

and reputation, in which pursuit, Fyfe having proponed as a most relevant defence, viz. that it was *res hactenus judicata*, in so far as the bailies of Paisley had cognosced thereupon in an action pursued at the procurator fiscal's instance, where it was found, that the said perjury was truly proved, and that he was assolizied; it was answered, that that pursuit was *res inter alios acta*, Ferk not being pursuer, but on the contrary, compearing and disclaiming the pursuit, and therefore might lawfully pursue before the commissary for his own interest, whereupon the procurator fiscal did pursue without his concurrence. THE LORDS did remit the cause to the commissary of Glasgow, and found, that there was no iniquity committed, seeing where two several judges are competent to a crime, the party injured refusing to concur might make choice of his own judge for reparation of his own damage sustained, which was most proper to the commissary court, and that the procurator fiscal of another court might concur with the party complained upon, or otherwise having no interest but to pursue for a fine upon the public account, could not hinder the party injured to seek reparation before another judge competent.

*Gosford, MS. No 607. p. 348.*

No 33.  
party injured;  
and if that  
party disclaim  
the action,  
altho' decree  
be given, that  
will not hinder  
the party  
injured from  
pursuing be-  
fore any other  
competent  
judge.  
See Scot a-  
gainst Rid-  
dell, No 31.  
P. 7315.

---



---

## DIVISION IV.

### Jurisdiction of the Court of Session.

---

#### SECT. I.

To what Causes this Jurisdiction extends.

1497. November 10. PATRICK COCKBURN against ALEXANDER RAMSAY.

No 34.

ALL clamis, contraversies, and questiounis concerning purpresture, aucht and sould be decydit and determinat be deliverance of ane inquest, takin be command of our soverane Lord's letteris, befor the Justice-general, or his deputis: And gif ony sic action be intentit befor the Lordis of Counsal, thay aucht and sould remit the samin to the said Justice; because the samin pertenis to him allanerlie.

*Fol. Dic. v. 1. p. 495. Balfour, (PURPRESTURE) No 5. p. 443.*