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Opinion of the court.

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appeal is allowance, citation to the appellees, or equivalent notice or waiver, and the bringing up of the record at the next term of this court. Security for prosecution should be taken by the judge on signing the citation; but if this duty be omitted or defectively performed, a remedy can be applied here on motion.

In the present case a bond, admitted to be sufficient for costs of prosecution, whether given in time to make appeal operate as a supersedeas or not, was filed in the court below before removal to this court.

The motion to dismiss the appeal must therefore be

DENIED.

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GARRISON v. CASS COUNTY.

Appeal dismissed for want of jurisdiction, where the decree was rendered 13th June, 1861, but no appeal was prayed for or allowed until June Term, 1865, when, on motion of the defendants below, an appeal was allowed *nunc pro tunc*, as of 13th June, 1861, there having been no citation to the appellees, and the record not having been brought up at the next term.

MOTION to dismiss an appeal from the Supreme Court of the Territory of Nebraska.

The CHIEF JUSTICE delivered the opinion of the court.

The decree in this case was rendered on the 13th June, 1861. No appeal was prayed or allowed until the June Term, 1865. At that term, on motion of the defendants below, an appeal was allowed *nunc pro tunc*, as of 13th June, 1861.

There is nothing in the record which warranted the making of this order; nor, if it could have been lawfully made, would it avail the defendant, for there was no citation to the appellees, and the record was not brought up at the next term of this court.

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Opinion of the court.

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At most, it can only be regarded as an allowance of an appeal at the June Term, 1865, and no citation appears to have been issued since to the appellees, nor was there any equivalent notice, nor has there been any waiver.

The appeal must therefore be

DISMISSED FOR WANT OF JURISDICTION.

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ALVISO *v.* UNITED STATES.

A citation to the adverse party, with due return or waiver by general appearance, or otherwise, is indispensable to jurisdiction on appeal.

ON motion to dismiss an appeal from the District Court for Northern California, the CHIEF JUSTICE stated the case and gave the opinion of the court.

The final decree in the District Court was rendered on the 8th September, 1863, and an appeal was allowed, on motion of the claimant, on the 18th November, 1863. Upon this appeal no action was taken by the appellants. On the 23d February, 1864, an appeal was again allowed, and the record was brought to this court and filed November 11, 1864.

This was in time, but no citation was issued to the adverse party, and there is nothing to show any waiver; and a citation, with due return, or waiver by general appearance or otherwise, is indispensable to jurisdiction on appeal.\*

The writ, therefore, must be

DISMISSED.

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\* Bacon *v.* Hart, Black, 38; Castro *v.* United States, 3 Wallace, 49.