HAFEZ M. JAWHARY, Informant, *v.* HER HONOUR AMYMUSU JONES, Debt Court Judge, Montserrado County, et al., Respondents.

INFORMATION AND MOTION TO DISMISS APPEAL FROM THE DEBT COURT FOR MONTSERRADO COUNTY.

Heard: October 22, 1997. Decided: January 22, 1998.

1. A bill of information seeks to remedy the improper execution of the mandate of the Supreme Court; it seeks to correct irregularities committed by a judge or judicial officer in the execution of the mandate of the Supreme Court.
2. A party who feels that the lower court or tribunal, in executing a mandate of the Supreme Court, has proceeded in an improper manner, has a remedy not by remedial writ but by a bill of information to the Full Bench.
3. A person who acts to obtain the intervention of an official of the Executive or Legislative Branch of the government in cases pending in the Judicial Branch is guilty of contempt.
4. The Constitution of Liberia prohibits any person belonging to one of the three branches of the government exercising any of the powers belonging to either of the others, and where one, be he lawyer or layman, urges the intervention of an official of the Executive or Legislative Branch in a case pending in the Judicial Branch, the act will be regarded as an attempt to bring the branches into conflict and to undermine the independence of the judiciary, and such person will be held in contempt.

5. The separation of powers and the independence of the judicial process are constitutional guarantees no lawyer should violate or impair. As such, any lawyer who, in violation of his professional oath, attempts to impugn or degrade the dignity and integrity of the courts, is unfit to remain a member of the profession and will be disbarred.
6. Any lawyer who attempts to create conflicts between any of the three branches of the government violates his professional oath and he should therefore be disbarred.
7. Any member of the bar who indulges in invectives, or whose behavior, directly or indirectly, tends to degrade the court or impair its usefulness and respecta-bility, should be disbarred or suspended from the practice of law.
8. The lack of a statement of the quantity of property in the affidavit of sureties, where the affidavit is duly signed by the sureties, is not an incurable or fatal defect or error; what is more important for the affidavit of sureties is the statement of the metes and bounds correctly and sufficiently describing the property, and thus making it easily identifiable.
9. The affidavit of sureties must be signed by the sureties themselves, as evidence of their knowledge and consent to have their properties used as security for the appellant's bond.
10. A judge appointed and duly authorized to conduct the affairs of a court has every authority to sign and approve an appeal bond, although he/she did not hear the case; hence, a judge duly appointed to conduct the affairs of a court, following the term of court in which the case was tried, may approve an appeal bond duly presented for approval.
11. The requirement of authentication by an official of the

Ministry of Finance that the properties are owned by the sureties claiming the same and that the assessed value of the property is correct, is not a prerequisite for approval by the trial judge of an appeal bond.

12. Errors or omissions in the statement of property valuation from the Ministry of Finance are not fatal defects.
13. In the case of an appeal bond, the appellee enters into a contract with the appellant, wherein guarantees are undertaken that the principal will perform each and every condition of the bond and pay a sum certain.
14. Where there is a forfeiture of any of the statutory conditions of an appeal bond, the court has the inherent power to enforce its judgment against the principal contractor, given that the principal has already been brought under the jurisdiction of the court. This is not the case with the sureties who are only remedy guarantors.
15. Although a principal is under the jurisdiction of the court by the filing of his appeal bond, the sureties to his bond are neither liable nor compelled to comply with the judgment of the trial court where said sureties have not undertaken such obligation under the conditions of the bond since their obligation is *strictissimi juris*, and nothing should be taken against them by construction.
16. The extent of liability of the sureties to an appeal bond is fixed by the legal import of the conditions in the bond and not by the judgment of the appellate court.

Appellant/informant was sued in an action of debt by the appellee/respondent, growing out of transactions in which the appellee extended loans to the appellant through a transfer of funds from his oversees account to the BCCI where the appellant held his account. The appellant claimed

that although he owed the appellee an amount, it was not the amount claimed by the appellee and that a substantial portion of the amount claimed by the appellee was actually loaned to the appellant by the BCCI and not by the appellee.

In a trial by a special jury, a verdict was returned in favour of the appellee, and judgment entered thereon confirming the same. From this judgment an appeal was taken. However, although the debt court judge granted the appeal announced by the appellant, she ordered the enforcement of the judgment. To prevent the enforcement of the judgment, the appellant filed a petition for a writ of prohibition. The Chambers Justice denied the petition and ordered the enforcement of the judgment. No appeal was taken from this decision. Instead, the appellant sought, by a petition for a writ of mandamus, to compel the clerk of the debt court to file a motion for relief from judgment.

When the trial judge continued to enforce the judgment, the appellant proceeded to write a letter to the Liberian Senate to intervene and halt the court's action. This action was publicly endorsed by the appellant's counsel at a press conference. Although there was an attempt by a senator to halt enforcement of the judgment, the Senate subsequently apologized to the court and ordered its member to remove himself from the matter. While the enforcement was being undertaken, counsel for appellant issued a promissory note to produce the appellant when demanded by the court. When counsel failed to produce the appellant, he was committed to jail pending the production of the appellant. In the interim, the appellant filed a bill of information with the Supreme Court, while the appellee filed a motion to dismiss the appeal announced from the trial court's judgment to the Supreme Court.

In a hearing in which the Supreme Court consolidated

the appeal, the motion to dismiss and the information, the Court denied the information, granted the motion to dismiss the appeal, and held both the appellant and his counsel in contempt of court for seeking the intervention of the Legislature in a case being adjudicated in the court. With respect to the bill of information, the Court held that the province of information was to correct irregularities or the improper execution of the mandate of the Supreme Court, and not with regard to action being taken by the trial court in enforcing its judgment. The Court observed that the matters which were being brought to the Court's attention by the bill of information were the subject of a petition for a writ of mandamus and bill of information which remained undetermined before the Chambers Justice, as well as an appeal before the Full Bench which was also undetermined. The Court therefore regarded the information as having been filed prematurely.

Regarding the motion to dismiss, the Court said that defects in the statement of property valuation issued by the Minister of Finance and a failure by the affidavit of sureties to state the quantity of property offered by the sureties as security to the bond were not fatal defects which would warrant the dismissal of an appeal. Addressing the issue of the failure of the affida-vit of sureties to state the quantity of property, the Court noted that such defect was not incurable or fatal, and that once the properties were sufficiently described by metes and bounds to make them easily identifiable, and the affidavit was signed by the sureties as evidence of their knowledge and consent to have their properties used as security to the appellant's appeal bond, the bond will be upheld.

Further, the Court said that while the Civil Procedure Law required that in a statement of property valuation issued by the Ministry of Finance, an official of that

Ministry should authen-ticate that the properties offered are owned by the sureties and that the assessed value of the said properties are correct, these are not prerequisites for approval of the bond by the trial judge, and that as these do not render the bond fatally defective, they could not form a basis for dismissal of the appeal.

On whether a trial judge who had not heard the case and approved of the bill of exceptions could approve the appeal bond, the Court opined that once a judge had been appointed and duly authorized to preside over the court and conduct its affairs, he or she had every authority to sign and approved of the appeal bond. The Court therefore overruled the contention in that respect.

However, with regards to the indemnity clause in the bond, the Court said that an appeal bond was a contract entered into between the appellee and the appellant and that an inclusion of the indemnity clause as prescribed by the statute was man-datory. Hence, an insufficient indemnity clause renders the bond defective and subjects the appeal to dismissal. In the instance case, the Court said, the indemnity clause was insuf-ficient, not in compliance with the statute, and fatally defective since it obligated the appellant to payment of costs and damages contingent only upon reversal of the trial court's judg-ment. On that defect, the Court said, the appeal was subject to dismissal.

On the question of the behaviour of the appellant in reporting the matter to the Senate, and of his counsel's public support for the action, the Court held that these acts constituted contempt of court, for not only did the said acts seek to bring ridicule upon the Court, but also to bring the branches of the government into conflict with each other. No branch of the government, the Court observed, had the right, under the Constitution, to interfere in the affairs of the other branches, and that any lawyer advocating the

same, in violation of his professional oath, should be subject to disbarment. The Court therefore held the appellant and his counsel in *contempt, fined* the appellant L$15,000.00, and ordered appellant's counsel *suspended* from the practice of law for six months. It further ordered the *dismissal* of the appeal because of the defect in the indemnity clause of the appeal bond.

*J. D. Baryogar Junius* of the Legal Clinic and *C. Alexander Zoe* of the Law Offices of Zoe and Partners appeared for appellant/respondent. *Ishmael Campbell* of the Legal Aid Incorporated and *Roger K. Martin* of Martin Law Office appeared for appellee/movant.

MADAM CHIEF JUSTICE SCOTT delivered the opinion of the Court.

Appellee/Co-respondent Mohammed Housseini instituted an action of debt in the Debt Court for Montserrado County, and averred in his complaint that his friend, Appellant/ Informant Hafez M. Jawhary, approached him (appellee) for a loan of US$50,000.00 to enable appellant to pre-finance a con-tract obtained from the National Social Security and Welfare Corporation to renovate the E. J. Roye Building on Ashmun Street, Monrovia. Appellee explained that because of the close friendship that existed between him and the appellant he, in October 1988, authorized his banker, the Bank of Credit and Commerce International, S.A., Marble Arch Branch, 123/16 Edward Road, London, England, to transfer the sum US$50,000.00 from his London account to BCCI, Monrovia. Appellee/co-respondent averred also that in October 1988, he authorized BCCI Monrovia to debit his BCCI London account and caused said amount to be paid

to appellant, informant herein. In January 1989, BCCI Monrovia informed appellee that in keeping with the letter of authority, the said amount of US$50,000.00 had been received from appellee's banker, BCCI London, and that same had been paid to appellant.

Appellee also alleged the following: That an interest of US$25,000.00 was mutually agreed upon; that for the principal amount of US$50,000.00 and the interest of $US25,000.00, appellant issued an undated check drawn on BCCI Monrovia, for US$75,000.00; that besides this transaction, appellant owed appellee a previous debt of US$34,000.00, for which appellant issued another undated check; that this brought appellant's total indebtedness to appellee to US$109,000.00; and that both of the undated checks were issued in favor of appellee and drawn on BCCI Monrovia.

Appellee further alleged that in May 1994, appellant withdrew both undated checks and issued two(2) promissory notes in the amount of US$75,000.00 and US$34,000.00, respectively, in favor of appellee, with the maturity date of September 20, 1994. Appellant did not make good on, or redeem, the said promissory notes issued by him.

Appellant, in an answer duly filed, acknowledged that indeed he owed a debt, but maintained that the said debt was to BCCI and not to appellee. Appellant explained that in 1988, he received a loan of US$50,000.00 from BCCI Monrovia. Appellant further contended that in compliance with the conditions of the loan, appellee, in May 1991, wrote two letters informing appellant about the state of affairs of his hotel, the Holiday Inn Hotel, and other business interests. At this point, appellant had fled to Lebanon due to the civil conflict. Appellant explained that appellee suggested in both letters, written in Arabic, that

appellant should issue two (2) undated checks in appellee's favor, drawn on BCCI Monrovia, in the amounts of US$75,000.00 and US$34,000.00. The suggestion was that this action would stop the accrual of interest on the loan. Appellant stated that he issued the two (2) checks as suggested. Appellant returned to Liberia in July 1991. In May 1994, appellant withdrew the two(2) undated checks and instead issued two(2) promissory notes in the amounts of US$75,000.00 and US$34,000.00, respectively, payable Sep-tember 20, 1994. This action was instituted when appellant defaulted on the promissory notes, and numerous efforts and overtures to settle the matter between appellant and appellee out of court failed.

The matter was heard in the Debt Court for Montserrado County by a special jury, which brought a unanimous verdict of liable against the appellant and in favor of appellee, for the total amount of US$109,000.00 plus six percent (6%) interest, successful counsel fees and costs of court. Appellant thereupon announced an appeal and thereafter filed a notice of comple-tion of appeal on August 22, 1997.

Notwithstanding the appeal, the court proceeded to enforce its judgment. Appellant then filed a petition for a writ of prohibition before the Chambers Justice against the trial judge, to stay the enforcement of the judgment in the face of the appeal. The petition was denied and no appeal was taken therefrom. Instead, appellant filed a new petition, this time for a writ of mandamus, to compel the clerk of the debt court to file appellant's motion for relief from judgment.

In the meantime, the court continued to proceed to enforce its judgment. Appellant then proceeded to write a letter of complaint to the president of the senate. This act was justified and defended by counsel for appellant, in

person of Counsellor C. Alexander B. Zoe. A member of the Senate, Senator Richard K. Flomo, wrote a letter requesting the judge to stay action in the matter until otherwise directed by the Liberian Senate. The Honorable Senate apologized to the judge for the action of its member.

During the process of enforcement of the judgment of the trial court, counsel for appellant, Counsellor C. Alexander B. Zoe, issued a promissory note to produce the appellant. When the counsel failed to produce the appellant, the court proceeded to hold counsel in detention until his client was produced. At this point, appellant filed a bill of information before this Court. At the call of the bill of information for hearing, the appeal, the bill of information and the motion to dismiss, and their respective responsive pleadings, were consolidated.

Appellant's bill of information informed this Court substantially that:

1. An appeal was announced in this matter and a notice of completion of appeal duly issued, served and returned served; yet, the trial judge had proceeded to enforce the final judgment from which the appeal was taken.
2. Appellant/informant had filed a petition for a writ of man-damus on respondents herein, and that the Chambers Justice had issued a stay order, halting any further pro-ceedings in the matter pending the receipt and filing of appellant/informant's motion for relief from judgment. Notwithstanding that appellees/respondents had filed returns to the said petition, appellee/respondents had continued to proceed in the matter.
3. INA Decree # 12, which authorizes the debt court to proceed to enforce its judgment after an appeal is announced and granted and the statutory steps to complete the appeal is completed, is violative of and repugnant to

the constitutional right of appeal, which serves as a super-sedeas in an action.

Respondents/appellees in their returns to the petition con-tended that:

1. Information will not lie in the instant case since the Supreme Court has not heard this matter, rendered a decision, or ordered the enforcement of a mandate. No allegations had been made that irregularities had occurred during the execution of the Supreme Court's mandate.
2. Informant had commenced payment against the judgment.
3. The unmeritorious bill of information was only filed to pervert justice and prevent the trial court from enforcement of its judgment. The petition was filed to bring relief to counsel for informant, Counsellor Alexander Zoe, who was detained upon his failure to produce the judgment debtor, as stipulated in the promissory note signed by said counsel.
4. Counsel for informant only reverted to the Supreme Court after his attempt for the Senate to intervene in the judiciary filed.
5. The petition for the writ of mandamus was filed and the alternative writ was issued against the clerk of the debt court, R. Barly Sequoila, and Mr. Mohammed Housseini, and not the judge of the debt court.
6. INA decree was not violative of the Constitution in that the decree does not prevent a judgment debtor from announcing and/or pursuing his or her appeal, but states that as long the amount of the debt is not in issue and defendant has had his due process, the court should enforce its judgment.
7. The co-respondent/appellee had filed a motion to dismiss appellant/informant's appeal because of the

defectiveness of the appellant's appeal bond under the law.

Appellee's motion to dismiss basically raises the following points:

1. That pursuant to INA decree #12, which provides that an appeal does not serve as a supersedeas, appellant/ informant had commenced to satisfy the judgment in the debt court.
2. That the statement of property valuation certificate, issued by the Ministry of Finance, does not carry the signature of one of the property owners, in person of Luvenia B. Moore.
3. That the approved statement of property valuation issued by the Ministry of Finance does not carry the metes and bounds of the property of surety Harris who signed as owner.
4. That the affidavit of surety does not contain the quantity of properties given as security.
5. That the appeal bond does not contain an indemnity clause.
6. That the appeal bond was approved by a succeeding trial judge and not the trial judge who heard the matter, in person of Judge John H. Mathies.

Appellant/informant contended in his resistance to the motion to dismiss as follows:

1. That the law requires the Ministry of Finance to authenticate that the deponent in the affidavit of sureties is the true owner, the assessed value of the property, and that the properties are free of liens, including government taxes. Hence, the signature of the owner of the property on the Ministry of Finance statement of property valuation is a surplusage.
2. That the payment made by appellant/informant as satisfaction of the court's judgment was made under duress.

3. That when a sitting judge loses jurisdiction or is replaced, the succeeding judge is authorized to approve the appeal bond.

Consequent to the above, numerous issues were raised by both parties' pleadings and briefs. This Court shall however elect to discuss what it considers the most salient ones, as follows.

1. Whether or not a bill of information will lie in an action not decided by the Supreme Court?
2. Whether or not an official or member of the other two branches of the government has the right to interfere in the operation of the judiciary or in a matter pending before it?
3. Whether or not errors made in the statement of property valuation are fatal to the appeal bond?
4. Whether or not the lack of an indemnity clause in an appeal bond renders the appeal bond fatally defective?

We now proceed to a resolution of the above mentioned issues, beginning in the order in which they are enumerated.

A bill of information seeks to remedy the improper execution of the mandate of the Supreme Court. In other words, a bill of information seeks to correct irregularities committed by a judge or judicial officer in the execution of the mandate of the Supreme Court. This Court defined the role of a bill of information in an opinion delivered in the October, Term A. D. 1986, in the case *Kromah v. Pearson and British Petroleum Med West Africa (Liberia) Ltd.*, 34 LLR 304 (1986), as follows.

> "When an issue has reached the point of executing a mandate of the Supreme Court, a remedial writ was out of the question. If anything went wrong at that stage, it was the duty of the party who felt he was wronged to in some way bring the action of wrong against whoever was committing the wrong to the

> attention of the court *en banc* .... From time immemorial, it has been the practice to come by bill of information to this court in cases like these and, therefore, if a judge or any judicial officer attempts to execute the mandate of the Supreme Court in an improper manner, the correct remedy is by bill of information to the court. . . ."

The matter brought to this Court's attention was neither heard nor decided by this Court *en banc*. In fact, a review of the records revealed that the acts complained of in the bill of information were the subject of a petition for a writ of mandamus and bill of information filed and presently undeter-mined before the Chambers Justice. Also, appellant's appeal is currently before this Court undetermined. Clearly, the bill of information presently before this Court has been brought in a vacuum and prematurely. The information must therefore crumble and, as such, should be dismissed; and we so hold.

Notwithstanding the dismissal of the bill of information and the responsive pleadings thereto, this Court must address itself to the constitutional issue of interference in matters pending in a court by officials or members of another branch of govern-ment. This is necessary due to the fact that this act became the subject of live press conferences, published statements by lawyers, and newspaper articles. The question which is posed is whether or not an official or member of the other two branches of the government can or has the right to interfere in matters pending before a court? We hold unanimously that he or she cannot. The Constitution is clear on this point. It provides for the separation of powers and non interference of one branch in the affairs of the other two branches. It states:

"The form of government is Republican with three

> sepa-rate coordinate branches: the Legislative, the Executive and the Judicial. Consistent with the principles of separa-tion of powers and checks and balances, no person holding office in one of these branches shall hold office in or exercise any of the powers assigned to either of the other two branches, except as provided in the Consti-tution.." LIB. CONST. Art. 3 (1986).

This situation developed when informant/appellant, on August 6, 1997, wrote a letter to His Excellency Enoch Dogolea, President of the Liberian Senate, the relevant portions of which we herewith quote:

> "Consistent with the Constitution of the Republic of Libe-ria which provides that the three branches of government are coordinate and serve as checks and balances on each other to ensure the dispensation and fair administration of justice, it is but imperative to refer to the utter abridge-ment and infringement of my constitutional right to an appeal for your timely intervention."

Another portion reads:

> "The supreme Court has refused to grant me the legal remedy required by law..."

The letter then concludes:

> "...Mr. President and Members of the Senate, I would be pleased were you to grant me the needed relief.
>
> With sentiments of my highest esteem, I remain.
>
> Kindest regards.
>
> Sincerely your,
>
> H. M. Jawhary"

The letter is clear that informant/appellant sought direct intervention from the House of Senate in the function of the Supreme Court and the Debt Court for Montserrado County. This Court held in *Dennis-Webb v. Dennis*, 27 LLR

355 (1977), that: "A person who seeks to obtain intervention of an official of the Executive or Legislative Branch of Government in a case pending in the Judicial Branch is guilty of contempt." *Id.* at 357.

The Court noted further that . . . "the Constitution prohibits any person belonging to one of the three great departments of government from exercising any of the powers belonging to either of the others, and where one, be he lawyer or layman, urges the intervention of an official of the Executive or Legislative Branch in a case pending in the Judicial Branch, this Court will regard it as a serious attempt to bring conflict between the branches of government and to undermine the independence of the judiciary, and will hold him in contempt. " *In re Acolatse*, 26 LLR 456 (1977). We consider the action of informant/ appellant, described herein, as highly contemptuous. This Court therefore finds informant/appellant guilty of contempt and orders that he pays a fine of L$15,000.00 into the go-vernment revenue and exhibit a receipt to the Marshal of this Court within 48 hours, or be confined to the common jail until the amount is paid.

In reaction to appellant/informant's letter of complaint, Senator Richard K. Flomo wrote a letter to the trial judge, Her Honour Amymusu Jones, with the following instructions: ". . . meanwhile, you will honour the stay orders issued by the Supreme Court of Liberia, dated 5th August 1997, which we have endorsed, until you are otherwise directed by the Liberian Senate ..." At this point, counsel for appellee held a press conference and made public the letter written by appellant to the Senate and the instructions given by Senator Flomo. The Senate subsequently apologized to the judge for this letter. This settled the matter between the National Legislature and the debt court. This Court notes with approval the acknowledg-

ment by the Senate of the error of one of its members. However, this Court requests that this act of interference in the judiciary should not be repeated and it will neither be countenanced nor tolerated by this Court.

The gravest and most reprehensible act of this episode, however, was the behavior of counsel for informant/ respondent, Counsellor C. Alexander B. Zoe, a former circuit court judge, and now a practicing lawyer, who took an oath of admission as a lawyer to:

> " support the constitution, and uphold the laws of my country and the rules of all courts of my country and those governing the conduct of lawyers. I will at all times give that due respect to the courts of my country, and will recognize the judicial and other officers thereof and their authority..."

Counsellor Zoe proceeded to hold a live press conference in defense of the letter of complaint written by his client to the Senate and the instructions from Senator Flomo to the debt court judge. Subsequent to the live press conference, Coun-sellor Zoe published a press statement in the NEWS news-paper, dated August 11,1997, captioned: *Press Conference by the Law Offices of Zoe and Partners,* by and thru its managing partner, Counsellor C. Alexander Zoe. A portion of the press statement reads:

> "Ladies and gentlemen of the press, in consideration of what we have narrated, one can readily see the frustration of our client, Mr. H. M. Jawhary, which prompted him to have written the Vice President, President of the Senate for some relief. We note that in keeping with constitu-tional provision, while it is true that there are separate and distinct coordinate branches of government and neither of them can usurp a function of either, yet in keeping with checks and balances, the Judicial Committee of the Se-nate

> can request a judge to give clarification on a complaint for alleged corruption. This is not an inter-ference but is intended to strengthen the government. . . . Ladies an gentlemen of the press. . . , I therefore want to encourage my client, Mr. H. M. Jawhary, to continue...."

The foregoing paragraph in Counsellor Zoe's press state-ment gives the impression to this Court that appellant's actions were based upon Counsellor Zoe's advice, and with his knowledge and consent.

During arguments before this Court, Counsellor J. D. Baryougar Junius, counsel for appellant, begged the mercy of the Court on behalf of Counsellor Zoe and his client. Even the adverse counsel, Counsellor Martin, prayed for the Court's mercy. Counsellor Zoe never apologized, for himself or his client. How contemptuous and shameful.

This Court said, in the case *In re Acolatse*, 26 LLR 456 (1977), text on 472, 473 & 474, that:

> "...The separation of powers and the independence of the judicial process are constitutional guarantees no lawyer should violate or impair..." Any lawyer who, in violation of his professional oath, attempts to impugn or degrade the dignity of our courts is unfit to remain a member of the profession. Any lawyer who seeks to create conflicts between any of the three branches of our government violates his professional oath and should therefore be disbarred.
>
> ...Any member of the Bar who indulges in invectives, or directly or indirectly tends to degrade the court or impairs its usefulness, dignity and respectability, should be dis-barred or suspended from the practice of law..."

This Court considers the action of Counsellor Zoe as grave and violative of his oath of admission to the profession. We find Counsellor Zoe guilty of contempt and

hereby order his suspension from the practice of law, directly or indirectly, for the period of six (6) months, commencing from date of rendition of this opinion.

Appellee raises several issues in the motion to dismiss appellant's appeal, contending basically that the appeal bond is defective, and enumerating the same as follows:

1. Defects or errors in the statement of valuation of property issued by the Ministry of Finance.
2. Failure of the affidavit of sureties to state the quantity of property described as properties # 1 and 2.
3. The lack of approval of the appeal bond by the trial judge who heard the case, rendered final judgment, and ap-proved the bill of exceptions.

However, we quote count 5 (five) of appellee/movant's mo-tion to dismiss the appeal, which we regard as the most salient issue: "That defendant's/appellant's appeal bond is fatally defective and therefore the appeal should be dismissed by this Honorable Court, for reason that the appeal bond does not carry an indemnity clause as required by statute."

The lack of the quantity of property in the affidavit of surety(ies) is not a fatal defect. What is most important is that the affidavit of sureties carries the metes and bounds correctly, and sufficiently describes the property, thus making it easily identifiable. Secondly, the affidavit of sureties must be signed by a surety(ies), as evidence of their knowledge and consent to have their properties used as security for appellant/respondent appeal bond. As long as the property is correctly described by metes and bounds, and the property is easily identifiable, the quantity of the properties will be ascertained and obtained. An inspection of the affidavit of sureties reveals that the metes and bounds of properties # 1 and 2 are contained therein, and the signatures of the two sureties, Luvenia H. Moore and

Siweh Harris, were affixed thereto, before Justice of the Peace Mary M. Howe, on the 5th of August, A. D. 1997. The omission of the quantity of the property in the metes and bounds stated in the affidavit of sureties, duly signed by the sureties, is not an incurable or fatal error on the appeal bond. Count # 4 is therefore overruled.

We now turn to the second issue which is stated in count 6 of the motion to dismiss, and this is whether a judge who approves an appeal bond has to be the same judge who heard the case, rendered final judgment, and approved the bill of exceptions. In the instant case, the judge who heard the case had lost jurisdiction when another judge was appointed to preside over the Debt Court for Montserrado County. This happened before the appeal bond was presented for approval. The approving judge, being appointed and duly authorized to conduct the affairs of the court, had every authority to sign and approve the appeal bond of appellant. A judge, duly authorized to conduct the affairs of a court, may approve an appeal bond, when duly presented for approval. Hence, count 6 is overruled. See Civil Procedure Law, Rev Code 1: 63.3; *King Peter's Heirs v. Gigger*, 27 LLR 287 (1978).

Counts 2, 3, 4 and 7 refer to defects in the statement of property valuation issued by the Ministry of Finance. The Civil Procedure Law, Rev. Code 1: 63.2(4) requires that an official of the Ministry of Finance should authenticate that the property(ies) are owned by the surety(ies) claiming the same and that the assessed value stated therein is correct. Not-withstanding, this authentication from the Ministry of Finance is not a pre-requisite for approval of the appeal bond by the judge. See Civil Procedure Law, Rev. Code 1: 63.2(4). Errors or omission in the statement of property valuation from the Ministry of Finance is not a fatal defect. In the face of this statute, counts 2, 3, 4, and 7 of the

motion are overruled.

We shall now examine count 5, quoted earlier in this opinion. An inspection of the appeal bond reveals that the indemnity clause contained therein reads:

> "Now, therefore, we the above named defendant/princi-pal, Hafez M. Jawhary, and Luvenia B. Moore and Siweh Harris, sureties, do hereby bind ourselves to the plaintiff from all costs or damages he may sustain *by reason of reversing the final judgment,* not exceeding the amount to be specified by the court in the bond if said plaintiff prevails. . . ." (Emphasis ours).

This Court has said, with regard to an appeal bond, that the appellee enters into a contract with the appellant. The bond guarantees that their principal will perform each and every condition of the appeal bond or pay a sum of money. Should there be a forfeiture of any of the statutory conditions of the appeal bond, the judiciary has the inherent power to enforce its judgment against the principal contractor, given that the principal has already been brought under the jurisdiction of this Court. This is not the case with the sureties who are remedy guarantors.

Although a principal is under the jurisdiction of the Court by the filing of his appeal bond, nevertheless the sureties to his bond are neither liable nor compelled to comply with the judgment of the trial court where said sureties have not undertaken such an obligation under the conditions of the bond since their obligation is *strictissimi juris*, and nothing is to be taken against them by construction. The extent of liability of the sureties on an appeal bond is fixed by the legal import of the condition in the bond and not by the judgment of the appellate court. For reliance, see *Beysolow v. Gibson*, 8 LLR 79 (1943), text at 80 and 81.

Should it become necessary to bring the sureties under the jurisdiction of the court, the sureties or remedy guarantors could successfully plead that they are liable to the extent of the conditions as stated in the appeal bond and nothing more. The sureties obligations are strictly by the conditions of the appeal bond and not by construction.

Comparing what this Court has said with respect to the indemnity clause, as contained in appellant's appeal bond quoted herein, it is clear that the said clause is insufficient and fatally defective for, in the said bond, appellant undertakes to indemnify appellee only if the judgment is reversed. The obligation of the sureties is therefore limited to the contingency of a reversal of the trial court's final judgment by this Court. The indemnification clause, therefore, is not in compliance with the statute. Hence, appellant's appeal bond is fatally defective and the motion to dismiss is hereby granted. Appel-lant's appeal is hereby ordered dismissed.

Wherefore, and in view of the above, it is the holding of this Court that the bill of information is dismissed, the motion to dismiss the appeal is ordered granted, and the case is ordered dismissed. Appellee/informant is adjudged guilty of contempt and fined $15,000.00, or go to the common jail until said amount is paid. Counsellor C. Alexander B. Zoe is suspended from the practice of law, directly and indirectly, for the period of six (6) months, commencing from the date of rendition of this opinion.

The Debt Court for Montserrado County is hereby ordered to resume jurisdiction over the case, proceed as provided by law, and to enforce its final judgment. Costs are ruled against the informant/appellant. And it is hereby so ordered.

*Information dismissed; motion granted; appeal dismissed.*