

1759.

§ 24. Second, 1679. And all the Lord's at their first Meeting, upon  
left, engage to abserve the acts against solicitations, held  
Decr. 11 November, 1679.

Title 2.  
Of Advocates.

Formerly, parties were allowed to plead their own cause if they pleased Act 31, Parl. 5 & 5. But there being many Laws which require the Knowledge of the principles of Law which the parties themselves nor their Agents have had opportunity of acquiring, it was necessary there should be persons who know a thorough Knowledge of all the best and principles, and be able to give Counsel and Advice to the parties, to Explain and defend their Rights either by word of Mouth or by Writing, and occasion to consult and prosecute their adverse causes. The one or other of these ways, for avoiding Confusion and perplexity. The persons who exercise or may exercise these functions of giving counsel and advice to the parties in affairs, proper, of writing in Defence of their Rights, and pleading their causes for them before all Sovereign Courts were anciently knowne for Speakers or Prosecutors for both Act 47 Parl. 11. § 2 because they may speak for Money. They are incorporated into a Society called the Faculty of Advocates with Honourable Body none are admitted, but such Gentlemen as have spent several Years in the study of Law, and Many of good Reputation Advocates with no other intention to have the honour of being Members of it.

Seeing there are few persons who are not obliged to have frequent Recourse to Advocates for Affairs which concern their honour, their estates, the State and Condition of their persons, the peace and quiet of their families, and where their dearest and most important Interests are at Stake, The consequence of this Ministry of Advocates gives them in publick to Considerable a Rank of Honour, that at the time when the Commonwealth of Romane was in its most flourishing Condition, persons who occupied the first dignities in the State distinguished themselves by the function of Advocates in the courts of Justice without any fee or reward the cause of those who made choice of them for their patrons and defenders called their Clients. And altho' the profession of Advocates be not exercized now a days greater without a Competence, yet it has still the essentiall Characters of Honour annexed to functions, which in their Nature employ the Use of the first qualities of the Mind, and of the best

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virtues of the heart A person who reviled and Revocated by calling him a Star and Slave and threatened if he found him in another place to make him Report what he said in the Exercise of his office to stop a Bill of his pension, was committed to prison for 500 Pounds 14 July 1668 Falconer contra Reibb.

The Ministry of Advocates demand not only the Capacity and Integrity which are necessary to Judges, but likewise much larger extent of Learning, together with the gift and art of speaking in Publick, and of laying the ornaments of a Soldier, Eloquence to the force of Reason, and a knowledge of the laws. But there is this difference among others between Advocates and Judges that Advocates are not obliged before they Enter upon the Exercise of their profession to be capable of all the functions of it, of pleading all sorts of causes, and of giving Counsel and Advice to them, as they have a capacity for it, and Engage themselves no farther than in proportion to the experience which they have acquired. Where as Judges cannot Enter upon the Exercise of their office, until they have first acquired a capacity for it. The Reason of the Difference is, that Advocates engage themselves voluntarily in their functions according as they are willing to embrace the Exercise thereof. But a Judge must necessarily discharge the duty of his office, when ever he is Entred. The function of Advocates being so frequent, and Universally necessary, it is reasonable that one should suffice an Advocate according to his own mind, who may have the Endowments which he desires. The profession of Advocates is left open to all persons who have the necessary qualifications for being admitted into it, and not confined to any particular set of officers who should have the sole right of exercising the functions thereof exclusive of others.

Advocates at first before the profession were very few, not exceeding the Number of ten, that we find Lord Comptroller as Advocate in Civil causes in the Years 1537, 1538, 1540, which seems to have been a great solicitor in the Court of Justice. The Books of Account (7 Decemb. 1538, &c. 17 March 1535) furnish instances of Advocates admitted in the quality that they should not take in hand to place in any weighty or difficult cause without the assent of some of the Elder most knowing Lawyers. And (7 January 1537, 1540) a Distinction between Advocate for the Kinges Cause, and Advocate for the other cause was made, which after it had gone into Disuse was attempted to be got recovered in the Years 1670. But the practice of getting nothing Advocated in this Manner being very offensive and disobligring to the Bar, the Promoter