BENJAMIN F. MORGAN, PLAINTIFF IN ERROR, *v.* ALFRED G. CURTENIUS AND JOHN L. GRISWOLD.

Where there appears to be an omission in the record of an important paper, which may be necessary for a correct decision of the case of the defendant in error, who has no counsel in court, the court will, of its own motion, order the case to be continued and a certiorari to be issued to bring up the missing paper.

THIS case stood upon the trial docket, coming from the State of Illinois. It was submitted on a printed argument by *Mr. Washburne* for the plaintiff in error, no counsel appearing for the defendant.

Whereupon, upon an inspection of the record, the court expressed the following opinion:

Mr. Chief Justice TANEY delivered the opinion of the court.

Upon examining the transcript of the record filed in this case, we find that it is imperfect, and that a paper has been omitted which may be important to the decision of the matter in controversy between the parties.

The bill of exceptions upon which the cause is brought before this court, after stating that the defendants read in evidence the deed from Bogardas, to Underhill, under which they claim title, proceeds in the following words:

"The defendants next offered in evidence to the jury a certificate of the register of the land office at Quincy, dated ————, which is in the words and figures following, to wit."

But the certificate thus referred to is not inserted in the exception, nor its contents stated in any part of the transcript. And as this paper was offered in evidence by the defendants, it must have been deemed material to their defence; and the court think it would not be just to them to proceed to final judgment, without having this paper before us.

And as the defendants have no counsel appearing in their behalf in this court, the court of its own motion order the case to be continued, and a certiorari issued in the usual form to the Circuit Court, directing it to supply the omission above mentioned, and return a full and correct transcript to this court, on or before the first day of the next term.

Order.

Upon an inspection of the record of this cause, it appearing to the court here that the bill of exceptions states that "the defendants offered in evidence to the jury a certificate of the

register of the land office at Quincy, dated ————, which is in the words and figures following, to wit;" and that the said certificate, thus referred to, is not inserted in the exception, nor its contents stated in any part of the transcript, on consideration whereof, it is now here ordered by this court, that a writ of certiorari be and the same is hereby awarded, to be issued forthwith, and to be directed to the judges of the Circuit Court of the United States for the district of Illinois, commanding them to supply the omission above mentioned, and return a full and correct transcript to this court, with this writ, on or before the first day of the next term of this court.

Ex Parte, in the Matter of David A. Secombe.

By the rules and practice of common-law courts, it rests exclusively with the court to determine who is qualified to become or continue one of its officers, as an attorney and counsellor of the court; the power being regulated, however, by a sound and just judicial discretion—guarding the rights and independence of the bar as well as the dignity and authority of the court.

The local law of the Territory of Minnesota has regulated the relation between courts and attorneys and counsellors, but has not essentially changed the common-law principle.

The Minnesota statute authorizes the court to dismiss an attorney or counsellor if he does not maintain the respect due to courts of justice and judicial officers, or for not conducting himself with fidelity to the court.

The Supreme Court of the Territory dismissed the relator from the office of counsellor and attorney of the court, stating in the sentence of dismissal that he was guilty of the offences above mentioned, but not specifying the act or acts which, in the opinion of the court, constituted the offence.

The order of dismissal is a judicial act done in the exercise of a judicial discretion vested in the court by law; and a mandamus cannot be issued by a superior or appellate court, commanding it to reverse its decision and restore the relator to the office he has lost.

This was a motion for a mandamus to be directed to the judges of the Supreme Court of the Territory of Minnesota, commanding them to vacate and set aside an order of the court, passed at January term, 1856, whereby the said Secombe was removed from his office as an attorney and counsellor of that court.

The subject was brought before this court by the following petition and documents in support of it:

To the Hon. the Judges of the Supreme Court of the United States:

The petition of David A. Secombe respectfully showeth:

That he resides in the city of St. Anthony, in the Territory of Minnesota; that on the ninth day of July, 1852, he was duly admitted and sworn to practice as an attorney and coun-