

CARLETON *v.* BARTLETT.

Notice under Revised Statutes, chap. 201, sec. 1, to charge bail, is not seasonable if given on the 18th of March, the return day of the execution being the 2d of April next following.

SCIRE FACIAS against bail. The defendant demurred to the declaration, and assigned for cause that it did not appear that the notice mentioned in the declaration was served upon the bail fifteen days before the return day of the execution; the notice having been served on the 18th day of March, 1844, and the return day of the execution being the second day of April following.

The plaintiff joined in demurrer.

*Bennett*, for the defendant.

*Carleton*, for the plaintiff.

Woods, J. The statute requires that the notice be served upon the bail fifteen days before the return day of the execution, in order to charge him. Rev. Stat., chap. 201, sec. 1. By the provisions of chap. 1, sec. 25, the day on which the service of the notice was made must be excluded in the reckoning. Between the 18th day of March and the second day of April no more than fourteen days intervene. The service therefore having been made on the 18th day of March, and the return day of the execution having been on the second day of April, the service was too late. There must therefore be

*Judgment for the defendant on the demurrer.*