DHALIWAL INTERNATIONAL TRADING COMPANY (DITCO), et al., Appellants, *v.* TONIE KING, Commissioner of Immigration, Republic of Liberia, Appellee.

BILL OF INFORMATION.

Argued July 4, 1977. Decided July 8, 1977.

1. Withdrawal of an appeal is not a matter of right and can be allowed only upon approval of the Supreme Court or a Justice thereof.
2. The provision of the Judiciary Law that the Justice who presides in chambers "shall be designated by the Chief Justice in regular rotation from among the Associate Justices" does not preclude the Chief Justice from assigning himself to sit in chambers.
3. Where the language of a statute is ambiguous and the legislative intent cannot be discovered, it is the duty of the court to give the statute a reasonable construction; and in so doing the spirit or reason of the law will prevail over its letter, especially so where the literal meaning is absurd or, if given effect, would work injustice.
4. An ad hoc Justice cannot sit in chambers.
5. Objections to an appellate judge must be made at or before the time of argument of the case and not after an unfavorable ruling has been made.
6. It is a general rule that a judgment is not subject to collateral attack where the court had jurisdiction of the subject matter and of the parties.
7. Government officials who disobey court orders are subject to punishment for contempt to no less degree than are other citizens.
8. Since it is the right of the sovereign to exclude aliens or to prescribe the conditions under which they may enter or remain in the country, mandamus will not issue to review the exercise of official discretion in denying adjustment of status to alien applicants.

The petitioner company applied for a writ of mandamus to the Justice presiding in chambers to order the Commissioner of Immigration to show cause why he should not be commanded to adjust the status of two aliens so that they could be legally employed by the petitioner company. The Justice in chambers issued an alternative writ, and ordered that proceedings in the immigration matter be stayed pending further instruction from the Justice. The Commissioner of Immigration

disregarded the stay by arresting and holding in custody one of the aliens whose status was involved and who was one of the petitioners herein.

The present proceeding was a bill of information charging the Commissioner with contemptuous conduct in disregarding the mandate of the Justice. The bill of information and petition for mandamus were both decided by the Chief Justice sitting in chambers when it became necessary to relieve the Justice who had issued the alternative writ of mandamus. The Chief Justice, finding that the alien employees had no absolute right to adjustment of status, quashed the alternative writ of mandamus, but imposed a fine on the Commissioner of Immigration for contempt. That decision was then appealed to the Court *en banc,* which upheld the right of the Chief Justice to assign himself to preside in chambers, and affirmed his decision in denying mandamus and holding the Commissioner guilty of contempt. *Ruling* of the Justice in chambers *affirmed.*

Emmanuel Berry for appellants. Solicitor General *Ephraim Smallwood* for appellee.

MR. JUSTICE HENRIES delivered the opinion of the Court.

Our distinguished colleague, Mr. Justice Azango, was presiding in chambers when it became necessary for the Chief Justice to relieve him and take over the work of the chambers himself. These proceedings have come before us for review as a result of an appeal taken from a ruling denying the petition for the issuance of a writ of mandamus by our learned Chief Justice, while presiding in chambers.

At the call of the case on appeal the petitioners proceeded to argue the first count of their brief, which questioned the authority of the Chief Justice to preside in

chambers. The Court then adjourned for the day. The following day the petitioners requested the Court to withdraw the appeal. The Court then reserved its ruling. Subsequently, after due and careful consideration, the request to withdraw was denied on the grounds that withdrawal of an appeal is not a matter of right, and can be allowed only upon the approval of the Court or a Justice thereof. Revised Rules of the Supreme Court, Rule III, part 2 (1972); *International Trust Company* v. *Weah,* 15 LLR 568, 575–576 (1964); *Union Maritime et Commerciale Corporation* (*UMARCO*) v. *Dennis,* 25 LLR 267 (1976). Furthermore, the issue of the Chief Justice's authority to preside in chambers is such a vital one that it needs to be settled definitely for future guidance of the bench and bar. Accordingly, the Court proceeded to hear the matter.

Before considering the issue of the authority of the Chief Justice to sit in chambers, it might be necessary to trace the history of the issuance of remedial writs in Liberia. In 1875 the Legislature enacted a statute reorganizing the Supreme Court of Liberia, part of which provided as follows:

> "Upon satisfactory application to the Chief Justice or either of the Associate Justices during the recess of the Supreme Court, it shall be lawful for either of them to issue such writs or processes as are usual in the common law and the practice of the Supreme Court of the United States of America, or order the same issued from the clerk's office." L. 1874–75, 13, § 5; II Huberich, *Political and Legislative History of Liberia,* 1164 (1947); *Attia* v. *Rigby,* 2 LLR 9 (1908).

Under this law and the Revised Rules of the Supreme Court, Rule XIII (1915), as found in 2 LLR 661, 667, the Chief Justices, J. J. Dossen, F. E. R. Johnson, Louis A. Grimes, and M. N. Russell presided in chambers. Incidentally, in 4 LLR 155, there appears the caption: "Opinions Given by Individual Justices Presiding in

Chambers by Rotation, Upon Assignment of His Honor the Chief Justice." Below the caption are the words: "Chambers of His Honor the Chief Justice," and immediately thereafter is Chief Justice Grimes' ruling in *Markwei* v. *Amine*, 4 LLR 155 (1934).

Later this statute was repealed upon the enactment in 1956 of a new statute, which stated: "Power of individual Justices to issue writs. The individual Justices of the Supreme Court shall have the power to issue all remedial writs except injunctions and habeas corpus." 1956 Code 18:502. This legislation was amended by Laws of 1954–55, chapter VIII, the relevant portion of which reads as follows:

> "§ 502. Power to issue remedial writs. The Supreme Court shall have the power to issue all remedial and extraordinary writs except habeas corpus, but the Court may issue such remedial and extraordinary writs only when *en banc;* provided that during the recess or adjournment of the Court, the Chief Justice shall assign one of the Justices of the Supreme Court to preside in chambers, and such Justice assigned by the Chief Justice to preside in chambers shall have the sole power while in chambers to issue remedial and extraordinary writs and processes which the Supreme Court has power to issue *en banc* when in session. No Justice other than the Justice so assigned by the Chief Justice shall have the power, authority or jurisdiction to issue or order the issuance of remedial extraordinary writs such as mandamus, prohibition, quo warranto, or other remedial or extraordinary writs or processes." 1956 Code 18:502 (1957–58 Supp.).

This was the first statute which specifically mentioned anything about Justices presiding in chambers. It also authorized the Chief Justice to assign "one of the Justices of the Supreme Court" to preside in chambers. It does not say whether the Chief Justice could assign himself to

preside in chambers, but Chief Justices, including the present Chief Justice in 1971, have continued to sit in chambers. Thus the Liberia Law Reports are replete with instances of the Chief Justice sitting in chambers. But this is the first time his authority to preside in chambers has been challenged.

The petitioners have questioned the jurisdiction and authority of the Chief Justice in chambers. With respect to the question of jurisdiction, it is clear that the chambers of the Supreme Court had jurisdiction over the person, since it was petitioner who, in keeping with statute, applied for the writ, voluntarily appeared, and participated in the hearing, thus submitting to the jurisdiction. As to jurisdiction over the subject matter, the present statute, section 2.9 of the Judiciary Law, states clearly that "the power to issue remedial or extraordinary writs in exercise or aid of the appellate jurisdiction of the Supreme Court and to otherwise issue writs of mandamus, prohibition, quo warranto, or extraordinary writs and processes, shall reside exclusively in the Justice presiding in chambers." Rev. Code 17:2.9. In Liberia the authority to issue this writ is expressly confined to the Supreme Court and the Justices thereof. No other court or judge has power to issue this prerogative writ. Rev. Code 1:16.22; *In re Bassil,* 2 LLR 353, 355 (1920). Since mandamus could be heard only in chambers by a Justice of the Supreme Court, as was the case at bar, there is no question that the Chief Justice who is a Justice of this Court did have jurisdiction over the subject matter.

Now we shall traverse the question of whether the Chief Justice can appoint himself to preside in chambers. At the outset it might be worthwhile to mention that the Chief Justice is the administrative head of the Judiciary, and the designation of Justices to preside in chambers is an administrative function. As head of the Judiciary it is his responsibility to see that the business of the courts of this Republic, and that includes the Supreme Court

and its chambers, is transacted expeditiously and judiciously; and where the work of the chambers is not being executed in such a manner, it is within his authority to relieve the Justice presiding in chambers.

The statute on which the petitioner based his challenge is section 2.6 of the new Judiciary Law, which states that: "at all times, in term and out of term, there shall be a Justice presiding in the chambers of the Supreme Court who shall be designated by the Chief Justice in regular rotation from among the Associate Justices, and no such Associate Justice designated shall delegate his power to another." Rev. Code 17:2.6. The petitioner has construed this provision to mean that the Chief Justice cannot assign himself to preside in chambers, and if he does, his acts while in chambers are null and void. We do not agree with this construction, and we hold that since the statute does not expressly forbid the Chief Justice from presiding in chambers, he can assign himself to chambers whenever the situation warrants it. Here are our reasons: The Chief Justice is a Justice of the Supreme Court, and as such he has just as much right as any other Justice to sit in chambers. He is not the number-one man among a group of subordinates. He is *primus inter pares,* first among equals. He casts only one vote, and that vote carries no more authority, no more weight, than that of the most junior Justice. Whenever he sits in chambers and decides matters coming before him, his chambers decisions, like those of his colleagues, are appealable and subject to review by the bench *en banc.* His judicial function can be neither more nor less than any other Justice of the Supreme Court. The primary function of the Court and the Justices thereof is to review cases coming before it, and we cannot believe that it was the intent of the Legislature to limit the Chief Justice in the performance of his constitutional duties.

In *Johnson* v. *Manhattan Railway Co.,* 289 U.S. 479,

53 S.Ct. 721 (1933), which is almost similar to the instant case, the applicable statute, 28 U.S.C., § 22, provided that the Chief Justice, or the Circuit Justice of the Circuit, or the Senior Circuit Judge thereof, may "if the public interest requires, designate and assign" any circuit judge of the circuit to hold a district court therein. The Senior Circuit Judge assigned himself, and the issue was whether he could do so. The Supreme Court of the United States held that he could, taking the words of the section literally, and that it had been the practice of most of the Senior Circuit Judges to assign themselves. The Court went on to declare that the Senior Circuit Judge's status while holding the district court was that of a circuit judge specially assigned to sit and determine the proceedings; and his powers and duties in that connection were just what they would have been had he been assigned by the Chief Justice, or the Circuit Justice instead of by himself.

Likewise the status of the Chief Justice in chambers in the case at bar was that of a Justice of the Supreme Court assigned to sit, and his powers and duties in chambers were just what they would have been had an Associate Justice been assigned.

Furthermore, to give this statutory provision its proper effect it must be read in conjunction with other statutes governing the issuance of remedial writs, all of which refer to a Justice of the Supreme Court without exception. Rev. Code 1:16.22–16.24, 16.32.

A reasonable and consistent interpretation of the statute enables the Chief Justice to preside in chambers. The assignment of Justices in chambers is done by regular rotation, and where a chambers Justice is unable to sit for the full period, as for instance in an emergency or under unusual circumstances, the regularity is destroyed, and it is left to the Chief Justice to replace the chambers Justice either by assigning another Associate Justice or

himself where the situation warrants it. It must be remembered that there must always be a Justice in chambers.

When counsel for petitioner was asked what should the Chief Justice have done if three Associate Justices were out of Liberia when our late colleague, Mr. Justice Wardsworth, died while he was assigned to chambers, he answered that since the Chief Justice cannot sit in chambers, an *ad hoc* Justice would have to be appointed to preside in chambers until one of the Justices returned to Liberia. Two things are wrong with this answer: (a) contrary to law, the chambers of the Supreme Court would be vacant; and (b) an ad hoc Justice is appointed by the President for the sole purpose of reconstituting a quorum where more than two Justices cannot sit on a pending case. Judiciary Law, Rev. Code 17:2.8. An *ad hoc* Justice cannot sit in chambers.

It follows then that in certain situations, especially in emergencies, the Chief Justice might have to sit in chambers to give the needed relief, for it is the office of a remedial writ to give speedy and adequate relief to a party litigant in a subordinate court. Therefore, every statute in relation to such proceedings should further this aim. In all cases where the law is so ambiguous or does not provide for conditions which might arise out of unusual circumstances, the court has the legal right to interpret the law in the best interest of the parties so long as such interpretation does not conflict with the intent of the act or the spirit of the Constitution. *Montgomery* v. *Findley,* 14 LLR 463, 470 (1961). In construing statutes, it is a general rule to ascertain and give effect to the legislative intent as expressed in the statute where the meaning of the language used is plain; but where the language is of doubtful meaning, or where adherence to the strict letter would lead to injustice, or absurdity, it is the duty of the court to ascertain the true meaning. And where the legislative intent cannot be discovered, it is the duty of the

court to give the statute a reasonable construction, consistent with the general principles of law. In so doing the spirit or reason of the law will prevail over its letter, especially so where the literal meaning is absurd or, if given effect, would work injustice. To construe the statute in question to mean that in no instance can the Chief Justice preside in chambers would not be in the best interest of parties litigant or the proper administration of justice.

Having held that the Chief Justice can preside in chambers whenever he deems it necessary, we will now consider the timeliness of the challenge to the Chief Justice's authority, and whether the ruling of the Justice presiding in chambers could be attacked collaterally. As to the first point, the petitioner did not question the Chief Justice's authority to sit when the case was being heard by the Justice in chambers. Instead he raised the issue for the first time on appeal. "Where there is original constitutional or statutory authority for an . . . appointment of a special . . . judge, and the record does not affirmatively show that the person in question could not, in any event, legally perform the functions of such a judgeship, it is the general rule that objections to the title or authority of the judge cannot be first made upon appeal." 46 AM. JUR. 2d, *Judges,* § 261 (1969). It is also the rule that objections to an appellate judge must be made at or before time of the argument of the case and not after an unfavorable ruling has been made. *Id.,* at § 202.

With respect to the issue of a collateral attack on the ruling of the Justice in chambers, it is a general rule that a judgment is not subject to collateral attack where the court had jurisdiction of the subject matter and of the parties. 46 AM. JUR. 2d, *Judgments,* § 62 (1969). A collateral attack can be successful only where and to the extent that it discloses a want of power, as distinguished from error in the execution of that power. *Johnson* v. *Manhattan Railway Co., supra,* at p. 496.

As far as the merits of the petition for the writ are concerned, we are in such complete agreement with the ruling of our distinguished colleague, Mr. Chief Justice Pierre, that we have decided to quote it word for word as follows:

"Ruling

"Growing out of mandamus proceedings filed against the respondents, information has been brought to us to the effect that the said respondents in utter defiance of an order issued out of the chambers of Mr. Justice Azango arrested and detained one of the informants, who is also petitioner in mandamus, and who had requested by the mandamus proceeding that the Commissioner of Immigration show cause why he should not be made to change their alien status.

"It appears from the records before me that Dhaliwal International Trading Company, an Indian concern, had written to the Minister of Labor requesting permission to employ two Lebanese nationals in the business. These aliens, who were already in the country are named Mohammed Rozz and Mounir Badawe, holding Lebanese passports Nos. 126796 and 089345, and permits of residence Nos. Co-16728 and Co-44846 respectively. The Minister of Labor on January 13, 1977, replied, interposing no objection to the employment of Rozz and Badawe and requesting that information of the Minister's approval be conveyed to the Bureau of Immigration. Four days later, on January 17, 1977, a letter was written to the Commissioner of Immigration, advising him that the Minister of Labor had stated in a letter, a copy of which was said to be enclosed, that he had no objection to the employment of Rozz and Badawe, and requesting the Commissioner to adjust their status accordingly.

"The records do not show any other document in the matter before May 24, 1977, when the proprietor of the company together with the two Lebanese na-

tionals whom he desired to employ in his establishment as aforesaid filed a petition for mandamus for the Justice presiding in the chambers of the Supreme Court to 'order the Commissioner of Immigration to appear . . . and show cause why he has failed to perform his official duty as Commissioner of Immigration in the manner complained of above, and to show cause, if any he has, why a peremptory writ should not issue, commanding him to adjust the status of the petitioners and to grant unto petitioners such other relief as justice and right demand.'

"Mr. Justice Azango, presiding in chambers, received the petition, and ordered issued the alternative writ, commanding therein that the respondent Commissioner 'stay further proceedings in the matter pending before him and out of which the mandamus proceedings had grown, until further advised by the Justice in chambers,' and that the respondent Commissioner should file return on or before May 30, 1977. The return of the Marshal of the Supreme Court shows that this writ was served and returned served on May 26, 1977.

"Just at this point I would like to comment that from the tenor of all that has been recited above, it would appear the petitioners in mandamus are of the view that change of an alien's status is a right which Immigration is compelled to grant; that a letter from the Minister of Labor interposing no objection to an alien's employment in Liberia should be the basis for compelling Immigration to grant a change of status for the said alien's employment; and that mandamus will lie to compel the Commissioner of Immigration to grant the change as requested. If these are the impressions of the petitioners in mandamus, they are erroneous and I shall dwell upon these mentioned points later in this ruling.

"On May 26, 1977, the petitioner in mandamus filed

a bill of information in the chambers of Mr. Justice Azango, the relevant portion and count 2 of which read as follows:

" '2. That notwithstanding the service (of the writ of mandamus) on the respondent on the morning of May 26, 1977, in gross disregard and defiance of the authority of this Court, and in a further attempt to belittle the dignity of this Court, the respondent did after the service upon him of the alternative writ of mandamus, elect to order the arrest and detention of petitioner Mounir Badawe, and he is presently held in custody by the respondent, thereby openly challenging this Court, which act is highly contemptuous.'

"These two matters, the petition for mandamus and the bill of information, being so closely related to each other, I have decided to handle them both in this one ruling, taking the bill of information first.

"Any and every disobedience of an order of a court of competent jurisdiction or any act which in any manner disregards and thereby belittles the authority of a court is contemptuous. There is support for this view in many cases already decided by this Court. *In re Morgan,* 22 LLR 378 (1974); *International Trust Company* v. *Weah,* 15 LLR 568 (1964); and many others decided before and since these cases.

"The Commissioner of Immigration is an official who holds office in the executive branch of the government. He is nevertheless subject to the laws of the country and the orders of the courts to no less degree than are the other citizens of the country. In the case *In re Cassell, Attorney General of Liberia,* 10 LLR 17 (1948), in which case the Attorney General had professionally and officially advised the Secretary of State to issue a passport, the issuance of which had been restrained by injunctive orders of the court, the Attorney General was punished in contempt for his disregard of the court's order. His membership in the President's

Cabinet did not insulate him against punishment by the courts when it was shown that he had disobeyed its orders.

"In a more recent case, *Thomas* v. *Morgan,* 25 LLR 37 (1976), when Minister of Justice Lawrence A. Morgan and two other officials in his Ministry disobeyed orders given by this Court, the matter was heard on information filed here, and he was punished in contempt proceedings for disobeying the Court's orders. His being head of the Justice Ministry, of which the Immigration Bureau is a part, did not absolve him from punishment where it had been shown that he had deliberately, and with intent to humiliate the Court, disregarded its orders. If the head of the Justice Ministry is not absolved from punishment in contempt for disobedience of a court's orders, how much more would the head of a bureau in the Ministry be required to answer for his disobedience of a court's order?

"In another case of contempt against a lawyer who was also a legislator, this Court, speaking through Mr. Justice Henries, held that of the two branches of government, the Legislative and the Judicial, 'the Legislature is only *primus inter pares* with the other two; none can function without the other. Nor, in this respect, is any weaker or stronger than the others. Each branch has its own functions but all three branches, in the performance of their respective functions, work together in the best interests of orderly government in a democratic Republic.' *In re Morgan,* 22 LLR 378, 384 (1974).

"Upon receipt of the alternative writ commanding that all action in the matter relating to the petitioners in mandamus be stayed until further notice from the Justice in chambers, the respondent Commissioner of Immigration should have obeyed the order literally and taken no further step except to file a return as had

also been commanded. In this regard the Commissioner's act was contemptuous, when instead of obeying the order he proceeded to arrest and detain one of the petitioners who had demanded adjustment of alien status. Whether that demand was meritorious or not was not within the discretion of the Commissioner to say, in face of a command of the Justice in chambers. To the same extent that the Commissioner expected the alien to abide by the immigration laws respecting his entry, to that same extent the alien by petitioning the Supreme Court expected that the laws of the country which gave him the right to apply for adjustment of status, should be respected and obeyed until the Supreme Court should render its decision.

"We come now to consider the alien petitioners' legal right to demand adjustment of status. Under the new Aliens and Nationality Law of May 1974, the status of an alien lawfully admitted to Liberia, as it seems the petitioners/informers were, may be adjusted 'by the Attorney General to any other status for which he can qualify on application of such alien. A record shall be made of any order of the Attorney General affecting a change of status and a brief notation of the adjustment of status shall be made by the Attorney General on the alien's passport and, if he is an immigrant or alien resident, on his permit of residence.' Rev. Code 4:6.3.

"On the question of adjustment of status for the purpose of employment, which is relevant in this case, the Alien and Nationality Law of 1974, cited above, states:

"'1. *Approval of Minister of Justice of change of employment.* No alien shall change his employment nor his occupation, profession or means of livelihood, whether with the same or a different employer, nor shall an unemployed alien secure employment, without first obtaining the approval of the Minister of Justice. Such approval shall be granted only on condi-

tion that (a) the Minister of Labor, Youth and Sports has issued an employment permit for such change of employment or securing of employment or has advised in writing that no employment permit is required by law with respect to the particular employment; and (b) the prospective employer has furnished a bond in the amount of $3,000 as a guarantee of prompt departure of the alien upon the expiration of the permitted period of residence, or upon order of the Minister of Justice to depart. No person shall employ an alien presently in Liberia (a) unless such alien holds a valid permit of residence; and (b) unless the Minister of Justice has granted his approval as hereinabove required.' Rev. Code 4:6.5(1).

"That is the law which applies in this case, and under that law there were a number of things necessary to have been done before the aliens who sought employment with Dhaliwal International Trading Company (DITCO), could obtain employment with that company. Advice from the Minister of Labor, Youth and Sports to the effect that he had no objections to their employment is only one of several things which by statute should have been done as a prerequisite to their employment by DITCO. Were all these statutory requirements met? And if they were not met, would mandamus lie to compel the performance of a duty, which could only have been legally performed depending upon compliance with all of these requirements?

"Although the law made the Minister of Justice responsible for adjusting or changing the status of the alien petitioners, Aliens and Nationality Law, § 6.3, and although section 6.5 of that title made the Minister of Justice also responsible to give approval for change of employment, or change of occupation, or change of profession of all aliens in the country, yet the Minister of Justice was not joined as a party re-

spondent in these mandamus proceedings which seek to compel the Commissioner of Immigration to grant adjustment or change of status, for the purpose of employment. Could mandamus compel performance by one person of an act, the performance of which according to law is the duty of another? I do not think so.

"In his return, filed by the respondent Commissioner, he has contended in counts 2 and 3, that: (1) the adjustment of the status of an alien lawfully admitted into the country is a privilege and not a right; (2) adjustment of an alien's status is within the sound discretion of the Minister of Justice, who has been clothed with this discretion by law; (3) the nonadjustment of the status of these aliens is not without legal justification; and (4) no order for such adjustment has been received from the Minister of Justice whom the law makes responsible for this duty. Let us review these points in reverse order.

"As I have stated previously, the Minister of Justice is the proper official, according to the Aliens and Nationality Law of 1974, to either grant or order the granting of adjustment of change of status. It is my opinion that his having been commanded by statute, he, the Minister, should have been approached for this purpose by the petitioners in mandamus.

"At the hearing the Minister of Justice argued that there was legal reason for the Commissioner of Immigration not adjusting the status of the petitioners; he explained that the period for which the permit of residence of the aliens had been issued had expired and had not been renewed, and therefore they were not in the country legally. The law requires renewal of all permits of residence after a period of one year.

"I have already discussed the adjustment of status of all aliens being within the discretion of the Minister of Justice. But is the adjustment of an alien's status a

right, the exercise of which could be compelled by mandamus? Under the sovereign powers of the Republic of Liberia, no alien has a legal or mandatory right to either enter or remain in the country; remaining within the territorial limits of Liberia is a privilege the government allows an alien to enjoy at its, the government's, discretion. No alien can compel the State to allow him to remain within its borders as a matter of right; this is discretionary and mandamus will not issue to review that discretion. But for that matter mandamus will not issue to review the failure of the Minister of Justice to adjust the status of an alien. *Harmon* v. *Horace,* 10 LLR 29, 32 (1948).

"In *Pratt* v. *Republic,* the Supreme Court said: '. . . the right of a State to decide by statute the conditions upon which aliens shall be allowed to reside within its territories is an unquestionable one and is inherent in every sovereign and independent state.' . . . 2 LLR 289, 291 (1918). The Court went on to quote from Taylor, *International Law,* p. 231, as follows: 'Every independent State possesses the power to close the door to all foreigners whom for social, political or economic reasons it deems it expedient to exclude; and for like reasons it may subject a foreigner or group of them to expulsion.' There is no doubt in my mind, therefore, that the petitioners, being aliens, could not by mandamus compel the respondent Commissioner, or any other official of the Justice Ministry, to allow them to remain in the country, or adjust or change their status for them to remain in the country, no matter for what purpose. It is within the discretion of the Minister of Justice to say whether or not he would or would not grant or allow adjustment of status of an alien if he refuses to grant. It is therefore my opinion that mandamus will not lie in the circumstances; the alternative writ is therefore quashed, and issuance of the peremptory writ is denied.

"For disobedience of the orders of the Justice in chambers, we find the Commissioner of Immigration guilty of contempt of the Supreme Court, and to purge himself of the said contempt, he is ordered to pay a fine of fifty dollars into the Bureau of Internal Revenues. And it is so ordered."

It is an accepted maxim of international law that it is the inherent right of a sovereign State to forbid the entrance of aliens within its borders, or to admit them in such cases and upon such conditions as it may see fit to prescribe. In pursuance of these objectives the Legislature, if it sees fit, may empower an executive officer to supervise the admission, stay, and expulsion of aliens. In such case, as in all others in which a statute gives a discretionary power to an officer to be exercised by him upon his own opinion of certain facts, he is made the sole and exclusive judge of the existence of these facts, and no other tribunal, unless expressly authorized by law to do so, is free to re-examine or controvert the sufficiency of the evidence on which he acted. Where the Commissioner of Immigration was derelict in the performance of his duties, the petitioner should have appealed to the Minister of Justice, who holds ultimate responsibility for administering the laws governing aliens in the country.

The petitioner also contended that the fine of $50 for contempt imposed by the Justice in chambers is too small, considering the gravity of the Commissioner's actions. While it is possible that another Justice in chambers might have imposed a heavier penalty, this is a matter which is left to the sound discretion of the Justice, and we do not find it necessary to question it.

During the pendency of these proceedings in chambers, co-petitioner Badawe was imprisoned by the respondent, and after an appeal was taken from his ruling, the Justice in chambers ordered that, pending the hearing of the appeal by us, the co-petitioner remain detained. Since the co-petitioner has been detained for over a month in

violation of the stay order issued by the Justice in chambers, and in the interest of justice, it is our opinion that the co-petitioner should be released from detention upon the filing of a bond, pending the immediate determination of his status by the immigration authorities.

In view of the foregoing, the ruling of the Justice presiding in chambers quashing the alternative writ and denying the issuance of the peremptory writ is affirmed; and the Commissioner of Immigration, having been found guilty of contempt, is ordered to pay a fine of fifty dollars into the Bureau of Internal Revenues, and exhibit a receipt indicating payment of same to the Marshal within seventy-two hours; and, upon the presentation of a proper bond, to release co-petitioner Badawe from detention and proceed immediately to determine his status. And it is hereby so ordered.

Ruling affirmed.