

Case No. 7,735.

{6 McLean, 13.}<sup>1</sup>

KETCHUM V. DRIGGS ET AL.

Circuit Court, D. Michigan.

June Term, 1853.

PLEADING IN EQUITY—DEMURRER TO BILL—GROUNDS OF DEMURRER.

1. A demurrer, to a bill praying an injunction, must be decided, before a motion for the injunction can be heard.
2. A defective allegation of citizenship is a good ground of demurrer.
- 3 The court gave leave to amend the bill, and also time to the defendant to put in a voluntary answer, and file affidavits.

In equity.

Mr. Campbell, for complainant.

Mr. Davidson, for defendants.

OPINION OF THE COURT. This is a bill praying an injunction, to which a demurrer was filed. The demurrer of course must be decided, before a motion for the injunction can be heard. There is no sufficient averment of the citizenship of the complainant, and this being apparent on the face of the bill, the demurrer is sustained. Leave was given to amend the bill.

THE COURT gave time to the defendants [Driggs & Cargill] to put in a voluntary answer, and to file affidavits.

<sup>1</sup> [Reported by Hon. Mclean, Circuit Justice.]