

and by the Normans into *rovo* in *latine viccomes*, in stead of the Earl of the County, for *Comites* or *Earls* heretofore had the custody of Countships is a Magistrate having power over a County or shire, for maintaining the peace and putting the laws in Execution there. This office is an honor to the *profect* provinces among the *old* Roman and to the *Rehovin* in France. County or shire and *h* word signifying the same thing, where of the former is of French, and the latter of Saxon Extract, a Derivation of *Scyre* quasi share, Importing a partition or Division of land cut off and Separated by certain Marches from the Rest. Most of the shires or shire dooms are Erected by particular Acts of Parliament but the King may Erect Unite or Divided shires without Consent of Parliament. *Whence* *Prim. part 2 p. 1251.*

In England the King doth Annually about the Beginning of November, Name Sheriffs of Every County Except westmorland whereof the Clifford are hereditary Sheriffs by Charter from King John out of the Knights or Esquires of good estates in each County, choose by the privy Council out of a list of six given up by the Judges. But the office of Sheriff was never Annual in Scotland. For it is conferred here either during the sovereigns pleasure, or for the Sheriff's lifetime, by a Commission under the great seal: or it is heritably Disposed, and then passeth to heirs, and is transmitted as other heritable Rights; save that a Sheriffship, being Merum Jus Incorporatum, Requires no feisin to the Conveyance of it. The office of Sheriff in Scotland, being no Matter of Charge but of profit, gave the hereditary Sheriffs so great a power in their shires, that heritable offices were in the Year 1455 Discharged simply act 44 Parl. 11 J. 2. But since that prohibition, Sheriffships in free have been granted

granted. King James the first & King Charles the first, Intending to purchase all Sheriffships hereditary bought in some: but tho' by such agreements several of the hereditary Sheriffships are now in the Kings gift, many are still Enjoyed by Noblemen and others. The heritable right of Sheriffships *cum omnibus feodis Divoribus Casualitatibus seu profectis aut que ad dictum jus et officium pertinentibus* Signoscontur; was Justained sufficient out to found a title of prescription to set up. Wrights and uplift the Duties thereof in an Annual fair at a Burgh of Barony within the shire: Albeit the Barons Charter of Erection posterior to the Years of prescription, carries power to him to hold fairs, and to Collect all the profits and duties thereof 27 Decembar 1709 Cuninghame of Craigends contra Earl of Egglintoun. Because, tho' the grant of an office in general *cum feodis* &c. Implies only the profits and fees Naturally arising from the office, and such as are a Consequence of it: Yet a person heritably Justified in an office, may by long possession prescribe a right to some privileges that doth not always follow the Nature of the office.

All Summons and Diligences of old in Scotland, when process proceeded upon Brieves out of the Chancery, were Executed by Sheriffs: as at present in England those fees the orders and writs Directed to them out of his Majesty's courts there. And even now within Scotland such Executions may be Executed by others: The old style is so far Retained as that the Kings letters are Directed to Sheriffs in that part specially Constituted by the Lords of Session.

Sheriffs had once the Naming of their own Clerks, and were answerable in 100 pound to the King for their Negligence or Malversation, beside the particular Damages del. 11 Parl. 11 J. 6. But now those Clerks