

1711. 816 which was ordered at the final citation of the Court of Justice Act 67 Parl. 5. S. 3. but it was never well observed for the Lord to allow intricate Dilators, or those of Improbability, to be proposed separately. Mr. Kewie observes on Act 67. The Defendant is to give in the Bonds and all Defences that come to his Knowledge after Return of the process 48 Hours before calling, that the pursuer may have leisure to peruse the same Act of Tadm. 16 Feb. 1723. junct Act of Tadm. 18 July 1729. And upon some New Discoveries, the Defendant finds himself obliged to alter any part of his Plea, Pleas or Defence, or the pursuer think fit to amend any part of his Plea, Pleas or Alteration or Amendment in Writing must be given in to the Clerk 48 Hours before bearing with 30 Shillings Sterling of Bonds to the other party, and the giving in such Amendment or Alteration is made by the Clerk in the Outer House, at the Intimation of the Clerk, who is to Mark the Intimation on the Back of the Amendment Act of Tadm. 31 Decemb. 1725. 85. junct Act of Tadm. 18 July 1729. Dilators should be Justly Verified: Except Dilators Promptoriae cause, i.e. those proposed as Promptories, Upon the verity whereof the Defender Vouches the cause, and both parties Consent to its having the effect of a promptory; for proving when of a term will be assigned. As when the verity of the Excutions of the summons is offered to be Improved as fact Minor non tenetur Pleacitare &c. was found not to be such a Dilatory Defence as must be constantly Verified, but a term was granted to prove 24 Feb. 1676. holds in the Tra Linnier. When the Dilator takes effect, as the cause cannot be called again that Week and fixed before the ordinary thereof, the pursuer should call that his Client may not lose the Benefit of his final Demand Praves; that it may be Continued in the next Week's Roll; which the ordinary does in some cases, as when the cause is Delayed till a Day, that Interests parties may see the process, or something be produced or done, Act of Regul. 1672 Concerning the 1st. Art. 3.

In some causes, as Declarators of Real or Personal rights

rights, proving of tenors and Actions Bonorum, when the ordinary Defences are Discussed, the ordinary in the outer house proceed no farther therein, but make great Circumstances with them to the Lord in presence. Upon which the cause are Enter'd in the Books of Intimation of ordinary Actions for the Inner House, where they will be Determined in their course Act of Regul. 1672 Concerning the 1st. Art. 5. But in other ordinary causes, Dilatories being over-ruled, the Defendant makes his Promptory Defences. Which for the more speedy Administration of Justice is allowed for merely to be proposed, at least before any Application or Report to the Lord, in presence of the way they were not to be Received unless the Defendant instructed by his Plea that they were Recently come to Knowledge, that is Defences founded on Matter of fact, and not Arguments of Law, and the Defendant paid a Mulct to the other party for his Expenses to be Modified at the ordinary law cause Act of Tadm. 20 Novemb. 1711. 816. But now immediately after Dilatory Defences are over-ruled, the Defendant is obliged to repeat his Promptory Defences at the same hearing, and to give in the Indenture house, those of us far as they are to be proved by Writ in his own hand Act of Tadm. 18 July 1729. The Defendant is not obliged to answer to more than is Contained in the Copy Delivered to him Act of Tadm. 1 Feb. 1723. The Pursuer Replies to the Defences respectively in their order, and the Defendant Replies to the pleas against triplets and the Defendant Quadruples his Bonds so long as the one has anything to advance for supporting his Plea and the other for rejecting it, the Defendant having always the privilege of speaking last.

The person is bound to appear in an Action unless he be Cited: Yet persons Interested may appear for their Interest without being Cited and oppose the pursuer's Claim; so be they Justly Verified their Interest, and produce their Rights over the Bar at the Calling of the Cause, other ways they will not be heard. When an Interest is produced, the pursuer is allowed to see it, and the producer to see the process, and both parties Ordained to be Ready at the next Calling. This is termed Comparsance Incidentor or Comparsance for