

Fletcher *v.* Blake.

very fair, but it nowhere removes or cures the errors we have pointed out, and for these the judgment of the court is

Reversed and the case remanded, with instructions to set aside the verdict and grant a new trial.

Mr. Samuel Shellabarger, Mr. J. M. Wilson and Mr. A. J. Poppleton for plaintiff in error. *Mr. J. L. Webster and Mr. W. J. Connell* for defendants in error.

WHITNEY *v.* COOK.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF MISSISSIPPI.

No. 285. October Term, 1880.—Decided May 2, 1881.

Damages are awarded in a case where the appeal was taken for delay, and was frivolous.

The case is stated in the opinion.

MR. CHIEF JUSTICE WAITE announced the judgment of the court.

There has been no appearance for the plaintiffs in error in this case. The writ of error has operated to delay proceedings on the judgment against Klein, the garnishee. There is nothing whatever in the record to justify him in staying execution. The security by Whitney, the judgment debtor, was for costs only. The cause has been permitted to remain on the docket for two years, notwithstanding what was said by us at the October Term, 1878, 99 U. S. 607, when we felt compelled to deny a motion to affirm because it could not be brought under the operation of rule 6, there being no color of right to a dismissal.

We, therefore, affirm the judgments, with interest and costs, and award two hundred and fifty dollars damages against Klein on account of the delay.

So ordered.

Mr. P. Phillips and Mr. G. Gordon Adam for defendants in error.

FLETCHER *v.* BLAKE.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

No. 685. October Term, 1880.—Decided December 6, 1880.

The internal revenue stamps used by the defendant in error are no infringement of the letters patent issued to the plaintiff in error, June 8, 1869, for an improvement in stamps used for revenue and other purposes.