

1781. *February 20.* Mr JAMES PHILP *against* CAPTAIN DAVID COLLINS  
and WILLIAM SPROT.

JURISDICTION.

Nomination of Procurators in the Admiralty Court.

[*Dictionary*, 7451.]

PRESIDENT. Much is said in this petition not to the cause. As to jurisdiction, there must be a supereminent power somewhere for removing obstructions in the way of justice. The Court of Session has that power over every civil court. Suppose there were no Magistrates in a royal burgh, *who* is there that doubts of the power of the Court of Session to name persons for discharging the duties of Magistrates? Even in the nomination of officers whose commissions flow from the Crown, such as Sheriffs, the Court of Session has a like power. In cases of necessity, it might name a Judge-admiral. All courts have the power of naming procurators; but, if they should wantonly refuse, the Court of Session would interfere for the furtherance of justice. It did this in the case of Mr John Bushby, who had been denied admission as a procurator in the Sheriff-court of Dumfries. Wherever there is a wrong, there must be a remedy, and that remedy, in civil cases, must be in this Court; for where else can it be? So the question is, Whether is there a wrong here? The Act 1681 is nothing: it is out of the question. This is not a judgment as to a maritime cause; it is merely a question as to the manner of expediting jurisdiction. There are only three procurators at present. This Court does not say that there ought to be more, but only that a fourth procurator shall appear in a case of necessity. The impropriety of having only *three* procurators is obvious, when there are four parties appearing upon adverse interests.

On the 20th February 1781, "The Lords remitted the cause to the Judge-admiral, with this instruction, that he, without delay, admit William Sprot to act as procurator for Captain Collins in this cause, reserving to the said William Sprot to apply to the Judge-admiral to be admitted one of the ordinary procurators before the Admiral-court, and with liberty to him, if refused, to apply to the Court of Session for redress."

*Act.* A. Crosbie. *Alt.* R. Blair. *Reporter*, Gardenston.

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