irritant clauses, or back-tacks in improper wadsets, &c. See the act anent the regulations of the session.

in 1672,

I think it also a good reason of suspension and reduction of an inferior decreet, that the court was not kept at the usual place, and that no legal intimation of the charge was made. And thir two grounds were so far sustained, that the Lords turned the decreet into a libel; (it being in absence, holding tenants as confessed upon exorbitant quantities;) and reponed the tenants to their oaths, as to their true verity, in the case of Kennan contra Carlylle, &c. See the information of it beside me. See Dury, 23d January, 1624, Meldrum and Meldrum. See Craigie's Collection verbo Escheats.

Advocates' MS. No. 570, folio 284.

1677. June 14th. The EARL of NORTHESK against The EARL of SOUTHESK.

In the competition for the church of betwixt Mr Lammy, presented thereto by the Earl of Southesk, alleging himself to be patron, and Mr Couts, presented by Northesk, also laying claim to the patronage; and the complaint of the riot made to the Secret Council, by Couts, against Lammy: (Vide infra, No. 656, Patronage of Ellon:) The Secret Council referred the competition and debate, anent the right of patronage, to the judge-ordinary; and recommended to the Session, to discuss it summarily, without libel, inrolling, or any other delay,—which of the two should preach and officiate in the meantime at the church controverted; or if none of them but another, referred it to the discretion of the Archbishop of St Andrew's. And as for the riot, which was little or none at all, they kept it before themselves. As for the point of right, it was

ALLEGED for the Earl of Northesk, that this kirk was made up of two by union, whereof his authors and predecessors were patrons to one, and Southesk patrons to the other; so that now they had the presentations per vices, of this one kirk, conform to the express decision of the 3d act, Parliament 1617; and that he was infeft in the said patronage alternatis vicibus, and that Southesk had presented last; and though that was enough to give him this vice without saying more, yet he produced also a writ under the last Earl of Southesk's hand, declaring the next turn to present was Northesk's.

To this last Southesk ANSWERED, it was a personal obligement, and so could not bind him a singular successor.

REPLIED, 1mo, He was successor titulo lucrativo, by accepting a disposition after that paper. 2do, They were in no strait nor need to make use of it.

The Lords preferred Northesk, and found he had best right to this vice, and dis-

charged Lammy ever to lay claim to it hereafter.

There was another point not debated, that it would have debarred Couts, and that was on the jus devolutum. Both pretended patrons had omitted to present for six months; the Bishop of Brichen, within whose diocess it lay, had presented another, who, if he had appeared and laid claim, would have undoubtedly had the best right; but it seems Couts has prevailed with him to desist.

Advocates' MS. No. 572, folio 284.