

tained by the Lords, notwithstanding of the act of prescription, after three years. Page 68.

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1627. *February 24.* The LAIRD of INNERLEITH *against* LORD HALYRUDEHOUSE.

THE Laird of Innerleith craved a protestation against the Lord Halyrudehouse, upon the act of contumacy; which the Lords would not sustain, but ordained a copy of the principal summons to be produced. Page 161.

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1627. *March 2.* THOMAS PATOUNE *against* MARGARET PATOUNE.

THE Lords' decret, given for not compearance, and without any probation used, found null; at the least, not respected by way of exception. Page 55.

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1627. *March 3.* AGNES SETTON *against* BOWMAKER.

A DONATAR to a liferent seeks a general declarator. Compears a creditor to stay the declarator, who had comprised the lands, after the rebellion, for a debt preceding the same. The Lords ordain him to propone all the defences against the special declarator; but repelled them *hoc loco*.—*Vide Redemption and Removings.* Page 49.

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1627. *March 8.* WILLIAMSON *against* COLLINGTOUN.

A CAUTIONER having paid the debt, cannot charge the debtor at the creditor's instance, without assignation and discharge.

The Laird of Collingtoun becomes cautioner in a testament, wherein three minors are confirmed executors; in the which testament, two curators are nominated to the minors by the defunct. The curators give up inventory, and find Collingtoun cautioner, that the goods and gear given up in the inventory should be made forthcoming to all parties having interest. The gear is dilapidated, and the curators become *non solvendo*;—the minors, coming to perfect age, pursue Collingtoun, cautioner, for the gear. The Lords assoilyie Collingtoun from the pursuit at the executor's instance; because they were the persons who should have relieved him of his cautionary. Page 24.

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1627. *March 16.* JOHN INGLIS *against* GILBERT KIRKWOOD.

AN action of spuiliation of teinds, restricted to wrongous intromission, sustained against the master as well as against the tenants, both stock and teind, and had intromitted with the duties. Page 216.