

PENN V. BUTLER.

[Wall. Sr. 4.]¹

Circuit Court, D. Pennsylvania. May 11, 1801.

EQUITY PRACTICE—WITHDRAWING EXCEPTION
TO ANSWER.

Complainant allowed to withdraw his exception to the defendant's answer; and to take at his peril a subpoena to rejoin, returnable forthwith.

On chancery side. Exceptions had been taken to the defendant's answer. But.

Mr. Rawle, for complainant, now stated, that for certain reasons it would be satisfactory to both parties, to go to a hearing upon the bill and original answer, and moved for leave to withdraw his exceptions; which being allowed, he filed a replication instanter. He then moved for a subpoena to rejoin, returnable forthwith, which he said was the proper form of that process, merely to put the cause at issue.

Mr. Ingersoll, for defendant, seemed to question whether it was of course and always returnable forthwith, but objected to the proceeding, if it was intended, at all "vents, to oblige the defendant to a hearing this term.

BY THE COURT. Take the subpoena at your peril. It is a writ of course; and then all objections will be open to the defendant.

[The cause was subsequently heard, when the object of the bills was submitted for the opinion of the court on an agreed statement of facts. The court held that the interposition of a court of equity was unnecessary. Case No. 10,930.]

¹ [Reported by John B. Wallace, Esq.]

This volume of American Law was transcribed for use
on the Internet

through a contribution from [Google](#). 