

1684. *December 11.*—In Carleton's action against Janet Ramsay and Mr Arthur M'Gill, mentioned 5th March 1684,—The Lords advised the last point of this process, anent the jewels abstracted by Mr Robert Byres; and found it was a *casus fortuitus* on John Ramsay's part, and that he did sufficient diligence for recovery thereof; and therefore assoilyed him from restitution of the same.

*Vol. I. Page 319.*

1684. *December 16.* CHARTERIS against ———.

IN the case of one Charteris, reported by Castlehill, the Lords demurred exceedingly if they should grant an aliment to one party from the other, seeing they had granted one already, and the process was not yet brought to a close; and that it was *nobilioris officii*; and that such modifications were more ordinarily granted by the Privy Council than by the Session. *Vol. I. Page 320.*

1684. LOCKHART, MENZIES, &c. against JOHN ELIES of ELIESTON.

*January 8.*—Mr John Elies's action of relief against the Co-tutors of William Lockhart, mentioned 16th March 1683, is again reported by Kemnay; and the Lords decern them to relieve him *pro ratis portionibus* of what he shall be decerned in, upon the event of his count and reckoning with William Lockhart: and decern them to concur with Mr John in defending against the said William. *Vide 24th January 1684.*

*Vol. I. Page 257.*

*January 24.*—Mr John Elies of Elieston's cause against Menzies of Culterallers, Lochart of Lee, Robert Chiesly, and the other Co-tutors, (mentioned 8th January current,) being reported by Kemnay; the Lords repel the allegiance proponed for Culterallers, and find him liable as tutor; and decern him to concur with the pursuer in the count and reckoning at William Lockhart's instance; and find he is liable *pro rata* to relieve the pursuer for what shall be decerned against him therein; reserving to his procurators to be heard in the said count and reckoning, upon this point, If he can be liable to relieve Mr John Elies the pursuer of what shall be decerned against the said Mr John, upon any ground arising from his own dole and fraud: and repel the allegiance proponed for the said Robert Chiesley, and decern him to concur in the said count and reckoning; and find him liable to relieve the pursuer *pro rata* of what shall be decerned against him therein: as also decern against the Laird of Lee; and find him liable to concur with the pursuer, and to relieve him *pro rata*. But, if the Laird of Lee his procurators shall apply to my Lord Kemnay, recommend to him to hear them upon any special defences for him not proponed already. *Vide 16th December 1684.*

*Vol. I. Page 263.*

*December 16.*—Mr John Elies's action of relief against Lockhart of Lee, &c. mentioned 24th January 1684, is reported by Kemnay; and the Lords repel the special defence proponed by the Laird of Lee, and likewise the special defences proponed for Culterallers and Robert Chiesly, in respect of the answers made