

CAMPBELL *v.* MAYOR, ETC., OF NEW YORK.

*Circuit Court, S. D. New York.*

February 15, 1888.

EQUITY—PLEADING—PRACTICE.

In a suit in equity some defendants filed pleas, and then obtained leave to withdraw them, while other defendants demurred. It being doubtful whether or not the pleas were before the court, *held*, to be the better practice to postpone action on the pleas until the hearing on the demurrer.

In Equity. On pleas to supplemental bill.

*Harvey D. Hadlock*, for plaintiff.

*George Bliss* and *Marcus P. Norton*, for defendants filing pleas.

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WHEELER, J. A bill, called a "supplemental bill," appears to have been filed in this cause by a party other than the orator, against the orator and others. To that bill some of the defendants filed pleas, and some a demurrer. The demurrer appears to be set down for argument at the next term. The pleas do not appear to be set down for argument at all, or traversed. When the cause was reached on the calendar it was taken on briefs to be submitted as to one plea, in the absence of counsel for the orator in the supplemental bill, at the request of counsel for the party filing the plea. Since then it is made to appear that leave had been obtained to withdraw the pleas, and that notice had been given by counsel who obtained the leave that the pleas were withdrawn. The pleas, or some of them, may have been renewed, or there may be question as to the effect of the withdrawal. However these things may be, there is so much doubt whether there is any question upon the plea, or in regard to it, properly now before the court, that it seems best to continue the whole to the hearing on the demurrer.

Hearing on pleas continued to hearing on demurrer.