

ACTING UNDER OTHER PROCEEDS.

Service of Summons.—Without going minutely into the question, little can be said on the head of service of summons in cases of misdemeanour, &c. To speak in general terms, the summons should be served as long as possible before the time appointed for the hearing, in order to enable the party to prepare his defence. [Mr. Chitty in his *General Practice of the Law* (Vol. 2, p. 175,) says, the time appointed must always allow sufficient opportunity between the service of the summons and the time of appearance, to enable the party to prepare his defence and for his journey; and the Justice should in this respect take care to avoid any supposition of improper hurry, or he may incur the censure of the Court of King's Bench, if not be subject to a criminal information. The precise time will generally depend on distance, and the other circumstances of each particular case. With analogy to other branches of the law, a man ought not to be required *omnis omnibus aliis negotiis* instantly to answer a charge of a supposed offence necessarily less than an indictable misdemeanour, on the same or even the next day, and should be allowed not only ample time to obtain legal advice and assistance, but also to collect his evidence; and even the convenience of witnesses should be considered; and therefore in general several days should intervene between the time of summons and hearing. In the superior Courts, in general, at least eight days' notice of enquiry and of trial are essential for the preparation of the defence; and a charge of an inferior offence may require full as much time, as there has not upon such a charge been any antecedent notice of the proceeding, as in actions; and as these charges are frequently made by parties under sudden excitement, it is better to allow them time to cool; and no inconvenience can result from delay, for if it be expected that the alleged offender will abscond, he may, in many cases, be apprehended in the first instance. Where the summons was to appear on the *same day*, the Court held it extremely unreasonable, as the party's attendance might be impossible, or he might not be able to collect his witnesses on so short a warning; but the Court held the objection aided by the defendant's appearance, and entering into his defence without praying further time.] Where the summons is in the form of a precept to the constable, an examined copy should be served and the original kept; where the summons is directed to the party, the original should be served and a copy thereof retained.

In general, the service must be *personal* on the offender, but