

JAMES INNERARITY, PLAINTIFF IN ERROR, v. THOMAS BYRNE.

A citation is not necessarily a part of the record, and the fact of its having been issued and served may be proved *aliunde*.

*Mr. Bagby* moved to dismiss the writ of error in this case for the want of a citation. None appeared in the record.

Mr. Justice McLEAN delivered the opinion of the court, saying, that the citation was not necessarily a part of the record, it forming no part of the proceedings of the court below. The presumption is, that one was issued when the writ of error was allowed, and it may be proved *aliunde*.

Motion overruled, and case continued to next term.