part, because he was appointed Sheriff by the Lords for that effect, in place of the Ordinary Sheriff who before Institution of the College of Justice, did Execute the Brieves upon which all Action then did pass. Which Sheriff Served in that Matter by officers called Serjeands or Mairds. Some of these were Mairds of fee or Hereditable Mairds who had right by their Charter to so many pairs of Shoes and a certain sum of Money out of every Plough as their fees, which are now much Regulated by Possession. Mairds of fee pretended to the Sheriff personally to serve under them; and where there was no hereditable Maird the Sheriff appointed some one in their stead for executing Brieves called Sheriff in that part. Stat. David 2. Cap. 57 Act. 112 Parl. 9 & 1 M. Lenzie observes on d. act 112. But albeit the first Citation might as I have said have been given by any person as Sheriff in that part; the second Citation was given only by Messengers at Arms. The Summons sets forth the pursuers title, and the grounds whereupon the Defenders are liable to pay, or perform what is Craved, that which is Commanded (Called the Will of the Summons, from these words therein our Will is &c.) is to Cite the Defender or Defenders to Compear before the Lords of Session. The Defender in a Common Summons not Justlandly Verified by Writ, must, if within Scotland be Cited personally or at his dwelling place, except where Edictal Citation at the Market Cross of the Jurisdiction is allowed. Edictall Citation or at the Marcall Cross of the Jurisdiction suffices, when a person vagrant or Industriously absconding or in a place to which there is not Ressort is Cited by Warrand of the Lords in presence obtained upon a Speciall Bill Containing some Instruction that there is not tutlers Ressort. 29 June 1666 M'Pherson contra M'Leod 5 July 1670 Lindsay and Swintoun contra Ingles 12 June 1705 Cochran contra Urquhart 22 Novemb. 1712 D. Montrose and others contra Rob Roy or where Tutors or Curators are Cited for their Interest. Such Method of Edictal Citation is Authorized by the Canon Law Clem. 1 de Judiciis. Clem. 1 de foro Competente. A Warrand for an Edictal Citation will Justify a personal Citation as Implying a Warrand for the same: Because a personal Citation is a better Certioration. 12 June 1705 Cochran contra Urquhart.

For Understanding upon how many days Citation is to be given, we must Distinguish Common from privilegeed Summons. Before the Year 1672 Law having thought fit In Common Summons to use More Hallowed

than one, the first was allowed to be given by any person the Raiser of the Summons pleased, called Sheriff in that part. Which Citation being often and some times fraudulently Conveyed and Concealed, as it could not come to the parties Knowledge; the Summons so Executed behoved to be called in court, and an act of Continuation obtained: Whereupon a second Summons was Raised to be Executed by a Messenger at Arms. Which Act of Continuation and Second Summons were both signed by a Clerk of Session, and called Act and Letters. But this being tedious and Expensive, in lieu of Act and Letters, Summons were ordained to Contain two Dicts, and to be Executed to the first Dict by any person, and after Elapsing of the days of the first Citation, to be Executed to the second Dict by a Messenger, act 6 Parl. 2 sess. 3 Ch. 2. And at length Citations for the first and second Dicts were allowed for the more Dispatch to be given at one and the same time by a Messenger Act 12 Sess. 4 Parl. W. & M. The Defender is to be Cited upon 21 days warning for the first Dict, Act 6 Parl. 1 & 3 and Six days for the second, except those who Dwell in Orkney, who, because of their great Distance from Edinburgh the Ordinary Seat of Justice, are to be Cited upon forty days, Act 4 Sess. 1 Par. E. 1. and the Inhabitants of Edinburgh Act of Sederunt 21 July 1672 or the Suburbs thereof 13 January 1672 (contra curiae cedra) Who may be Cited upon 24 hours for the second Dict. But Strangers in Edinburgh who are not prevented to have their Writs or other proof well there ought to have the Common Indulgence Legated 8 Decemb. 1674 Alphand contra Currie. One who is Minor must be Cited personally, or at his dwelling place, and his Tutors and Curators if he any have for their Interest, Generally without Planeing them at the Market Cross of the head burgh where the Minor dwells. Those out of Scotland are to be Cited at the Market Cross of Edinburgh Leith and Shore of Leith upon 60 days for the first Dict and 15 for the second 4 June 1631 Chrystie contra Jack. But Civil process will go against any Man (except a Witness) Dwelling within Scotland, if he was within it at the time of the Citation, tho he went immediately out of the Country after he was Cited. M. Lenzie observes on Act 32 Parl. 6 Q. M. Albeit the Law seems to require for that effect Citation 8 days before his departure d. act 32 Citation to both Dicts is allowed for the more Dispatch to be given at the same time by a Messenger Act. 12 Sess. 4 Parl. W. & M. Under which Denomination of Messenger Herald or Pursevant is Comprehended. M. Lenzie observes on act 10 Parl. 2 sess. 1 Ch. 2. Citation of a Minor in Scotland personally or at his dwelling place and of his Tutors or Curators Edictally at the Market Cross of the head burgh where the Minor dwells