

A cause is said to be Advocated in Jure, when the Reasons are sustained relevant and proven, and the Action found Compostant to be judged only by the Lord of Session. Where upon there is used formerly an Act of Advocacion to be Executed. But now if the party against whom Advocacion is raised, Consist at Disputing the Reasons, the principal cause is to be Decided Summarily without an Act, at the time Appointed by the Lord Ordinary, Act of Seder. 20 Novemb. 1741. S. 4. So that there is now no occasion for Advocating in Jure.

In some cases, tho' the Reasons of Advocacion be relevant and Justified, the cause is not Advocated to the Lord, but Remitted to the Superior Judge from whom it was called up to the Session, with Instructions how to proceed, as when the Matter is Inconceivable, or properly belongs to the Cognizance of that Superior Judge, in the first Instance as causes of Divorce or Legitimation, or Confirmation of Testaments Advocated from the Commissaries, in which cause the Remit is granted without Expences. Sometimes again a cause may be Advocated in Jure, and yet neither Justified in before the Lord, nor remitted to the court from which it was Remitted, but will be sent to another Superior Judge, who only is competent in the first Instance, as when the Service of an Act Advocated is Remitted to the Macart of the Session, or where causes Maritime or Consistorial Advocated from incompetent Inferior Judges are Remitted to the Admirals or Commissaries.

When the pursuer before an Inferior court, doth advocate the cause, he must call his Advocacion as a summons, and give it out with the process to the Defendants Advocate to see, if he fail to do, within 15 Session days after Remitting of the Advocacion in the Inferior court, the Defender may call for the Advocacion by putting up a protestation in the Minute Book. Whereupon if the pursuer produce not his Advocacion with the Principal process, and an Outgiving thereon, the protestation and Remit will be given out to be Executed. When the Advocacion is so produced with the process and outgiving to the Defendants Advocate to be seen, he is allowed, before he Return the same, to Enroll it in the Roll of Advocacions upon his own Returns. In order whereunto, he may keep up the process five days for seeing, and till the first future day thereafter for enrolling Act of Seder. 17 January 1709. At Disputing the Reasons of Advocacion, the pursuer Praves the cause to be Advocated, but may not

cannot insist upon a Reason of Incompetency of the Judge, whom he thinks to pursue before, except such as did not take place at the raising of his process, but occurred after it was Commenced. The Defender pleads, that the cause ought to be committed to the Superior Judge.

If that the cause (whether the Advocacion was obtained by the Defendant, or by the pursuer) is either admitted or admitted: either when it is Advocated in Jure, or as an Ordinary Action Originally Commenced before the Session.

Of Suspendions.

Letters of Suspension are Called for by putting up a protestation in the Minute Book, a Protestation for not producing the suspension may be Extracted, and the Suspension when produced is given out to be seen, returned, protested, and Called before the ordinary, in the same way as an Advocacion. But in a suspension of Multiple pointing, it sufficeth to stop protestation at the first instance of one of the Charges wanting the Concurrence of the Party, that the suspensor produce a Copy of the suspension. For he is not obliged to produce his principal letters except to all the Charges Concurring in the Protestation, or to the last part of the protestation when all have one after another put up protestations. Because, till all the Charges put up protestation, the suspensor must keep the principal letters to defend himself from Captions, and his goods from pointing at the instance of others. When protestation for not producing the suspension is Extracted, the Charges may proceed in Diligence, as if no suspension had been made. To prevent this, the suspensor presents a New Bill of Suspension, not only of the protestation in so far as Concerns the protestation money, but also of the grounds of the first Charge; where in the former Reasons of Suspension are repeated, and new Reasons added for punishing his Contumacy in not producing the former suspension.

But in regard a protestation for not production of the suspension is easily suspended upon Conspignation of the protestation Money, the Charge hath this further Remedy, that in case the suspension when called for at the Minute Book be not in due time produced, he may extract the suspension off the Signet, and call and give out the same as a summons to the suspensors procurator to see, if no procurator be made for the suspension to see, the Charge with the suspension may be Executed.