

S. S. LEDLOW, Appellant, vs. **THE REPUBLIC OF LIBERIA**, Appellee.

[January Term, A. D. 1901.]

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

Murder.

Motion to Dismiss Appeal.

In the above entitled case this court is asked for a ruling upon the motion of the Attorney-General acting for and on behalf of the Republic of Liberia, appellee, to dismiss the appeal pending before it, in which S. S. Ledlow is appellant and the Republic of Liberia appellee, upon the ground that the appellant failed to file a bond in taking out the appeal to this honorable court.

After carefully considering the motion and investigating the law relied upon by the appellee's counsel, this court has failed to discover the legal foundation of the motion. The appeal in this case is taken in a trial for murder. The offence being a capital offence, the Constitution of Liberia forbids that bail be allowed (Const. Lib. Art. 1, p. To, sec. 20), and therefore the appellant is legally presumed to be in actual custody. The custody of the appellant's person in the identical suit in which the appeal is taken, operates as a security and is what the Constitution regards as sufficient indemnity in appeals in capital offences.

"Reason is the soul of the law, and when the reason of any particular law ceases, so does the law itself." (Legal Maxims.)

In the case of J. C. B. Roye against the Republic of Liberia, adjudicated before this court at its session of 1892, the court held that the idea of an appeal bond in capital offences is entirely excluded by the provision of the Constitution prohibiting bail in such offences; and we unhesitatingly affirm in the present case the same view with respect to bond in such cases.

The provision of the act of the Legislature (approved January, A. D. 1894) with

reference to appeal bonds, on which the counsel for the appellee seems to have chiefly rested, must be construed in exact harmony with the spirit and language of the Constitution, which is the organic law of the State. A legislative enactment cannot overthrow or take precedence to a constitutional provision; the inflexible rule governing interpretation of the statutes is, that whenever in the construction of a statute there arises a conflict with some constitutional provisions, the latter must predominate.

It is the opinion of this court that the statute requiring the filing of bonds in cases of appeal does not apply to appeals in capital offences. For the foregoing reasons the court will not sustain the motion of the appellee to dismiss the said appeal.