

Sup Ct case 8/2018

IN THE SUPREME COURT OF SIERRA LEONE

ORIGINAL JURISDICTION

IN THE MATTER OF SECTIONS 17(1); 18(1); 21(1); 28(1); 124 & 127 OF THE
CONSTITUTION OF SIERRA LEONE, 1991

AND

IN THE MATTER OF AN ACTION PURSUANT TO THE SUPREME COURT
RULES, 1982 PART XVI, RULES 89 - 98, STATUTORY INSTRUMENT NO 1 OF
1982

AND

IN THE MATTER OF AN UNLAWFUL BAN OF UNAUTHORISED VEHICULAR
MOVEMENT AND ITS ILLEGAL ENFORCEMENT BY THE SIERRA LEONE
POLICE ON 7TH MARCH, 2018

BETWEEN:

AUGUSTINE SORIE-SENGBE MARRAH - PLAINTIFF

AND

THE INSPECTOR-GENERAL OF POLICE - DEFENDANT

CORAM:

THE HONOURABLE MR JUSTICE A H CHARM, CHIEF JUSTICE (now out of
office)

THE HONOURABLE MR JUSTICE N C BROWNE-MARKE
JUSTICE OF THE SUPREME COURT

THE HONOURABLE MR JUSTICE E E ROBERTS
JUSTICE OF THE SUPREME COURT

THE HONOURABLE MRS JUSTICE N MATTURI-JONES
Ag JUSTICE OF THE SUPREME COURT (now retired)

THE HONOURABLE MS JUSTICE G THOMPSON
JUSTICE OF THE SUPREME COURT

COUNSEL:

YADA WILLIAMS ESQ and ABDUL KARIM KOROMA for the Plaintiff

OSMAN KANU ESQ, Principal State Counsel and M CONTEH ESQ for the
Defendant

JUDGMENT DELIVERED THE 21ST DAY OF APRIL, 2022

BROWNE-MARKE, JSC

1. The Plaintiff in this action is a practising Barrister and Solicitor. He has brought this action, seeking clarification about certain measures which were taken by the Sierra Leone Police under the direction of the Defendant, the Inspector General of Police, on election day, 2018. The Plaintiff contends in this action, that these measures contravened rights conferred by our Constitution, the Constitution of Sierra Leone, 1991, Act No 6 of 1991 - hereafter "*the 1991 Constitution*". Further, that these measures were not, in any event, legally justifiable in a democratic society. Five questions were raised by him in his Originating Notice of Motion filed in this Court's Registry on 25 April, 2018; and if these questions are determined in his favour, he is asking for eight reliefs.
2. The questions raised by the Plaintiff are as follows:
 - (1) Whether on a true and proper construction and/or interpretation of section 18 of the 1991 Constitution, the Defendant acted lawfully and/or was legally justified in placing a ban on what was described as unauthorised vehicular movement - i.e. vehicles without National Electoral Commission (NEC) accreditation - to ply the streets and routes of Sierra Leone on 7th March, 2018, being the gazetted day for Presidential, Parliamentary and Local Council elections, by virtue of a press release dated 26th February, 2018 and revised/reviewed on 5th March, 2018.
 - (2) Whether the enforcement, application and/or execution of the ban contained in the said press release dated 26th February, 2018 and revised on 5th February, 2018 by the stop, arrest and/or detention of the person of the Plaintiff and his motor vehicle, with registration number ANC 636, by officers acting under the command and instructions of the Defendant was lawful or was in contravention of section 17(1) of the 1991 Constitution.
 - (3) Whether the enforcement, application and/or execution of the ban contained in the said press release dated 26th February, 2018 and revised on 5th March, 2018 by the stop, arrest and/or detention of the person of the Plaintiff and his motor vehicle, with registration

number ANC 636, by officers acting under the command and instructions of the Defendant was lawful or was in contravention of section 18(1) of the 1991 Constitution.

- (4) Whether the enforcement, application and/or execution of the ban contained in the said press release dated 26th February, 2018 and revised on 5th March, 2018 by the stop, arrest and/or detention of the person of the Plaintiff and his motor vehicle, with registration number ANC 636, by officers acting under the command and instructions of the Defendant was lawful or was in contravention of section 21 (1) of the 1991 Constitution.
- (5) Whether the enforcement, application and/or execution of the ban contained in the said press release dated 26th February, 2018 and revised on 5th March, 2018 by the stop, arrest and/or detention of the person of the Plaintiff and his motor vehicle, with registration number ANC 636, by officers acting under the command and instructions of the Defendant was lawful, the Plaintiff's right to vote as enshrined in section 31 of the 1991 Constitution was unlawfully obstructed, hindered and violated by the Defendant.

3. If these questions are answered in the Plaintiff's favour, he seeks the following reliefs:

- (1) A Declaration that the ban contained in the said press release by the Defendant dated 26th February, 2018 and revised on 6th (not 5th) March, 2018 was/is in part and in whole, inconsistent with, or, in violation of section 18 of the 1991 Constitution, and was therefore unconstitutional and/or null and void.
- (2) A Declaration that the enforcement, application and/or execution of the ban contained in the said press release dated 26th February, 2018 and revised on 6th March, 2018 by the stop, arrest and/or detention of the person of the Plaintiff and his motor vehicle , with registration number ANC 636, by officers acting under the command and instructions of the Defendant, was inconsistent with and violated the Plaintiff's right to freedom of movement as enshrined in section 18 of the 1991 Constitution.
- (3) A Declaration that the enforcement, application and/or execution of the ban contained in the said press release dated 26th February, 2018 and revised on 6th March, 2018 by the stop, arrest and/or

detention of the person of the Plaintiff and his motor vehicle , with registration number ANC 636, by officers acting under the command and instructions of the Defendant, was inconsistent with, and violated the Plaintiff's right to protection from arbitrary arrest and detention as enshrined in section 17 of the 1991 Constitution.

- (4) A Declaration that the enforcement, application and/or execution of the ban contained in the said press release dated 26th February, 2018 by the stop, arrest and/or detention of the person of the Plaintiff and his motor vehicle , with registration number ANC 636, by officers acting under the command and instructions of the Defendant, was inconsistent with and violated the Plaintiff's right to protection from deprivation of property as enshrined in section 21 of the 1991 Constitution.
 - (5) A Declaration that the enforcement, application and/or execution of the ban contained in the said press release dated 26th February, 2018 by the stop, arrest and/or detention of the person of the Plaintiff and his motor vehicle , with registration number ANC 636, by officers acting under the command and instructions of the Defendant, undermined and/or deprived the Plaintiff of the exercise of his constitutional right to vote, as stipulated in section 31 of the 1991 Constitution during the public elections of 7th March, 2018.
 - (6) Compensatory Damages for each and all declarations/holdings of violation in regard to the 1st to 5th reliefs prayed for.
 - (7) Any other or further Orders that this Honourable Court may deem fit and just.
 - (8) Costs of the action
4. The Plaintiff brings the action in his capacity as a citizen of Sierra Leone by birth, and as a duly registered voter for the public elections on 7 March, 2018.
 5. The Motion is supported by the affidavit of the Plaintiff himself, deposed and sworn to on 23 April, 2018 with several documents exhibited to it.

THE PLAINTIFF'S AFFIDAVIT

6. The Plaintiff starts by deposing that he is a registered voter and exhibits his voter identification card as "*ASMI*". His ID number is 3389276. He is also a Legal Practitioner with a then current Practising Certificate issued

by the General Legal Council on 10 January, 2018. In his paragraph 4, he deposes to the issuing of the press release by the Defendant on 26th February, 2018. The release is exhibited as "ASM3." It would be useful to set it out verbatim.

"VEHICLE RESTRICTION ON POLLING DAY

The Sierra Leone Police has agreed with registered political parties and other stakeholders to restrict the movement of too many vehicles on the 7th March, 2018, (which is election polling day) from 6.00am to 7pm. No vehicle unaccredited by NEC will be allowed to ply on polling day. This is done in the interest of public order and public safety pursuant to section 18(3) of the 1991 Constitution, and section 32 of the Police Act of 1964. The said restriction will be focused on the 16 District Headquarter Towns including the Western Area Urban and the Western Area Rural. No inter-District movement of accredited vehicles of political parties will be allowed. The vehicle restriction does not cover the rural areas, or areas outside the District Headquarter Towns. This restriction is not in any way inhibiting the free movement of voters, and other persons going about their normal lawful business, as long as they do not loiter within 300 metres of a polling centre.

Accreditation will be granted to the following classes of vehicles: -

- Vehicles of political parties without party colours and emblems*
- Vehicles belonging to Elections Management Bodies (NEC, PPRC, Security Services)*
- Vehicles belonging to International/Local Observers accredited by NEC*
- Vehicles belonging to Media Houses, Civil Society organizations and the Sierra Leone Bar Association.*
- Vehicles belonging to Essential Service Institutions*
- Vehicles belonging to Diplomatic Missions*
- Hired SLRTC and Additional Commercial buses.*

The SLRTC Buses will be plying designated routes at no cost to members of the public. Commuters are, however, required to produce Voter Identity Cards before boarding. Members of the public who do not wish to use the gratis SLRTC Buses are required to pay the normal transport fare for use of the additional designated Commercial buses provided.

Consideration will be given to persons travelling in or out of the country by Air upon the production of valid Air tickets and Passports.

The public is further informed that the Police could be reached for any emergency service on the following numbers.....

*DR RICHARD MOIGBE 26/2/2018
INSPECTOR-GENERAL OF POLICE*

7. I shall return to the significance of this release later in this judgment. In that release, the IGP referred to an agreement reached with political parties. The agreement was reduced into writing and was described as a Memorandum of Understanding. It is exhibited to the Plaintiff's affidavit as "ASM4". It was signed for and on behalf of 12 of the 16 registered political parties. It was not assented to by the SLPP, nor the NGC, nor PPRC, nor NEC. As such, the first line of the press release was a bit misleading. Only a majority of the political parties had signed up. Four of them did not do so.
8. The Sierra Leone Bar Association of which the Plaintiff is a Member issued a press release as well on 5th March, 2018. It is exhibited as "ASM5." The Association pointed out that section 18(3) of the Constitution did not support the stance taken by the IGP; and that section 32 of the Police Act, 1964 on which the IGP also relied, had been repealed. The release also emphasised the right to freedom of movement of the citizenry.
9. In his paragraph 8, the Plaintiff deposes to the views expressed by the Executive Director of the Centre for Accountability and the Rule of Law, CARL. CARL challenges the Defendant to come up with any legal justification to support the ban on the movement of vehicles on election day. Copies of CARL's Executive Director's thoughts on the issue are exhibited as "AMS6 (1&2)." Similar views to that of CARL were expressed by the Institute for Governance Reform. A copy of their press release is exhibited as "ASM7". Another press release from the Renaissance movement of which, the Plaintiff was then interim Chairman is exhibited as "ASM8".
10. In response to these several press releases, the Defendant issued another press release on 6th March, 2018. It is exhibited as "ASM9". It stated that though an injunction had been issued by the High Court against the Defendant, the same had been set aside on 6th (not 5th) March, 2018, and that the Police would go ahead with the imposition of the ban on movement

of vehicles. This last release makes the astonishing and incomprehensible claim that the ban was on the movement of vehicles, and not people. Since we have not advanced to the stage of using as a means of public transport, driverless vehicles, a ban on vehicles, amounts to a ban on people driving cars, or, being driven in cars.

11. The Plaintiff then moves on, beginning with his paragraph 12, to explain his own personal experience of what this ban amounted to. He left his residence at Aberdeen in West Urban Freetown, in his vehicle registration number ANC 636, for Thunder-hill, Kissy where he was registered to vote. He was stopped at East End Police Station and was asked for his authorization to drive a vehicle. He said he had none, as he did not fall into any of the categories of persons who would be issued with one. He was told in no uncertain terms that he could not proceed on his journey with his vehicle. He was taken to the East End Police Station where he was asked to take a seat on a wooden bench with inadequate ventilation. His driver's licence and car keys were taken away. In effect, he was detained, as his liberty and movements had become restricted by the Police officers who were on duty. He, being a lawyer, was subjected to the further and graver indignity of having an already prepared statement put into his hands and then asked to accept its contents. In it, he was recorded as saying that he agreed with the Police version of events that he did not have the requisite authority to ply the streets that day. He refused to accept it as his. As such, an instruction was given by one of the senior officers present that he be recorded as refusing to sign his statement. The Plaintiff protested at the way he was being treated. Instead of trying to placate him, the senior officer said another statement would be taken from him, but he would be detained until charged to Court. The Plaintiff was allowed to call on two of his colleagues Messrs Bernard Jones and Musa Bittar, who turned up at the station. The Plaintiff gave his statement; he asked for a copy, but the request was refused. He wrote letters asking for it. These letters are exhibited as "*ASM10 (1-3)*". He was eventually released after 3pm, but was told his vehicle would not be released to him until after 7pm.
12. As a result of his detention by the Police, the Plaintiff was unable to get to the polling station at Kissy, thus depriving him of his right to vote. He was able to get back to his residence by a vehicle which had NEC authorization. His vehicle was only handed back to him around 11am the

following day, 8th March, 2018. He ends by repeating the reliefs he is seeking in the Motion.

ASSESSMENT OF THE CONTENTS OF PLAINTIFF'S AFFIDAVIT

13. This, of course, is the Plaintiff's version of events. But he has not been contradicted in any material particular by the Respondent. It makes unpleasant reading. It seems incredible that 18 years after the beginning of the 21st century, Police officers could act in such an unprofessional manner. That the Plaintiff was a lawyer, seemed to be of little moment to them. If a lawyer could undergo such indignities, one can well imagine, a less fortunate person faring worse.

PLAINTIFF'S STATEMENT OF CASE

14. The Plaintiff has also filed a statement of case in compliance with Rule 89 of the Supreme Court Rules, 1982, hereafter "*SCR, 1982*". The whole of paragraph 2, narrates the events of 7th and 8th March, 2018, respectively. They detail, as in the Plaintiff's affidavit, the manner in which he was treated by the SLP.

15. Paragraph 3 deals with the Plaintiff's right to bring the proceedings herein in this Court. This Court has original jurisdiction to hear and determine any claim alleging that a person's rights guaranteed under the Constitution, have been violated, or, are about to be violated.

SECTION 28 OF THE 1991 CONSTITUTION

16. The Plaintiff has invoked, specifically, section 28 of the Constitution. It states:

"28(1) Subject to the provisions of subsection (4), if any person alleges that any of the provisions of sections 16 - 27 (inclusive) has been, is being, or, is likely to be contravened in relation to him by any person (or, in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained), then, without prejudice to any other action with respect to the same matter which is lawfully available, that person, (or, that other person), may apply by Motion to the Supreme Court for redress. (2) The Supreme Court shall have original jurisdiction - (a) to hear and determine any application made by any person in pursuance of subsection (1); and (b) to determine any question arising in the case of any person which is referred to in pursuance of subsection (3), and may make such order, issue such writs, and

give such directions as it may consider appropriate for the purpose of enforcing, or, securing the enforcement of any of the provisions of the said sections 16 - 27 (inclusive) to the protection of which the person concerned is entitled: Provided that the Supreme Court shall not exercise its powers under this subsection if it is satisfied that adequate means of redress for the contravention alleged are, or, have been available to the person concerned under any other law."

17. Also of importance is section 28(6) which sets out how the jurisdiction is to be exercised by this Court. It states:

"28(6) The Supreme Court - (a) consisting of not less than five Justices of the Supreme Court shall consider every question referred to it under this Chapter for a decision, and, having heard arguments by or on behalf of the parties by Counsel, shall pronounce its decision on such question in open Court as soon as may be and in any case not later than thirty days after the date of such reference; (b) shall for the purposes of this Chapter, give its decision by a majority of the Justices of that Court and such decision shall be pronounced by the Chief Justice or any other of the Justices as the Court shall direct."

18. Quite clearly, more than thirty days have elapsed since arguments were heard in Court. But the lapse of time should not affect the validity of the issue to be decided in this case, as the next set of Presidential and Parliamentary elections will be held and conducted in 2023, slightly more than a year away. This should allow the authorities concerned sufficient time to review their processes so as to ensure that there is compliance with the terms of the Judgment in this case. Another consequence of the lapse of time is that two of the Justices have, since arguments were heard, retired, namely CHARM (then CJ), and MATTURI-JONES, (then Ag JSC). Paragraph (b) of section 28(6) authorises the delivery of a majority judgment, which is what this judgment would be. In addition, the consent by Counsel on both sides to the delivery of judgment by a three Judge panel was also sought, and was obtained, before this judgment was finalized.

19. I should also mention that the right to bring action conferred on any person by section 28 of the Constitution is in addition to, and not in derogation of other rights to do the same conferred by later provisions in the Constitution, such as sections 124 and 127 thereof.

SECTIONS 17, 18, 21 & 31 OF THE 1991 CONSTITUTION

20. I shall now turn my attention to the rights the Plaintiff claims were infringed. These rights are those conferred by sections 17, 18, 21 & 31. However, the procedure authorised by section 28, only applies to alleged violations of rights conferred by sections 16 - 27 of the Constitution.

21. Section 31 deals with the right to vote, and is in these terms:

"section 31: Every citizen of Sierra Leone being eighteen years of age and above and of sound mind shall have the right to vote, and accordingly, shall be entitled to be registered as a voter for the purposes of public elections and referenda."

22. If the claim is that the right to vote was infringed, or restrained by means not authorised by the Constitution, such infringement or restraint could ground a claim brought under section 124 of the Constitution. The purport there would be that the claimant would be seeking an enforcement of his Constitutional right to be allowed to vote without any restraint. If the basis of the claim is that the authority concerned did something purportedly under the authority of any enactment, and that the thing done amounted to a contravention of a provision of the Constitution, such a claimant would be entitled to seek a declaration to that effect pursuant to section 127(1) of the Constitution.

23. In view of what is stated in paragraphs 19 to 22 supra, this judgment will first address the issues arising under sections 17, 18 & 21, before moving to those arising under section 31 of the Constitution.

SECTION 17 OF THE 1991 CONSTITUTION

24. Section 17 states, inter alia: *"section 17(1) No person shall be deprived of his personal liberty except as may be authorised by law in any of the following cases, that is to say - paragraphs (a) to (j)".* On the facts of this case, the only relevant exception in my view, is that contained in (f). As no Order of Court was involved in Plaintiff's arrest, paragraphs (a) to (e) do not apply. Paragraphs (g) to (j) do not also apply, because, on the facts of the case, the Plaintiff was at the time, evidently over the age of 21 years; there was no epidemic; the Plaintiff was not said to have been under the influence of alcohol, nor was it said he was of unsound mind, nor a vagrant. Also, this was not a case in which it could be said, the Plaintiff was attempting to enter the country unlawfully.

WHERE PERSONAL LIBERTY COULD BE DEPRIVED

25. Now, the deprivation of personal liberty is excepted where as in paragraph (f), it is done "*upon reasonable suspicion of (his) having committed or, of being about to commit a criminal offence.*" In short, it would be for the Respondent Inspector-General of Police to show that the Plaintiff herein was deprived of his liberty because there was reasonable suspicion that he had committed, or, was about to commit a criminal offence. That position has not been canvassed in these proceedings by either the Respondent, or, by Counsel on his behalf.

SECTION 18 OF THE 1991 CONSTITUTION

26. Section 18 goes as follows:

"section 18(1) No person shall be deprived of his freedom of movement, and for the purpose of this section the said freedom means the right to move freely throughout Sierra Leone, the right to reside in any part of Sierra Leone, the right to enter or leave Sierra Leone, and immunity from expulsion from Sierra Leone. (2) Any restriction on a person's freedom of movement which is involved in his lawful detention shall not be held to be inconsistent with or in contravention of this section. (3) Nothing contained in or done under authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law makes provision - (a) which is reasonably required in the interests of defence, public safety, public order, public morality, public health or the conservation of the natural resources, such as mineral, marine, forest and other resources of Sierra Leone, except in so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society;....."

27. On the facts of the case, the only relevant restriction is that contained in paragraph (a). The other exceptions have no bearing on the case presented by both sides to the litigation.

SECTION 21 OF THE 1991 CONSTITUTION

28. Section 21 reads as follows:

"section 21 (1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied, that is to say— (a) the taking of possession or

acquisition is necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development or utilization of any property in such a manner as to promote the public benefit or the public welfare of citizens of Sierra Leone;....."

29. On the facts of the case, the other exceptions in paragraphs (b) & (c) and subsection (2)(a) to (h) have no bearing on the opposite contentions of both sides to this litigation. There is no contention that an Order of Court was obtained or made justifying the deprivation of property.

WHAT IS AND OBTAINS AS LAW IN SIERRA LEONE

SECTION 73 OF THE 1991 CONSTITUTION

30. Before going on to deal with the specific arguments canvassed on both sides, it may be useful to set down what is law in Sierra Leone, and how laws are made. I shall begin by setting out the primary provision in the Constitution, section 73, It states:

"section 73(1) There shall be a legislature of Sierra Leone which shall be known as Parliament, and shall consist of the President, the Speaker and Members of Parliament. (2) Subject to the provisions of this Constitution, the legislative power of Sierra Leone is vested in Parliament. (3) Parliament shall make laws for the peace, security and good government of Sierra Leone."

SECTIONS 105, 106 , 109 & 170 OF THE 1991 CONSTITUTION

31. Section 105 states:

"Subject to the provisions of this Constitution, Parliament shall be the supreme legislative authority for Sierra Leone."

Section 106(1): "The power of Parliament to make laws shall be exercised by Bills passed by Parliament and signed by the President."

Section 109 states: "Subject to the provisions of section 105 of this Constitution, where on any matter, whether arising out of this Constitution or otherwise, there is no provision expressed or, by necessary implication, of this Constitution which deals with the matter that has arisen, Parliament shall, by an Act of Parliament, not being inconsistent with any provision of this Constitution, provide for that matter to be dealt with."

SECTIONS 170 & 171

32. We then move on to section 170 of the Constitution. It states:

"170(1) The Laws of Sierra Leone shall comprise (a) this Constitution; (b) laws made by or under the authority of Parliament as established by this Constitution; (c) any orders, rules, regulations and other statutory instruments made by any person or authority pursuant to a power conferred in that behalf by this Constitution or any other law; (d) the existing law; and (e) the Common Law."

33. Section 171 (1) defines Constitutional and Statutory Instruments. A Constitutional Instrument is defined as an instrument made under a power conferred in that behalf by this Constitution; and Statutory Instrument as any Proclamation, regulation, order, rule or other instrument (not being an Act of Parliament) having the force of law.

CONSTITUTIONAL AND STATUTORY INSTRUMENTS ACT, 1999

34. Statutory Instruments were formally established or, brought into existence by the *Constitutional and Statutory Instruments Act, 1999 - Act No 6 of 1999*. By *section 4* thereof, section 4(1) of the Interpretation Act, 1971 was amended by the repeal of the definition of "public notice" therein. And *section 5* of the 1999 Act provides that all references to 'public notices' should henceforth be construed as references to "constitutional or statutory instruments" as the case may be.

35. Section 1 of the 1999 Act makes clear what a Statutory or Constitutional Instrument is, and its functions.

Section 1(1) - Where in any Act, power is conferred on any person or authority to make any proclamation, regulation, order, rule, notice, by-law or any other instrument having the force of law, that power shall be exercised by statutory instrument. (2) Subject to section 14, where the power referred to in subsection (1) is conferred by the Constitution or it is so required thereunder, the power shall be exercised by a constitutional instrument."

36. Section 3(1) of the 1999 Act states:

"Section 3(1) In accordance with subsection (7) of section 170 of the Constitution, every statutory instrument shall be laid before Parliament and shall be published in the gazette on or before the date of being so laid: provided that only section 29 of the Constitution shall apply to the approval of any Proclamation or other instrument made under that section. (2) A

statutory instrument laid before Parliament shall come into force at the end of twenty-one days from the date of being so laid unless before then, it has been annulled by Parliament by the votes of not less than two-thirds of the members of Parliament."

ASSESSMENT OF THE JOINT EFFECT OF SECTIONS 170 OF THE 1991 CONSTITUTION AND THE CONSTITUTIONAL AND STATUTORY INSTRUMENTS ACT, 1999

37. The respective pronouncements made by the Respondent were not, in the sense described above, made by way of Statutory Instrument, or by Constitutional Instrument. They did not therefore have the force of law. No sanction, no penalty could therefore be imposed for breach of either, or, both of them. Any detention of anyone, or any form of deprivation of property pursuant to such pronouncements would therefore be unlawful.
38. But I'll go on to explain why it is I have come to the conclusion that the Respondent had no authority to restrict vehicular traffic and the consequent free movement of people on election day.

SECTION 35 OF THE INTERPRETATION ACT, 1971

39. Section 35 of the Interpretation Act, 1971 states: "*Where by any enactment the President is empowered to exercise or perform any functions he may, save as is otherwise expressly provided, depute any person by name or office to exercise or perform such functions on his behalf subject to such conditions, exceptions and qualifications as the President may prescribe in such delegation: Provided that: (a) no such delegation shall take effect until notified in the gazette; and (b) nothing in this section shall authorise the President to depute any person to make Regulations under any power in that behalf conferred on the President by any enactment."*
40. The notice put out by the Defendant and exhibited as "ASM3" makes no reference to the President or, to the office of the President. The Defendant was there saying, he was empowered and enabled by section 32 of the Police Act, 1964, and by section 18(3) of the 1991 Constitution, to restrict the rights of Sierra Leoneans and other residents of Sierra Leone. So, the Defendant cannot seek refuge under section 35 of the 1971 Act.

PRESIDENT'S POWERS UNDER SECTION 29 OF THE 1991 CONSTITUTION

41. It is clear, and it is well known, that the President has power to declare a State of Public Emergency. He can do so pursuant to the provisions of section 29 of the Constitution. Section 29 sets out the full ambit of the procedure for declaring a state of public emergency, and for the promulgation of regulations, which will in some cases restrict the freedoms guaranteed by the Constitution. It is only after a State of Public Emergency has been declared, and has been adopted by Parliament, that some restrictive measures, such as restricting one's right to move about freely, could be promulgated by way of Constitutional or Statutory Instruments. There was no State of Public Emergency in existence in Sierra Leone on 26th February, 2018 when the Inspector- General of Police issued his public pronouncement. Nor, was there any, on subsequent days leading up to the declaration of the results of the run-off Presidential election on 4th April, 2018.

SECTION 29(9) OF THE 1991 CONSTITUTION

42. It is accepted that, in addition to Parliament, the President can confer on another person the power to make regulations, but only during a State of Public Emergency. This is the effect of section 29(9) of the Constitution.

'Section 29(9) states: "Regulations made under this section may provide for empowering such authorities or persons as may be specified in the regulations to make Orders and Rules for any of the purposes which the regulations are authorised by this Constitution to be necessary or expedient for the purposes of the regulations."

43. Examples of how this works out in practice, though perhaps, imperfectly, are the Emergency Alert Telephone Call Regulations, 2020 - C.I. 9 of 2020 and The Imposition of Curfew Order, 2020 - C.I. No 12 of 2020 promulgated into Law under the authority of The President by Dr Priscilla Schwartz, Attorney-General & Minister of Justice at the time. Only Parliament, and in times of a public emergency, The President have the capacity to confer powers on other persons or authorities which could alter the law or laws of Sierra Leone in particular respects.

STATUS OF THE RESPONDENT'S PUBLIC PRONOUNCEMENT

44. What then was, and is the status of the notice put out by the Inspector-General of Police? It was not a Constitutional Instrument, nor, a Statutory Instrument; it was not an Act of Parliament. It could not therefore be, and

certainly was not, law in Sierra Leone. To go further, the power to make such a pronouncement was not conferred on him by Parliament in terms of section 106(9) of the 1991 Constitution.

Section 106(9) states, as follows: "*Nothing in this section or in section 53 of this Constitution shall prevent Parliament from conferring on any person or authority the power to make Statutory Instruments.*"

SECTION 108(8) OF THE 1991 CONSTITUTION

45. It follows that, in making such a pronouncement as he did, the Inspector-General was laying himself open to a graver charge or accusation: that he was thereby attempting to usurp the legislative function of Parliament, and consequently, altering the provisions contained in sections 17, 18 and 21 of the Constitution; actions which section 108(8) deem to be Treason. That subsection reads as follows: "*108(8) Any suspension, alteration or repeal of this Constitution other than on the authority of Parliament shall be deemed to be an Act of Treason.*"

46. By purporting to impose a restriction on the movement of vehicles and of persons, the Inspector-General of Police could be said to have purported to alter, or, to suspend, even if for just a 12 hour period, the right of freedom of movement guaranteed in the Constitution.

SECTION 31 OF THE CONSTITUTION

47. I shall now move on to consider the purport and effect of section 31 of the Constitution. Section 31 states: "*Every citizen of Sierra Leone being eighteen years of age and above and of sound mind, shall have the right to vote, and accordingly, shall be entitled to be registered as a voter for the purpose of public elections and referenda.*" The right is stated in absolute terms, without caveats.

LAWS DEALING WITH ELECTIONS

48. In independent Sierra Leone, the first statute which, according to my researches, dealt with the right to vote, was *the Franchise and Electoral Registration Act, 1962 - Act No. 44 of 1962*- as amended by the *Franchise and Electoral Registration (Amendment) Act, 1990 - Act No 7 of 1990*. The 1961 Constitution did not make provision for voting rights. Section 6(1) of the 1962 Act as amended in 1990, and by the Constitution of Sierra Leone, 1971, stated as follows:

section 6(1) - Subject to the provision of section 8, every person whether male or female who has attained the age of 18 years, and is ordinarily resident in the ward on the date specified for the publication of notices inviting claims under section 13, shall be entitled to be registered as an elector in a ward of a constituency and, when so registered, to vote in such ward at the election of a member to represent such constituency in Parliament, or, of a member to represent such ward in a local authority."

49. The right to vote was established unfettered. It is that same right which was, and has been, reaffirmed in section 31 of the 1991 Constitution. The question which this case has posed is whether that right could be properly and legitimately curtailed other than by Law established. For the right to vote, includes the right to be able to vote in every lawful manner. If the Respondent, were to succeed in the action herein, it would mean that an authority outside the Presidency and/or Parliament has the residual power to impose limitations on the manner in which the country-wide voting process could be conducted. In certain circumstances, a restriction of the kind imposed by the Respondent could be described as voter suppression - i.e. restricting the number of people who could vote. Voter-suppression has been an issue in United States Presidential elections, and in the aftermath of such elections. Whatever may be one's views of alleged voter-suppression laws in the United States, such laws have been made by the respective recognised legislatures. None of them have been made by an unelected public official.

50. Voter suppression has been described online as "*a political strategy – usually at the party-level but sometimes conducted by zealous individuals – designed to prevent a group of would-be voters from registering to vote or voting*". In this action, no evidence has been forthcoming of a large number of people being denied the right to vote; but no doubt, the events narrated by the Plaintiff in his affidavit and in his statement of case bear a strong and disagreeable resemblance to a suppression of his particular right to vote. And these averments have not been refuted by the Respondent.

PARLIAMENTARY AND PRESIDENTIAL ELECTIONS 1962 - 2018

51. I have above, cited the earliest piece of legislation dealing with the right to vote since this country attained its independence in 1961. Since then, Parliamentary elections have been held in 1962, 1967, 1973, 1977 and in

1982. Though Sierra Leone became a Republic in April, 1971, the first Presidential election was only held in 1985, and only one candidate, President Momoh was the contestant. Parliamentary elections under the one-party 1978 Constitution were held in 1982 and in 1986. In 1996 and in 2002, Presidential and Parliamentary elections were held under the 1991 Constitution though in an amended form, to permit election to Parliament by proportional representation rather than by the first-past-the-post system contemplated by the 1991 Constitution.

EVALUATION OF THE RESTRICTION OF VEHICULAR MOVEMENTS ON ELECTION DAY

52. Presidential and Parliamentary elections, the latter under the single member constituency format, were first held under the 1991 Constitution in 2007. In all of these elections voter movement on election day was never curtailed. Come November, 2012, the Inspector-General of Police in office instituted for the first time in our history, this form of restriction. It was not challenged in Court, though there was palpable general disquiet about the reason for its imposition. Having got away with it, as it were, in 2012, the Inspector-General of Police in office in 2018 felt he was entitled to do the same. This time round, his action was challenged. I have gone back in time to illustrate that the introduction of the restriction of vehicular movement, and thus free movement of people on election day, is quite recent in our history. I do not think it would be useful to go into the reasons proffered by the Respondent for such a restriction. The best I can say about them is that they are not self-evident, and are purely speculative. If elections could be conducted freely and fairly without restrictions on the movement of people, in an age when android phones with the ability to take pictures and record videos discreetly was unknown, it seems disingenuous to say the least, that the same could not be done in the modern age, with universal access to modern technology such as closed circuit television and other forms of recording events secretly. The reasons given by the Respondent in his public respective pronouncements, and by his Counsel in his statement of case, are simply untenable. The Respondent had no such powers conferred on him by the Police Act, 1964 as amended, reliance on which was clearly repudiated by Counsel on his behalf during the course of hearing.

ASSESSMENT OF SECTION 32 OF THE POLICE ACT, 1964

53. But, for the purpose of examining the pernicious effect of the ban on movement of vehicles, and consequently of people, it is necessary to look at the statutory provision in the Police Act, 1964 relied by the Respondent in his public pronouncement, which position he repudiated through his Counsel during the course of the hearing. I have already disposed of his wrongful reliance on section 18(3) of the 1991 Constitution. The other fig-leaf covering he sought to rely on, was section 32 of the Police Act, 1964. It reads: "*section 32 - The Superior Police Officer in charge of the Police in any area may make such orders as he thinks fit for the temporary direction and parking of any vehicular traffic which includes, cycles, hand carts or any animal drawn vehicle.*" The authority there conferred on a Police Officer is clearly local, and not country-wide. Each Officer should make arrangements for the unobstructed flow of traffic in the area where he exercises authority. In other words, the Officer concerned will evaluate the situation, and decide, for instance, that if some important personage is about to pass by, certain, or all vehicles should not use a particular route. We encounter this sort of restriction on a daily basis in the metropolis; and no one has challenged the authority of the Police to restrict traffic in this manner. To extend such limited authority to all areas, so much so that subordinate and junior Police Officers exercise the right to detain persons for not complying with the universal restriction, is clearly beyond the ambit of the legislation relied upon.

POLICE POWERS UNDER SECTIONS 156, 157 & 158 OF THE 1991 CONSTITUTION

54. It is therefore important that we examine the provisions in the 1991 Constitution dealing with the powers of the Police. Section 157 provides for the appointment of the Inspector-General of Police by the President subject to the approval of Parliament. Section 158 prescribes the functions of the Police Council, established by section 156 of the 1991 Constitution. The Inspector-General and his Deputy, are members of the Council which is headed by the Vice President. Section 158 states:

"158(1) The Police Council shall advise the President on all major matters of policy relating to internal security, including the role of the Police Force, Police budgeting and finance, administration and any other matter as the President shall require. (2) The Police Council may, with the prior approval of the President, make regulations for the performance of

its functions under this Constitution or any other law, and for the effective and efficient administration of the Police Force. (3) Regulations made pursuant to the provisions of subsection (2) shall include regulations in respect of - (a) the control and administration of the Police Force; (b) the ranks of officers and men of each unit of the Police Force, the members in each such rank and the use of uniforms by such men; (c) the conditions of service, including those relating to enrolment and to pay, pensions, gratuities and other allowances of officers and men of each unit and deductions therefrom; (d) the authority and powers of command of officers and men of the Police Force; (e) the delegation to other persons of powers of commanding officers to discipline accused persons and the conditions subject to which such delegation may be made."

55. In all of these statutory provisions, no-where is the Inspector-General mandated to make pronouncements restricting the movement of people and of vehicles. The circumstances in which a Police Officer can restrict the movement of a particular individual, or, a group of individuals, are clearly spelt out in the relevant legislation, one of them being the Criminal Procedure Act, 1965 as amended.

56. I now turn to the Plaintiff's right to bring these proceedings. Clearly, the Plaintiff has claimed that his right to vote, and his right to move freely within this jurisdiction, have been violated by the Respondent. I have already held that The Respondent does not ordinarily possess legislative powers in this jurisdiction. He cannot exceed the powers conferred on him by the 1991 Constitution, or, by the Police Act, or, by the Public Order Act, 1965 as amended. As such, the Plaintiff was under no duty to show that his complaint was one which was common to other citizens. Some citizens may have felt comfortable with it, and some may have thought it pointless to complain about the Respondent's edicts.

57. We have moved far away from the situation as existed, say, in January, 1967, when the High Court held that in order to enforce a right conferred under the 1961 Constitution, it was insufficient for the Plaintiff to merely show that he had suffered an injury in common with other people. The case in point was *NANCY STEELE v ATTORNEY-GENERAL, TEJAN-SIE and KOROMA* [1967-68] ALR SL, 1, HC, OKORO-COLE, Ag CJ, presiding. There, Mrs Steele contended that the steps taken by the Government of the day to move forward with a one-party form of government agenda was unconstitutional. In particular, she claimed that the Government's

appointment of a committee to report on a one-party system of Government for Sierra Leone was a threat to, and an infringement of ss12 to 23 of the 1961 Constitution, and was specifically in breach of section 22 thereof and was therefore void; and for an order restraining the committee from meeting or proceeding, and the second Defendant, who was then Speaker of the House of Representatives, Mr (later, Sir) Banja Tejan-Sie, from acting as its Chairman.

58.OKORO-COLE, Ag CJ dismissed the Plaintiff's claim, saying at page 13 LL30 - 36 of his judgment, as follows: "*To entitle a person to invoke the judicial power of this Court, that person must show by allegations of material fact in his pleadings that as a result of the legislative or executive acts complained of, he has sustained, or, is sustaining, or, is immediately in danger of sustaining, a direct injury, and this injury is not one of a general nature common to all members of the public.*"

59.In the present age, a citizen has every right to come to this Court to complain that his specific rights have been violated. He need not show that others suffered the same deprivation of rights.

SOUTH AFRICAN CASES CITED BY PLAINTIFF'S COUNSEL

60.I now turn to some of the case cited by Counsel for the Plaintiff. The first, though not in terms of relevance, is Constitutional Court of South Africa Case CCT 26/97 - DOUGLAS MICHAEL DE LANGE v FRANCOIS J SMUTS NO & ORS; Lead Judgement delivered by ACKERMANN, J on 28 May, 1998. This case concerned the constitutional invalidity of section 66(3) of the Insolvency Act, Act No 24 of 1936. The specific provision in that section whose validity was in question was that which empowered the officer presiding at a meeting of creditors, to commit to prison, any person who failed to answer, or, to fully answer any question lawfully put to him. The issue was whether this provision contravened the express provisions in section 12(1) of the Constitution of South Africa, 1996 which guaranteed specific freedoms. The South African section 12(1) states as follows: "*12(1) Everyone has the right to freedom and security of the person, which includes the right - (a) not to be deprived of freedom arbitrarily or, without just cause; (b) not to be detained without trial;*"

61. In dealing with this issue of whether the particular provision in the 1936 Act, contravened the provisions of the Constitution of South Africa, 1996, ACKERMANN, J had this to say: At paragraph [18] of his judgment, he

cited with approval, the judgment of O'REGAN, J in *S v Coetzee & others* [1997] 4 BCLR 437, a decision in which he concurred. There, O'REGAN, J said:

"[These questions] raise two different aspects of freedom: the first is concerned particularly with the reasons for which the state may deprive someone of freedom; the second is concerned with the manner whereby a person is deprived of freedom. As I stated [in Bernstein's case at paragraphs 145 -147] our Constitution recognises that both aspects are important in a democracy: the state may not deprive its citizens of liberty for reasons that are not acceptable, nor, when it deprives its citizens of freedom for acceptable reasons, may it do so in a manner which is procedurally unfair."

62. For purposes of comparison with the instant case, the Respondent herein did not, and does not purport to represent the State. I have illustrated above that the only way in which an individual's liberty may be curtailed in this jurisdiction, is by way of Statutory Instrument made pursuant to powers conferred in that behalf by the 1991 Constitution, be it the President, or Parliament.

63. To continue with ACKERMANN, J's judgment, at paragraph [23], he had this to say: *"The substantive and the procedural aspects of the protection of freedom are different, serve different purposes and have to be satisfied conjunctively. The substantive aspect ensures that a deprivation of liberty cannot take place without satisfactory or adequate reasons for doing so. In the first place, it may not occur arbitrarily; there must in other words be a rational connection between the deprivation and some objectively determinable purpose. If such rational connection does not exist, the substantive aspect of the protection of freedom has by that fact alone been denied. But even if such rational connection exists, it is by itself insufficient; the purpose, reason or "cause" for the deprivation must be a "just" one....."*

COMPARISON WITH OUR CONSTITUTIONAL PROVISIONS

64. In our Constitution, the circumstances in which any of the freedoms guaranteed in sections, 17(1), 18(1), 21(1), 28(1) and 31, could be curtailed or suspended, or, rendered inoperative or, inapplicable, are fully and clearly set out. I have also expressed the view that none of those circumstances are applicable to the two pronouncements made by the Respondent.

Additionally, the pronouncements were not made in accordance with the law in our jurisdiction.

ACKERMANN, J's JUDGMENT CONTINUED

65. At paragraph [46] of his judgment, ACKERMANN, J went on to cite DICEY's INTRODUCTION TO THE STUDY OF THE LAW OF THE CONSTITUTION 10th edition. The passage cited is at page 188 of the work:

".....that no man is punishable or can be lawfully made to suffer in body or goods except for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land. In this sense the rule of law is contrasted with every system of government based on the exercise by persons in authority of wide, arbitrary, or, discretionary powers of constraint....."

66. At paragraph [58], ACKERMANN, J dealt with the argument that the officers who presided at the meetings of creditors, are persons of integrity and are suitably qualified for the functions which they perform. One may say the same of the Respondent in the instant case. But that is not point. The Respondent herein was not empowered by, or, at law to make the pronouncements which he made. ACKERMANN, J emphasised why it was he had concluded that an official in the executive arm of Government is not qualified to curtail or limit, freedoms guaranteed by the Constitution. At paragraph [75] of his judgment, he said this:

"In sum, officers in the public service, who answer to higher officials in the executive branch, do not enjoy the independence of the judiciary and therefore cannot, without danger to liberty, commit to prison witnesses who refuse to cooperate in proceedings, such as the present....."

67. Section 158 of the 1991 Constitution stipulates that the Respondent is responsible and answerable to the Police Council headed by the Vice President, the second personage in the hierarchy of the executive arm of Government. On the other hand, a judge while exercising his judicial function is not subject to any other authority.

68. The second case relied on by Counsel for the Plaintiff, is Constitutional Court case CCT8/99 - ARNOLD KEITH AUGUST & VERONICA PEARL SIBONGILE MABUTHO v THE ELECTORAL COMMISSION, THE CHAIRPERSON OF THE ELECTORAL COMMISSION, THE MINISTER OF

HOME AFFAIRS & THE MINISTER OF CORRECTIONAL SERVICES;
judgment delivered 1 April, 1999.

69. This case concerned the voting rights of prisoners. The appeal arose out of the judgment of ELS, J in the Transvaal High Court which in effect held that the 2nd Respondent had no obligation to ensure that awaiting trial and sentenced prisoners may register and vote in the general elections which had been announced for 2 June, 1999. The lead judgment was delivered by SACHS, J. At paragraph [17] of his judgment, he said:

"Universal suffrage on a common voters roll is one of the foundational values of our entire constitutional order. The achievement of the franchise has historically been important both for the acquisition of rights of full and effective citizenship by all South Africans regardless of race, and for the accomplishment of an all-embracing nationhood. The universality of the franchise is important not only for nationhood and democracy. The vote of each and every citizen is a badge of dignity and of personhood. Quite literally, it says that everybody counts.....Rights may not be limited without justification and legislation dealing with the franchise must be interpreted in favour of enfranchisement rather than disenfranchisement....." The principle involved here, is that the single vote of the Plaintiff herein counted. It could not be taken away by the arbitrary act of the Respondent.

70. At paragraph [20] SACHS, J dealt with another important aspect of which authority has the right to limit a citizen's right to vote. There, he said:

"As has been stated above, the right of every adult citizen to vote in elections for every legislative body is given in unqualified terms. The first and second respondents correctly conceded that prisoners retain the right to vote, since Parliament has not passed any law limiting that right. It is not necessary in the present case to determine whether or not Parliament could have disqualified all or, any prisoners. The fact is that it has sought to do so. The basic argument of the Respondents, therefore, was that although the right of prisoners to vote remained intact, prisoners had lost the opportunity to exercise that right through their own misconduct."

COMPARISON WITH THE INSTANT CASE

71. In the instant case, Parliament did not by an Act of Parliament, or, by Statutory Instrument, restrict the Plaintiff's right to vote. By detaining him through his subordinates, the Respondent had clearly breached the

constitutional rights of the Plaintiff: first, his right not to be detained save by law established; second, his right to vote conferred on him by section 31 of the 1991 Constitution. The Plaintiff was deprived of the right to vote by his incarceration at the Police station by the subordinates of the Respondent based on the two pronouncements he had made, which, as I have stated repeatedly above, had no constitutional basis.

ANOTHER JUDGMENT OF ACKERMANN, J

72. The third and last case cited by Counsel for the Plaintiff, I would wish to refer to, is Constitutional Court case CCT 19/01 - FIRST NATIONAL BANK OF SA LIMITED t/a WESBANK v THE COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICES & THE MINISTER OF FINANCE, judgment delivered 16 May, 2002. Here, again, ACKERMANN, J delivered the lead judgment. The facts of this case are not relevant to the issues in dispute in the instant case. It has been cited to illustrate the effect of deprivation of property however transient or temporary. First, the Learned Judge said this at paragraph [54] of his judgment:

"The fact that an owner of a corporeal moveable makes no, or, limited use of the object in question, is irrelevant to the categorisation of the object as constitutional property. It may be relevant to deciding whether a deprivation thereof is arbitrary and, if it is, whether such deprivation is justified under section 36 of the Constitution."

COMPARISON WITH THE INSTANT CASE

73. So, it follows that whether or not the Plaintiff herein did not wish to use his vehicle for any purpose on the day in question other than to access the polling station where he was registered to vote, the vehicle still remained his constitutional property. According to ACKERMANN, J, this fact would only be relevant to deciding whether "*.....a deprivation thereof is arbitrary and, if it is, whether such deprivation is justified under....the Constitution....*" Further, the fact that the vehicle was later released to him, does not negate the fact that at some point in time, he was deprived of its use; and in view of what has been stated above, arbitrarily.

CONCLUSION

74. To summarise, the irresistible conclusion I have reached is that there was no law or punctilio in existence in March, 2018 which sanctioned the banning

of vehicular traffic on election day, 2018. The Respondent, by making the two public pronouncements set out in detail above, directly or, indirectly authorised and/or sanctioned the actions taken by his subordinate police officers, to wit: detaining the Plaintiff's vehicle and his person. In this respect also, the Respondent prevented the Plaintiff from exercising his right to vote in the polling station where he was registered to vote. The Respondent therefore violated the Constitutional rights of the Plaintiff.

ORDERS

75. The questions raised by the Plaintiff, and as set out in paragraph 2 (1) - (5), supra, are answered in the negative. This Honourable therefore Adjudges and Orders as follows:

- (1) The questions raised in paragraphs 1 - 5 of the Plaintiff's Originating Notice of Motion, are answered in the negative.
- (2) The following Declarations are therefore granted:
 - (i) A Declaration that the ban contained in the press release of the Defendant dated 26th February, 2018 and revised on 6th March, 2018 was/is in part and whole, inconsistent with, and, in violation of section 18 of the Constitution, and was therefore unconstitutional and/or null and void.
 - (ii) A Declaration that the enforcement, application and/or execution of the ban contained in the said press release dated 26th February, 2018 and revised on 6th March, 2018 by the stop, arrest and/or detention of the person of the Plaintiff and his motor vehicle , with registration number ANC 636, by officers acting under the command and instructions of the Defendant, was inconsistent with and violated the Plaintiff's right to freedom of movement within this jurisdiction as enshrined in section 18 of the Constitution.
 - (iii) A Declaration that the enforcement, application and/or execution of the ban contained in the said press release dated 26th February, 2018 and revised on 6th March, 2018 by the stop, arrest and/or detention of the person of the Plaintiff and his motor vehicle , with registration number ANC 636, by officers acting under the command and instructions of the Defendant, was inconsistent with and

violated the Plaintiff's right to protection from arbitrary arrest and detention as enshrined in section 17 of the Constitution.

- (iv) A Declaration that the enforcement, application and/or execution of the ban contained in the said press release dated 26th February, 2018 by the stop, arrest and/or detention of the person of the Plaintiff and his motor vehicle , with registration number ANC 636, by officers acting under the command and instructions of the Defendant, was inconsistent with and violated the Plaintiff's right to protection from deprivation of property as enshrined in section 21 of the Constitution.
- (v) A Declaration that the enforcement, application and/or execution of the ban contained in the said press release dated 26th February, 2018 by the stop, arrest and/or detention of the person of the Plaintiff and his motor vehicle , with registration number ANC 636, by officers acting under the command and instructions of the Defendant, undermined and/or deprived the Plaintiff of the exercise of his constitutional right to vote, as stipulated in section 31 of the 1991 Constitution during the public elections of 7th March, 2018.
- (vi) Compensatory Damages for every and all declarations/holdings of violation in regard to the 1st to 5th reliefs prayed for shall be determined after hearing from Counsel on both sides after the judgment herein has been delivered.

3. The Plaintiff shall have the Costs of the action, such Costs to be taxed, if not agreed.

THE HONOURABLE MR JUSTICE N C BROWNE-MARKE, JSC

THE HONOURABLE MR JUSTICE E E ROBERTS, JSC

THE HONOURABLE MS JUSTICE G THOMPSON, JSC