

VANSANT v. GAS-LIGHT COMPANY.

Unless allowed in open court during the term at which the decree was rendered, an appeal will be dismissed, if no citation has been issued and the appellee does not appear.

MOTION to dismiss for want of citation an appeal from the Supreme Court of the District of Columbia.

This was a bill in chancery brought in the Supreme Court of the District of Columbia by John Vansant, and William A. Duncan, trustee for Susan A. Duncan, against the Electro-Magnetic Gas-Light Company and others. The defendants answered; and the cause coming on to be heard upon the pleadings and proofs, a final decree was rendered at the special term, which was affirmed at the general term of that court. The following entry then appears upon the record:—

"JOHN VANSANT <i>et al.</i>	}	No. 3707.
v.		Equity Doc. 13.
THE ELECTRO-MAGNETIC GAS-LIGHT CO.)		

"DEC. 17, 1875.

"The clerk will enter an appeal to the Supreme Court of the United States from the decision in general term, passed Nov. 29, 1875.

"DURANT & HORNOR,
" *For Plaintiffs and Appellees.*

"Dec. 17, 1875. Appeal entered as directed.

"By the clerk."

It was conceded that a bond had been approved by the Chief Justice of that court and filed with the clerk during the term.

Mr. J. Hubley Ashton and *Mr. Nathaniel Wilson* in support of the motion.

Mr. Thomas J. Durant, contra.

MR. CHIEF JUSTICE WAITE delivered the opinion of the court.

No citation has been issued in this cause. A citation only becomes unnecessary when the appeal is allowed in open court

during the term at which the decree is rendered. This implies some action of the court while in open session, and, to be regular, should be entered on the minutes. Here, although an appeal bond was approved by the Chief Justice of the court and filed with the clerk during the term, it does not appear to have been done while the court was actually in session. So far as the record shows, it was the act of the Chief Justice alone out of court. The entry on the order-book is simply a direction to the clerk, by the solicitor of the appellant, to enter an appeal. It in no way indicates any action whatever either in or by the court.

Appeal dismissed.

SUPERVISORS v. GALBRAITH.

1. An act of the legislature of Mississippi, approved Feb. 10, 1860, authorized the county of Calhoun, among others, to subscribe to the capital stock of a railroad company, provided that at an election in the county, of which and of the amount to be subscribed, and in what number of instalments, twenty days' notice should be given, a majority of the qualified electors voting should be in favor of the subscription. The proposition, when first submitted, was rejected; but at a second election the vote was in favor of the subscription. An act, passed March 25, 1871, declared that the bonds issued in payment of previous subscriptions should be made payable to the president and directors of the company and their successors and assigns. The bonds were issued Sept. 1, 1871, payable to the railroad company, or bearer, ten years thereafter, at the agency of the company in the city of New York. They recite that they are issued in payment of the county subscription to the capital stock of the company, in pursuance of the said acts, and in obedience to a vote of the people of the county, at an election held in accordance therewith. In a suit on the bonds, — *Held*,
 1. That the requirement that they should be made payable to the president and directors of the company, and their successors and assigns, is only directory; and that the recital therein estops the county from taking any advantage of the irregularity committed by its servants.
 2. That no place of payment having been designated by the act, it was competent to make the bonds payable in New York.
 3. That as in that State they could, after being assigned in blank, pass by delivery from hand to hand, and have all the properties of commercial paper, the result is the same as if they had been drawn in literal conformity with the statute.
 4. That, in the absence of any prohibition in the act against more than one submission to the electors of the question of making the subscription, the second vote was not unlawful.