

JULY TERM, 1856.

AARON V. ANDERSON.

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v.

ANDERSON.

The same principle decided as in
Cornish v. Sargent, ante.

Appeal from Union Circuit Court.

HON. ABNER A. STITH, Circuit
Judge.

Carleton, for appellant.

Lee, for appellee.

HANLY, J. The facts of this case
are identical with those in *Cornish v.*
Sargent, just determined, except that
the form of action in this was assump-
sit, and the defendant below only of-

ferred to file one plea—the general issue.

We hold, in this case, as we did in *Cornish v. Sargent*, that the defendant below should have been permitted to file his plea for 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.

Cited:—23:650.