12th November, 2025

FOR IMMEDIATE RELEASE

STATEMENT ON THE NOMINATION AND VETTING OF JUSTICE PAUL BAFFOE-BONNIE AS CHIEF JUSTICE

I. NATURE AND BASIS OF THE STATEMENT

The nomination of Justice Paul Baffoe-Bonnie to the office of Chief Justice arises at a time when seven separate judicial proceedings are pending before three different jurisdictions; the ECOWAS Court of Justice, the Supreme Court of Ghana and the High Court of Ghana, each challenging the legality and constitutional validity of the removal of Her Ladyship Justice Gertrude Araba Esaaba Sackey Torkornoo.

The constitutional question is straightforward: Can Parliament properly proceed to vet and approve a nominee for Chief Justice while the lawfulness of the very vacancy being filled remains under active judicial determination?

This question touches on the most delicate aspects of our constitutional order and the fundamental rights of citizens to effective judicial redress. It therefore requires nonpartisan reaction and sober reflection.

The Minority considers it a constitutional duty to make this position public and to invite the collective conscience of Parliament and the nation to reflect on the implications of proceeding under these circumstances.

II. THE FACTUAL MATRIX

A. Unprecedented Circumstances

For the first time since the adoption of the 1992 Constitution, a sitting Chief Justice has been removed under Article 146. The removal, effected on 1st September, 2025 following recommendations by a committee chaired by Justice Gabriel Pwamang JSC, has triggered unprecedented litigation questioning its constitutional validity, procedural regularity and legal effect.

Several of these actions were filed even before Her Ladyship's removal was completed. Despite those pending challenges, the process proceeded to conclusion. All matters remain unresolved before competent courts.

B. The Seven Pending Judicial Proceedings

1. ECOWAS Court of Justice

Justice Gertrude Torkornoo v. Republic of Ghana (Suit No. ECW/CCJ/APP/32/25) – An application for enforcement of fundamental human rights under the 1991 ECOWAS Protocol, seeking declarations for violation of fair hearing, human dignity and due process. The Attorney-General has filed no defence despite proper service. Her Ladyship has moved for default judgment, still pending.

2. Supreme Court of Ghana – Three Constitutional Actions under Article 2(1)

a. Vincent Ekow Assafuah v. Attorney-General (J1/18/2025) – A constitutional challenge filed by the MP for Old Tafo. The Supreme Court by 3:2 majority refused an interlocutory injunction but did not dismiss the substantive claim. No statement of case has been filed by the Attorney-General.

b. Centre for Citizenship Constitutional and Electoral Systems v. Attorney-General (J8/106/2025) – A civil-society challenge asserting violations of Articles 146(4) and (10)(a). By 4:1 majority, the Supreme Court refused interim relief but left the merits undetermined.

c. Chief Justice Gertrude Torkornoo v. Attorney-General (J8/113/2025) – Her Ladyship's own action seeking declarations that her suspension without a prima facie determination was unconstitutional. The Court, presided over by Acting Chief Justice Paul Baffoe-Bonnie, refused to enjoin the committee. The Attorney-General again filed no defence.

3. High Court of Ghana – Three Judicial-Review Applications

a. Chief Justice Gertrude Torkornoo v. Article 146 Committee (HR/0115/2025) – Challenging breaches of the audi alteram partem rule; struck out for want of jurisdiction; notice of appeal filed.

b. Ex parte Chief Justice Gertrude Torkornoo (Re: Attorney-General) (HR/0163/2025) – Application for certiorari on jurisdictional error in applying Article 146(6) rather than 146(4). No defence filed; no hearing date fixed.

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c. Ex parte Chief Justice Gertrude Torkornoo (Re: Attorney-General) (HR/0009/2025) – Application for certiorari to quash the committee proceedings for bias and to quash the stated reasons as unconstitutional and perverse under Articles 125(4) and 187(7). No defence filed.

C. A Pattern of Non-Defence

Across these seven proceedings, the Attorney-General—the State's chief legal officer—has filed no defences.

This is not oversight. It is an unmistakable pattern of delay designed to postpone judicial determination long enough for a new Chief Justice to be confirmed, rendering the pending cases academic.

D. Cumulative Constitutional Effects

The constitutional effect is serious. The very foundation upon which the "vacancy" rests remains contested before multiple courts, including the Supreme Court, the final arbiter of constitutional questions under Article 130 and the ECOWAS Court, an international tribunal whose jurisdiction Ghana has ratified.

To proceed with vetting while these threshold questions remain unresolved would be to construct a constitutional edifice upon shifting sand rather than solid ground.

III. THE STANDING ORDERS ENGAGED

The Standing Orders of Parliament are clear and binding. The matter before the House engages four key Orders, 103(f), 123(1), 217(2), and 216(4), together with the interpretative authority vested in Order 5.

A. Orders 103(f) and 123(1): The Sub Judice Rule

Order 103(f) provides that a Motion shall not be the subject matter of an action on which a judicial decision is pending if such action may prejudice the interests of parties before the court. Order 123(1) further prohibits references in parliamentary proceedings that could prejudice cases before the courts.

These provisions codify the sub judice principle. Their purpose is to prevent Parliament from prejudicing judicial determinations and to preserve the independence and dignity of the courts. Vetting and approving a nominee to replace

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a Chief Justice whose removal is challenged in seven active cases would directly and irreversibly prejudice those judicial proceedings.

If Parliament acts while the courts are seized of the matter, and those courts later declare the removal unlawful, Ghana would face a constitutional crisis of two persons each with a claim to the office of Chief Justice. Judicial remedies would be rendered meaningless. This is the very mischief the Standing Orders are meant to prevent.

B. Order 217(2): The Mandate of the Appointments Committee

Order 217(2) empowers the Appointments Committee to consider persons nominated by the President for appointment as Chief Justice. However, that power presupposes that a lawful vacancy exists. The Committee cannot lawfully proceed where the existence of that vacancy is itself the subject of pending litigation. Proceeding in such circumstances violate the sub judice rule and undermine constitutional comity.

C. Order 216(4): The Discretion to Defer Business

Order 216(4) preserves the discretion of the presiding authority to decide which matters are introduced and when. This authority includes the power to defer business where constitutional prudence so requires. In this case, prudence demands that the Committee pause until the courts determine the legality of the removal.

D. Order 5(1)-(3): Interpretative Authority

Order 5 vests the presiding authority with the power to interpret the Orders where doubt exists. The question before Parliament, whether it should proceed while seven judicial proceedings contest the vacancy, is one such case of doubt. The Standing Orders do not expressly address this situation, and interpretation consistent with the Constitution is therefore required.

E. Constitutional Consequences of Non-Compliance

Disregarding these Orders and proceeding with the vetting, have raised four constitutional consequences:

1. Violation of the sub judice rule.
2. Encroachment upon the Judiciary's constitutional mandate.
3. Erosion of public confidence in the rule of law.

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4. The risk of institutional conflict between Parliament and the courts.

A brief suspension until judicial resolution would have averted these outcomes and upheld both law and propriety.

IV. THE CONSTITUTIONAL PROVISIONS ENGAGED

Several constitutional articles bear directly upon this matter: Articles 125, 127, 144, 2, 19, 23, and 33.

A. Article 125(3): The Vesting of Judicial Power

Article 125(3) establishes the fundamental principle of separation of powers*: "The judicial power of Ghana shall be vested in the Judiciary and accordingly neither the President nor Parliament nor any organ or agency of the Executive shall have or be given final judicial power."*

For Parliament to proceed whilst courts remain seized of challenges to the removal would not be direct exercise of judicial power, but it would be parliamentary action that effectively pre-empts, nullifies, or renders academic pending judicial determinations—action that treats threshold judicial questions as resolved when they remain actively contested.

This offends constitutional separation of powers. Where the Supreme Court—the final arbiter of constitutional meaning under Article 130—has not yet pronounced on substantive constitutional challenges asserting removal was void, Parliament cannot prudently act as though that question is settled.

B. Articles 125(4), 127(1), and 127(2): Judicial Independence

These provisions enshrine judicial independence and impose positive obligations:

Article 127(2): *"...all organs and agencies of the State shall accord to the courts and tribunals such assistance as the courts and tribunals may reasonably require to protect their independence, dignity and effectiveness subject to this Constitution."*

Proceeding to vet whilst seven judicial proceedings challenge the removal would not constitute direct interference, but it would undermine the dignity and effectiveness

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of those proceedings. It would signal institutional disregard for the judicial process and create facts rendering judicial remedies illusory.

The appearance alone—that Parliament is acting to foreclose judicial determination of threshold constitutional questions—would gravely damage public confidence in the mutual respect and institutional comity that must exist between coordinate branches.

C. Article 144(1): Appointment of Chief Justice

Article 144(1) provides: *"The Chief Justice shall be appointed by the President acting in consultation with the Council of State and with the approval of Parliament."*

I do not suggest pending litigation strips the President of constitutional authority to nominate or deprives Parliament of responsibility to consider such nomination. However, Article 144(1) must be read harmoniously with Articles 125(3), 127(2), and 2(1).

Where courts remain seized of challenges asserting no vacancy lawfully exists, Parliament's exercise of its Article 144(1) approval function becomes constitutionally problematic—not because Parliament lacks power, but because exercising that power prematurely creates the very inter-branch conflict the separation of powers doctrine is designed to prevent.

A brief, measured pause does not violate Article 144(1). It respects Article 144(1) by ensuring Parliament ultimately exercises its approval function upon uncontested constitutional ground.

D. Article 2(1): Citizen Enforcement of the Constitution

Three of the seven proceedings are formal Article 2(1) constitutional enforcement actions. Article 2(1) constitutes the constitutional architecture of popular sovereignty—the mechanism by which citizens may directly vindicate the Constitution against encroachment by any organ of State.

When citizens invoke Article 2(1), they act as constitutional sentinels—private attorneys general enforcing the Constitution on behalf of the Republic and vindicating the public interest in constitutional fidelity.

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Article 2(1) necessarily implies that declarations obtained must be capable of having practical legal effect. But if Parliament acts to fill the office before the Supreme Court rules on whether the vacancy lawfully exists, any declaration in favour of these plaintiffs becomes pyrrhic—a remedy completely drained of all remedial content.

This would not merely prejudice individual plaintiffs—it would eviscerate the Article 2(1) rights of all citizens, transforming the constitutional right to enforce the Constitution into a hollow formality.

E. Articles 19(13), 23, and 33(1)-(2): Fundamental Rights

Right Honourable Speaker, the Constitution of Ghana provides comprehensive safeguards for the protection of civil rights and access to justice. These provisions establish the framework for fair adjudication, administrative fairness, and judicial remedies available to aggrieved persons. For ease of reference, kindly permit me to quote the relevant provisions.

Article 19(13) states: *"An adjudicating authority for the determination of the existence or extent of a civil right or obligation shall, subject to the provisions of this Constitution, be established by law and shall be independent and impartial; and where proceedings for determination are instituted by a person before such an adjudicating authority, the case shall be given a fair hearing within a reasonable time."*

Article 23 provides: *"Administrative bodies and administrative officials shall act fairly and reasonably and comply with the requirements imposed on them by law and persons aggrieved by the exercise of such acts and decisions shall have the right to seek redress before a court or other tribunal."*

Article 33, which deals with Protection of Rights by the Courts, states under Clauses (1) and (2) that *"Where a person alleges that a provision of this Constitution on the fundamental human rights and freedoms has been, or is being or is likely to be contravened in relation to him, then, without prejudice to any other action that is lawfully available, that person may apply to the High Court for redress."*

(2) *"The High Court may, under clause (1) of this article, issue such directions or orders or writs including writs or orders in the nature of habeas corpus, certiorari, mandamus, prohibition, and quo warranto as it may consider appropriate for the*

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purposes of enforcing or securing the enforcement of any of the provisions on the fundamental human rights and freedoms to the protection of which the person, concerned is entitled."

Taken together, these provisions guarantee fundamental rights to fair hearing, administrative justice, and effective judicial redress. It follows that Her Ladyship's right to hold judicial office absent constitutionally valid removal is manifestly a civil right of fundamental character.

The foregoing constitutional provisions guarantee not merely the formal right to file papers—that would be hollow formalism—but the substantive right to effective judicial intervention capable of providing meaningful remedial relief. Parliamentary action that effectively neutralizes pending judicial redress would contravene these constitutional protections.

V. PARLIAMENTARY PRECEDENTS: THREE AUTHORITATIVE RULINGS

Three rulings by successive Speakers establish clear precedent: Rt Hon Peter Ala Adjetey, Rt Hon Edward Doe Adjaho, and Hon Bernard Ahiafor.

A. The Rt Hon Peter Ala Adjetey Ruling

The foundational precedent was established by Rt Hon Peter Ala Adjetey, Speaker of Parliament, in a ruling addressing the sub judice principle. This ruling, referenced in the Official Report, Fourth Series, Volume 85, Number 1, Column 36, and subsequently cited with approval in later precedents, articulated the core constitutional principle:

"The Speaker may, in a particular case where it is quite obvious refuse to admit a Motion, especially when it is covered by a clear-cut case. For example, if you put forward a Motion affecting a matter which is pending in court directly, and it was brought to the knowledge of Mr Speaker, he is bound to draw attention to the fact that such a Motion cannot be properly debated by the House and therefore cannot be accepted."

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Application to Present Circumstances:

Rt Hon Ala Adjetey's ruling establishes that where a Motion or parliamentary proceeding "affect[s] a matter which is pending in court directly," the Speaker is constitutionally bound - not merely permitted, but bound - to prevent parliamentary consideration.

The vetting proceedings directly affect matters pending in seven judicial proceedings. The vacancy that Parliament is asked to fill is precisely what those proceedings challenge. This is not tangential or collateral effect - this is direct, core, threshold effect.

Moreover, Rt Hon Ala Adjetey clarified that the Speaker's duty arises when the pending litigation "is brought to the knowledge of Mr Speaker." Through this submission, the pending litigation is unequivocally brought to the knowledge of the Speaker. The constitutional duty articulated by Rt Hon Ala Adjetey therefore crystallises: that the Speaker of Parliament is bound to prevent parliamentary consideration.

B. The 2014 Merchant Bank Ruling

The second authoritative precedent appears in the same Official Report cited above, wherein the Speaker ruled on a Motion concerning the acquisition of Merchant Bank whilst litigation was pending before the courts. The Speaker, Rt Hon Edward Doe Adjaho, ruled:

"Indeed, I am yet to come across a situation in which both Parliament and the Judiciary are enquiring into the same matter simultaneously. Hon Members, what would be the effect if an investigation undertaken by Parliament as anticipated under the present Motion arrived at an outcome and a decision contrary to the outcome and decision of the court? It is therefore my ruling that a discussion of the Motion will prejudice the parties to various cases tentatively pending before the court."

Application to Present Circumstances:

This precedent directly addresses the mischief the present submission seeks to prevent: Parliament and the Judiciary simultaneously enquiring into the same constitutional question.

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The Judiciary, through seven proceedings across three jurisdictions, is actively enquiring into whether Her Ladyship's removal was constitutionally valid. Parliament, through vetting and approval proceedings, would necessarily make an implicit determination that the removal was valid - for only upon that premise can a vacancy exist to be filled.

The Speaker's rhetorical question in the 2014 ruling is devastatingly applicable: *"What would be the effect if [Parliament's action] arrived at an outcome and a decision contrary to the outcome and decision of the court?"*

If Parliament approves the nominee, thereby implicitly affirming the removal's validity, and the Supreme Court subsequently declares the removal void ab initio, the constitutional crisis would be catastrophic: two persons with colourable claims to the office of Chief Justice, irreconcilable institutional determinations, and the complete erosion of public confidence in coordinate branches' mutual respect.

This is precisely the constitutional harm the 2014 precedent recognised and prevented. That precedent compels the same result here.

C. The Bernard Ahiafor Ruling of 5th March 2025

The most recent and directly applicable precedent was delivered by Hon Bernard Ahiafor, First Deputy Speaker, on 5th March 2025, when he sustained an objection to the moving of Private Member's Motion No. 16 calling for parliamentary inquiry into dismissals of public sector workers. The ruling appears in the Official Report and warrants extensive quotation for its direct applicability:

"Hon Members, the Motion in question was duly admitted by the Speaker and accordingly programmed to be taken today. Hon Members, the criteria for admitting Motions in the House are very clear and the conditions for admitting Motions are provided in Standing Order 103 of this House. I am quite certain that at the time of filing the Motion, the conditions spelt out in Order 103 above quoted were delimited.

However, when the Motion was about to be moved, there was a preliminary objection and the attention of the House has been drawn to a lawsuit pending before the Supreme Court… This action is challenging the constitutionality of the action of the Chief of Staff, seeking for declaration and prohibition among others…

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Hon Members, given our constitutional and procedural arrangement, permitting the Motion and subsequent debates on the matter in question or constituting or mandating a Committee of this House to do enquiry into the same matter will be a direct violation of our own Standing Orders, particularly Standing Order 103(f).”

The First Deputy Speaker then quoted Orders 103(f) and 123(1) in full, and concluded:

“Hon Members, I am of the considered view that the Motion and subsequent debate on the Motion may lead to comments that are sub judice.

Hon Members, in line with the stated Orders, it is my considered opinion that the matter is sub judice. Thus, permitting any deliberation on same and formation of a Committee to enquire into the said matter would prejudice the interest of the parties to the action.”

Critically, the First Deputy Speaker then applied both the Rt Hon Ala Adjetey precedent and the 2014 Merchant Bank precedent, quoting them extensively before concluding:

“Hon Members, regarding the Motion at hand, I am reliably informed that at the time the Rt Hon Speaker admitted the Motion, the fact of an action pending at the Supreme Court regarding the subject matter was not brought to his attention. Based on the above precedence, the House must stay its hand off the Motion and allow other organs of State properly mandated under the 1992 Constitution of the Republic of Ghana, that is the Judiciary, to deal with the matter. Accordingly, the Motion and subsequent debate on it is stayed pending the determination of the matter by the Supreme Court.

Hon Members, accordingly, the objection is sustained. The Motion therefore cannot be moved. I so rule.”

Application to Present Circumstances:

The Bernard Ahiafor ruling of 5th March 2025 is the most directly applicable precedent. The parallels are remarkable and compelling:

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1. Admission Does Not Preclude Subsequent Stay

The First Deputy Speaker ruled that even though the Motion had been duly admitted and programmed, the subsequent raising of pending litigation required staying the Motion. Similarly, even if the President's nomination has been formally submitted and the vetting scheduled, this does not preclude - indeed, the precedent requires - staying the proceedings once pending litigation is brought to your attention.

2. Parliamentary Action Would Prejudice Parties

The First Deputy Speaker held that "permitting any deliberation on same and formation of a Committee to enquire into the said matter would prejudice the interest of the parties to the action." Here, permitting vetting by the Appointments Committee and approval by Parliament would far more severely prejudice parties - it would render their judicial remedies utterly meaningless by creating an irreversible fait accompli.

3. The House Must "Stay Its Hand"

The operative language is unequivocal: "the House must stay its hand off the Motion and allow other organs of State properly mandated under the 1992 Constitution of the Republic of Ghana, that is the Judiciary, to deal with the matter."

This formulation directly applies to present circumstances. The Judiciary - specifically the Supreme Court (the final arbiter of constitutional questions), the ECOWAS Court (with binding treaty jurisdiction), and the High Court (with judicial review jurisdiction) - is properly mandated to determine whether Her Ladyship's removal was constitutionally valid. Parliament must stay its hand and allow the Judiciary to complete that determination.

4. Stay Pending Supreme Court Determination

The First Deputy Speaker ordered that the Motion "is stayed pending the determination of the matter by the Supreme Court." This is precisely the relief this

AAM

submission seeks: stay vetting pending determination of the seven proceedings, three of which are before the Supreme Court itself.

5. Preventing Parallel Enquiries into the Same Matter

The Bernard Ahiafor ruling, citing the 2014 Merchant Bank precedent, emphasized the constitutional impropriety of Parliament and the Judiciary simultaneously enquiring into the same matter. That mischief exists here in aggravated form: not one but seven judicial proceedings challenging the removal, and Parliament proposing to affirm the removal's validity by filling the purported vacancy.

D. The Precedential Synthesis: Three Rulings, One Principle

These three precedents - spanning from Rt Hon Peter Ala Adjetey through the 2014 Merchant Bank ruling to the 5th March 2025 Bernard Ahiafor ruling—establish a clear, consistent, and binding line of parliamentary authority:

The Principle:

Where judicial proceedings directly challenge the constitutional validity or legal effectiveness of the matter upon which Parliament proposes to act, and those proceedings remain pending before courts of competent jurisdiction, Parliament must stay its hand pending judicial determination to avoid:

1. Violating the sub judice rule embodied in Orders 103(f) and 123(1)
2. Prejudicing the interests of parties to pending litigation
3. Creating parallel and potentially conflicting determinations by coordinate branches
4. Rendering judicial remedies academic and meaningless
5. Undermining separation of powers and judicial independence

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The Precedential Mandate:

All three precedents compel the conclusion that vetting proceedings must be stayed. The present circumstances are not distinguishable from those precedents—they are more compelling than those precedents, for they involve:

- Not one pending case but seven
- Not ordinary litigation but constitutional challenges under Article 2(1)
- Not peripheral matters but the threshold question of whether the office is even vacant
- Not a single jurisdiction but three (ECOWAS Court, Supreme Court, High Court)
- Not ordinary parliamentary business but appointment to the most important judicial office in the Republic

If a Motion calling for parliamentary inquiry must be stayed when one Supreme Court case challenges related matters (Bernard Ahiafor ruling), then a fortiori, vetting proceedings to fill the office of Chief Justice must be stayed when seven judicial proceedings across three jurisdictions directly challenge whether that office is even vacant.

E. Stare Decisis and Institutional Consistency

The doctrine of stare decisis - adherence to precedent - serves crucial institutional values: consistency, predictability, equality of treatment, and public confidence that rules apply evenhandedly regardless of political circumstances.

Parliament has thrice ruled, through successive Speakers exercising Order 5 interpretative authority, that where litigation directly challenges the matter upon which Parliament proposes to act, Parliament must stay its hand pending judicial determination.

To decline to apply these precedents to present circumstances - circumstances far more compelling than those in prior cases - would be to abandon stare decisis, treat

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like cases differently, and signal that parliamentary rules apply differently depending on political considerations.

Conversely, to apply these precedents faithfully would demonstrate institutional consistency, vindicate the rule of law, and assure the public that this Honourable House respects its own precedents and acts upon principle rather than expediency.

VI. THE PRINCIPLE OF CONSTITUTIONAL COMITY

Beyond specific constitutional provisions and parliamentary precedents lies a fundamental structural principle: the principle of comity between coordinate branches of government.

The Executive, Legislature, and Judiciary are not rivals competing for supremacy but coordinate branches - each supreme within its constitutional sphere, each bound by the Constitution, each obliged to respect the legitimate constitutional functions of the others.

Proceeding to vet whilst the Supreme Court, the ECOWAS Court, and the High Court all remain seized of challenges would not serve constitutional comity - it would undermine it. It would signal that Parliament regards these pending judicial proceedings as inconsequential obstacles to be worked around.

A brief pause to await judicial determination serves constitutional comity, demonstrates Parliament's respect for the Judiciary's constitutional role, and ensures Parliament acts in harmony with judicial determinations.

VII. PRECEDENTIAL CONSIDERATIONS: WESTMINSTER PARLIAMENTARY PRACTICE

Order 5 of the Standing Orders allows reference to House of Commons practice where doubt arises. The Westminster model, from which Ghana's parliamentary system derives, provides enduring guidance on matters of sub judice.

At Westminster, Parliament voluntarily restrains itself from debating or acting upon matters pending before the courts. Erskine May, Parliamentary Practice (26th ed.), paragraph 20.11, states:

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"The House has resolved that no matter awaiting adjudication by a court of law should be brought before it. This covers both the content of Members' speeches and the subject matter of motions and questions. Matters currently before the courts cannot be raised in a motion or amendment save where legislation is under consideration."

A specific instance from the UK Parliament reinforces this rule. In the session 1969 - 1970, a notice of motion relating to a conviction was withdrawn when an appeal was lodged and reintroduced only after the appeal was determined. The logic was clear - Parliament must not run ahead of the courts.

Ghana's Parliament, built upon Westminster traditions, is bound by the same prudence. The purpose is to prevent prejudice to litigants and avoid institutional embarrassment. Vetting a nominee while the legality of the vacancy remains under judicial review would contravene that prudence.

If even the sovereign Parliament of Westminster restrains itself to preserve comity with its Judiciary, Ghana's Parliament, operating within a constitutional framework of separated powers must do no less.

VIII. ADDRESSING POTENTIAL COUNTERARGUMENTS

It might be argued that because the Supreme Court refused interlocutory injunctions in Assafuah (3:2) and CENCES (4:1), the Court signalled that Parliament may proceed.

This fundamentally misconstrues those rulings. The Supreme Court refused interlocutory injunctions. The Court did not dismiss the substantive constitutional challenges or rule on the merits. The cases remain pending awaiting substantive determination.

Refusal of interlocutory injunction merely indicates the Court's view that the balance of convenience did not favour halting the removal process pending trial. It says nothing about ultimate merits. Many cases where interlocutory injunctions are refused ultimately succeed on substantive merits.

Moreover, those rulings concerned whether to judicially enjoin the Article 146 process. This submission does not seek judicial compulsion of Parliament but invites

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Parliament, through your interpretative authority under Order 5, to exercise its own discretion to pause.

Courts move with reasonable dispatch on constitutional cases of national importance. The ECOWAS Court, Supreme Court, and High Court can expedite these matters if the State engages seriously rather than deploying delay tactics by refusing to file defences.

Moreover, Justice Baffoe-Bonnie continues as Acting Chief Justice pursuant to Article 144(6). The Judiciary is not leaderless. There is no constitutional crisis from a brief pause. What would create genuine crisis is Parliament installing a new Chief Justice and courts subsequently declaring the removal invalid - resulting in two persons with colourable claims to the same office.

This conflates distinct constitutional functions. The President's power to nominate under Article 144(1) remains unimpaired and is not challenged. The President has exercised that power by nominating Justice Baffoe-Bonnie.

Parliament's approval function, like all constitutional powers, must be exercised consistently with other constitutional provisions - including separation of powers, judicial independence, the sub judice rule, and respect for pending judicial processes.

It is anticipated that opponents of the present application may seek refuge in the Supreme Court's recent decision in Vincent Assafuah vs Attorney General, contending that the Court's refusal of interlocutory relief constitutes judicial benediction for Parliament to proceed apace. Such reliance would represent not merely an error of law, but a fundamental misconstruction of both the ratio decidendi and the constitutional architecture underpinning that decision.

In Vincent Assafuah, the Supreme Court declined to grant an interlocutory injunction that would have restrained the processes for removing Her Ladyship Justice Torkornoo from office. However, the trained legal mind will immediately apprehend that the Court's determination turned entirely upon the narrow question of whether temporary judicial relief should issue not upon the substantive validity of the removal proceedings themselves.

The Court's reasoning, properly understood, rested upon the refined application of the Moffat principle to cases involving constitutional duty bearers. At paragraphs 88

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through 92, their Lordships articulated a doctrine of considerable constitutional sophistication:

Without the introduction of "useful nuance" in applying the Moffat principle, the Court observed, litigants might weaponise interlocutory applications to frustrate the discharge of essential governmental functions through tactical litigation. The Court held, with admirable clarity, that in cases concerning the discharge of constitutionally or statutorily mandated functions by designated actors, *"it would be utterly imprudent to adopt a blanket rule that mere service of an application for interlocutory injunction suffices to halt constitutional or statutory action which presumptively, would inure to the collective interest of the public."*

Most significantly, the Court declared that *"nothing short of an express judicial grant of an injunction"* would suffice to restrain a constitutional duty bearer whose actions are presumptively aligned with constitutional mandates.

This is a ruling of considerable constitutional moment - but it is emphatically not a determination on the merits. The Court refused temporary relief; it did not pronounce the Article 146 process valid, lawful, or immune from subsequent judicial condemnation.

Here lies the exquisite irony: the very principles enunciated in Assafuah strengthen rather than undermine the case for parliamentary restraint.

The Supreme Court's anxiety was directed toward preventing vexatious or frivolous litigation from paralysing the machinery of government. Yet their Lordships were at pains to preserve judicial authority in matters of genuine constitutional urgency. At paragraph 94, the Court recognized with characteristic judiciousness:

"We are not unmindful of the fact that certain matters may require immediate injunctive relief due to their time-sensitive nature. In such exceptional constitutional cases, the Supreme Court, given its critical constitutional role, can be empanelled to hear the application immediately, without delay."

This acknowledgment is not mere judicial rhetoric. It reflects a profound constitutional truth: some matters possess such gravity that they demand immediate judicial determination, and the Court retains the institutional capacity to provide it.

Moreover, at paragraph 95, the Court articulated its "balanced approach" as one that "ensures that while the courts uphold the rule of law, they also prevent procedural abuse that could needlessly stifle, disrupt and/or frustrate governance. It preserves judicial integrity while safeguarding the continuous and unimpeded performance of constitutional and statutory functions undertaken for our collective welfare."

Mark well those words: "judicial integrity" and "continuous and unimpeded performance of constitutional functions." The Court sought to harmonize, not subordinate, these constitutional imperatives.

The Assafuah decision addressed whether the courts should judicially compel Parliament to halt its processes. The Supreme Court, with proper regard for separation of powers, declined to issue such compulsion. To do so would have been for the Judiciary to arrogate to itself the power to micromanage Parliament's discharge of its constitutional mandate - an overreach that would have violated the very principle of institutional respect the Court sought to vindicate.

The present application operates in an altogether different constitutional sphere. This submission does not invite, still less demand, judicial superintendence over Parliament. Rather, it appeals to Parliament's own constitutional conscience, exercised through the Speaker's interpretative authority under Order 5 of the Standing Orders.

We do not ask: "Must Parliament be judicially restrained?" We ask instead: "Should Parliament, in the exercise of its own constitutional discretion and fidelity to rule of law principles, elect to pause?"

The Assafuah Court's holding that constitutional duty bearers ought not be paralyzed by the mere pendency of applications presupposes that those duty bearers will themselves exercise considered constitutional judgment. Parliament is not an automaton, mechanically processing Presidential nominations in constitutional blind spot. Parliament exercises discretion - and that discretion must be informed by constitutional values, including respect for pending judicial proceedings and the foundational principle that no person should be condemned unheard.

The Supreme Court's invocation of Article 64(2) merits particular attention. Their Lordships cited this provision, which preserves presidential acts even if a

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presidential election is subsequently invalidated as illustrative of constitutional continuity principles.

From this, the Court at paragraph 93 concluded *"there is no jurisprudential basis for halting or suspending the operation of the constitution by the mere filing and service of an application for interlocutory injunction."*

If Article 64(2) preserves actions taken before invalidation precisely because the Constitution contemplates interim continuity, it does so to mitigate chaos that would otherwise ensue. Yet the very existence of such a provision acknowledges that constitutional actors sometimes proceed, and are subsequently found to have proceeded unlawfully. The Constitution tolerates this risk in the presidential context because to do otherwise would create governmental paralysis.

However, that constitutional tolerance of risk does not constitute constitutional encouragement to create irreversible facts. Article 64(2) operates as a damage-limitation provision; it is not an invitation to constitutional recklessness.

The nightmare scenario that Article 64(2) addresses - two persons with competing, colourable claims to the same constitutional office following judicial invalidation - is precisely the constitutional calamity that parliamentary restraint would prevent in relation to the office of Chief Justice.

Are we truly to court that catastrophe when prudence, constitutional comity, and basic fairness counsel otherwise?

Vincent Assafuah vs Attorney General stands not as authorization for parliamentary haste, but as an affirmation that constitutional duty bearers must exercise their functions with fidelity to constitutional values, including respect for judicial processes.

The Supreme Court declined to impose judicial restraint upon Parliament. That refusal assumes Parliament will exercise its own institutional restraint, informed by constitutional principle. The decision contemplates not judicial micromanagement, but parliamentary constitutional statesmanship.

That was precisely what this humble application of the Minority was: not capitulation to judicial diktat, but the exercise of Parliament's own constitutional wisdom in recognition that some matters are so grave, so laden with constitutional

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consequence, that prudence dictates pause until clarity emerges from the judicial process.

IX. THE ATTORNEY-GENERAL'S BAD FAITH

There exists an independent and deeply troubling ground that fortifies the case for parliamentary restraint: the Attorney-General's conduct in the pending constitutional litigation reveals not mere administrative inefficiency, but a calculated stratagem to frustrate judicial oversight through systematic delay whilst the political branches create irreversible constitutional facts.

In Suit No. J1/18/2025, Vincent Ekow Assafuah v Attorney-General, the Attorney-General filed an affidavit seeking extension of time to file his statement of defence. In that sworn affidavit, placed before the Supreme Court of Ghana, the Attorney-General pleaded that *"due to administrative procedures and arrangements attendant to the 2025 presidential transition and the subsequent compulsory retirement of the Solicitor-General, a timeous response to the statement of the Plaintiff's case was impracticable."*

We are asked to accept that "administrative procedures" rendered it "impracticable" to respond to a constitutional challenge concerning the removal of the Chief Justice of Ghana, a matter of the most national significance and constitutional gravity. We are asked to believe that the entire machinery of the Attorney-General's Department, staffed with qualified State Attorneys and supported by considerable institutional resources, was so overwhelmed by transitional arrangements that filing a Supreme Court defence became "impracticable."

Yet, during the very same temporal window in which the Attorney-General professed administrative incapacity to meet Supreme Court filing deadlines, he somehow discovered abundant time, energy, personnel, and institutional resources to convene at least two elaborate press conferences and media briefings. At these publicised events, the Attorney-General subjected past government officials to unrestrained media trial, publicly characterising them as criminals and accusing them of stealing from the public purse, all without any court determination, judicial finding, or semblance of due process.

AAM

This is not isolated misconduct. It forms part of a discernible and systematic pattern. The Attorney-General has refused to file defences in no fewer than seven proceedings of transcendent constitutional importance - proceedings that directly challenge the validity of Her Ladyship's removal.

This cannot be dismissed as inadvertent oversight or bureaucratic inefficiency. The pattern reveals calculated strategy: delay judicial determination sufficiently long to install a new Chief Justice, thereby rendering the constitutional challenges academic and moot.

The bad faith becomes unmistakable when one contrasts the Attorney-General's dilatory approach to substantive proceedings with his remarkable alacrity in opposing interlocutory applications. When applicants sought injunctions to halt the removal process, the Attorney-General appeared with commendable promptness, argued with considerable vigour, and obtained favourable rulings within days. The Department's institutional machinery functioned with admirable efficiency when the objective was to preserve the Government's ability to proceed.

But when those same cases advance to substantive hearings on constitutional merits - where the State's legal position is demonstrably more vulnerable to judicial scrutiny - the Attorney-General retreats into administrative silence. Defences remain unfiled. Cases languish. Meanwhile, the political branches race to create irreversible constitutional facts on the ground.

For Parliament to proceed with approval now would constitute institutional validation of this bad faith conduct. It would signal that constitutional duty bearers may successfully employ procedural manipulation to circumvent judicial oversight, that one may delay judicial proceedings whilst simultaneously rushing political processes to fruition, thereby rendering judicial determination nugatory.

The Attorney-General's conduct is rendered all the more constitutionally objectionable by the disjuncture between his public pronouncements and his institutional performance. No office can credibly champion the rule of law, constitutional governance, and due process whilst simultaneously refusing to defend the State's position in constitutional litigation of the highest order, conducting media campaigns against private citizens absent judicial determination, and employing delay tactics to frustrate judicial oversight.

AAM

The Attorney-General's primary constitutional duty under Article 88 is to the Constitution of Ghana and to the impartial administration of justice. His conduct in these proceedings suggests a troubling inversion of those constitutional priorities—a subordination of constitutional fidelity to political expediency.

Parliament ought not lend its institutional authority to validate such conduct. To proceed with approval would be to become complicit in a strategy designed to place fait accompli beyond judicial reach. Parliamentary restraint, by contrast, would uphold the constitutional principle that all exercises of public must withstand judicial scrutiny on their merits.

X. THE ACTING CHIEF JUSTICE'S CONFLICT AND POSSIBLE INSTITUTIONAL MANIPULATION

The conflict of interest surrounding Justice Paul Baffoe-Bonnie is undeniable.

Justice Baffoe-Bonnie presided over the Supreme Court panel that dismissed the injunction seeking to halt Chief Justice Torkornoo's removal. By that ruling, he directly cleared the way for the process that elevated him to Acting Chief Justice. Now he appears as the nominee for the substantive position—a nomination wholly dependent on the validity of the removal he declined to restrain. This creates an irredeemable conflict.

As Acting Chief Justice, he bears responsibility for the administration of justice under Article 127(1). Three pending constitutional cases directly challenge the removal that elevated him. Yet none has been listed for hearing. No special panels have been empanelled. No orders compelling responses have been issued. This inaction benefits him personally, for every day of delay strengthens his candidacy.

The Attorney-General's refusal to defend and the Acting Chief Justice's failure to expedite work in tandem. The Attorney-General delays; the Acting Chief Justice does nothing to cure that delay. The result is a coordinated stalemate that serves both political and personal interests.

When the head of the Judiciary uses administrative powers to shield himself from judicial scrutiny, the institution's moral authority collapses. The Chief Justice's office must be above reproach. It cannot be the epicentre of conflict.

AAM

Judicial ethics demand not only impartiality but the appearance of impartiality. A reasonable observer would find clear bias in this situation. The conflict is not curable by good faith; it is inherent. Proceeding with confirmation under these conditions would violate Article 296, which forbids biased or arbitrary exercise of power.

Ignoring this conflict would signal to Ghanaians that ethical standards are optional for judicial leaders. It would erode trust and legitimise self-serving conduct in public office. Parliament must not ratify such impropriety.

This Committee must therefore halt the process. Confirmation now would make Parliament complicit in institutional manipulation. The only safe, lawful course is to await judicial clarification before proceeding.

XI. THE REQUESTED RULING

Having set out the factual and legal basis, the Minority respectfully proposed that the presiding authority issued the following ruling:

That the Appointments Committee shall not proceed to vet, and Parliament shall not consider for approval, any nominee to the office of Chief Justice until all judicial proceedings concerning the removal of Her Ladyship Justice Gertrude Araba Esaaba Sackey Torkornoo have been finally determined by courts of competent jurisdiction or voluntarily withdrawn.

The proposed ruling was intended to:

1. Uphold Orders 103(f) and 123(1) by avoiding prejudice to pending litigation.
2. Respect Order 217(2) by recognising that a valid vacancy must exist before vetting.
3. Apply Order 216(4) by deferring business when constitutional doubt exists.
4. Exercise interpretative authority under Order 5 to resolve procedural uncertainty.
5. Honour precedents established by three successive Speakers.
6. Uphold Article 125(3) by respecting judicial power.
7. Assist the Judiciary as required by Article 127(2).
8. Protect Article 2(1) enforcement rights.
9. Safeguard fundamental rights under Articles 19, 23, and 33.
10. Prevent inter-branch conflict and maintain institutional integrity.

AAM

The ruling would not have diminished the President's power to nominate or the Judiciary's ability to function. Justice Baffoe-Bonnie was to remain Acting Chief Justice under Article 144(6) which allows judicial work continues uninterrupted. The only effect would be to preserve legitimacy by ensuring Parliament acts on settled constitutional ground.

This course of action would have reaffirmed Parliament's role as guardian of constitutional propriety. It would show Ghanaians that, when confronted with constitutional uncertainty, Parliament chose principle over expediency and legality over haste.

Such a ruling would have honoured both the Constitution and the dignity of Parliament.

XII. THE LIMITED NATURE OF THE RULING SOUGHT

The Minority acknowledge that the ruling sought was limited, lawful, and time-bound. It was not intended to paralyse Parliament or obstruct the Executive's constitutional mandate.

A. What the Ruling Does Not Do

1. It does not challenge the President's prerogative under Article 144(1) to nominate a Chief Justice.
2. It does not impugn the professional competence of Justice Paul Baffoe-Bonnie, except where his conflict of interest raises constitutional implications.
3. It does not seek indefinite suspension of parliamentary work. The pause is temporary and will end once the courts decide.
4. It does not invite Parliament to adjudicate constitutional questions—that is the courts' domain.
5. It does not substitute Parliament's view for that of the Article 146 Committee.
6. It does not rely on judicial coercion or court orders. The appeal is to Parliament's own constitutional conscience.
7. It does not subordinate Parliament to the Judiciary. On the contrary, it enhances Parliament's authority by showing self-discipline.

The proposed ruling was seeking a prudent pause. It requested Parliament to delay vetting until judicial clarity is achieved. This pause would have preserved constitutional harmony and ensured that Parliament's eventual decision rests on undisputed legality. It protects both the Legislature and the Judiciary from institutional embarrassment.

AAM

Prudence is the strength of constitutional maturity. The Constitution rewards fidelity. Waiting for the courts to speak is wisdom. The delay would have confirmed Parliament's commitment to legality and fairness.

XIII. CONCLUSION

The facts are clear, the law is settled, and the precedents are binding. The issue before the House is was about constitutional propriety.

Three Speakers, Rt Hon Peter Ala Adjetey, Rt Hon Edward Doe Adjaho, and Hon Bernard Ahiafor, have ruled that when matters before Parliament directly relate to cases before the courts, the House should have paused. Disregarding these rulings have abandoned stare decisis and eroded institutional credibility.

Seven cases remain pending. The Attorney-General has refused to defend them. The Acting Chief Justice has not expedited them. Confirming the nominee while those cases are yet to be determined would place Parliament in direct conflict with the Judiciary and violate the separation of powers.

If Parliament proceeds to approve the nominee, Ghana risks a constitutional collision—two competing claimants to the office of Chief Justice. That would undermine judicial authority and public trust.

The Attorney-General's deliberate neglect of the courts and the nominee's conflict of interest together expose bad faith in the process. Parliament must not endorse that conduct.

History will ask what Parliament did when judicial independence was at stake. Let it be recorded that the Minority Caucus chose principle over convenience, law over politics and restraint over haste.

The Minority therefore reiterate our call on the House to hold its hand in taking the report of the Appointments Committee. The courts are still seized with the matter; justice has not yet spoken. The prudent path - the constitutional path - is to wait.

-End-

Signed
OSAHEN ALEXANDER KWAMENA AFENYO-MARKIN
MINORITY LEADER