

passed at the time, and all that led to it, be able, in a great measure, to diminish the criminality, perhaps entirely to exculpate himself.

No 271.

Lord Ordinary, *Cullen.* Act. Clerk, *Gillies, Maconochie.* Agent, *W. Inglis, W. S.*
 Alt. *Campbell, Baird.* Agent, *Party.* Clerk, *Menzies.*

F.

Fac. Col. No 138. p. 309.

* * * This case is under appeal. (1805.) See APPENDIX.

 S E C T. XV.

Other allegiances, how relevant to be proved.

1565. December 12. N. RAMSAY against The Laird of CRAIGIE.

N. RAMSAY pursued an action of ejection against the Laird of Craigie Ross's Heirs of Line, wherein he obtained decret after three years dependence; and because in the principal cause, he could seek no more than the by-run profits before intending of the action of ejection, he moved a new action for the by-run profits of the three years of the dependence of the principal action; and for proving of the said profits, he repeated *deducta in primo processu*, renouncing all further probation. *Alleged*, That no testimony in one cause, might be a probation in another by law. THE LORDS found, That in respect that the two actions were inter eadem personas, de eadem re, et eodem modo agendi, or at least that the second was accessory to the first, that he might repeat the probation out of the one process into the other.

Spottiswood, (PROBATION.) p. 242.

No 272.
 Where two processes regarded the same matter, proof taken in the one was received in the other.

1566. December 5. JANET STRIVILING against WILLIAM MENTEITH.

GIF the clame, libel, exception, or any uther alledgeance, be admittit to probatioun, the quibilk sould be provin be writ, and the partie alledgeand that the instrument, necessar for preiving of his intent, was takin in the handis of ane Notar, and as zit not extractit nor deliverit be the said Notar, he aucht and sould have letteris be deliverance of the Lordis, charging the Notar to de-

No 273.
 The fact, that instruments were taken in a notary's hand, was allowed to be proved by witnesses.