

tion to stay waste or proceedings at law, are required, by a statute passed in the year 1705, to be filed before a *subpœna* can be issued. (a) And all other pleadings must be put upon file before they can be noticed; and can only be taken off the file by the express allowance or direction of the court. (b) So long ago as the year 1692, by a rule of the English Court of Chancery, which has been ever since followed here, every report of a master or auditor is required to be filed within four days after it is signed, or at least before any proceedings are had thereon. (c) And all depositions, exhibits, and documents, intended to be used, in any way, must be filed before they can be regarded as a part of the proceedings, or in any manner noticed by the court. (d) This course is in all cases proper and necessary to enable the register to make up a full record in an orderly and correct manner; and in many cases it is indispensably necessary as the only means of so conclusively fixing dates as to enable the Chancellor to decide correctly. The ancient and well established course of the court must be in every particular punctually observed. The Chancellor has often explained and complained as to this matter; yet he is satisfied, that, in this instance, there has been no intentional departure from the proper course.

Whereupon it is *Ordered*, that this case stand over, and after such of the now loose papers shall have been marked filed as the parties may think proper to have put upon the record, that the register return the bundle to the Chancellor.

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After which the report of the auditor, with the depositions and

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(a) 4 Ann. c. 16, s. 22; Kilty's Rep. 245—1714 PER CURIA. *Ordered and Ruled*, that all bills filed in the Chancery office, be filed before *subpœna* issue, according to the statute of the fourth and fifth of Queen Anne, in such case made.—*Chancery Proceedings*, lib. P. L. fol. 84.—(b) Beam's Order, 168, 240; *Curzon v. De La Zouch*, 1 Swan. 185.—(c) Beam's Orders, 293; *Eyles v. Ward*, 2 P. Will. 517.—(d) Beam's Orders, 46, 110.

11th February, 1793.—HANSON, Chancellor.—*Ordered*, that hereafter, no *subpœna* issue on any bill or petition referring to any deed, writing or paper, as an exhibit, and praying that the same may be taken as part of the bill, until such deed, writing or paper be actually exhibited and filed. N. B. If a bill refer to an exhibit which is not filed, there can be no grievance in denying a *subpœna*, because the party has it in his power to strike out the reference, and therefore, to obtain the *subpœna*. [See also the revised rules of March, 1817, No. 3.]

ENNALLS v. BOND.—17th July, 1800.—HANSON, Chancellor.—A reference to papers or records, of which neither the originals nor copies are filed in the cause, are altogether improper; and no paper which is not exhibited and filed in a cause, ought to have any influence on the decision.—M. S.