

## PLAINTIFFS' EXCEPTIONS.

Grace A. Cox, et al. : No. 12,410 Equity.  
 vs. : In the Circuit Court for  
 John Fisher, et al. : Frederick County, in Equity.

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To the Honorable, the Judges of said Court:

The Plaintiffs respectfully except to the Answer filed by a certain Fannie V. Butts, one of the Defendants in the above cause, to the Bill of Complaint filed therein by her, through her solicitor of record, because:

1- That in the second paragraph and in "Further answering," etc., of said Answer, said Fannie V. Butts sets out certain matters and things, which, if proven to be true, would not give her any relief in Equity against the Plaintiffs and other Defendants in this cause, as claimed by her.

2- And for other good and sufficient reasons to be made known and presented at a hearing of these exceptions to said Answer before your Honorable Court.

WHEREFORE the Plaintiffs pray your Honors:

That paragraph No. 2 and in "Further answering," etc., may be stricken out of said Answer filed by Fannie V. Butts, one of the Defendants.

And for such other and further relief as the case may require.

And as in duty bound, etc.

D. Princeton Buckey  
 Solicitor for Plaintiffs.

(Filed June 1, 1932)

## OPINION AND DECREE OF COURT.

Grace A. Cox, et al. : No. 12,410 Equity.  
 vs. : In the Circuit Court for  
 John Fisher, et al. : Frederick County, In Equity.

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One of the defendants, Fannie V. Butts, in the above entitled cause, having filed her answer to the bill of complaint, the plaintiffs on May 26, 1932, filed a demurrer thereto, and on June 1, 1932 the said plaintiffs filed exceptions to all that part of the answer of Fannie V. Butts, including and following the second paragraph thereof. The said demurrer and exceptions coming on to be heard, after argument of Counsel for the respective parties, all the papers in the case were carefully examined and considered by the Court. It is well settled in this State and the insufficiency of an answer or any part thereof cannot be raised by demurrer.

Miller's Equity Procedure, Section 157.

The averments in that part of the answer of Fannie V. Butts excepted to by the plaintiffs are not sufficient to constitute a defense either by way of answer or plea in respect to the matters therein alleged, and, in my opinion, should be stricken from the files.

It is thereupon this 15th day of July, 1932, by the Circuit Court for Frederick County, sitting as a Court of Equity, and by the authority thereof, adjudged and ordered that the demurrer filed in this cause by the plaintiffs on May 26, 1932, be and it is hereby overruled; and it is further adjudged and ordered that the exceptions filed in this cause by the plaintiffs on June 1, 1932, be and they are hereby sustained.

Arthur D. Willard

(Filed July 15, 1932)