

**CHARLES BATAM, Appellant, vs. EDWARD
LILES, Appellee.**

LRSC 3; 1 LLR 64 (1873) (1 January 1873)

[January Term, A. D. 1873.]

*Appeal from the Court of Quarter Sessions and Common Pleas, Grand Bassa
County.*

When a case has been removed upon a change of venue, the court from which the case is removed loses its jurisdiction over the same by the very act itself.

This is a ruling upon the returns of the judge, D. F. Smith, setting forth his reasons for not proceeding to the trial of the case of Charles Batam vs. Edward Liles.

The court is of the opinion that the plaintiff in the court below was rather precipitate in the entering of his case de novo before he had secured the judgment of the court of Maryland County, to which the case was removed. And he was in error when he assumed to have had the right to withdraw the original action, by giving such notice to the court of Grand Bassa County, after it had been removed upon a change of venue, and when really, or rather legally, there was no case of Charles Batam vs. Edward Liles then existing in said court of Grand Bassa County. For it is very obvious when a case has been removed upon a change of venue, the court from which the case is removed loses its jurisdiction over the same by the very act itself.

However, the defendant, Edward Liles, having filed in court his answer to the plaintiff, Charles Batam's, complaint, the defendant is therefore bound by the same to the extent of the legal right of the plaintiff to recover against him.

Upon the examination of the returns of Judge D. F. Smith, it seems that his objection offered for not proceeding with the case was based upon several grounds, one of which this court regards as being well founded: that is, the judge had denied the defendant the privilege of a change of venue, believing it was his duty to do so; therefore he held that he could not, in justice to all parties, force him, the defendant, to trial after having thus denied him this privilege.

It was certainly the privilege of the defendant equally as legal as that of the plaintiff to renew his action after a non-suit, and it ought not to have been denied him.

However, the court says and commands that the said Judge D. F. Smith of the aforesaid court of Grand Bassa County proceed to exercise jurisdiction over said case, securing to both parties, however, all the privileges given them by law. The clerk of this court is hereby commanded to forward a copy of this mandate to Judge D. F. Smith of the Court of Quarter Sessions of Grand Bassa County.
