

reasonable that, *ante omnia*, he should reimburse the other party of their expense.

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1776. December 11. JOHN GRANT *against* MARSHALL and STEWART.

JEAN M'Ewan obtained decret, finding the letters orderly proceeded against John Grant, junior, writer, upon the 17th of July 1776; to which the Ordinary, Lord Monboddo, adhered, on advising a representation and answers, 2d August 1776. The 2d of August 1776 was a Friday; on that day it was put up in the Minute Book, in terms of the Act of Sederunt, 6th February 1748; and it was extracted on the Wednesday thereafter, being the 7th of August 1776: Grant gave in a complaint, that it was extracted irregularly and precipitately; but the Lords (11th December 1776,) dismissed the complaint, and found Grant liable in expenses. The three days mentioned in the Act of Sederunt are, by practice, understood to be lawful natural days; so that Saturday the 3d, Monday the 5th, and Tuesday the 6th of August counted; and the decret was not extracted till the Wednesday.

It makes no difference whether there were answers to the representation or not, 29th July 1777, Swinton *against* Currie.

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1777. July 29. SWINTON *against* CURRIE.

In another case, Swinton *against* Currie, decided 29th July 1777, a decret on a refused representation and answers, pronounced 1st July, being Tuesday, put in the Minute Book on Wednesday, and extracted on Saturday, was thought premature, the three days not being expired. It was recalled on the petitioner's paying expenses hitherto incurred.

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1776. December 13. GILLESPIE *against* M'DOUGAL.

GILLESPIE complained that a suspension at his instance, after advising answers, replies, and duplies, had been past upon caution; but he having failed to find caution within 14 days, as fixed by Act of Sederunt,—the charger, without obtaining a certificate from the clerk to the bills, that no caution had been found, which was indisputable law as well as practice, had proceeded to diligence. The Lords were of opinion, that, though these certificates are often demanded *ob majorem cautelam*, yet they are not necessary. If the charger think proper to proceed to diligence, he may do so, *cum periculo*. Gillespie further complained, that, after he was apprehended, he applied by a new suspension, and obtained a sist; which was intimated. The Lords were of opinion, this was no stop to incarceration. They had found so formerly; and therefore, upon the whole, they rejected the complaint.

See *Suspension*.