

ordered to account for the personal estate of the deceased; and to pay to the plaintiff Eliza, the share of the surplus to which she was entitled as one of the next of kin of the deceased. The defendants answered, and by an order of the 17th of June, 1831, the case was, by consent, referred to Thomas Culbreth as special auditor, to state such accounts as the nature of the case might require.

The plaintiffs, by their petition, stated, that, in the investigation of the case before the auditor, it had become necessary to have all the vouchers and other papers, filed by the defendants, as administrators of the intestate, in the Orphans' Court of Prince George's County; which vouchers and papers appear to have been filed there for safe-keeping only; and do not constitute any part of the records of that Court. Whereupon they prayed for a *subpœna duces tecum* to Philemon Chew, the register of wills of Prince George's County, commanding him to bring with him those papers before the auditor.

The defendants admitted, that they had no cause to shew against this application, and a *subpœna duces tecum* was, on the 12th of September, 1831, ordered accordingly, returnable forthwith.

The register of wills answered on oath, that the Judges of the Orphans' Court of Prince George's County, as well as the register, from long settled practice have considered all such papers as office papers, filed in the office for the elucidation of all settlements of accounts in that Court; and had uniformly refused to deliver such papers, even to an administrator, according to them copies only; and in no instance recognizing a right on their part to the originals; and that he, the respondent, was willing to furnish attested copies of all the papers required, &c.

\* BLAND, C., 1st February, 1832.—This matter standing ready for hearing, and having been submitted by the plaintiff's solicitor on notes, and no one appearing on behalf of the register of wills, the proceedings were read and considered. **478**

It may be well to observe, that upon the return of a *subpœna duces tecum* the party, so summoned, may in Court object to produce the documents; yet, if the objection is overruled, the Court will compel the production; *Field v. Beaumont*, 1 *Swan*. 209; (c)

---

(c) RIDGELY v. DORSEY.—Ordered, that a *subpœna duces tecum* issue when applied for.—*Proceedings in Chancery*, lib. W. K. No. 1, fol. 97.

BEALL v. WAGGONER.—Summons issued to P. W. Morgan & C. Conner to produce the respective agreements between plaintiff and defendant lodged in their hands or either of them.—*Chancery Proceedings*, lib. S. H. lett. B. fol. 6.