

**JOHNSON, TURPIN and DUNBAR, Appellants, vs. J. J. ROBERTS,
Appellee.**

LRSC 4; 1 LLR 8 (1861) (1 January 1861)

[January Term, A. D. 1861.]

Appeal from the Court of Quarter Sessions and Common Pleas, Montserrado County.

Record—Evidence—Bond.

1. Party appealing should superintend the appeal and see that all legal requisites are completed.
2. It is indispensable that the records in an appeal contain the evidence submitted in the lower court.
3. The court will not entertain a case legally deficient in its records. The omission of a copy of the bond in the records is diminution of records and is fatal to an appeal.

This court, having reviewed the records sent from said court, as well as the questions propounded by the attorneys for the respective parties, feels itself bound to answer the same, as well as to cause its acts to be in strict accordance with the law governing appeals sent to this court. First—There are material defects in the records forwarded to this court, the most prominent of which is that the evidence in the case is wholly omitted, notwithstanding it is indispensable to the decision of every case pending before a court of judicature. The court cannot entertain any case that is legally deficient in its records. A true copy of the bond is indispensably necessary to be forwarded, the original to be retained on the files below, as the security of the court on behalf of him against whom the appeal is taken. All cases sent forward on appeal must be taken out within sixty days, having the signature of the judge to the exceptions, as well as all other preliminaries contemplated by the law relating to appeals. These preliminaries are indispensably necessary to a legal appeal. The clerk whose duty it is to forward the records of the court under seal cannot do so unless the parties suing file bond, according to law, and the party appealing ought here themselves superintend the lawful prerequisites. It is for the safety of the parties that said requisitions be met, and it must therefore be a gross injustice to the appellee to compel him to answer to any appeal taken out contrary to law.

The law will not admit of invasions upon itself, and for the court to entertain any appeal which may be deficient in its most important and indispensable features, and which are most calculated to lead to a just decision in the case, would not be in keeping with the record and inviolable rights of the nation. Therefore the court decides that said case be dismissed, with all costs in this court. SAVINIA E.

BROWN, Appellant, vs. FRANCIS PAYNE, Appellee.