S. DAVID COLEMAN, National Chairman, S. BENONI DUNBAR, Sr., General Secretary, and E. MURRAY BARCLAY, General Treasurer of the INDEPENDENT TRUE WHIG PARTY OF LIBERIA, for Themselves and for the Members of the said Party, THOMAS N. BOTOE, Acting National Chairman, and GEORGE BLACKSTOCK A. JOHNS, General Secretary, of the NATIONAL REFORMATION PARTY OF LIBERIA, for Themselves and for the Members of the said Party, Petitioners, *v.* DANIEL J. BEYSOLOW, Circuit Judge of the Sixth Judicial Circuit, Montserrado County, EDWIN A. MORGAN, National Chairman, McKINLEY A. DESHIELD, General Secretary, and WILLIAM E. DENNIS, Treasurer, of the TRUE WHIG PARTY, for Themselves and for the Members of the said Party, Respondents.

APPEAL FROM RULING ON APPLICATION FOR WRIT OF MANDAMUS TO THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT, MONTSERRADO COUNTY.

Argued May 25, June 14, 1955. Decided August 5, 1955.

1. Circuit Courts have no jurisdiction over the conduct of elections or political matters.
2. The exercise of judicial discretion by a court of equity in granting or denying injunctive relief will not be disturbed on appeal unless an abuse of such discretionary power be established.
3. An injunction will not properly lie to settle controversies arising from the conduct of political elections.
4. A writ of mandamus is not an appropriate remedy where a court of equity has refused to issue an injunction in a controversy concerning the conduct of the Elections Commission.

Petitioners, as officers of, and on behalf of the members of, political parties, applied to the respondent Circuit Judge of the Sixth Judicial Circuit, Montserrado County, for an injunction restraining other respondents,

as officers of another political party, and as representatives of other members of said other political party, from activities in connection with an election, and to restrain the respondent Commissioners of Election from printing ballots for said election. Upon denial of the application for an injunction petitioners applied to this Court for a writ of mandamus to compel the lower court to issue such an injunction. Mandamus was denied by the Justice presiding in Chambers sitting in open Court. On appeal to this Court, *en banc,* the order denying mandamus was affirmed and the *appeal* was *denied.*

S. David Coleman, pro se, T. Gyibli Collins, and *S. Raymond Horace* for petitioners. *Richard A. Henries* and *Kolli S. Tamba* for respondents.

MR. CHIEF JUSTICE RUSSELL delivered the opinion of the Court.

Upon the denial of a petition in mandamus heard by our distinguished colleague, Mr. Justice O. Natty B. Davis, acting for Mr. Justice Harris presiding in Chambers, in a ruling handed down in open Court on May 2, 1955, the aforesaid petitioners in mandamus have appealed to this Court, *en banc,* for review.

Politically oriented emotions of public opinion cannot be permitted to influence the decision of this Court. The strife, tumult and disorder consequential from this state of affairs are not to the credit of the instant petitioners in mandamus. History, which serves the purpose of recording every important occurrence, fails to record such a condition in the previous annals of this republic.

Courts, being dispensers of justice, should be uninfluenced by mere sentiment and public opinion, and should decide every cause only upon the merits thereof. This suit is no exception to that principle.

The instant petitioners, on April 21, 1955, applied for

a writ of injunction to restrain the respondents, officers of the True Whig Party, a political party, from functioning as such, and from nominating and canvassing the names of any persons for election at any electorial position to be filled at the recently held general elections on the first Tuesday of May of the current year; and to restrain the respondents, officers and members of the Elections Commission, from printing ballots for the general elections now past.

The trial Judge refused to grant the said application of petitioners in mandamus a hearing and ordered the clerk of the Circuit Court of the Sixth Judicial Circuit to return the said application. Petitioners, through Counsellor T. Gyibli Collins, have excepted to the foregoing ruling, and have appealed to this Court to pass upon the said ruling of the lower court.

An exception to a ruling of an inferior court is the correct preliminary step to confer jurisdiction on this Court to pass upon the same.

In passing it is necessary to state that, under the organic law of this land, every person injured shall have a remedy by due process of law, and justice shall be done without sale, denial, or delay.

A cursory glance at the above, might lead one to misinterpret this sacred principle of our Constitution. It must be remembered that while, for every injury, there is a suitable remedy provided by law and justly due the injured party, the correct course in each such case made and provided must be followed so as to secure the desired relief; and any departure therefrom is fatal; for, what the law does not give it withholds; hence, any party applying for a remedy not supported by law will be denied relief.

Where a suit is instituted without foundation in law, it cannot be expected that justice will be perverted to accommodate the complaining party.

Ordinary course of thinking says: "If the root of the

tree is rotten the tree must fall." So is it also true from a legal point of view; if a suit is unmeritorious, this Court will not hesitate to render such decision as the merits of the case may justify.

In this case the surrounding circumstances include political aspects. We do not propose to carry our research further by delving into the issue of the regularity or irregularity of the actions taken by the Elections Commission; nor shall we pass upon allegations that errors were committed by this autonomous body. The petitioners in mandamus herein have not made it possible for this Court to pass upon such errors by regular appeal, but have elected to apply for one of the remedial writs of this Court, namely, mandamus, so as to compel the Judge of the lower court to rescind his ruling refusing to sign the order of the said petitioners in mandamus for issuance of a writ of injunction.

The issues therefore, which unfold themselves for consideration by this Court and which will now be passed upon are:

1. Whether the Judge of the lower court abused his discretionary powers in refusing to sign the order applied for by petitioners for issuance of a writ of injunction;
2. Whether a writ of injunction is an appropriate remedy in matters, political in nature, such as this.
3. Whether a writ of mandamus is an appropriate remedy where a court of chancery has refused to grant an injunction under the above circumstances.

Discretion is given a court as to the granting or denial of a writ of injunction. As stated in *Corpus Juris:*

> "Except in cases where a statute gives an absolute right to an injunction, an injunction whether temporary or permanent, cannot as a general rule be sought as a matter of right, but its granting or refusal rests in the sound discretion of the court *under the circumstances and the facts of the particular case,* unless per-

haps in cases where facts on which the injunction is asked present questions of law only." 32 C.J. 29–31 *Injunctions* § 11.

As noted, *supra,* the circumstances and the facts of the present case are largely of a political nature. The question thus arises: Can a court of chancery invoke the writ of injunction in matters of this kind? The answer to this question may be found by reference to settled principles which have been authoritatively summarized as follows:

"Matters relating to elections, such as the right to vote and the like, are generally regarded as being within the application of the doctrine that equity will not interfere in matters of a political nature. The accepted rule is that the extraordinary jurisdiction of a court of chancery cannot be invoked to protect the right of a citizen to vote or to be voted for at an election, or his right to be a candidate for, or to be elected to, any office, nor can it be invoked to restrain the holding of an election, or of directing or controlling the mode in which, or of determining the rules of law in pursuance of which an election shall be held. Such matters involve no property rights, but pertain solely to the political administration of government. Courts of equity therefore have no jurisdiction to enjoin an election board from producing, counting and canvassing ballots in a contested election case." 14 R.C.L. 375 *Injunctions* § 77.

The above-stated principles are clearly applicable to the issues involved in the present case; and it would be superfluous to dilate upon other authorities of law thereon. Suffice it, however, to reiterate, that the Constitution of this country has provided, as a remedy in matters of this kind, recourse to the House of Representatives, a branch of the Legislature.

We should never lose sight of the fact that our system of government is based upon a tripartite coordination of the legislative, executive and judicial branches. It is

unconstitutional for any one of these three branches to interfere with the doings of any of the others. But such interference would certainly occur if this Court were to order the lower court to grant the writ of injunction prayed for by petitioners restraining the respondents herein from the exercise of their franchise rights and from performing their duties as officials of a political party, namely, the True Whig Party.

With respect to the appropriate remedy for parties against whom a final decision has been rendered, the controlling statute provides as follows:

> "Every party against whom final decision or judgment may be rendered shall be entitled to an appeal from any such decision or judgment to the Court of Quarter Sessions [now Circuit Court], if from a Justice of the Peace, or from the Monthly and Probate Court; and to the Supreme Court, if from the Monthly and Probate Court or the Court of Quarter Sessions and Common Pleas. The party appealing shall be called the appellant and the adverse party the appelee." Rev. Stat., § 423.

From the minutes of the lower court we have the following:

> "The court as late as 7:30 last evening received from the Independent Party an application for writ of injunction asking it to sign the Judge's orders so that the clerk may issue same. But, as the court is of the same opinion as expressed in the former matter, it refuses to exercise its discretion in signing said application, and hereby orders the clerk to return same to the petitioners who forwarded it to him through Counsellor S. David Coleman."

It is clear from the above text that the court's decision was final. The petitioners in mandamus, having excepted and appealed therefrom, should have prosecuted the said appeal.

Strikingly strange and obscure to the principles of

equitable practice and procedure indeed is it for a petition praying the issuance of a writ of mandamus to lie in such a case.

The question that presents itself, the answer to which would facilitate a decision in this matter is: Can a Judge of an inferior court be required to rescind his ruling in a matter where exceptions have been registered and an appeal announced thereto by an appellate court by the granting of a writ of mandamus in respect to an application for a writ of injunction to restrain officers of a political party from functioning and to prevent an election provided for by the organic law of this country? As stated in the syllabus to *Greene* v. *Brumskine,* 2 L.L.R. 202 (1915):

"3. Circuit courts are statute courts deriving their being and scope of powers from statutes and can exercise no jurisdiction beyond that which the statutes confer.

"4. These courts have no jurisdiction over municipal elections nor the franchises of public corporations."

In *American Jurisprudence* we have the following:

"Courts of equity exercise a sound judicial discretion in granting or denying injunctive relief and unless they abuse their power in the matter, an appellate court will not disturb their conclusion even on direct review. Much less then will it attempt to do so by mandamus, even though the decision of the lower court is erroneous. So, the writ will not issue to revise the decision of the court, made in the exercise of its judgment and discretion, granting an injunction or refusing to grant one." 35 AM. JUR. 35 *Mandamus* § 265.

Article 1, section 6th of the Constitution of Liberia provides a remedy for all legally recognized wrongs. In this case the appropriate remedy was to submit the matter to the Legislature, who are judges of election returns, as

of first instance, in keeping with Article 2, section 8th of our Constitution which, in pertinent part, reads as follows:

> "Each branch of the Legislature shall be judge of the election returns and qualifications of its own members. . . ."

Also relevant is Article 1, section 14th of the Constitution, which reads as follows:

> "The powers of this Government shall be divided into three distinct departments: Legislative, Executive and Judicial, and no person belonging to one of these departments shall exercise any of the powers belonging to either of the others. . . ."

See, also, *Karmo* v. *Morris,* 2 L.L.R. 317 (1919).

By reason of the foregoing, we are in full accord with the ruling of Mr. Justice Davis delivered in open Court. This Court therefore refuses to issue a writ of mandamus to compel the lower court to rescind its decision denying the application for a writ of injunction as aforesaid. And it is hereby so ordered.

Appeal denied.