

**\*\*** On an appeal, The House of Lords, 25th March 1790, ORDERED that the appeal be dismissed, and the interlocutors complained of be affirmed.

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1798. May 23.

JAMES MARSHALL, Procurator-Fiscal of the Society of Writers to the Signet,  
*against* ALEXANDER YOUNGSON.

ALEXANDER YOUNGSON, after serving an apprenticeship to a writer to the signet, was, in 1790, admitted a procurator before the High Court of Admiralty. In 1794, he was admitted a writer to the signet.

Some members of that body conceiving that he should no longer be permitted to practise in the Admiralty Court, brought the matter before the Society. At a meeting in 1796, they, by a narrow majority, 'resolved, that it is incompatible with the situation of a Writer to the Signet, to hold a commission as a procurator before the High Court of Admiralty, or to practise before any Court, the decisions of which are subject to the review of the Court of Session.'

Mr Youngson having complained of this resolution by suspension, Mr Marshall, the procurator-fiscal of the Society, in support of it,

*Pleaded,* The peculiar province of a Writer to the Signet, is the writing and expediting signet letters and signatures. By a by-law of the Society, in 1676, members who should act as agents, even before the Court of Session, were ordered to be prosecuted; and although this regulation has gone into disuse, the right of members to conduct law-suits can go no farther than practice has sanctioned.

A Writer to the Signet can neither be an Advocate, nor an Advocate's Clerk; and, if he be appointed a Clerk of Session, he can no longer act in his former capacity. These disabilities have been introduced from expediency; a reason which operates still more strongly for excluding Writers to the Signet from acting before inferior judicatures. Such a practice would lead to many abuses. The same person having emoluments from a cause in different courts, would be a temptation to bring actions before inferior courts, which ought to have come originally before the Supreme Court; and it would multiply advocations, suspensions, and reductions of small causes upon frivolous grounds. Accordingly, so opposite is Mr Youngson's conduct from what has been understood by the Society, that no similar attempt was ever made by any of its members.

*Answered,* The Writers to the Signet, so far from confining themselves to their peculiar duties, officiate in every department of law-business, except those from which they are excluded by the privileges of other bodies of practitioners. They act as conveyancers, notaries-public, commissioners, factors, &c. They also frequently act, in inferior courts, as clerks, and they conduct services be-

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The offices of a Writer to the Signet, and of a Procurator of the High Court of Admiralty, are not incompatible.

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fore the Judge Ordinary, although the proceedings be subject to the review of this Court; and, when comprisings were in use, they were generally managed by them. The offices mentioned by Mr Marshall, which disqualify a writer to the signet from acting as such, are all of them connected with the Court of Session, and have that effect; because, where different bodies of practitioners are established in the same Court, having different departments, it would be inconsistent with its constitution if any one of them were allowed to usurp the department of the rest. But although a person cannot be allowed to fill different capacities in the same Court, nothing is more common than his doing so in different courts. Unless, therefore, the Society could point out a special regulation, prohibiting its members from practising before the Admiralty, there is nothing to prevent the suspender from doing so. Nor is his conduct in this respect at all derogatory to the Society. The Admiralty is considered as a Supreme Court; and it appears from its records, that, from 1725 to 1781, no less than thirty-nine Advocates, many of them of the first eminence, were, on their own application, admitted procurators in that Court.

The mischiefs which Mr Marshall apprehends from allowing Writers to the Signet to practise in inferior courts, are imaginary. Members of the Faculty of Advocates often conduct the same cause through all the gradations of courts; and it was never alleged, that any bad consequences arose from their doing so. In fact, the more extensive the range of a person's employment, there is the less chance of his acting improperly, as experience proves, that improprieties of conduct most frequently occur among practitioners in very limited spheres of business. And there being no former instance of a Writer to the Signet practising in the Court of Admiralty, is easily accounted for, from the number of procurators who were admitted, exclusive of Advocates, having been till lately very limited.

THE LORD ORDINARY 'suspended the letters simpliciter.'

And on advising a reclaiming petition for Mr Marshall, with answers, the Court, having no doubt of the propriety of the judgment, 'adhered.'

Lord Ordinary, *Justice-Clerk Braxfield.*

*Alt. Solicitor-General Blair.*

R. D.

For Mr Marshall, *David Williamson.*

*Clerk, Home.*

*Fac. Col. No 76. p. 180.*

For cases relative to the peculiar departments of the different officers of the College of Justice, *See PUBLIC OFFICER.*

*See JURISDICTION.*

*See APPENDIX.*