of all reasonable doubt as to his guilt. On the contrary, proof of essential facts in the case is lacking. The chain of circumstantial facts by which the prosecution sought to establish prisoner's guilt is lacking in several links necessary to connect him with the crime. The second part of the *corpus delicti* which the State was bound to prove, either by direct or circumstantial evidence, has not been established. The evidence as to the cause of death is equivocal, uncertain and contradictory, and consequently of little legal weight; the question as to whether decedent Anna Capehart died from the effects of the alleged poison or from natural causes not having been conclusively shown in the post mortem examination.

In view of these facts we hold that the verdict and sentence of conviction are illegal and should be reversed and the prisoner discharged; and it is hereby so ordered.

Arthur Barclay, for appellant.

Attorney General, for appellee.

JEDAH, BOYAH et al., Appellants, *v.* JEFFREY B. HORACE, Travelling Commissioner, Grand Bassa County, Appellee.

HEARD MAY 4, 1916. DECIDED MAY 6, 1916.

Dossen, C. J., and Johnson, J.

1. An executive officer can not exercise judicial functions.
2. No department of Government can exercise judicial functions but the court itself. Legislation therefore is unconstitutional which seeks to have other branches of Government participate in judicial work.
3. The administration of sassy-wood is illegal and should be discouraged.

Judgment reversed.

Mr. Justice Johnson delivered the opinion of the court:

Injunction. This case originated in the Circuit Court of the second judicial circuit, Grand Bassa County, and is brought up to this court for review by the plaintiffs in the court below, now appellants, against whom judgment was entered in said court.

On inspecting the records of the case, we find the following facts established:

1. Jedah, Boyah, Gearh, Gofar and others, alleged to be members of a society in the County of Grand Bassa, called the Negees, appellants in this case, were arrested, presumably at the instance of Jeffrey B. Horace, Travelling Commissioner of said county, appellee, at the suggestion of a native medicine man or doctor and were ordered by said appellee to drink sassy-wood.

2. Before it could be administered the prisoners procured a writ of injunction from the judge of said Circuit Court, enjoining the said commissioner from administering said poison.

At the hearing of the case, by the judge of said court in chambers, said judge dissolved the injunction, to which prisoners excepted, and appealed to this court.

The appellants, in their bill of exceptions, challenged the jurisdiction of the Travelling Commissioner, and questioned his right to administer sassy-wood under the circumstances surrounding the case at bar, and this contention we will proceed to consider.

In deciding this question, it is necessary in order to enable us to arrive at a correct and legal conclusion to consider the several Acts passed by the National Legislature for the government of the native tribes within the Republic, and to apply them to the case at bar; and this we will now proceed to do. The Legislature passed at its January Session, A. D. 1905, an Act entitled "An Act providing for the government of districts within the Republic, inhabited by aborigines," which provides, *inter alia,* that every district inhabited exclusively by an aboriginal tribe shall be regarded as a township and shall be governed on the same line under the supervision of the District Commissioner appointed by the President.

The Act further provides for native courts in said districts, appeals from which were to be made to the District Commissioner; and conferred upon the District Commissioner associated with the principal native chief, or chiefs of the district, the power of a court, to settle disturbances between the chiefs of the tribe, or between strangers and the residents of the district; stopping robberies on the highway; or other matters which might lead to intertribal wars. It was also provided that appeals from the District Commissioner should be taken to the Quarterly Court, it being expressly provided that such crimes as murder, manslaughter, rape and the like, were, when possible, to be dealt with by the Court of Quarterly Sessions. Subsequently, to wit: in the year 1914 an Act entitled: "An Act making regulations governing the Interior Department of the Republic of Liberia," was passed. The principal provisions of this Act are as follows: The territories of the Republic were divided for administrative convenience into two grand divisions— (a) county jurisdiction and (b) hinterland.

The county jurisdiction includes all the territories on the seaboard from Mano to the Cavalla River, and extended forty miles towards the hinterland. The hinterland commences from the limit of the county jurisdiction interiorward.

Five mediatory officers between the Secretary of the Interior and the District Commissioners were provided for, called Travelling Commissioners, who are to adjust any disorder in the hinterland.

The Travelling Commissioners are to exercise an inspectorial supervision over the hinterland under the direction of the Secretary of the Interior.

This Act provided, *inter alia,* that cases leading to capital punishment should be reported to the Secretary of the Interior, and in the counties other than Montserrado to the superintendents, who shall transfer same to the judiciary. Now it is obvious that the Travelling Commissioners have been given no power to examine in cases arising in the county jurisdiction, but that their duties are mainly confined to the hinterland. It is also obvious from the plain and unequivocal language of the Act, that all cases of murder are exclusively within the jurisdiction of the judicial power.

A very important question which presents itself for consideration is, whether the Secretary of the Interior or the commissioners can exercise judicial functions or try cases of a judicial character within the limits of the county jurisdiction. Sedgwick, in his work on the Construction of Statutory and Constitutional law, makes use of the following language at page 329: "We have already called attention to the subject of public officers created by statute; and although the general disposition of the judiciary seems to be to treat such agents with liberal confidence, so long as they appear to be acting in good faith, with due discretion, and within the limits of their conceded powers, and although in the exercise of mere discretionary authority, the courts are unwilling to interfere, yet where public officers overstep the bounds of their authority, and the courts are appealed to as a matter of strict right, the actions of these agents are vigilantly watched and their infringements of private right unhesitatingly repressed."

The Constitution of Liberia expressly declares that: "The powers of this Government shall be divided into three distinct depart-

ments: Legislative, Executive and Judicial, and no person belonging to one of these departments shall exercise any of the functions belonging to either of the others." (See Const. Lib., art. I, sec. 14.)

The superintendents of counties, territories and districts being executive officers cannot exercise judicial functions.

In the case *Gray v. Beverly,* habeas corpus (I Lib. L. R. 500) this court used the following language in discussing the question whether or not the Secretary of the Interior had any legal authority to issue a certain order, which the defendant relied upon to excuse the production of the prisoner: "The Act of the Legislature of Liberia, approved January 23, 1869, creating an Interior Department and providing for the appointment of an officer at its head styled the Secretary of the Interior, undoubtedly confers upon that officer very large duties and authority in relation to matters affecting the aborigines of the country. It would seem from the provisions of this Act and subsequent enactments relating thereto that the intention of the lawmakers was to create in this officer a sort of arbiter in all purely native matters arising between themselves and referred to the chief of this department for settlement, which he must settle with due regard to native customary laws and native institutions, where not repugnant to the organic law of the State."

In one of the syllabi to the opinion of this court in a matter with regard to the constitutionality of the Act of the Legislature of Liberia, approved January 20th, 1914, entitled "An Act providing for uniform rules of practice in all the Circuit Courts of this Republic," Opinions and Decisions of this court (Lib. Semi Ann., Series, No. 4, p. 4) it was held that: "no department of the Government can exercise judicial functions but the court itself. . . Legislation therefore is unconstitutional, which seeks to have other branches of Government participate in judicial work."

It cannot be seriously disputed that if the Secretary of the Interior or other executive officer were given concurrent jurisdiction in matters of a judicial character, especially such as crimes and misdemeanors, within the jurisdiction of the courts of the country and within the county jurisdiction, there would arise endless confusion.

With regard to the administration of sassy-wood, which is in some cases an ordeal dangerous to life, we are of the opinion that while it is provided that the native and district courts shall administer the native customary law, we cannot admit the legality of a proceeding which is evidently intended to extort a confession from the accused, and which is in conflict with the organic law of the state, which declares that "no person shall be compelled to give evidence against himself." (See Const. Lib., art. I, part of sec. 7.)

Mr. Bouvier defines an ordeal to be "an ancient superstitious mode of trial." (Bouv. L. D., vol. 3, Ordeal.) Any custom, which panders to the superstition of the natives of the country is, in our opinion, contrary to the genius of our institutions and should therefore be discouraged.

On the whole we are of the opinion that the Travelling Commissioner had no jurisdiction over the persons of appellants or the crime with which they were charged; that the administration of sassy-wood in any case is illegal; and that the judgment of the court below should be reversed and the injunction perpetuated, and it is so ordered.

Arthur Barclay, for appellants.

No one appearing for appellee.