

Cases Omitted in the Reports.

be, and the same is hereby remanded to the said Circuit Court, to be proceeded in according to law and justice. *Dismissed.*

Mr. H. M. Phillips for appellants. *Mr. Kane* and *Mr. Fallon* for appellee.

SHANNON *v.* CAVAZOS.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF TEXAS.

No. 74. December Term, 1857.—Decided April 19, 1858.

One of several codefendants having appealed from a joint decree against all, without summons and severance, the case is dismissed.

THE case is stated in the opinion.

MR. JUSTICE MCLEAN delivered the following order and opinion: This cause came on to be heard on the transcript of the record from the District Court of the United States for the District of Texas, and it appearing to the court here, upon the motion of Messrs. Hale and Robinson, of counsel for the appellees, that the decree of the said District Court in this cause is a joint decree against several codefendants, and that Patrick C. Shannon alone has appealed therefrom, without any summons and severance from the rest of his codefendants, it is the opinion of this court that the case is improperly brought here. On consideration whereof, it is now here ordered, adjudged and decreed by this court, that this appeal be, and the same is hereby

Dismissed, with costs.

Mr. J. P. Benjamin for appellants. *Mr. C. Robinson* and *Mr. Wm. G. Hale* for appellees.

PHELPS *v.* EDGERTON.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

No. 85. December Term, 1860.—Decided March 5, 1861.

It appearing to the court that this writ of error was sued out merely for delay, the judgment is affirmed with ten per cent damages.

ASSUMPSIT on a promissory note, to which the general counts were joined. The pleas were, a general demurrer to the first count, and non assumpsit. The demurrer was overruled, and a verdict taken for plaintiff, and judgment on the verdict, to which this writ