

of his proofs before the Inferior court; and then Praves, that the ordinary would admit the cause. The Advocate then he James his Reasons of Advocacion, and offers Instantly to prove the same. The other party answers thereto, by either denying the Relevancy, or admitting, that the the Reasons were relevant, but the same are not Instantly Verified. For all Reasons of Advocacion must be either a point of Common Law, or a Matter of fact Notorably known, or Must be Justified by writs Instantly produced, or by oath of party, and no tort will be allowed to prove by witnesses; or the Recoverer writes for proving by a Diligence, unless Matters of fact be atted and offered to be proved peremptorie unless upon the peril of the principal cause as V.G. that the Defendant lived and within the Jurisdiction of the Court to be vacated from. But witnesses not fitted will be admitted to prove a Cause of Advocacion compelling in fact, and not to be rejected as the Honours: because it must be instantly Verified, Pleas lb. 4. Tit. 37 § 12. And the Justified will not prove in the principal cause, they will insist Reasons of Advocacion, Pleas lb. 46 § 3. Where an Allegance is to be Justified, 24 hours before the cause is called either party must lodge in the Clerk's hands, all writs they are Masters of not formerly given out to the opposite party, or produced in process, and mark the particular Pleas or Pleas of that of where upon they intend to found; other ways the Allegance will not be Received without paying 12. shillings Sterling. And the writs to be produced, yet if the defendant should be not so Made, the same will not be Allowed, till a Mandat to be Modified by the ordinary is Given to the other party Act of Sedr. 20 Novemb. 1711 § 6.

Reasons of Advocacion are founded either upon the Ignorance of the Judge, or upon full suspicion of prejudice from him thro' partiality, which have been already explained here supra pag. 1025 § 4 or because of Iniquity Committed by him in Determining the Relevancy of Allegations, when such are relevant are Rejected, & those irrelevant Instantly, or in the form of process, when the usual practice is Expressly Dispensed With, or tacitly Laid aside. or in the Absence of the Proof, when an Allegance the Relevant is admitted to be proved by an Irrelevant Mean of proof as 1^o when factum proprosum Recend which is the proper Object of an Oath of Obedience is referred to an oath of Obedience. 2^o When that which is probable only by oath or Test

is allowed to be proved by witnesses &c. Reasons of Iniquity may be Instantly proved either by the proccesor, or by oath of the party, and no other ways. For the oaths of the Members of Court Viz. Judge or Clerk are not Regularly admitted in Advocacions, tho' they may be Received to prove Reasons of Suspension Vidd supra pag. 1925.

Of Reasons of Advocacion be Rejected, either because not Relevant, ^{of pertinently brought} the cause is put back to the Judge from whom it was Advocated, by an interlocutory called an Act and Demit, and the Raifer of the Advocacion ordained to pay 15 pound of Expenses called Remitt Money, which is the ordinary Expenses. Where the Advocate hath been Grossly delinquent, the Lord's some times Ord further Expenses to be paid by him. But where he had a probable ground for Advocating, the ordinary Remitt the cause without Expenses. An Act and Demit is a final sentence as to Reasons Contained in the Advocacion, and hinders another Advocacion to be pressed upon Reasons Contained and Omitted the same of the former Advocacion; but it may be expied upon new Reasons thereafter. Em. d. 1. 1. lb. 4 Tit. 46 § 4. Here as in Ordinary Pleas the usual Steps are Discharged, and written Steps regulated in the same manner Act of Sedr. 11 Novemb. 1708. In England where a cause sought to be removed from a lower or inferior court to the Chancery, Kings Bench or Common Pleas, by a writ of privilege or Certiorari, is Reteced or sent down again to the same court to be proceeded in there, after it appears that the Defendant hath no cause of privilege, or that the Matter Comprized in the Bid is not well proved, this is done by a writ called Procecdendo. And a cause Removed from the Ecclesiastical court or court Christian to the Kings County, is Return'd thither again by a writ termed a Consultation: because the Judges of the Kings court do upon Consulting find the party's allegation false or not proved, and therefore the cause to be wrongfully called from the court Christian.

Causas are Advocated either by Consent of parties or in Force. When a cause is Advocated of Consent, either both parties Agree Instantly to plead the principal cause, as if the same had been originally Committed before the Lord; or if the cause be Subrigate, the Defendant is allowed to see the process in the Clerk's hands, and appointed to Debate at the next Calling.