation are added to the 124, we will have 126 Members of Parliament. According to the 1991 Constitution, the President is a Member of Parliament. Therefore, if we do something in this House, the people listening to us will challenge the legality of what we have done. Parliament will be challenged in the Supreme Court and many times here that has been done. In that regard, if the registration exercise is going to continue, we should have an Act, passed by this Parliament to nullify their actions so that nobody can challenge us in the Supreme Court tomorrow. Let us uphold the decision we have taken as a Parliament. We have highly intelligent people, who are in this House, listening to the issues we are debating. For some of you who are in the social media and for some of us who are not, our telephones ring almost always. People asking us what is going on in the country.

Mr Speaker, Honourable Members, as far as I am concerned, Parliament has to work together because this is not a political issue, but a constitutional issue and we have to solve it in a way that would bring peace, harmony and stability in this country. I am saying that we have to take a position that is generally accepted; a position that would be acceptable by the people of this country; and a position that would embrace every Sierra Leonean. The Paramount Chiefs have listened and we are

looking at the legality of this issue. We are now shifting blames from one person to the other. I have been the Chairman for the parliamentary Committee on Internal Affairs, but nobody consulted us. However, Mohamed N'fah Alie Conteh, Chief Electoral Commissioner and Chairman National Returning Officer of the National Electoral Commission signed this document and presented it to Parliament.

Mr Speaker, Honourable Members, I want the Speaker of this House to take the leadership role as Speaker in this sensitive issue. I am sure he has the total backing of Parliament and we the Paramount Chiefs.

THE SPEAKER: Honourable Members, I want to believe that everybody is an Honourable Member. I attended the St Edwards Secondary School together with Dr Abass Bundu and Chief Sumanoh Kapen. The other day somebody met me in my office and told me that Honourable Dickson Rogers was on the AYV Radio. I was told that the Honourable Dickson Rogers promised to push the motion that was moved by Honourable Suahilo M. Koroma. I want to remind the Honourable Member that he seconded that Motion. Honourable Dickson Rogers, do you recall that you did second the motion?

HON. DICKSON ROGERS: Yes, Mr Speaker, I did.

THE SPEAKER: If that is the case, Honourable Dickson Rogers, is it not an instance of impropriety for you, having seconded a motion in this House, you decided to go again on air to say something almost absolutely contrary to what you have said?

HON. DICKSON ROGERS: Yes, Mr Speaker. I did so because... - *[Interruptions]*.

THE SPEAKER: Honourable Dickson Rogers, on the intervention of the Minority Whip, I will let sleeping dogs lie. However, you only need to be reminded that there are times when certain issues are in court, you are warned not to discuss or say anything related to that because the matter is sub judice or 'sub Judi cat' as the Latinise would pronounce it. Equally, when a matter is before the House, it is improper for you to go on radio and discuss it. Please do not attempt to do that next time.

Honourable Members, Honourable Bai Kurr Kanagbaro Sanka III has said something which I think is important and that precisely is my fear. I did say and I am going to

say it again that I am absolutely in favour of the registration process to continue, but let us be very careful. As a Parliament, we should be seen to do what is right constitutionally and legally. In case we do anything here that is illegal, there would be a possibility to challenge the decision of Parliament tomorrow. I am in favour of the election being held on the date pronounced by the President, but the validity of that election is subject to what is going to be done here.

Honourable Members, if I have my way, it is for us as a Parliament to find a way of rectifying this anomaly. Perhaps, in the world of politics, what is right may not be expedient. And if what is right is not expedient, perhaps it is better to yield to expediency. And in the name of expediency, I believe that we should go on with the registration process, but at the same time we have to be careful. It is left with you to decide and the Speaker. It is for Parliament that has to decide.

HON. AJIBOLA MAINLY-SPAIN: Thank you very much, Mr Speaker. Mr Speaker, my contribution will be is very brief. Without going through the processes that started on Thursday, the Leadership of this House has met with the NEC. They have come up with a proposal and we should trust them that we will find a way to make things work. This is a warning for all of us. Immediately we decide to stop the registration exercise in this House, I will not go to my house.

HON. IBRAHIM. BEN KARGBO: Mr Speaker, Honourable Members, I stand here to give support to our friends on the other side because since this debate started, it always... - *[Interruptions]*.

THE SPEAKER: Sorry to interrupt you, Honourable Ibrahim Ben Kargbo. Honourable Members, all of us would recall that when we started the debate on this motion, all of us were on the same page. We spoke with the same voice, but now I am beginning to sense something. It will not be good for the dignity of the House. Therefore, Honourable Ibrahim Ben Kargbo, when you are making your presentation, make sure you do it on behalf of Parliament.

HON. IBRAHIM BEN KARGBO: Mr Speaker, I was going to say that I am speaking on behalf of Parliament. However, I was merely going to remind ourselves that when the issue of registration came up, a very eloquent Member of Parliament, Honourable Ansumana J. Kaikai, stood up and said that because of the difficulties

surrounding the registration process, all of us should unanimously support the extension of the voter registration process, so that every Sierra Leonean will be given the opportunity to be registered. That was what he said and we agreed with him. In other words, I agreed with you that all of us have been reading from the same page since the start of this debate.

Mr Speaker, Honourable Members, in Committee Room 1, we came to the conclusion that the stakeholders who are directly involved in this process should meet and find a way forward. We believe that the meeting was held and we also agreed that the Attorney-General and Minister of Justice should be here just in case it becomes necessary for him to intervene and make some clarifications.

Mr Speaker, Honourable Members, I think the Honourable PC Bai Kurr Kanagbaro Sanka III made a very important point. That is to say, the ongoing registration process is part of the electoral process and because it is part of the electoral process, we should be very careful. If we take any decision to scuttle the present electoral process, that in itself would have been the commencement of undermining the entire electoral process. I also agree with you, Mr Speaker that we will continue to make sure that our people are registered. The Speaker is in favour of the registration process and I am not averse to that decision at all. Also, the Speaker was very sensible to remind us about the implications surrounding the legality of the process.

Mr Speaker, Honourable Members, since we are speaking from the same page and reading from the same page, the simple question is, what is the way forward? What steps do we take to make sure that the process itself is correct and legal? Again, we have to be very careful, so that the public will not say that Parliament has stopped the registration process. In fact, even thinking about us trying to stop the registration process is fearsome. We have sensitised the people of this country and they have started registering. If we go out there and tell them that we are scuttling the process, it may not give a good name to this House.

Having stated that, Mr Speaker, Honourable Members, I want to be very consistent with rules, regulations and the law because it is very important. The moment we leave out a small component of what should make this process legal, then we may

run into some difficulties in the future. What if we were to say 'okay leh wi du am so' S.O [2]; and all of the sudden, somebody comes up tomorrow to challenge our actions. Therefore, I want to make it quite clear that the registration exercise must continue *[Applause]*. This Parliament is being watched all over the world to see the action we will take at the end of the day. The law is very important and we can make or unmake law, but we will not encourage people to break the law. This is very important to us as a Parliament. What we are saying here is that we support you because you are a democrat, a Latinist, a school teacher and a man who understands humanity. We should not put ourselves in a position where we cannot answer questions. I have started seeing the answers coming from you. I also know that you have the capacity to provide the necessary leadership that can make this House a respectable House.

Mr Speaker, Honourable Members, many things have happened. We have not even spoken about the referendum. The referendum will be brought here for debate. We have not even discussed other issues but the important thing is that since the NEC officials have conceded to the fact that it was they who made the error, we cannot take that responsibility. At the same time, as we begin to put in place the mechanism for us to correct this error, I will pray and plead with you that the registration exercise continues. Thank you very much.

THE SPEAKER: May I respectfully ask that you all sit down for the time being. Honourable Members, it would appear to me that there is a consensus that the registration exercise should continue. Let us deal with this matter now. In the light of what has been said by those Members who have contributed to this debate on this day, I am going to put the question for a vote.

[Question Proposed, Put and Agreed to]

[The motion to continue the voter registration exercise has been carried]

THE SPEAKER: Honourable Members, what I now think should be done is that we have to find a way of correcting something that appears to be wrong. Let me put it that way.

HON. CHARNOR R. M. BAH: Mr Speaker, we are following the process and I am sure you said inter-alia that the documents that were laid on this Table are not

properly before the House; and as a result, this House has confirmed that those two documents dealing with the boundary delimitation of Wards and Constituencies should be withdrawn. That is what you have confirmed.

THE SPEAKER: Yes,

HON CHERNOR R.M. BAH: Thank you very much sir.

THE SPEAKER: Honourable Members, there are two options here: either we ask that the documents be withdrawn or they be thrown out. Sorry Honourable Ansumana J. Kaikai. I know that you are a senior Member of Parliament; and as a matter of fact, you are the Deputy Minority Leader in this House. Presently, you are the Acting Minority Leader. I would respectfully ask you to yield to the mover of the motion. He has been itching to speak.

HON. SUAHILO M. KOROMA: Thank you very much, Mr Speaker. Mr Speaker, Honourable Members, it has been a marathon debate on the motion that I moved on the 16th March, 2017. The issue of blame game is no longer the issue here. Since the time I moved this motion, I have been under tremendous pressure because the public misunderstood my position. The intent on the text of my motion is just to save this country from exactly what we have been discussing here this morning. Mr Speaker, I had no intention, as a parliamentarian, to violate the 1991 Constitution of Sierra Leone. I do not even know where, in the 1991 Constitution, that Parliament could extend any election date. All of us have been blamed and we have explained to the public on the radio times without number for the public to understand the intention of my motion.

Mr Speaker, Honourable Members, I heard a number of people talking about making retroactive laws, which is true. If you look at Section 106 [5] of 1991 Constitution, it also gave powers to Parliament to make law retroactively.

THE SPEAKER: Honourable Member, you are drawing the attention of the Minority Leader to what he said and I did hear him, but what is Section 106, Subsection 5 saying? It says: **"No law made by Parliament shall come into operation until it has been published in the gazette."** The operative word there is 'may.' **"Parliament may postpone the coming into operation of any such law and**

may make laws with retroactive effect.” I think from what the Acting Minority Leader was saying, I do not think he is really opposed to the idea, but for purposes of decency and for our dignity, we have to be careful. The emphasis is on the word ‘may.’

HON. SUAHILO M. KOROMA: Noted, Mr Speaker. Mr Speaker, I am very much aware of that constitutional text. I happened to be on the SLBC radio yesterday, I even said so on the radio that it is legal to adopt or pass law retroactively, but other school of thoughts can argue, for the purpose of proper or modern democracy, that it is not but proper to make law retroactively. I also stated that yesterday on the radio, Mr Speaker. In this case, it is also the responsibility of Parliament to make law for the peace, harmony and development of our nation *[Applause]*. This Parliament has just approved a very question you proposed to this House, endorsing the continuation of the registration exercise. In that light, I propose that this Parliament:

- adopts the Statutory Instrument No. 44 and Statutory Instrument No. 45. Statutory No. 44 deals with the enlargement of time for registration and No. 45 deals with the enlargement of time for exhibition;
- owing to the fact that Instruments No. 43 and No. 46, as already agreed by this House, are not properly before the House be withdrawn, so that they could be looked into and make the necessary amendments while the electoral processes continue. We don't want to alter the elections calendar and that is why we are now calling on the office of the Attorney-General and the NEC to go back and look at those Instruments again. After they would have done all the necessary amendments, they have to bring those documents again to Parliament for ratification.

With those few words, Mr Speaker, Honourable Members, I want to thank you for your comments and observations. I want to ask this Honourable House to adopt my proposal. I thank you very much.

THE SPEAKER: Well, there are two proposals we should adopt as a Parliament. I would want to say that having regard to our rules and procedures, there is no need for a motion because they are Statutory Instruments. They have been laid and they

have a mandatory period. As long as the process is not interrupted by any motion, we allow them to go on until the period expires. Do you agree, Honourable Member?

HON. SUAHILO M. KOROMA: Yes, Mr Speaker.

THE SPEAKER: That is the position.

HON. SUAHILO M. KOROMA: Just to make a clarification, Mr Speaker.

THE SPEAKER: No, that is the position.

HON. SUAHILO M. KOROMA: Thank you. I agree, Mr Speaker.

THE SPEAKER: With regards to Instruments No. 46 and No. 43, at this juncture, if you so agree, I would like to invite the Attorney-General and Minister of Justice to the podium. Alternatively, we break up for the time being and allow you to go to Committee Room No. 1 for further consultations.

HON. CHERNOR R. M. BAH: Mr Speaker, there is no more need for us to go to Committee Room 1 because Parliament is speaking with one voice. We have a consensus and our position has been made very clear.

THE SPEAKER: Mr Attorney General, please take your seat for the time being. Honourable Dickson Rogers, I have no intention to hold further consultations, but some degree of blame has been cast on him that he delayed to lay these Instruments on the Table of the House. I do not really want to share that because the NEC should be held responsible. We do not know what could have transpired, but when documents are usually sent to the office of the Attorney-General, they normally take some time in that office. Sometimes so many confrontations take place. I am holding no brief from him. I hope I am clearly understood?

Mr Attorney-General and Minister of Justice, I hope you have been following the debate. The question is do you think it is proper to withdraw these two documents since it has been accepted that they are not properly before the House?

MR JOSEPH FITZGERALD KAMARA [*Attorney General and Minister of Justice*]: Mr Speaker, Honourable Members, let me cease this opportunity to thank you so much for allowing me to be here this morning and to address the issues that have been put to me by the Speaker of this House. I want to crave the indulgence of

this Honourable House to make a few statements that concern the office of the Attorney-General. I come here not to defend or to cast aspersions, but to help the process. Three issues have been drawn to my attention in my capacity as Attorney-General and Minister of Justice. The first issue has to do with the time the said documents were submitted to this House. When these documents relating to boundaries delimitations were submitted to my office, it was based on provisional census results and in deference to this House, I will not bring provisional census results to this House. It was in January that Statistics Sierra Leone finalised the results. We could not come before this House before the proclamation of His Excellency the President or the Electoral Commissioner of NEC which came about on the 14th February, 2017. Thereafter, we started working on these documents. And when we finished working on the documents, they have to be gazetted for not less a period of 9 days as per law demands. So, if we make the computation from the 14th for a period of 9 days, it brings us close to the end of March. I think there has not been any unreasonable delay in the process.

Having said that, Mr Speaker, Honourable Members, the next issue I wish to address is the mode of initiation of the legislation. My attention has been drawn that the documents ought to have been in the form of a Bill and not by Constitutional or Statutory Instruments. The laws governing the elections in Sierra Leone are based on the Sections 31 to 39 of the 1991 Constitution of Sierra Leone. And any powers exercised under the Constitution by way of a review, revision are constitutional instruments and that is why we have the constitutional instrument for the delimitation of Constituencies.

Mr Speaker, Honourable Members, with regards to the powers being derived from an Act of Parliament, we have to deal with them by Statutory Instruments and that is why we have these Statutory Instruments for the Wards/Boundaries Delimitation Order. Mr Speaker, because we have different processes, two of those different processes dictate how we should appear before this Honourable House and that is why the first ones are Constitutional Instruments and the second ones are Statutory Instruments.

Mr Speaker, Honourable Members, having laid that to rest that we are properly before this House procedurally, we look at the process of legality or the unconstitutionality of the process. I do not want to go into the debates, but let me hasten to state here that I have heard brilliant speeches from both sides of the aisles. However, let me preface my debate that we are all here to ensure that the will of the people is guaranteed; and if that is the pursuit and purpose of us being here to ensure that we get what we want for the people and Government of Sierra Leone, the Office of the Attorney General will not serve as a stumbling block. For the purposes of the law, the office of Attorney-General and Minister of Justice has examined the correctness and validity of the law and I must state here that it is our considered opinion that the necessary processes were followed. Let me use the opportunity to refer to Section 38, Subsection 5, which has been the principal legal instrument of that argument. Without changing the conclusions of this House, I just want to take the opportunity to be heard regarding that issue. With the permission of the Speaker, Sub-section 5 of section 38 reads: **"Where the boundaries of any Constituency are altered in accordance with the provisions of this Section, [i.e. the provisions of Section 38], that alteration shall come into effect upon the next dissolution of Parliament."** I emphasise, 'upon the next dissolution of Parliament after the alteration has been approved by Parliament.'

Mr Speaker, Honourable Members, this provision deals with a whole process and not a single event; i.e., the process commencing from the laying of the document to the dissolution of Parliament. And the dissolution of Parliament is tied with the approval and Parliament because it is only Parliament that has the authority to approve, disapprove, address, review and revise within that period, but beyond that time, it cannot and this is the period under consideration. However, it is now a question of interpretation. It is the considered opinion of the Law Office, the Principal Legal Adviser to Government that the instruments which are laid are correct under the law, but for the purposes of argument, to agree that there could have been some flaws means that the process ought to have been triggered by the approval of Parliament before the registration exercise.

THE SPEAKER: Mr Minister that is the crux of the matter.

MR JOSEPH FITZGERALD KAMARA: Certainly, Mr Speaker. Mr Speaker, Honourable Members, for the purposes of argument, we now have a scenario because the registration process has commenced and the arguments are legitimately raised by Members of Parliament. This is the first time we are having a dual registration exercise in Sierra Leone; i.e., the civil and voter registrations. This is different from any other elections in this country. It was this House of Parliament that passed the National Civil Registration Act. The challenge we have before us is the fact we have parallel registration processes. The one is recognised under the National Civil Registration [NCR] and the one under the Constitution with NEC but with a single process of registration. Upon my registration, the title of the slip that was given to me is Civil and Voter Registration... - *[Interruption]*.

[Suspension of S.O 5[2] being 12:00]

MR JOSEPH FITZGERALD KAMARA: Mr Speaker, having examined the position of the dual registration and having approved the NCR Act by this House, this is the more reason we are undertaking these exercises. It is a registration for which the questionnaire is part of the schedule that has been approved by this House, Schedule 1 to the National Civil Registration Act. That is the process that is ongoing. The challenge we have on the way forward is that should we withdraw both pillars of instruments from this House? It is like two wheels of a chariot; we will be removing the wheels from the chariot and the chariot will collapse and what we call the chariot here is the registration. The process that we are undertaking goes together with the Constituency requirement.

Mr Speaker, Honourable Members, as I was listening to the debate, it appeared as if this Honourable House has agreed that the registration process should continue and I absolutely agree with that decision. Now in moving forward, I want to state here that the Civil and Voter Registration are now inseparable twins. They are symbiotic and to withdraw any of these instruments will collapse the registration process. Mr Speaker, while other members may disagree, we will come back to the same conundrum that we are facing now. In other words, withdrawing these documents and continue the registration will raise questions of doubt and I must inform this House that will be the time the people of this country will be very concerned.

Mr Speaker, Honourable Members, the mover of this motion highlighted Statutory Instruments No. 43 and 46 to be accepted by the House. The Honourable Speaker drew our attention to the fact that they are Statutory Instruments and a Constitutional Instrument. They would remain laid until such a time because it has already been moved it would not become law because the process is in transit. Concerns have been raised, the NEC will go back to the drawing board and will pay attention to those issues that affect the amalgamation and the de-amalgamation and address those issues before Instruments Nos. 43 and 46 eventually become law.

Mr Speaker, Honourable Members, the suggestion to say that we hang on to the process until we finish the redistricting is another way of delaying the entire process because the districting process will not finish soon. What will the public and the people of Sierra Leone say? It is another way of delaying the electioneering process. I said it is difficult because even to the situation of deciding which district would be the district capital is a significant debate. That has not been decided and by the time we finish the entire process, it would take us to November and what excuse are we going to give to the people of Sierra Leone for that delay.

Mr Speaker, Members of Parliament, as I said earlier, these two documents are like a chariot on two wheels. They would remain laid and we would work assiduously to ensure that we comply with the issues that have been raised by this House. But to make it contingent that until all those matters are been addressed, i.e., the de-amalgamation, it is a process that will not finish soon. It will take months to complete the process. We have to be real and accept the reality of circumstances. In that light, I want to humbly suggest that with regards to the two Instruments, they remain laid and we will go back to the drawing board, including the NEC and Statistics Sierra Leone. To throw them out or withdraw them, will definitely have technical difficulties with the validity of the registration process. I thank you very much sir.

THE SPEAKER: Mr Attorney General and Minister of Justice please sit down. Mr King, please take the mike and tell us the number of days left for these Instruments to become law.

MR CYRIL F. KING [*Director of Legislative Services*]: Three days, Mr Speaker.

THE SPEAKER: When do they expire?

MR CYRIL F. KING: On the 6th April, 2017.

THE SPEAKER: Mr Attorney General, do you get that? Can we possibly do anything now to correct anything that has been considered wrong within these three days?

MR JOSEPH FITZGERALD KAMARA: Mr Speaker, Honourable Members, in the next three days, what would become law would be that which has been approved by this House and for the other two, as long as there is a motion before this House, they remain laid.

THE SPEAKER: Mr Attorney General, I beg to disagree. That has been a big misunderstanding in Parliament and I want you to listen very carefully. Honourable Members, where an Instrument has been laid, be it Statutory or Constitutional, as long as it is not challenged, it becomes law after it has run its full course. On the other hand, the rule is that if you challenge it on any strong point or if you have cogent reasons to disagree, it must be annulled and for it to be annulled, the vote must be two thirds. If no vote is taken and you allow the Instrument to run its full course, it is a law. That is the position and it is on that reason I disagree with you.

HON. CHERNOR R.M. BAH: Thank you very much, Mr Speaker. Mr Speaker, Honourable Members, I just want to add to what you have just said. The Attorney-General and Minister of Justice has been very brilliant. His submission has been very good, but we must also bring to his notice that this House does not have the power to amend a Statutory Instrument. It is either we accept or we reject and since these are Statutory Instruments, keeping them here will be of no use because whatever document they will bring here, it is going to replace them. Therefore, that is why we use the word 'annul' and not amend. We cannot amend it.

THE SPEAKER: Honourable Members, all of us have heard the Attorney-General. He has dilated eloquently on the issue before us.

HON. ANSUMANA J. KAIKAI: Mr Speaker, Honourable Members, if this issue was an ordinary issue, I would have said to have it held in abeyance for the next three days, so that the Attorney-General and Minister of Justice can go and tidy it up and

bring it back before the expiration of the 21 days you talked about. But the fact of the matter is that it is now before the House and it has to be dealt with. It cannot be amended; therefore, the Attorney-General and Minister of Justice, being who he is and Parliament being who we are, must find a consensus today because time is not on our side. In that regard, what I think should happen is to agree with the Deputy Speaker on this matter and I am calling on the Attorney-General to agree with the Deputy Speaker, so that within the next 72 hours; i.e., Friday 7th April 2017, April 2017, will be the 21st date. Therefore, as far as I am concerned and because we want the process to continue, we do not want the process to be derailed. The Attorney-General and the NEC must now go to work and tidy up this situation. That is my proposal.

THE SPEAKER: Honourable Members, we seem to be delving too much on the issue of 'not to derail the process.' What should be our principal concern is not to indulge in anything that is illegal. We should not be seen to legalise an illegality.

HON ANSUMANA J. KAIKAI: Mr Speaker, that is why I said that maybe if the Deputy Speaker agrees with me that this matter be held in abeyance for the next 48 hours.

THE SPEAKER: Okay, Mr Attorney General, is there any harm legally to withdraw this document?

MR FITZGERALD KAMARA: Mr Speaker, as I see it and in my humble submission, the harm is that it will affect the registration process. The manner in which the registration is being conducted is based on the constituencies as altered. Withdrawing it would remove the base for the registration process, meaning the entire edifice collapses. Therefore, we will come back after the expiration of the 21 days period.

HON. CHERNOR R. M. BAH: Mr Speaker, what I said was a decision we took as a Parliament. Therefore, I want to encourage this House to do it collectively. But most importantly, the Attorney General and Minister of Justice spoke about the two wheel chariot. I want to state here that it is not applicable in this scenario. These are not laws but proposals.

THE SPEAKER: I think the analogy appears to be appropriate. It is an analogy.

HON. CHERNOR R. M. BAH: It is that analogy I want to refer to, Mr Speaker. The two wheels are not in existence because the Statutory Instruments are yet to become law. Therefore, what is currently going on is based on a proposal. It cannot be a wheel. It might be a spare wheel, but not a wheel. He is my brother and he knows that very well. In fact, he has said that the lesser we go into the details, the better for all of us. That is why I have decided to go directly to the point. He and I spoke this morning and he gave me his views on the issue and I gave him mine. He said that Parliament has an opinion and he has his own opinion. But for today, Parliament will prevail by taking the final decision. If there are further questions, those questions will be for the Supreme Court, not for us, nor for the Executive.

THE SPEAKER: This issue is becoming more and more protracted. In the circumstance, Honourable Members, I would here advise that you go and consult with the NEC and you come back on Thursday. Thursday is the last day.

HON. SUAHILO M. KOROMA: Thank you, Mr Speaker. Mr Speaker, Honourable Members, I want to agree with what you have just said. I am not a Lawyer, but I just want to put something to the Floor of this House. I am a lawmaker and not a Lawyer. We have all agreed that on the 6th April, 2017, this instrument would become law if it remains laid.

THE SPEAKER: The question of time does work. So, within the 21 days, anything that you want to do should have been concluded before the expiration date and that is the law.

HON. SUAHILO M. KOROMA: Thank you, Mr Speaker. I was just going to make a suggestion to this Honourable House. I have two scenarios I want to share with the House. What if this Honourable House allows these Instruments to become law after the date, they will no longer be deemed as Statutory Instruments.

THE SPEAKER: Honourable Members, please be patient. What Honourable Suahilo M. Koroma is saying does make some sense. After 21 days from now to the expiration of the mandatory of statutory period, they become laws. In effect, therefore, what he is trying to say is that even where it would have become law,

Parliament has a right to look into it with the view of either revisiting it or otherwise. To me, it does make sense.

HON. SUAHILO M. KOROMA: That is the first scenario. The second scenario is that we are now faced with constitutionality and political issues. This electoral calendar is highly political; therefore, I would like to suggest here that the leadership of this House, all relevant Ministries, Departments and Agencies and even the NEC to have brief consultative meeting with stakeholders on electoral management. This is about the country, Honourable Members and if we have to be consultative on this issue within the next 48 hours, we will come with positive results that can serve the people of this country. Thank you very much, Mr Speaker.

THE SPEAKER: Mr Attorney General and Minister of Justice, what I would want and what I would want to ask for in the interest of the nation is that there has been a very serious flaw. Let us see if there is anything that can be done to control the damage as it were. Please be reminded and please record that to control the damage as it were.

HON. PATRICIA U. DANCAY BANGURA: Mr Speaker, I would like to draw the attention of this House to Section 106 subsection 5 and I read Mr Speaker: **"No law made by Parliament shall come into operation until it has been published in the Gazette, but Parliament may postpone the coming into operation of any such law and may make laws with the coming into operation of any such law and may make laws with retroactive effect."**

THE SPEAKER: Honourable Member, that is noted and it is not news anymore. Honourable Members because of the exigency of the situation, instead of Thursday, I would now want to adjourn the sitting of Parliament to Wednesday, 5th April, 2017.

ADJOURNMENT

[The House rose at 12:25 p.m. and was adjourned to Wednesday, 5th April, 2017 at 10:a.m.]