

Opinion of the Court.

actually existed at the time the suit was begun, it will be for the court below to determine, when the case gets back, whether the record shall be amended so as to show that fact, and thus make out the jurisdiction.

The judgment of the Circuit Court is reversed at the costs of the plaintiff in error, and the cause remanded for further proceedings.

UNITED STATES *v.* PHILLIPS.ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE
WESTERN DISTRICT OF TEXAS.

Argued April 4, 1887. — Decided April 11, 1887.

Notice of a writ of error, given in open court at the same term the judgment is rendered, is not the equivalent of citation.

THE case is stated in the opinion of the court.

Mr. Assistant Attorney General Maury for plaintiff in error.

No appearance for defendants in error.

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

In this case no citation was ever issued, and the defendants in error do not appear. Notice of a writ of error, given in open court at the same term the judgment is rendered, is not the equivalent of the citation required by § 999 of the Revised Statutes. In this respect writs of error differ from appeals taken in open court.

The writ of error is dismissed.