

No 8.
 pier and shore
 of Leith,
 found null,
 there being
 no special
 warrant in
 the letters for
 that effect.

gave back-bonds to his owners, whereof M'Kenzie was one : Upon this arrestment, Monteith recovered decret for making forthcoming the price and profits of the ship. John Murray, for a debt due to him, obtained assignation from M'Kenzie to the skipper's back-bond, and to his share of the ship and profits thereof, and did intimate the same at the skipper's dwelling-house, and also at the pier and shore of Leith before the arrestment. The skipper suspends on double pointing, and calls both the arrester and the assignee. It was *alleged* for the assignee, That his assignation and intimation was prior, and preferable to the arrestment. It was *answered* for the arrester, That the intimation was null, as it was done at his dwelling-house, because he was out of the country; and as at Edinburgh, and at the pier of Leith, because it was without warrant; there having been no letters of supplement obtained from the Lords, without which no intimation can be made to persons out of the country.

THE LORDS found the intimation null, and preferred the arrester, and found the ship or share thereof, arrestable as moveable.

Stair, v. 2. p. 544.

1699. July 11.

LERMONT *against* GORDON.

No 9.

IT being *objected*, That a messenger at delivering the copy, wanted the summons, which is the warrant thereof, and being required then by the defender's advocate to show it, the LORDS found a messenger not obliged to show his warrant to third parties not defenders, and that law presumes he had it on him, unless the contrary were proved.

Fol. Dic. v. 1. p. 259. Fountainball.

* * * See This case, No 6. p. 3096.

1705. June 12.

COCHRAN of Preistgill and DYKES of Halburn, *against* JAMES URQUHART of Knockleith.

No 10.

A person was held as confest upon a personal citation, tho' there was only a warrant for edictal citation, because a warrant for edictal citation

IN the action at the instance of Cochran of Preistgill, and Dykes of Halburn, against James Urquhart of Knockleith, as donatar to the forfeiture of Halburn, for repetition of a sum paid to him as a composition for transmitting the gift of forfeiture to Preistgill, with annualrent from the Parliament 1690, the pursuers *contended*, That the disposition of the gift bearing for onerous causes in general, infers that the donatar received near to the value of the lands, and Halburn's oath should be taken on the composition.