

## DUKE ET AL. vs. CRABTREE.

The statement of the clerk that a plea was filed and issue joined, forms no part of the record—the filing must be noticed upon the record, or it is not sufficient. *Perkins and wife vs. Crabtree*, ante, affirmed.

THIS was a petition in debt, in the Lafayette Circuit Court, in April, 1843, before the Hon. JOHN FIELD, one of the circuit judges. The principles decided are similar to those in *Perkins and wife vs. Crabtree*, ante, but the cases differ somewhat in detail, and it is thought best to give a statement of both. Crabtree filed his petition in debt, according to the form of the statute, stating that, as administrator, &c., he was the legal holder of a bond against the defendants, James M. Duke, Retus J. Williams, George Dooley, and Henry M. Robinson, executed to him, as administrator, &c., and copied therein the following writing obligatory, to wit: "Twelve months after date, we, or either of us promise to pay William Crabtree, junior, administrator of the estate of Davidson Bradley, deceased, two hundred and sixty-one dollars, for value received, this 1st day of January, 1840, to bear ten per cent. after date until paid. J. M. Duke, [seal], R. J. Williams, [seal], George Dooley, [seal], H. M. Robinson, [seal]." The defendants all appeared to the action. There also appears an entry on the record, that Duke filed a plea of payment, *ad diem.*, that Crabtree joined issue thereto; but no plea, replication, or similitur is copied in the transcript. Afterwards, all of the defendants joined in a demurrer to the petition, and stated therein the following special causes, to wit: 1st, that they were sued by the names of James M.