

## AARON VS. ANDERSON.

(The same principle decided as in *Cornish vs Sargent*, ante.)

*Appeal from Union Circuit Court*

Hon. Abner A. Stith, Circuit Judge.

Carleton, for appellant.

Lee, for appellee.

Mr Justice HANLY delivered the opinion of the Court.

The facts of this case are identical with those in *Cornish vs. Sargent*, just determined, except that the form of action in this was *assumpsit*, and the defendant below only offered to file one plea—the general issue.

We hold, in this case, as we did in *Cornish vs Sargent*, that the defendant below should have been permitted to file his plea of the general issue notwithstanding the rule of practice of the Court requiring the pleadings to be made up in all causes by the fourth day of the return term; and having been denied this right, the judgment of the Union Circuit Court in this behalf is reversed, and the cause remanded with directions that the defendant below only offered to file one plea—the general issue.

We hold, in this case, as we did in *Cornish vs. Sargent*, that the defendant below should have been permitted to file his plea of the general issue notwithstanding the rule of practice of the Court requiring the pleadings to be made up in all causes by the fourth day of the return term; and having been denied this right, the judgment of the Union Circuit Court in this behalf is reversed, and the cause remanded with directions that the defendant below be allowed to file his plea on or before the calling of the cause in its order on the docket.

Absent, Hon. C. C. Scott.