

personal presence is necessary; the pursuer cannot Debarh  
 from appearing to perform so July, 1624 Deedson contra L.  
 Colding known 12 July 1676 Purved contra Debarh. The Execom  
 munication formerly Debarred ab Argendo, it did not bind or a  
 person to defend himself in Judgement 8 July 1630 Colb. Ballton  
 contra Lord Grandtowne But for George M. Henric (to be sent  
 on act 7 Parl 4 f. 2) thinks, that the words of d. act 7, that  
 none against whom the process of Custing is do, shall be heard  
 or enforced in the law of Judgement, exclude Execomunica  
 persons both from pursuing and defending, which he will not  
 be supported by the word heard. And the Lord Durie when he obje  
 the case of the laird of Balltown declare his opinion, that  
 a person excommunicated or at Gods Corn ought to be excluded  
 from any favour in a Civil Judicature which is Deny'd to  
 Rebel at the Kings Corn. But now that Matter seems to be  
 put beyond all question, viz. No Civil point or forfeiture or  
 Disability whatsoever can follow upon sentences of Excomunica  
 tion, but it is to be said, that the words of d. act 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, are of the same nature,  
 and serving therefore the party against whom he who commences  
 the suit, and some pretension, 27 of the pleading, in the causes 3,  
 the word of the sentence, and 6 of Protests for Amoy of la  
 and appeals.

Tit. 1.

Of Summons and the Execution thereof.

It is to be noted upon Statutes or Stat 44, out of the Chauce  
 divided to and Executed by Sheriffs. All rights of property Superior  
 Annually, life tenent, were Determined upon Knowes of Right  
 and writs of possession upon Breves by Displeasur. These Breves  
 were Extended and Enlarged to special Matters by Declarator  
 as they do at this Day in the Courts of Common law in England.  
 But by the Institution of the College of Justice, Clerk to the  
 Signet, (now called writs) to the signet, being made Member  
 of the said Colledge (act 5 9866 Parl 5 f. 3) Breves of right  
 and Displeasur went in writs; and in their therof ordinary  
 Summons drawn by Clerks or written to the signet according  
 to a certain style authorized by the Lords of Session were  
 introduced. The Nature of the Action is Determined by the In  
 summons on which it proceeds. These writs bear the Name of  
 Summons from the Latine Summons, or rather from  
 French Somonce, because the Executions therof Diversified  
 Defenders to answer at the terms or direct therein prefine  
 Every kind of Summons had its own special style and  
 tenor which ought to be Religious to observed. For written  
 to the signet are ord and not to alter the Ancient style

and form upon pain of Deprivation act 13 Parl 10 f. 6. And are  
 every Year called before the Courts in presence when the Redout  
 enjoys them to dress the old style, that is to observe always  
 the same Matter and order, but they are not tied to particu  
 words. If any case be proposed to a writer to the signet, whereof  
 there is no accustomed style, he ought to present the same to  
 the Lord. by a Bill, and Receive their Direction, that person  
 he not troubled upon irrelevant grounds. The Reason why  
 it being to the Ancient style is so carefully Enjoyed, it being  
 Argumenta hylis are a great part of our fundamental Law, and  
 very strong, as those from Writs in Publications, In Testations,  
 forms of Chancery, &c. But in some cases the Injurious fields  
 or does not Bonavie d. W. G. Gifts of single Eccleat bear all the  
 Rebels Inevitable present and to come, and yet give Rig at only  
 to what In overa bid he had or shall possess within a Year  
 after Receipt; the style of writs of Right Discharge the  
 Relief which Discharge is insufficiently Inhibitions and In  
 dictions prohibitive to Allocate either Ecclage or Moveable,  
 but the text are effectual only as to heretage.

A Summons is either Common, or Priviledged.  
 A Common Summons is that which is raised from  
 Lords.

A Priviledged Summons, is that which requires previous  
 Bill to the Lords, to authorize the raising of it, partly, for that  
 a priviledge is to be Envoe of sitting upon fewer Days than  
 law allow; partly, because, as in the Civil law some persons  
 viz. parents and Patrons could not be justus without an ante  
 cedent Cognition by the Pretor, so the Lords in some cases  
 refuse to authorize the raising of Summons, for that the same  
 are Extravagant or Unwarrantable.

A Summons is raised in the Kings Name and by his  
 Authority. Upon the Kings death Summons raised in his  
 Majestyed Name by strict Law fall to the ground. But the Law  
 respecting Sovereigns in such a case to Command by proclama  
 tion that process should pass and be sustained upon such  
 Summons raised in his Royal predecessors Name, as if they  
 had been raised in his own Name. The Summons is directed  
 to our Lov'd and Belov'd the signet in that part and Methon  
 rest Respectively. For Understanding whereof this to be Re  
 membered, that formerly when two Citations successively upon  
 one Summons of Importance was appointed to be given, the  
 first might have been given by any person who could writ  
 his Execution and his name was tied as Inferred in the  
 blank of the summons. He was called a Sheriff in that part