

before any violence was offered to the Messenger. Albeit this seemed contrary to the libel, bearing that the pursuer was Debarred in the lawfull Exercise of his office 6 March 1662 David Simpson & others. And this Defense was just turned to Exculpate from Debarment in the Execution of a Caption, that the Messenger Resisted with Violence, to tell the pannel what he was going to do, and beat them before they offered any Violence to him 7 August 1662 James Emmonston of Cardon & his Brothers. But this Defense against a Debarment, that the pursuer did offer Violence to the pannel before he Endeavored to Execute against him was Rejected: in Regard that not only was such Exculpation of self Defense Contrary to the libel, but the Messenger did no other Act of Violence than what he might lawfully do in the discharge of his office. And if such a Defense were sustained, our law would always pretend that what they did in Debarment & Messengers executing Captions against them was in their own Defense 4 June 1668 David Boston of Pongquid. His own Defense against a Debarment in pouncing of Oxen in September was sustained, that not only they were at labouring in the plough several days before the pouncing, and some others in that country were then labouring their stubble ground; but also there were other pounceable goods on the ground at the time 17 December 1660 Graham & Morphy & her son.

It is not a Relevant Defense against Debarment in Executing a pouncing, that the Debt to have been pounced for, was satisfied and Discharged. Because the Messenger was not bound to Dip upon the point of right, but was in bona fide to pounce by Virtue of the Letters; and if a Debt satisfied had been pounced for, the pouncer would have been guilty of a Spuilzie 6 March 1662 David Simpson & others. Nor was it sustained to Exculpate from Debarment in Executing

Executing a Caption, to offer to prove Scrips to of the pannel at whose instance it was Captio, that he did not Deliver the Caption to the Messenger complaining of Debarment, nor gave any warrant to Execute the same, and to prove that payment of the Debt in the Caption was offered to the Messenger at his going to jail. 6 in Execution, and that a fact the Debt is paid and Discharged by the Creditor. Because the Kings Advocate might pursue for Debarment, whether the Messenger had or not from the Creditor in the Caption to Execute it or not; and the Caption was a sufficient Warrant to the Messenger who could not be supposed to have put himself to the trouble of Executing it without Warrant, besides it is odious for one Messenger to give bail to another to Execute. Nor was the Messenger bound to Notice the offer of payment of the Debt which he did not Discharge. And if such a pounce were sustained, all pursuits of Debarment might be ended, by making up and Antedating papers betwixt the Creditor and his Debtor, to the prejudice of his Majesties Justices in the Escheat of the Debarment Messengers 1 December 1673 Dugood of Kirkcubright, Cardon & others. Nor was this plea received against Debarment of a Messenger, that he was going to pounce upon Letters raised at his own instance for a Debt due to himself. Because the Letters being always blank in the persons Name to whom they are Directed, the Messenger might lawfully fill up his own Name therein, and so Execute the sentence pronounced by another Judge; and if he had been wrong he was liable to a Spuilzie 6 March 1662 David Simpson & others. See George Melnores Case 1662 David Simpson & others. Another Ordinary objection borne had to be clear about the Reasonableness of this provision seeing Messengers who are Judges in pouncing