

OLIVER v. DECATUR.

{4 Cranch, C. C. 592.}¹

Circuit Court, District of Columbia. Nov. Term, 1835.

BILL OF REVIVOR—APPEARANCE.

A defendant who appears to a bill of revivor is not entitled to the benefit of the sixth and tenth rules of practice established by the supreme court of the United States for the circuit courts, but the court will order the suit to stand revived unless cause be shown to the contrary in 10 days.

{This was a bill in equity by Robert Oliver against Susan Decatur.}

The complainant, Robert Oliver, died, and his executors filed a bill of revivor, and issued a subpœna which was returned served at the October rules, 1835, so that the appearance day was the first Monday in November.

{See Case No., 10,494.}

Key & Dunlop, the complainant's solicitors, moved the court now to order the suit to stand revived.

Mr. Marbury, the defendant's solicitors, now entered his appearance for the defendant and claimed time (three months) to plead, answer, or demur, according to the rules of this court as prescribed by the supreme court of the United States in cases of original bills. See Rules 6 and 10. In the English practice the same time is given to answer or plead to bills of revivor as to original bills, and the rules prescribed by the supreme court make no difference. 2 Madd. Ch. Prac. 260, 534.

THE COURT (Cranch, Chief Judge, contra) ordered the suit to stand revived, unless cause to the contrary should be shown in 10 days.

¹ [Reported by Hon. William Cranch, Chief Judge.]

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