

## PROCURATOR.

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1777. *March* .      FERGUSON *against* GRAHAM.

By the regulations established by the Sheriffs, as to the form of process before their Courts, no procurator has power to make a reference to the oath of party without a special mandate to that purpose: a general mandate is not sufficient. See also Dict., Vol. II. p. 210; Bank., Vol. II. p. . In the case, Ferguson *against* Grahams, under consideration of the Court, 20th December 1775, the Lords seemed to be of this opinion, although they did not directly find so; and, on advising a reclaiming petition with answers, as the other party alleged there had been a written mandate for a reference to oath, they granted, before answer, diligence for recovering it; and the diligence being reported, and no written mandate produced, the Lords having resumed consideration of the petition and answers, they adhered.

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Summer 1769.    ANDERSON and DAVIDSON *against* ROBERT GRANT, Merchant in Leith.

A PARTY giving authority verbally to his procurator, to make a reference to oath, in a process before the Judge of the Court of Admiralty, and naming a Commissioner for taking the oath; this held to be sufficient without a written mandate, Anderson and Davidson *against* Robert Grant, merchant in Leith.

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## PROOF.

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HELEN Liddell pursued William Heugh, a tenant, for aliment of a child, of which, she said, he was the father. The Justices of Stirlingshire allowed the woman her oath in supplement; and, in an advocacion which was past and discussed before Lord Monboddo, Ordinary, 7th July 1778, the Lord Ordinary remitted the cause *simpliciter*: and, upon a bill and answers, the Lords adhered, 15th January 1779. The circumstances against the man, were chiefly being twice with her in an out-house, at ten o'clock in the month of May, and