

especially seeing nothing was concluded against the judge for wrong done, nor no reason libelled thereon, and that the party ought to be answerable for the warrant of his own sentence; especially the Baron's self being the obtainer thereof, in his own court, before his own Bailie, the members of the court being of his own creation. *Item*, The defender offering to prove against the reason of reduction, that the defender in that decret, viz. the tenant, was summoned to the giving thereof, and that he offered to prove it by witnesses; the LORDS found this allegiance relevant to sustain the decret, and that it was relevant to be proven by witnesses, and that there was no necessity to prove the same by writ; for in such acts and procedures, before Baron Bailies, in Baron Courts, the LORDS found no necessity that there should be any citation extant in writ, seeing the citations in such courts are frequently done by verbal direction, and if it can be proven that the tenants be truly cited, albeit not in writ, it is sufficient.

No 137.

Act. *Advocatus & Mowat.*

Alt. *Nicolson & Baird.*

Clerk, *Hay.*

*Fol. Dic. v. 1. p. 269. Durie, p. 725.*

1634. July 18.

HART against TENANTS.

MR JOHN HART, pursuing a removing from a house in the Canongate, conform to a warning, as use is, made within burgh; it being *alleged*, That the warning was null, because it was not execute upon 40 days at the parish kirk within which the house lies; the LORDS repelled the allegiance, and sustained the warning; because they found, that warnings from houses within burgh needed not to be made nor executed at the parish kirk; seeing that is only required by act of Parliament to be done in field land; and not for houses in towns, from which warnings to remove are made by the town officers, at the verbal desires of parties, without necessity of precepts in writ from the party, or any other direction from the Magistrate, and by chalking of the doors, testified to be done by the officer executor, and witnesses, without any record of the execution in writ.

No 138.

Verbal warning at a house within burgh is valid, without a written execution or publication at the parish church.

Clerk, *Scot.*

*Fol. Dic. v. 1. p. 269. Durie, p. 729.*

1637. March 22. FINNIE in Peterhead against GRAY.

ONE Finnie, by a precept from the Earl of Marshall, as admiral-depute, having caused arrest a ship in Peterhead pertaining to Andrew Gray, for satisfying of a debt owing to him by the said Andrew, and pursuing before the Lords upon that arrestment, to make the ship furthcoming, the debtor's son, who intromitted with the ship; wherein the Lords sustained this action pursued before

No 139.

Arrestment of a ship good, if intimated personally to the possessor, though the