

No 139.  
 officer neither  
 take the sails  
 nor rudder  
 from the ship,  
 nor leave a  
 copy of the  
 arrestment  
 affixed to the  
 ship.

themselves, upon an arrestment direct, and executed by warrant of the precept of an inferior judge, viz. the admiral-depute; and the said arrestment so executed was sustained, albeit it was quarrelled as unlawfully executed, not bearing, to be stamp, and not bearing, that the officer took the sails from the bark, and the rudder from her, all which are necessary formalities in arresting of any ships, and omitted, albeit the warrant of the precept directed the same. *Item*, No copy delivered to the party, nor left or affixed upon the ship; which objections were repelled, seeing the pursuer offered to prove, that the officer intimated to the debtor's own son, that he had arrested the ship immediately after the doing thereof; and which intimation, so made, the LORDS found probable by witnesses, and the officer, and that it was not necessary to prove it by writ, or by oath of party.

Act. ———.

Alt. *Mowat*.

*Fol. Dic. v. 1. p. 269. Durie, p. 842.*

No 140.

1694. July 19.

M'KEAN, &c. against ———.

HALTON reported the case of M'Kean, &c. about a decret of the Sheriff of Ayr, which was quarrelled on this nullity, that he was not cited, and that there was no execution in writ; and the decret itself bore, that the sheriff-officer only verified his verbal execution in face of court. THE LORDS turned the decret into a libel; for though of old, when writing was not so frequent, verbal citations were allowed, (as they are to this day in Baron-courts), yet now, since almost every body are taught to read and write, and that the late acts of Parl. 1681 and 1693 require subscribing witnesses to executions of messengers, such verbal citations cannot be sustained.

*Fol. Dic. v. 1. p. 271. Fountainball, v. 1. p. 634.*

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## S E C T. XI.

Execution returned Blank to the Party.

No 141.  
 An execution  
 was signed  
 by the mes-

1700. January 9.

ABERNETHY against OGILVIE.

ARBRUCHEL reported Abernethy of Mayen against Ogilvie of Badintowl, for payment of a debt contained in his father's bond. *Alleged*, The execution is