

REV. WIAH WESSEH et al., members of the Abosso Apostolic Faith Church of Jesus Christ, Petitioners, v. **ROBERT C. TUBMAN**, Deputy Minister of Justice, and A. R. C. GRANDOE, Bishop of the Abosso Apostolic Faith Church of Jesus Christ, Respondents

APPEAL FROM THE RULING OF THE CHAMBERS JUSTICE GRANTING THE
PETITION FOR A WRIT OF PROHIBITION.

Heard: March 26, 1979. Decided: June 14, 1979.

1. The Ministry of Justice is one of the most essential agencies of government charged with the responsibility to make meaningful and effective a fundamental principle of the Constitution, which is that the administration of government is to secure the existence of the body politic, to protect it and to furnish the individuals who compose it with the power of enjoying in safety and tranquility their natural rights and blessings of life.
2. The Ministry of Justice has the authority to hold investigations into complaints either from the President of Liberia or from a private citizen as to a threatened criminal activity in the country.
3. The three departments into which the government is divided are equal but have separate and distinct powers and functions: the Legislative Department makes the law, the Executive Department enforces the law, and the Judicial Department interprets the law.
4. Investigation by the Ministry of Justice, which is an arm of the Executive department of the government, into an alleged criminal activity is a proper exercise of the powers to enforce the laws of Liberia; and prohibition will not lie to prevent, prohibit or obstruct such proper exercise of constitutional and statutory powers.
5. Prohibition will be disallowed where it is shown that it is intended to prevent, prohibit, and obstruct an administrative agency of government from exercising its lawful and administrative duties and responsibilities.
6. A writ of prohibition will not be granted against a court or administrative agency which has neither exceeded its jurisdiction nor attempted to proceed by a wrong rule.

The petitioners, who were members of the Abosso Apostolic Faith Church of Jesus Christ, were excommunicated and expelled from the church, but continued to withhold the property of the church and to harass and intimidate the Bishop and other members of the church. This caused the Bishop to institute an action of ejection against them, and they in turn to complain to the County Attorney of Montserrado County and to obtain a writ from

the magisterial court on the charge that the Bishop had embezzled the church's money. While these two matters were pending, the Bishop complained to the President of Liberia that petitioners had disrupted a Christmas Day service, beat up the Bishop and other church members, and vandalized the church building and properties. The President sent the complaint to the Minister of Justice for investigation. The Ministry of Justice, in obedience to the President's directive conducted an investigation.

The petitioners fled to the Chambers Justice to obtain the writ of prohibition to prohibit and stop the investigation by the Ministry of Justice on the grounds that such an investigation interfered with the judicial proceedings and that the Ministry of Justice did not have the authority to conduct such investigation, the result of which, they claimed, effectively placed the Bishop in possession of the church's properties.

The Chambers Justice issued the alternative writ of prohibition, and after a hearing, granted the peremptory writ of prohibition. On appeal, the Supreme Court reversed the ruling of the Chambers Justice and held that the Ministry of Justice has the authority to investigate a complaint from the President of Liberia or any private citizen on any threatened or committed criminal activity. The Court also ruled that the Ministry of Justice is the most essential agency of the government to ensure the fundamental rights of the individual to life, liberty, property and pursuit of happiness; that prohibition would not lie to prevent or prohibit an agency of government from exercising its official authority; and that nowhere was it shown by the petitioners that the investigation conducted by the Ministry of Justice into allegations of a criminal offense interfered with the judicial proceedings. The ruling of the Chambers Justice was therefore reversed and the writ of prohibition denied.

E. Wade Appleton appeared for petitioners. M. Fahnbulleh Jones and M. Fulton W. Yancy appeared for respondents.

MR. JUSTICE BARNES delivered the opinion of the Court.

The Abosso Apostolic Faith Church of Jesus Christ was established in Liberia by an Act of the Legislature which was approved by the President on February 14, 1947. The edifice of this denomination is located in New Krutown, Bushrod Island, Monrovia, and the Rt. Rev. A. R. C. Grandoe is the Bishop of the Diocese.

From the records in this prohibition proceeding it appears that during the course of 1977 certain disturbing events occurred at the church, which led to serious altercations between the members of the church. As a result of this unpleasant situation, the church became divided between Bishop Grandoe, the respondent, and his followers, on the one hand, and

petitioners, on the other hand. The climax of the feud was an incident which occurred on Christmas Day, Sunday, December 25, 1977.

At 10:00 a.m., when the annual Christmas service was in progress, petitioners and their group allegedly entered the church building, disrupted the service, beat up Bishop Grandoe and the other members of the church, and damaged the altar and windows. In our opinion, no more could have been done by the petitioners to evidence a show of fearless disrespect to and disregard for the Omnipotent God by a group of people who profess to be Christians.

After the alleged incident, Bishop Grandoe addressed the following letter to Dr. William R. Tolbert, Jr., President of Liberia:

“On Sunday, December 25, 1977, my church members and I were holding our annual Christmas service, when at 10:30 a.m., Mr. Wesseh and his lawless group rushed in, disrupted the service, beat me and my members, and broke the altar and the windows of the church.

It can be recalled, Mr. President, that a little over eight months ago my Diocese, in collaboration with the Foreign Board of the Abosso Apostolic Faith Church of Jesus Christ, Inc., excommunicated Reverend Wesseh and his accomplices for malicious mischief, practices contravening the Christian doctrines and insubordination, coupled with gross insults to the leaders of the Diocese, among others.

Since that time, Mr. President, this group of individuals has incessantly harassed me and my followers, thus making it extremely difficult for us to enter the church edifice.

Several religious bodies, including the Pentecostal Fellowship Union, the Kru Ministers Alliance and the Foreign Board of my Diocese, have investigated the matter and found Mr. Wesseh and his group to be guilty and warned them to desist from their unconstitutional acts, but to no avail.

Therefore, Mr. President, as head of this nation, I am appealing to you to look into this matter since all avenues have been exhausted.”

Within two days thereafter, the President replied the Bishop’s letter in the following manner: “I acknowledge the receipt of your letter dated December 26, 1977, in which you levied a complaint against Messrs. Weah Wesseh, et al. for alleged atrocities meted to you and members of your church.

I have referred your communication to the Minister of Justice for his conduct of an investigation into the matter in keeping with the laws of this country, and you will accordingly make yourself available to him for that purpose. Kind regards, RALLY TIME.

Sincerely,

(s) W.R. Tolbert, Jr.

(t) W.R. Tolbert, Jr.”

Predicated upon the referral of the Bishop’s communication to the Minister of Justice, the Acting Minister of Justice conducted an investigation and it appears that the Bishop availed himself at the Ministry of Justice for the investigation. Growing out of the investigation, the Acting Minister of Justice addressed the following letter dated March 17, 1978 to Bishop Grandoe:

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March 17, 1978

“Following the investigation by the Ministry of Justice into your complaint made to the President of Liberia against certain lawless acts committed against property of the Abosso Apostolic Faith Church of Jesus Christ, Inc. of New Krutown, and against yourself and other members of your church by Mr. Weah Wesseh and his group of excommunicated dissidents, I wish to inform you that government is concerned about the maintenance of law and order in the country.

Since it has been established that the Foreign Board had excommunicated Rev. Weah Wesseh, Nathaniel B.S. Chea, O. T. Sonpon, John K. Kiah, Ernest K. Weleh, Benedict Moore, Edward Togba, Elizabeth Koffa, Wiah Tennella and John Sijleah, it is therefore the responsibility of government to give adequate protection to you, the Bishop recognized by the Foreign Board. This recognition, however, does not preclude any of your former church members from responding to court action in order to protect or conserve any substantive interest of your denomination in Liberia. In the meantime, government is obliged to give you all protection as Bishop of the church.

Consequently, anyone found to be disturbing your church service or other functions as Bishop will be promptly arrested and prosecuted according to law.”

It also appears from the records in this proceeding that the Bishop had instituted ejectment action against the petitioners in the Sixth Judicial Circuit Court, Montserrado County. Because that suit was still pending, petitioners felt that the Acting Minister of Justice had deliberately and illegally interfered with judicial proceedings by conducting the investigation and that such act was prejudicial to their interest.

In order to prevent and prohibit the Acting Minister of Justice from proceeding in this manner, they fled to the Chambers Justice for a writ of prohibition. In their petition for the writ of prohibition, petitioners contended: (a) that they are members of the Abosso Apostolic Faith Church of Jesus Christ in Monrovia, Liberia; (b) that they have observed irregular and unbecoming acts of Bishop A.R.C. Grandoe, who was charged with embezzlement when he could not account for \$3,798.48 in funds the church had entrusted to him; (c) that an investigation into the embezzlement case against Bishop Grandoe has been conducted by the County Attorney for Montserrado County and the case is pending in the Circuit Court, Criminal Assizes "A"; (d) that while the embezzlement case was pending, Bishop Grandoe instituted an action of ejection against them on the 29th day of June A. D. 1977 in the Civil Law Court for the Sixth Judicial Circuit, Montserrado County, to have them ejected because he was accused by members of the Abosso Apostolic Faith Church of Jesus Christ, and that pleadings were accordingly exchanged; and (e) that while the suits were pending in the courts, Bishop Grandoe appealed to the Ministry of Justice, which has no jurisdiction over such cases.

Petitioners contended in their petition that they accordingly notified the Ministry of Justice that because the cases were sub judice, that agency of the Liberian Government could not interfere through the conduct of an investigation. Petitioners complained that despite this notification, the Ministry of Justice proceeded with the investigation.

Petitioners also complained that besides the improper investigation conducted by the Ministry of Justice, the Ministry of Justice has also failed to provide the parties concerned with copies of said investigation. They also complained that the Ministry of Justice has misused the authority vested in it by electing to obstruct the judicial proceedings pending before the court, in that it was trying to place Bishop Grandoe and his followers in possession of the church, which Bishop Grandoe did not construct and which church's money entrusted to his care he had instead embezzled, in violation of his oath of office as Bishop. Petitioners further contended that the Ministry of Justice was exceeding its authority in usurping the functions of the courts. Petitioners submitted that to their prejudice, the Ministry of Justice, which does not have jurisdiction in ejection suits, had asked them to go out of the church, and that based upon this order of the Ministry of Justice, Bishop Grandoe and his confederates violently broke the locks on the doors of the church and entered.

Upon the issuance of the alternative writ of prohibition and service thereof on the Minister of Justice et al. to appear on the 4th day of April 1978 before the Chambers Justice to show cause, if any, why the peremptory writ of prohibition applied for should not be granted and ordered issued, the respondents appeared and filed returns containing five (5) counts succinctly summarized, as follows:

(a) that the petitioners are no longer member of the Abosso Apostolic Faith Church of Jesus Christ since they have been expelled (excommunicated) therefrom as of May 1, 1977; (b) that petitioners have not substantiated their allegations by proof thereof because their exhibit "A" is merely a writ of arrest issued on Bishop A. R. C. Grandoe, co-respondent, and Jackson T. Manneh by the stipendiary magistrate for the crime of embezzlement of \$3,798.48, even though this crime is not triable before a stipendiary magistrate court because it involves such a huge sum of money; (c) that the petitioners' exhibit, made a part of this prohibition proceeding concerning the alleged suit of embezzlement against Bishop Grandoe, co-respondent, was insufficient to constitute a pending suit against him in the criminal court on the charge of embezzlement; (d) that respondents deny the reason given by petitioners as the basis for Bishop Grandoe instituting an action of ejectment against them in the Civil Law Court and respondents instead submitted that Bishop Grandoe instituted the aforesaid action of ejectment in order to regain the right to possession and access to the property of his church, which had been illegally occupied and withheld from him by petitioners, former members of the church who had been excommunicated therefrom; (e) that respondents categoric-ally deny the truthfulness of the averments contained in count four of the petition since indeed the Ministry of Justice did not intervene nor hear any evidence or adjudicate any matter of ejectment in any case which was sub judice, but that to the contrary, the co-respondent Deputy Minister of Justice, Honourable Robert C. Tubman, wrote a letter dated March 17, 1978 to Bishop Grandoe, co-respondent, in response to a complaint which Bishop Grandoe had made to the President of Liberia, alleging that certain lawless acts, criminal in nature, had been threatened or committed against the property of his church and himself and other members of the said church by Mr. Wiah Wesseh and other petitioners herein, who had been excommunicated and expelled from the church; (f) that the Ministry of Justice is fully vested with authority to maintain law and order and to arrest and prevent the commission of crimes in the country; (g) that the petition should be dismissed and the alternative writ quashed for reasons that prohibition will not lie where the respondents have not exceeded their jurisdiction nor proceeded by rules different from those that ought to be observed at all times.

On May 31, 1978, the distinguished Chambers Justice, after hearing the arguments, handed down a ruling granting the peremptory writ of prohibition.

The pertinent portion of the ruling of the Chambers Justice reads, as follows:

"The Ministry of Justice having no trial jurisdiction over possessory actions, their act in the premises is ultra vires and prohibition lies when the judge proceeds with a case over which he has no jurisdiction (Holt et al. v. Nimley, 17 LLR 128, 129 (1965), or where the court or

tribunal is acting unconstitutionally. *Ross and Ross v. Roberts and Brown*, 3 LLR 325 (1932).

In the case in point, the Ministry of Justice lacks jurisdiction over possessory actions. The Ministry of Justice has no constitutional authority to place a party in possession of property.”

We disagree with our distinguished colleague in this case because the facts and circumstances of this case, as gathered from the records, are not analogous to the facts and circumstances of the cases decided by this Court upon which he relied to reach his conclusion, no matter how roughly the analogy may be considered. In the case *Holt et al. v. Nimley*, 17 LLR 128 (1965), this Court held that prohibition will lie to prevent execution of a judicial order after a final determination of a matter, whether in the absence or excess of jurisdiction.

In the present case, it is abundantly clear that the Deputy Minister of Justice was not acting outside the scope of his authority. The suit of ejectment filed by Bishop Grandoe, respondent, was not an issue before the Ministry of Justice; rather, the issue before the Ministry of Justice was the execution of the President’s directive to conduct an investigation into the complaint of Bishop Grandoe, which alleged that petitioners were engaged in criminal activities.

Each of the three departments into which the government is divided is equal, and each department should be held responsible to the people that it represents and not to both or either of the other departments of the government. What are the respective duties of these departments? They may be briefly stated thus: the Legislature enacts the law and is commanded by the Constitution to enact them in a certain way; the Executive enforces the laws and by the Constitution has the duty to take certain steps upon the happening of certain contingencies towards such enforcement in the manner prescribed therein; the Judicial department is charged with the duty of interpreting the laws and adjudging rights and obligations there under. *State ex rel, Reed v. Jones*, 6 Wash. 452, 34 P 201.

This law is similar to the provisions of our Constitution relating to the powers of the government, and we make reference to Article 1, Section 14th; Article II, Section 1st; Article III, Section 1st; and Article IV, Section 1st of the 1847 Constitution of Liberia, as amended through 1975.

We hold that the authority of the Ministry of Justice to hold investigations into complaints either from the President of Liberia or from a private citizen as to a threatened criminal activity in the country has been recognized by all constitutional governments and ours is no

exception. It is a universal course of practice, especially where such investigation does not contravene the Constitution and laws of the land.

In this case, a complaint was made to the President of Liberia, who in turn forwarded it to the Ministry of Justice, which is the proper agency of government for the necessary action. The Ministry of Justice only exercised the authority vested in it by law to investigate a complaint.

It is a fundamental principle laid down in Article I of the Constitution of the Republic of Liberia that “...the administration of Government is to secure the existence of the body politic, to protect it and to furnish the individuals who compose it, with the power of enjoying in safety and tranquility, their natural rights and blessing of life...” It is our opinion that one of the most essential agencies of government to make meaningful and effective this fundamental principle of law is the Ministry of Justice.

There is nothing in the records before us to show that the Deputy Minister of Justice, in the exercise of his administrative functions in instituting a preliminary investigation into the complaint of Bishop Grandoe, co-respondent, predicated upon the directive of the President of Liberia, either exceeded his jurisdiction or proceeded by wrong rule. Nor did the Deputy Minister’s letter addressed to Bishop Grandoe indicate that he, the Deputy Minister of Justice, had assumed trial jurisdiction over a possessory action.

Prohibition will be disallowed where it is patently shown that it is intended to prevent, prohibit, and obstruct an administrative agency of government from exercising its lawful and administrative duties and responsibilities. A writ of prohibition will not be granted against an administrative agency or a court which has neither exceeded jurisdiction nor attempted to proceed by a wrong rule. *Bryant v. Morris and Darby*, 12 LLR 198 (1954).

In view of the foregoing, the alternative writ of prohibition is hereby quashed and the peremptory writ denied. Costs are ruled against the petitioners. The Clerk of this Court is hereby ordered to send a mandate to the court below with instructions that this judgment does not affect the proceeding in ejectment now pending before it. And it is hereby so ordered.

Prohibition denied.