

RUTHERFORD AND OTHERS *against* THE STATE BANK.

ERROR *to Independenne Circuit Court.*

A writ of error, returnable into the Supreme Court, may be issued and tested by a Judge of the Court, and is as valid as one issued and tested by the Clerk, under the seal of the Court.

If there are less than fifteen days between the teste and return day of a writ of error, it will be quashed.

A writ of error issued in this case, dated June 30, 1841, returnable on the first day of July, 1841, issued and signed by the Honorable Townsend Dickinson, Associate Judge, without the seal of the Court.

HEMPSTEAD and JOHNSON, for defendant in error, moved to quash the writ, because it was issued.

BYERS, *Contra:*

The Court, the Chief Justice dissenting, held that the writ properly issued, a Judge having power to issue the same.

And afterwards, the motion to quash being renewed, and the want of fifteen days between the teste and return day assigned as a ground, by leave of the Court, the objection was held fatal, and the writ quashed.