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therefore null and void;

(2) That the purported amendment by Act No. 39 of 1962 of Section 23 of the Constitution was ultra vires the Constitution and therefore null and void;

(3) That all consequential amendments to other sections of the Constitution - e.g. - the inclusion of the figure '1' on line 1 of section 31 of the Constitution are ultra vires and void.

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2. The principal questions that arise in this Appeal are:

(a) whether the Constitution (Amendment) (No.2) Act 1962 (No.12 of 1962) which amended certain sections of the Constitution of Sierra Leone dealing with citizenship, was ultra vires the Legislature as being in contravention of section 23 of the Constitution (which deals with discriminatory legislation).

20

(b) whether the Constitution (Amendment) (No.2) Act 1962 (No.12 of 1962) was in conflict with section 9 of the Constitution (which inter alia empowers the Parliament of Sierra Leone to make provision for the deprivation of citizenship of certain classes of citizens) and, if so, whether the said Act by implication amended the said section 9.

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(c) whether the Constitution (Amendment) (No.2) Act 1962 (No.12 of 1962) the Constitution (Amendment) (No.3) Act 1962 (No.39 of 1962) which amended section 23 of the Constitution, and the Constitution (Consolidation of Amendments) Act 1965 (No.52 of 1965) which consolidated certain of these amendments) all of which Acts were expressed to be

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retrospective, were retroactive in operation so as to affect the status of the Appellant on the 27th April 1961.

3. The Sierra Leone Independence Act, 1961 (9 & 10 Eliz. 2 Ch.16) (Public Notice No.87 of 1961) provided as follows :

10 "1. (1) On the twenty-seventh day of April, nineteen hundred and sixty-one (in this Act referred to as 'the appointed day'), the Sierra Leone Colony and the Sierra Leone Protectorate (of which the combined area is that specified in the First Schedule to this Act) shall together constitute part of Her Majesty's dominions under the name of Sierra Leone.

20 (2) No Act of the Parliament of the United Kingdom passed on or after the appointed day shall extend, or be deemed to extend, to Sierra Leone as part of the law thereof, and as from that day -

- (a) Her Majesty's Government in the United Kingdom shall have no responsibility for the government of Sierra Leone; and
  - (b) the provisions of the Second Schedule to this Act shall have effect with respect to legislative powers in Sierra Leone"
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SECOND SCHEDULE

Legislative Powers in Sierra Leone

.....

"6. Nothing in this Act shall confer on the legislature of Sierra Leone any power to repeal, amend or modify the constitutional provisions otherwise than in such manner

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as may be provided for in those provisions.

In this paragraph, the expression "the constitutional provisions" means this Act, any Order in Council made before the appointed day which revokes Parts II to VI of the Sierra Leone (Constitution) Order in Council, 1958, and the Sierra Leone Protectorate Orders in Council, 1951 to 1960, and any law, or instrument made under a law, of the legislature of Sierra Leone made on or after that day which amends, modifies, re-enacts with or without amendment or modification, or makes different provision in lieu of, any of the provisions of this Act, that Order in Council or any such law or instrument previously made." 10

The Sierra Leone (Constitution) Order in Council 1961 (S.1 1961 No.741) (Public Notice No.78 of 1961) 20

Provided as follows -

"1. (1) This Order may be cited as the Sierra Leone (Constitution) Order in Council, 1961

(2) This Order shall come into operation immediately before the twenty-seventh day of April, 1961: "

"3. Subject to the provisions of this Order, the Constitution of Sierra Leone set out in the Second Schedule to this Order (in this Order referred to as "the Constitution") shall come into effect in Sierra Leone at the commencement of this Order. 30

THE SECOND SCHEDULE

The Constitution of Sierra Leone

Chapter 1

CITIZENSHIP

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"1. (1) Every person who, having been born in the former Colony or Protectorate of Sierra Leone, was on the twenty-sixth day of April, 1961 a citizen of the United Kingdom and Colonies or a British protected person shall become a citizen of Sierra Leone on the twenty-seventh day of April, 1961:

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Provided that a person shall not become a citizen of Sierra Leone by virtue of this subsection if neither of his parents nor any of his grandparents was born in the former Colony or Protectorate of Sierra Leone.

30

2. (1) Any person who, but for the proviso to subsection (1) of section 1 of this Constitution, would be a citizen of Sierra Leone by virtue of that subsection shall be entitled, upon making application before the twenty-seventh day of April, 1963, in such manner as may be prescribed, to be registered as a citizen of Sierra Leone:

Provided that a person who has not attained the age of twenty-one years (other than a woman who is or has been married) may not make an application under this subsection himself but an application may be made on his behalf by his parent or guardian."

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"4. (2) Every person born in Sierra Leone after the twenty-sixth day of April, 1961 shall become a citizen of Sierra Leone at the date of his birth:

Provided that a person shall not become a citizen of Sierra Leone by virtue of this section if at the time of his birth:

- (a) neither of his parents was a citizen of Sierra Leone and his father possessed such immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power accredited to Sierra Leone; or 10
- (b) his father was an enemy alien and the birth occurred in a place then under occupation by the enemy". 20

"7. (1) Every person who under this Constitution or any Act of Parliament is a citizen of Sierra Leone or under any enactment for the time being in force in any country to which this section applies is a citizen of that country shall, by virtue of that citizenship, have the status of a Commonwealth citizen. 30

(2) Every person who is a British subject without citizenship under the British Nationality Act, 1948(a) or who continues to be a British subject under section 2 of that Act shall by virtue of that status have the status of a Commonwealth citizen".

"9. Parliament may make provision:

(a) for the acquisition of citizenship of Sierra Leone by persons who do not become citizens of Sierra Leone by virtue of the provisions of this Chapter;

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(b) for depriving of his citizenship of Sierra Leone any person who is a citizen of Sierra Leone otherwise than by virtue of subsection (1) of section 1 or section 4 of this Constitution; or

(c) for the renunciation by any person of his citizenship of Sierra Leone".

Chapter II

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Protection of Fundamental Rights  
and Freedoms of the Individual

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"11. Whereas every person in Sierra Leone is entitled to the fundamental rights and freedoms of the individual, that is to say, has the right, whatever his race, tribe, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely:

(a) life, liberty, security of the person, the enjoyment of property and the protection of the law;

(b) freedom of conscience, of expression and of assembly and association; and



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(c) respect for his private and family life,

the subsequent provisions of this Chapter shall have effect for the purpose of affording protection to the aforesaid rights and freedoms subject to such limitations of that protection as are contained in those provisions being limitations designed to ensure that the enjoyment of the said rights and freedoms of others or the public interest".

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"23. (1) Subject to the provisions of subsections (4), (5) and (7) of this section, no law shall make any provision which is discriminatory either of itself or in its effect.

(2) Subject to the provisions of subsections (6), (7), and (8) of this section, no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

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(3) In this section, the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, tribe, place of origin, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

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40

(4) Subsection (1) of this section shall not apply to any law so far as the law makes provision:

(a) .....

(b) with respect to persons who are not citizens of Sierra Leone; or

(c) .....

(d) .....

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(e) .....

(f) whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society."

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"31. Subject to the provisions of section 32 of this Constitution, any person who:

(a) is a citizen of Sierra Leone; and

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(b) has attained the age of twenty-five years; and

(c) is able to speak and, unless incapacitated by blindness or other physical cause, to read the English language with a degree of proficiency sufficient

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to enable him to take an active part in the proceedings of the House of Representatives

shall be qualified for election as such a member of the House of Representatives as is referred to in paragraph (b) of subsection (1) of section 30 of this Constitution. ..

"42. Subject to the provisions of this Constitution, Parliament may make laws for the peace, order and good government of Sierra Leone. 10

"43. (1) Parliament may alter any of the provisions of this Constitution or (in so far as it forms part of the law of Sierra Leone) any of the provisions of the Sierra Leone Independence Act, 1961:

Provided that in so far as it alters: 20

(a) this section;

(b) sections 11 to 25 (inclusive) section 29, section 44, subsection (2) of section 54, section 55, sections 56, 73, 74, 75, 76, 77, 79, 80, 81, 84, 85, 86, 87 to 93 (inclusive), 94, 95, 96, 97, 98, 99, 102 and 103;

(c) section 107 in its application to any of the provisions specified in paragraph (a) or (b) of this subsection; or 30

(d) any of the provisions of the Sierra Leone Independence Act, 1961

a bill for an Act of Parliament under this section shall not be submitted to the Governor-General for his assent

unless the bill has been passed by the House of Representatives in two successive sessions, there having been a dissolution of Parliament between the first and second of those sessions.

10 (2) For the purposes of subsection (1) of this section, a bill passed by the House of Representatives in one session shall be deemed to be the same bill as a bill passed by the House in the preceding session if it is identical with that bill, or contains only such alterations as are certified by the Speaker to be necessary owing to the time that has elapsed since that bill was passed in the preceding session.

20 (3) A bill for an Act of Parliament under this section shall not be passed by the House of Representatives in any session unless at the final vote thereon in that session it is supported by the votes of not less than two-thirds of all the members of the House.

30 (4) The provisions of this Constitution or (in so far as it forms part of the law of Sierra Leone) the Sierra Leone Independence Act, 1961, shall not be altered except in accordance with the provisions of this section.

(5) In this section:

(a) references to any of the provisions of this Constitution or the Sierra Leone Independence Act, 1961 include references to any law that amends, modifies, re-enacts with or without amendment or modification or makes different provision in lieu of,

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that provision; and

- (b) references to the alteration of any of the provisions of this Constitution or the Sierra Leone Independence Act, 1961 include references to the amendment or modification, or re-enactment with or without amendment or modification, of that provision, the suspension or repeal of that provision and the making of different provision in lieu of that provision". 10

4. The Constitution (Amendment) (No.2) Act, 1962 (No.12 of 1962) provided:

"1. This Act may be cited as the Constitution (Amendment) (No.2) Act, 1962, and shall be deemed to have come into operation on the 27th day of April, 1961. 20

"2. Section 1 of the Constitution is hereby amended:

(a) by the insertion immediately after the words "every person" in the first line of subsection (1) thereof of the words "of negro African descent"; and

(b) by the addition at the end thereof the following new subsections: 30

"(3) For the purposes of this Constitution the expression "person of negro African descent" means a person whose father and his father's father are or were negroes of Africa origin

(4) Any person, either of whose parents is a negro of Africa

10 descent and would, but for the provisions of subsection (3), have been a Sierra Leone citizen, may on making application in such manner as may be prescribed, be registered a citizen of Sierra Leone, but such person shall not be qualified to become a member of the House of Representatives or of any District Council or other local authority unless he shall have resided continuously in Sierra Leone for twenty-five years after such registration or shall have served in the Civil or regular Armed Services of Sierra Leone for a continuous period of twenty-five years".

20 "3. Section 4 of the Constitution is hereby repealed and replaced by the following section:

4. Every person of negro African descent born in Sierra Leone after the twenty-sixth day of April, 1961 shall be a citizen of Sierra Leone at the date of his birth if at that date his father is or was a citizen of Sierra Leone".

30 "4. Subsection (2) of section 7 of the Constitution is hereby repealed and replaced by the following:

40 (2) Every person who would have, but for the provisions of any amendment to this Constitution, been a citizen of Sierra Leone and every person who is a British subject without citizenship under the British Nationality Act, 1948(a) or who continues to be a British subject under section 2 of that Act shall have the status of a Commonwealth Citizen".

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The Constitution (Amendment) (No.3) Act 1962 (No.39 of 1962) provided:

"1. This Act may be cited as the Constitution (Amendment) (No.3) Act, 1962, and shall be deemed to have come into operation on the 27th day of April, 1961.

2. Subsection (4) of section 23 of the Constitution is hereby amended by:

(a) the substitution of a semi-colon and the word 'or' for the fullstop at the end of paragraph (f); and 10

(b) the addition immediately thereafter of the following new paragraph:

"(g) for the limitation of citizenship of Sierra Leone to persons of negro African descent, as defined in subsection (3) of section 1 of this Constitution, and for the restrictions placed upon certain other persons by subsection (4) of the said section". 20

Passed in the House of Representatives for the second time and in accordance with the provisions of subsections (1) and (3) of section 43 of the Constitution this 3rd day of August, in the year of our Lord one thousand nine hundred and sixty-two.

J.W.E. DAVIES 30  
Acting Clerk of the House of Representatives

The Constitution (Consolidation of Amendments) Act 1965 (No.52 of 1965) was a consolidating act which inter alia re-enacted the amendments effected by Act No. 12 of 1962.

It provided:

"1. This Act shall be deemed to have come into operation on the 27th day of April 1961..."

5. Section 19 of the Interpretation Act 1961 (No.46 of 1961) provided as follows :-

(2) Unless a contrary intention is expressed in the repealing enactment the repeal of an Act shall not:

- 10 (a) revive anything not in force or existing when repeal takes effect;
- (b) affect the previous operation of any Act so repealed or anything done or suffered thereunder;
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed.

20 6. The Appellant commenced THE PRESENT PROCEEDINGS by Writ of Summons and Statement of Claim dated the 20th February 1967. He sued the Respondent as legal representative of the State of Sierra Leone and claimed "as a Citizen of the State of Sierra Leone .... a Declaration that provisions in Sections 1(4), 23(G) and 31 of the Constitution of Sierra Leone Public Notice No.78 of 1961 disqualifying him from eligibility for Election into the House of Representatives is an infringement of his entrenched rights conferred by section 23 of the said Public Notice No.78 of 1961 and for an Order that for the reasons shown hereunder he is a fit and eligible person to be voted for as a member of the House of Representatives at any elections held in Sierra Leone." By  
30 subsequent amendment he claimed also "a declaration that the amendments to section (1) of the Constitution by Act No.12 of 1962

p.1

pp.12-14



Record

and P.N.No.52 of 1965 are ultra vires the Constitution and are void."

p.6, 1.21

7. It was not in issue on the pleadings that the Appellant was born in Sierra Leone on the 20th May 1927 of an indigenous Sierra Leone mother belonging to the Temne tribe and a Lebanese father born and bred in Senegal who had lived in Sierra Leone for the past 56 years.

pp.4-5

The Appellant's pleaded case was that on the attainment of Independence on the 27th April 1961 he had become a citizen of Sierra Leone by virtue of section 1(1) of the Constitution, that he had lost this status through the amendment of section 1 by Act No.12 but had become a citizen again by registration on the 7th January 1964 and was the holder of a Sierra Leone Passport declaring him to be such. By virtue of section (1)4 and section 31 of the Constitution he was disqualified from becoming a member of the House of Representatives, but he alleged that this disqualification was invalid. He further alleged that, he having once become a citizen, any amendment which tended to discriminate against him, as also any amendment to section 1 of the Constitution depriving him of his status as a Sierra Leonean because of his race, was ultra vires and void.

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p.6

In his Defence dated the 7th March 1967 the Respondent relied inter alia upon Act No.39 of 1962, pleading as follows:

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"4. The Defendant will contend that the Plaintiff not being a person of negro African descent and being registered as a citizen only pursuant to Section 1(4) of the Constitution, has not in law any entrenched right conferred by Section 23 of the Constitution as alleged in his Statement of Claim unless after continuous residence in Sierra Leone for twenty-five years after the date of his registration to wit the 7th of January, 1964".

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10 8. At the hearing before the Supreme Court it was submitted on behalf of the Appellant that his citizenship was "acquired by birth" and that where citizenship is so acquired "no law in the world can change it". It was also submitted that Parliament could not validly amend section 1 of the Constitution because of the provisions of section 9, sub-section (b) of which conferred no power on Parliament to deprive citizenship a person who was a citizen by virtue of sub-section 1 of section 1 or of section 4. Section 1 could not validly be amended unless section 9 was first amended, and this had not been done.

pp.21-23

20 For the Respondent it was submitted that the impugned Acts did not infringe fundamental rights but were laws relating to citizenship, as to which, and as to the acquisition of which, every country had power to legislate. There was nothing to prevent the legislature from imposing terms and conditions as to citizenship. Parliament was expressly empowered to alter any of the provisions of the Constitution, although there were certain "entrenched clauses" listed in section 43 for which a particular procedure was prescribed. So far as section 9 was concerned, it was not included in these "entrenched clauses", as it would have been if it had been intended that the Legislature should be deprived of the power of altering it. It was also submitted that since the relief that the Appellant was asking was declaratory, the court in any event had a discretion as to whether to grant it, and that this discretion should be exercised against the Appellant. He had not challenged the legislation before, although he had had abundant opportunity to do so, but had accepted it as constitutional when he made his declaration to be registered as a citizen, He could not accept the benefits of the Act and yet come to say that it was ultra vires.

pp.23-24

40 9. On the 26th October 1967 the Supreme Court delivered Judgment in favour of the Appellant.

p.25

Record

In his Judgment the learned Chief Justice held, it is respectfully submitted erroneously

p.47, 1.45-  
p.49, 1.45

(a) that the impugned legislation was not legislation on citizenship but was in pith and substance legislation to take away from certain persons the right of standing for election to the House of Representatives, a District Council or other local authority without having to wait for the lapse of 25 years. Such legislation was discriminatory. It did not fall within the category of paragraph (f) of section 23(4) of the Constitution and it was accordingly ultra vires the legislature.

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p.50, 11.10  
-17

(b) that the powers of altering the provisions of the Constitution conferred by Parliament by section 43(1) did not "entitle Parliament to make any alteration irrespective of whether it is good, bad or indifferent. An alteration must .... effect an improvement and also still be made for the peace, order and good Government of the country".

20

p.39, 1.18

In the respectful submission of the Respondent the learned Chief Justice was wrong in his view that the Court was entitled to hold invalid an amendment which it considered was not such as to "amount to an improvement of the existing law". The language of section 42 is apt and effectual to confer upon Parliament the plenitude of legislative power, subject only to the express limitations contained in section 43, and it is not for the courts but for Parliament to judge of the effect and merits of an enactment.

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p.51, 1.8

(c) that "the making of the Amendments by Act No.12 of 1962 to Section 1 and by Act No.39 of 1962 to Section 23 retroactive was completely unjustified and contrary to the spirit of sections 42 and 43 of the Constitution" and that this (as also the making retrospective of Act No.52 of 1965) was accordingly ultra vires Parliament. The Respondent respectfully

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submits that there is no justification for this view and that Parliament may by appropriate language (as in the impugned legislation in the present case) legislate with full retrospective effect.

10 (d) that the effect of section 9 of the Constitution was that Parliament had "no power to deprive the palintiff [appellant] of the citizenship he automatically acquired on 27th April 1961". As to this it is submitted that Act No.12 of 1962 in no way conflicted with the provisions of section 9 but this if it did, it amended that section by necessary implication

p.51, 1.4

In the result, the learned Chief Justice held that:

- 20 "1. The purported amendment by Act No.12 of 1962 of Section 1 of the Constitution was ultra vires the Constitution and therefore null and void.
2. The purported amendment by Act No.39 of 1962 of section 23 of the Constitution was ultra vires the Constitution and therefore null and void."

p.52, 1.7

On the 1st December 1967 the learned Chief Justice made an Order in the terms hereinbefore in paragraph 1 set out and that the Appellant should have the costs of the action.

p.55

10. By Notice of Appeal dated the 16th January 1968 the Respondent appealed from the said Judgment to the Court of Appeal for Sierra Leone.

p.57

At the hearing of the Appeal it was submitted inter alia on behalf of the Respondent that Parliament had the right to legislate retrospectively and in the impugned legislation had done so expressly; that Act

pp.64-79,  
92-97

Record

No.12 of 1962 was not discriminatory, being within section 23(4)(f) of the Constitution; and that further, Act No.39 of 1962 (which added paragraph (g) to section 23(4) having been properly and validly passed in accordance with section 43(1) and (3) of the Constitution, Act No.12 of 1962 fell within the new paragraph so added.

pp.79-92

It was submitted inter alia on behalf of of the Appellant that Act No.12 of 1962 did not pass Parliament with the required majority and further that it could not be retrospective, even if Parliament intended it to be so, by reason of the fact that it preceded Act No.39 of 1962 in time. If Act No.12 of 1962 and Act No.39 of 1962 were retrospective, they were ultra vires and void. This was because of section 9(b) of the Constitution which forbade an amendment of section 1(2) in such a way as to deprive a person of his citizenship. Parliament had no power of amending section 9(b) in such a way as to deprive a person of his citizenship under section 1(2), alternatively it could not repeal section 9(b) by implication, because of the restriction imposed by sub-section (b) itself. Act No.12 of 1962 moreover was discriminatory against race and offended section 23(1) of the Constitution "and therefore even though it appears to be retrospective as from 27th April 1961, it is void. That Act became void on 17th March 1962 i.e. the date on which the Queen's assent was given".

p.91, l.30

p.98 11.

On the 5th April 1968 the Court of Appeal gave Judgment, allowing the Respondent's Appeal and making no order as to Costs.

The principal Judgment was delivered by Sir Samuel Bankole Jones, P.

In his Judgment the learned Judge held, it is submitted correctly,

p.108, l.14

(a) that it was to be presumed that

Act No.12 of 1962, which was an enactment expressed to be for the amendment of section 1(1) of the Constitution, had been duly passed with the requisite majority in accordance with section 43(3) of the Constitution, the maxim omnia praesumuntur applying.

(b) that it was intra vires Parliament to amend section 1 of the Constitution

p.109, 1.41  
-p.110, 1.13

10 In so doing by Act No.12 of 1962 Parliament had complied with the provisions of section 6 of the Independence Act 1961 because it had obeyed the provisions of section 43(3) of the Constitution which stipulated the manner in which an amendment could be effected, namely by a two-thirds majority. Section 1 was not an "entrenched clause" and there was no provision in section 9(b) which would deny to an amendment of section 1 constitutional  
20 effect.

p.111, 1.40

(c) that similarly and for the same reasons it was intra vires Parliament to amend section 9(b), subject only to the same constitutional requirement that section 43(3) had to be complied with. Since Act No.12 of 1962 had complied with this requirement, it followed that, if there was any conflict with section 9(b) that section was amended by necessary implication.

p.110, 1.19  
-p.112, 1.7

30 (d) that Act No.12 of 1962 was not discriminatory as to race but was purely legislation on citizenship, but even if it were discriminatory, Act No.39 of 1962, which amended section 23(4) of the Constitution by adding the new paragraph (g) effectually validated it.

p.114, 1.23

p.114, 1.39

40 (e) that Act No.12 of 1962 and Act No.39 of 1962 had full retrospective effect and operated as if the amendments they made in the Constitution were in existence on the 27th April 1961.

p.115, 1.42  
-p.116, 1.7

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G.F. Dove-Edwin J.A. and J.B. Marcus-Jones  
J.A. agreed with the Judgment of the learned  
Chief Justice

p.118

12. On the 22nd May 1968 the Supreme Court  
give the Appellant Final Leave to Appeal from  
its said Judgment to the Privy Council.

13. The Respondent respectfully submits that  
this Appeal should be dismissed with Costs for  
the following amongst other

R E A S O N S

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1. BECAUSE Act No.12 of 1962 was validly  
passed in accordance with section 43 of  
the Constitution.
2. BECAUSE there is a presumption that Act  
No.12 of 1962 which was expressed to be  
an Act to amend the Constitution, was  
duly passed by the majority which section  
43 requires for legislation of such a  
nature.
3. BECAUSE the Royal Assent having been  
duly given to Act No.12 of 1962, the  
Courts are precluded from examining the  
proceedings in Parliament before the Act  
was passed in order to enquire whether it  
was passed with a sufficient majority. 20
4. BECAUSE Act No.12 of 1962 and Act No.52  
of 1965 did not contravene section 9(b)  
of the Constitution.
5. BECAUSE if Act No.12 of 1962 contravened  
section 9(b) of the Constitution, it  
amended this provision pro tanto by  
necessary implication. 30
6. BECAUSE Act No.12 of 1962 and Act No.52  
of 1965 were not discriminatory laws but  
were legislation on citizenship and did not  
contravene section 23(1) of the  
Constitution.

7. BECAUSE insofar as by any provision in Act No.12 of 1962 or in Act No.52 of 1965 the Appellant or any other person was subjected to any disability or restriction, such provision was, having regard to the nature of such disability or restriction and the special circumstances pertaining to the persons subjected thereto and other persons, reasonably justifiable in a democratic society.
- 10
8. BECAUSE Act No.12 of 1962 was a law falling within section 23(4)(g) of the Constitution.
9. BECAUSE Act No.39 of 1962 and Act No. 52 of 1965 were validly passed in accordance with section 43 of the Constitution.
10. BECAUSE it was not ultra vires Parliament to pass Act No.12 of 1962 or Act No.39 of 1962 or Act No.52 of 1965.
- 20
11. BECAUSE Act No.12 of 1962, Act No.39 of 1962 and Act No.52 of 1965 had full retrospective effect.
12. BECAUSE the Appellant, having accepted the amendments effected by Act No.12 of 1962 and Act No.39 of 1962 when he applied to be registered as a citizen thereunder and having brought this action on the basis that he had been duly registered as such on the 7th January 1964, cannot now be heard to say, and is not entitled to a declaration, that such amendments are void.
- 30
13. BECAUSE the Judgment of the Court of Appeal was right for the reasons therein stated.

MONTAGUE

SOLOMON



