

Statement of the case.

sary to issue it in the name of these representatives, in the usual way, serving on them the citation to appear at the next term.

The case of *Kellogg et al. v. Forsyth*,* is an authority for issuing the writ in the name of the widow and heirs, and, also, for the appearance of these parties on the citation, and make objections to these proceedings if they see fit.

As the case now stands, the parties to the suit described in the writ, and in whose names it was issued, are McClane, plaintiff in error, and Boon, defendant, deceased, and the citation is issued and served on parties, not parties to the record, which, of itself, is error.†

WRIT OF ERROR DISMISSED.

AGRICULTURAL COMPANY v. PIERCE COUNTY.

A writ of error made returnable to a day different from the return day fixed by statute as the day on which the term commences, dismissed.

ERROR to the Supreme Court of Washington Territory.

The writ of error bore date January 20th, 1862. It was on its face made returnable on the second Monday of December next after its date, when it should have been the first Monday of that month, which is by law the day on which the terms of this court commence each year.

For this cause (Mr. Justice MILLER, announcing the order), the writ of error was dismissed under the authority of the cases of *Carroll v. Dorsey*,‡ *Insurance Company v. Mordecai*,§ and *Porter v. Foley*,|| heretofore decided by this court.

Messrs. Lander and Carlisle, for the plaintiff in error ; no opposite counsel appearing nor having entered their appearance of record.

* 24 Howard, 186.

† 20 Howard, 204.

‡ *Davenport v. Fletcher*, 16 Id. 142.

§ 21 Id. 195.

|| Id. 393.