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Fleming et al. v. Page.

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by this court, that the decree of the said Circuit Court in this cause be, and the same is hereby, reversed, with costs for the appellant in this court, and that this cause be, and the same is hereby, remanded to the said Circuit Court, with directions to that court to proceed therein in conformity to the opinion of this court, and as to law and justice shall appertain.

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SMITH HOGAN, ARTHUR S. HOGAN, AND RICHARD Y. REYNOLDS, PLAINTIFFS IN ERROR, *v.* AARON ROSS, WHO SUES FOR THE USE OF ROBERT PATTERSON.<sup>1</sup>

Where no citation had been issued or served upon the defendant in error, the cause must be dismissed on motion

THIS case was brought up; by writ of error, from the District Court of the United States for the Northern District of Mississippi.

\*603] \*The order of the court explains the ground of its dismissal, upon the motion of *Mr. Coxe*.

ORDER.

This cause came on to be heard on the transcript of the record from the District Court of the United States for the Northern District of Mississippi, and on the motion of Richard S. Coxe, Esquire, of counsel for the defendant in error, stating that no citation had been issued or served upon the defendant in error, was argued by counsel. On consideration whereof, it is now here ordered and adjudged by this court, that this cause be, and the same is hereby, dismissed, with costs.

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JOSEPH FLEMING AND WILLIAM A. MARSHALL, TRADING UNDER THE FIRM OF FLEMING & MARSHALL, *v.* JAMES PAGE, COLLECTOR OF THE UNITED STATES.

During the war between the United States and Mexico, the port of Tampico, in the Mexican State of Tamaulipas, was conquered, and possession of it held by the military authorities of the United States, acting under the orders of the President.

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<sup>1</sup> See further decision, 11 How., 294.