

**IN THE SEYCHELLES COURT OF APPEAL**

**[Coram: F. MacGregor (PCA) ,S. Domah (J.A) ,J. Msoffe (J.A)]**

**Constitutional Appeal SCA CP 1/2016 (b)**  
**(Appeal from Constitutional Court Decision CP7/2015 & CP1/2016)**

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Wavel John Charles Ramkalawan

Appellant

Versu  
s

Electoral Commissioner

James Alix Michel

Attorney-General

Respondents

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Heard: 29 November 2016

Counsel: Mr. B. Georges for Appellant

Mrs. S. Aglae for Respondent no. 1

Mr. B. Hoareau for Respondent no. 2

Mr. R. Govinden for Respondent no. 3 with Mr. A. Subramanian

Delivered: 09 December 2016

**JUDGMENT**

S. Domah (J.A)

- (1)** This appeal arising out of the consolidated cases of CP07/15 and CP1/16 is being heard with agreement of parties on the specific issue of the interpretation of the terms “votes cast” and “valid votes cast” used in the paragraph 5 and 8 of Schedule 3 of the Constitution as it was applied in the 2015 Presidential Elections in Seychelles.

- (2) The Appellant, a Presidential candidate who was not returned, takes the view that the Electoral Commission, the independent authority which in Seychelles has been entrusted with the power to conduct and supervise elections, erred in not drawing a distinction between the two above-mentioned terms when it declared the second Respondent as the successful candidate. He challenges the decision of the Constitutional Court where the learned judges decided that the terms “votes cast” and “valid votes cast” mean one and the same thing.
- (3) If Appellant is correct in his interpretation, then the constitutional imperative of over 50% threshold that a successful candidate to the Presidential election should satisfy will not have been met. If the Respondents are correct, then the outcome of the results is unassailable. This is what we have to decide in the present appeal.
- (4) Appellant, accordingly, seeks from this Court an order for the 2015 Elections to be annulled for a third ballot to be conducted as per the law in accordance with the proper interpretation of the words of the law and their proper application.
- (5) The Electoral Commission (Respondent No. 1), James Alix Michel (Respondent No. 2) and The Attorney-General (Respondent No. 3) resist the appeal and agree with the decision of the learned judges of the Constitutional Court.

#### THE FACTS RELEVANT TO THIS APPEAL

- (6) The best two who were entitled to participate in the second round of the election happened to be the Appellant and the Respondent No. 2. The results – when they came - gave the Respondent No. 2 as the winner with 50.15% of the total votes cast compared to the Appellant with 49.85% of the total votes cast. Appellant had received 31,319 votes and Respondent No. 2 had received 31,512 votes. 1,062 had been rejected as not complying with the law. The total number of votes cast was 63,983. The valid votes were 62,831. If the total votes received was taken against all the ballots used, then neither would have obtained the over 50% required for the election. On that calculation, Respondent No. 2 had received only 49.319%.
- (7) It is the case of the Appellant before us as it was before the Supreme Court in a constitutional challenge he brought (CP7/2015) that had the percentage been taken from

the total number of ballots which had entered the ballot box, the specified threshold of 50% for a successful Presidential election had not been reached: neither in the first round nor in the second round so that a third round has become necessary.

- (8) The Constitutional Court after hearing the submissions on both sides, and with reasons and authorities, dismissed the argument. The learned judges decided that there was no difference between the terms “votes”, “votes cast” and “valid votes cast.” They came to the conclusion that Respondent No. 1 had correctly interpreted and applied the electoral law.

#### GROUND OF APPEAL

- (9) The appellant has repeated his arguments before us and added some additional grounds. The Additional Grounds are as follows:

*“1. The Constitutional Court erred in its interpretation of the terms “votes” and “votes cast” in Schedule 3 of the Constitution to include only valid votes which had selected a candidate, in that such an interpretation:*

- (a) Ignores the reason for the threshold of fifty percent of votes to have been required in the first place, namely so that the successful candidate’s mandate would be as clear and unambiguous as possible;*
- (b) Renders meaningless the clear difference between those formulations in Schedule 3 and the term “valid votes” in Schedule 4 prior to its amendment;*
- (c) Ignores the provision of paragraph 5 of Schedule 3 which contemplates that more than one ballot may be required in order to achieve the fifty per cent threshold;*
- (d) Renders the threshold meaningless in so far as in a two-candidate second ballot the winner will automatically achieve the threshold.*

- (10) We shall deal with each of the issues (a) to (d) raised above in the order in which they are set out.

#### THE LAW

- (11) The law is found in paragraph 5 and paragraph 8 of Schedule 3 of the Constitution with regard to the election of the President. The relevant part of paragraph 5 reads:

*“a person shall not be elected to the office of the President unless he has received more than fifty percent of the votes in the election ...” [emphasis added]*

And the basis for the holding of a second poll is found in paragraph 8:

*“Where in an election to the office of President three or more candidates take part in any ballot and no candidate receives more than fifty percent of the votes cast ...” [emphasis added]*

It is worth noting for eventual reference that paragraph 5 speaks of “*fifty percent of the votes in the election*” and paragraph 8 of “*fifty percent of the votes cast* ...”

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GROUND (a)

(12) Under (a), it is the submission of learned counsel that in equating the words “votes cast” with “valid votes cast,” the Constitutional Court ignored the rationale behind the requirement of the threshold of fifty percent of votes for a Presidential election. That rationale, in his submission, lies in the fact that for a Presidential election the founding fathers of the new Constitution intended that the acceptance by the people of the Head of the State should be as clear and unambiguous as possible.

#### **COMPARISON WITH SCHEDULE 4**

(13) When submitting on (a), Mr Bernard Georges invited us to compare paragraph 2 of Schedule 4. This provision reads as follows:

*“A political party which has nominated one or more candidates in a general election and has polled in respect of the candidates in aggregate 10% or more of the votes cast at the election may nominate a proportionally elected members for each of the votes polled.”*

(14) It is his argument that “votes cast” has been used in Schedule 3 for the determination of the 50% threshold for the Presidential election. However, for the determination of the 10% threshold for the choice of members on the basis of Proportional Representation, the applicable paragraph 2 Schedule 4 speaks of “valid votes cast.”

- (15) It is his argument that when the framers of the Constitution used the term “valid votes cast” in Schedule 4 for the choice of members on Proportional Representation but omitted the word “valid” when it came to Schedule 3 for the election of the President, the choice was deliberate and the proper construction should be given to the law in terms of that intention. He points out that the phrases are used within a few pages in the same document so that the framers of the Constitution should be taken to have known the difference in the terms.
- (16) It is learned counsel’s argument that the case of **Popular Democratic Movement v Electoral Commission (2011) SLR 385** which decides that the word “valid” is a surplusage may remain true for the choice of a member on Proportional Representation. But that cannot apply for the election of a President. He submits that effect should be given to paragraph 5 of Schedule 3 in its own right as it was meant to achieve a balance of power and a majority acceptability of the President. Short of that specified majority as a clear and unambiguous expression of the will of the people, there is no legitimacy in the election of a President. On his count, in the **Popular Democratic Movement** case, the required percentage was 10%. But if all the votes cast was taken into account, the percentage would have been 7.4% as against 10.9% if all the valid votes were taken as the base. In his view, a similar short fall would be seen if all the votes cast was taken as the base save for the torn and mutilated ones.
- (17) It is further the argument of Mr Bernard Georges that the requirement of the 50% of acceptability of the President should be taken in the greater context that a democratic government derives its source of power from the will of the people, that each of the citizens has a bundle of fundamental freedoms and rights and that the government is a government by majority will. There should be a majority acceptability of the person who is going to be the Head of the State, the Commander in Chief of the Defence Forces etc. We agree. It is provided in the Constitution how it should be interpreted: see Presentation of Hon. Justice MacGregor, on the Role of the Judiciary in the Constitutional Governance of Seychelles.
- (18) Mr Bernard Georges referred to a number of comparative legislations and the following cases in support of his views: **Raila Odinga v Independent Electoral Boundaries Commission and Ors [2013] eKLR at para 281; Morgan & Ors v Simson & Ors**

**[1974] 3 WLR 517 and Popular Democratic Movement v Electoral Commission (2011) SLR 385.**

- (19) Mrs Aglaé for Respondent No. 1 responded by pointing out that the words used in paragraph 5 indicates that the base for reaching the percentage should not be the ballots used but the votes received: The relevant part of Schedule 3 at paragraph 5 reads:

*“a person shall not be elected to the office of the President unless he has received more than 50% of the votes in the election.”*

- (20) Mr Hoareau for Respondent no. 2 submitted that the right to vote is subject to the electoral law of the country. To that extent, a person does not have the licence to vote in any way he wants, he has not voted if he is non compliant with the law. He has repeated to us the citation in the Mauritian decision of **Bappoo v Bughalloo & Ors [1978 MR 105]** where the Supreme Court of Mauritius stated the following with respect to elector compliance with statutory provisions in an election:

*“While it is true to say that effect should be given to the intention of the voter if it can be ascertained from the marking on the ballot paper, the voter must comply with certain discipline, at least such as is necessary to regulate the holding of an election according to the expressed requirements of the law. The moment the voter adopts a method of voting which conflicts with the orderly arrangement of election, his licence to express his vote as he chooses ends.”*

- (21) If we had anything to add to this pronouncement, we would state that an elector has a right to vote in a democratic society but he does not have a license to express his vote as he chooses. His right to vote is subject to the rule of law and not the rule of his will.

- (22) The Attorney-General referred to the decision of this Court in **Popular Democratic Movement v Electoral Commission [supra]** as having decided the issue, all the more so when Mr Bernard Georges does not challenge that this Court correctly decided it.

OUR CONSIDERATION

- (23) We have no difficulty in accepting the proposition of Mr Bernard Georges that there was a purpose behind putting the bar at 50% for a Presidential candidate to be elected. Our difficulty, however, lies in accepting learned counsel's proposition that to reach the threshold of 50%, one needs to take into account not all the votes that were cast in the election but all the ballots which found their way into the ballot box. In the submission of learned counsel, all the ballots included the rejected ones save for the torn or mutilated ones. On such an interpretation, the submission has been that neither candidate will have obtained the over 50% constant that is a mandatory requirement for the election of a President.
- (24) It is one thing to say that the Constitution should be interpreted fairly and liberally as we are enjoined to do under the Rules of Interpretation of the Constitution in paragraph 8, Schedule 2. But it is quite another to interpret it fancifully. The will of the people is to cast their votes in an election for the purpose of forming a government which braces itself to govern.
- (25) If the argument is that all ballots which entered the ballot box should have been counted, then we would be equating votes with ballots when these two words carry different meanings. A ballot is a document in which the choice of a candidate is made by an elector. A vote is a document in which the candidate has made the choice as required under the law. Had the framers of the Constitution intended that the threshold of 50% should be assessed from the number of votes the candidate obtained with reference to all the ballots which entered the ballots for the election, they would have said so.
- (26) The 50% is not in relation to the turnout at the various voting booths but in relation to what the candidate has received and what he receives is only what is valid so that there is merit in saying that when paragraph 8(1) of Schedule 3 of the Constitution reads: "more than 50% of the votes cast in the election," the word "cast" reinforces the argument that the counting of ballots do not enter the equation by merely entering into the ballot boxes. As this Court stated in the case of **Popular Democratic Movement v Electoral Commission (2011) SLR 385**.

*"the term 'valid' in relation to a vote cast at a Presidential or National Assembly election or referendum has always been mere surplusage in view of our Constitutional framework."*

- (27) The word “valid” in relation to the words “vote cast” is redundant in the sense that the vote will go to the candidate only after it has been validated by the Returning Officer. Votes cannot mean anything but ballots which have been validated for the purpose for which they have been intended: for casting votes for the purpose of electing a candidate mentioned in the ballot paper. Once that validation has taken place in accordance with the law, the ballots which became votes with the elector’s choice becomes a valid vote for the election of the candidate indicated by the elector. Ballot papers where electors have not complied with the requirements of electoral law are spoilt ballots or spoilt votes. They may be votes which have been cast but votes cast are not necessarily valid votes to the same extent as ballots are not votes. The Constitutional Court referred to a number of situations where the law refers to vote cast instead of vote. There is no mystery about it. The term “votes cast” connotes the activity of the elector and changes nothing in the legal status of a vote.
- (28) At paragraph 83 the learned judges state: *“the only distinction that ought to be made between the insertion of a ballot paper in the ballot box and a vote is that the voter has made his choice of the candidate and by that fact alone the ballot has become a vote.”* We agree.
- (29) One reason advanced by learned counsel for the Appellant for taking as base all the ballots except the stayaways is that a person who stays at home and does not vote is different from one who goes to vote but by accident or design spoils his vote. In his submission, this elector went to vote and he has voted even if he has spoilt his vote in the exercise of his right to freedom of expression. To him, this vote should be counted. It was a vote cast in the election on the constitutional context that even he has voted who has spoilt his vote whether by accident or design in the combined exercise of his right to vote, his right of expression and his right to participate in an election.
- (30) It is a seductive argument. However, the flaw lies in the fact that the argument shies away from the crucial issue of definitions. In fact, Mr Bernard Georges is ambivalent on definitions. At one paragraph 49 of his Written Submissions, he takes the view that this case is not about the definition of words and phrases. Yet in the rest of his submissions he is giving personal definitions of the words and phrases.



- (31) This case is all about use of the *mots justes* in legal interpretations and application. In legal science as in all sciences, it is all about getting the terms right. It may be fashionable at a table to use words as well as phrases freely, liberally and interchangeably. The outcome is in many instances innocuous. But at the Bar and the Bench, the fashion cannot migrate. The outcome is treacherous. It is no longer then the rule of law but the rule of language. Words and phrases have their own jurisprudence in the context in which they are used.
- (32) Definition of terms is the key to this case as the Constitutional Court rightly identified, even if it proceeded for the sake of comprehensiveness to give a number of other reasons for their decision. Indeed, they looked at the Dictionary meaning of the crucial words. They reached more or less the answer but fell short of the complete answer. That is explicable because of the fact that we are here concerned not only with the definition of words and phrases but with the activity involved in the words and phrases. A ballot is a word. A vote is also a word but connotes at the same time an activity: the act of voting. With the proper use of the words and phrases, the answer is self-evident. A ballot is a formal document prepared for the conduct of a specific election. A ballot is not yet a vote. It becomes a vote after an authorized elector makes his election in an authorized manner for the purpose for which the ballot was intended. At that stage, the ballot by virtue of his intervention may have converted the ballot into a vote. But it is not yet a vote cast. It becomes a vote cast after the elector, on making his choice, by another gesture physically inserts his vote irretrievably in the ballot box. The vote so deposited is still not a valid vote. It becomes a valid vote after the Electoral Officer has decided on examination of the vote that he will accept it for its compliance with the law. A valid vote is a vote where the Returning officer has accepted to count it for that election by that elector of the candidate of the elector's choice. It is still not yet a vote received by the candidate. It becomes a vote received by the candidate when the Returning officer has returned it to the count. Thus, a poll is different from a ballot is different from a vote is different from a vote cast is different from a valid vote and is different from a vote received. That is the common sense construction along which democratic elections are conducted. In some jurisdictions, this common sense has been regulated so as to make what is certain doubly certain. In some, it has been assumed that the uncommon will not enter the common and common sense need not be regulated.

- (33) On that common sense construction, ballots that entered the ballot box were not votes. Ballots which entered the ballot boxes may not be taken to be the base from which the 50% is to be gauged. Paragraph 5 and 8 of Schedule 3 speaks of votes in an election and votes cast respectively and not ballots used for the purposes of an election. The framers cannot have mistaken the word ballot for vote inasmuch as they have used the word “ballot” just ten words before using the word “votes cast” in paragraph 8 of Schedule 3. They are deemed to have known the difference between ballots, votes in an election and votes cast. In the determination of the over 50%, if the framers of the Constitution intended that even those electors should be counted who spoilt their votes, the framers would have said so. Likewise, had they intended that all the ballots should have been taken in the count, they would have said so. We are not permitted to evade the legal meaning of the words and phrases and argue on the simple comparison of two texts: namely Schedule 3 and Schedule 4. We are unable to accept the submission of learned counsel for the Appellant in that regard. With this we come to Schedule 4, the subject matter of Ground (b).
- (34) Under (b), it is the argument of learned counsel that the interpretation given by the Constitutional Court renders meaningless the clear difference between “votes in an election” and “votes cast” used in Schedule 3 and the term “valid votes cast” in Schedule 4. Schedule 4 provides for calculating the 10% threshold in the determination of the number of proportionally elected members. It is an amendment that was effected in 1996 for the purpose of achieving a perceived inequity in the first-past-the-post system in the elections for the National Assembly.
- (35) The issue of the interpretation of the words “valid votes cast” as compared to “votes cast” under paragraph 2 of Schedule 4 came up for interpretation in the case of **Popular Democratic Movement v Electoral Commissioner [supra]**. The basic question was whether the threshold of 10% should be calculated on the basis of votes cast or valid votes cast. The Constitutional Court decided that it should be decided on votes cast. On appeal, this Court upheld the decision commenting that the word “valid” in the term “valid votes cast” added nothing to the notion of votes cast and was a surplusage.
- (36) Mr Bernard Georges does not challenge the decision insofar as it applies to cases of Proportional Representations. But the present case, in his submission, is one that deals with a Presidential election where the overriding concern is legitimacy of the election of the

President by the will of the majority of the people including those who go to the booth to express their negative values by spoiling their votes or not voting at all.

- (37) In his view, a purposive, fair, progressive and liberal interpretation should be given to this sacred position sanctified by the President's position, the highest in the land as the Head of the State, Head of Government and Commander-in-Chief of the Defence Forces. He is the country's Chief Executive, the source of all executive power, the most powerful person in the land, the focal point of political leadership. An election to that office which holds the reins of the country needs a clear mandate of the majority of the electorate and not limited to those only who chose to vote and whose votes were validated.
- (38) This case, in the view of learned Counsel for the Appellant involves an interpretation of the issues in the broader context of the Constitution where paragraph 8 enjoins the Court to read the Constitution as a whole and to give its provisions their fair and liberal meaning.
- (39) To the extent that all sources of power spring from the will of the people, that will is gauged by the majority acceptance in a democratic form of government. That can neither be wished nor washed away. It should be translated into reality. The people are endowed with rights and freedoms and it is the duty of everyone to strive towards the fulfillment of the aspirations so that those aspirations do not become dead letters. Aside the fact that there exist the concept of majority rule, each and every citizen is endowed with individual rights and freedoms. Balance is the core of the political system in place. Even they serve who stand and stare. Their silence speaks louder than their words and should be counted in the assessment of the 50% threshold. So learned Counsel's argument goes.
- (40) We have no doubt that these were the valid argument used for the insertion in the Constitution that the election of the President should be calculated on a basis and that the basis should be more than 50% to be true to the principle of government by majority. The discussion, however, is not on the principle. Nor is it about persons who have exercised their right to vote. It is the manner in which the 50% should be calculated. Paragraphs 5 and 8 are clear: not on the basis of ballots nor on the basis of those who have exercised their rights to vote under section 24 but on the basis of the votes and the votes cast. And votes in an election does mean in this context the vote cast and which the candidate has received as per the terms of the law. That is the end all and the be all.

- (41) We have to say that the decision of the Constitutional Court shines by its comprehensiveness. The learned Judges did not rest content with the submissions made by counsel appearing for the parties only. Concerned with achieving judicial uniformity in the interpretation of terms in the construction of democratic systems of government, they extended their knowledge base to papers from reliable international sources, International Institute for Democracy and Electoral Assistance, (IDEA). They used comparative jurisprudence. They referred to what obtains in such matters in jurisdictions such as Brazil, Kenya, Croatia, New Zealand, Australia, Canada, Netherlands, South Africa, India, United Kingdom. They referred to dictionary meaning of terms and thereafter looked at local jurisprudence before they came to their conclusion. They had found not a single jurisdiction where all the ballots are counted for the purpose of electing a candidate in an election. The ballots used are profitably used for statistical purposes: namely to assess voter turnout. But that is a far different kettle of fish.
- (42) We are accordingly of the view that the Supreme Court rightly and competently dismissed the submission of learned counsel for the Appellant as untenable. Their reasoning was backed by an ample array of authorities.
- (43) We have not been shown by learned counsel in what way the 50% is rendered meaningless when the 50% target is not surpassed in the first round but is surpassed in the second. The fact of the matter as conceded by learned counsel is that it is bound to be reached in the second round. In fact, it is clear that only two rounds are inbuilt in the system. If no candidate passes the 50% ceiling in the first round, the second round is run only with two candidates where, unless there is a tie, it is bound to reach, as it happened in the 2015 poll.
- (44) Under (c), learned counsel's argument has been that the Court's interpretation ignores the provision of paragraph 5 of Schedule 3 which contemplates that more than one ballot may be required in order to achieve the fifty per cent threshold. If counsel has pointed to the use of votes in an election and valid votes cast occurring within a couple of pages of each other in the same principal document. That is fine but one may also see that the word ballot exists within 10 words in the document with which we are directly concerned, as we indicated above. If the legislator had meant the ballots, he would have said so.
- (45) All in all, if we gave the interpretation which learned counsel is advocating, we would be reversing a core principle in the democratic system of government. Elections are meant to

form a government to govern and not to provoke elections upon elections. The principle is more government and fewer elections. It is not more elections and little government. The bar is rightly set at the second round on the present calculation. On learned counsel's political theory, the likelihood is that the people would be so sick with elections that there is no guarantee that the 50% of turnout will ever be reached leading to double suicide of the system: the failure of electoral system and the failure of government.

- (46) With regard to (d), learned counsel submits that the interpretation arrived at by the Constitutional Court renders the threshold meaningless in so far as in a two-candidate second ballot the winner will automatically achieve the threshold.
- (47) We are simply intrigued by this argument. Learned counsel is obviously oblivious of the fact that his submission that in a two-candidate second ballot, the winner will automatically achieve the 50% threshold supports the argument that the 50% continues to be the constant factor.
- (48) That may well be, all the more so when paragraph 8 speaks about second and subsequent ballots. And 8(2) of subsequent ballots. This paragraph reads:

***“Second or subsequent ballot***

8. (1) *Where in an election to the office of President three or more candidates take part in any ballot and no candidate receives more than fifty percent of the votes cast, then, if the result of the ballot is that -*

*(a) all the candidates receive the same number of votes;*

*(b) two or more candidates receive, equally, the highest number of votes;*

*(c) one candidate receives the highest number of votes and another candidate receives the second highest number of votes; or*

*(d) one candidate receives the highest number of votes and two or more candidates receive, equally, the second highest number of votes,*

*only the candidates referred to in subparagraph (a), subparagraph (b), subparagraph (c) or subparagraph (d), as the case may be, shall take part in the subsequent ballot and the other candidates, if any, shall be eliminated.*

*(2) Any subsequent ballots referred to in subparagraph (1) shall be held not less than seven days and not more than fourteen days after the immediately preceding ballot.”*

- (49) It is the argument of Mr Bernard Georges that there is a constitutional rationale in the requirement that a President should attain a 50% threshold of votes so that as the President of the Republic his acceptance by the people who vote him should be clear and unambiguous.

- (50) His argument, therefore, is that the 50% is a constant as per the Constitution for the election of the President so that since in neither round did any of the candidate obtain 50%, there should be a third ballot to ensure that a President is elected with 50% threshold so that there be clarity and lack of ambiguity in his election. For that reason, his argument is that the threshold base should be calculated from the base of “all the ballots which have entered the ballot box (other than those which have been clearly discarded, namely torn or mutilated ballots). We have not been given the reason why there should be these exceptions. Either all the ballots have to be pitted against the votes received or only valid votes against votes received. A vote may only be discarded as per law. A torn ballot is a valid ballot so long as the intention of the elector can be ascertained from it. A mutilated ballot can also be read for the intention of the elector: see **Kay v Goodwin [1830] 6 Bing, 576; Lemm v. Mitchell [1912] A.C. 400**. The flaw in the reasoning is that ballots attain legitimacy as votes only when the ballots have been used properly for the purpose for which they are meant under the law.
- (51) His case for a fresh election is also based on the fact that no candidate obtained a 50% threshold. This threshold in the argument of learned counsel is needed to strike the balance of power which should be ensured for the successful President. The Constitutional Court correctly referred to this argument of learned counsel as the Achilles heel in his submission. We agree.

#### OUR DECISION

- (52) For the determination of the over 50% threshold, the votes received by the respective candidates should be counted against the valid votes cast and not against the number of ballots that found their way into the ballot box.
- (53) If we adopted the latter meaning, we would be, as a court of law, engaging ourselves in judicial legislation. “Votes in an election” means votes in an election of a candidate by an elector.” It does not mean “votes in a non election of a candidate by an elector.” That then will not be interpreting the Constitution in a fair and liberal way as a whole but fancifully experimenting with the Constitution, which would be a pernicious exercise to undertake in the name of the election of the Head of State of the Republic.

(54) A distinction should be drawn in law between the words “ballot,” “vote” and “vote cast,” “valid votes” and “votes received.” To the extent that the nouns are coupled with the verbs, they are not interchangeable. In law.

(55) This appeal has no merit and is dismissed. With costs.

S. Domah (J.A)

**I concur:.** ..... F. MacGregor (PCA)

**I concur:.** ..... J. Msoffe (J.A)

Signed, dated and delivered at Ile du Port on 09 December 2016