

were beaten and injured, they should not be Received to witness *McKenzie* *ibid.* Again, the a Deforced Messengers National for Carried along with his father who subscribed witness to the Execution of Deforcement was Received as testified Instrumental to instruct the verity of his fathers subscription to the Execution, he was not his ained as a witness to prove the Crime and injury done to his father is December 1690 James Douglas & Marshal general Brown.

Messengers Deforced cannot be admitted as single witnesses of the Deforcement, the the Crime be not justified by themselves but only by their Employers, and his Masters advocates, in which case they would presume to have no Interest *McKenzie* *ibid.* Nor yet is such an Employer a liable witness in a trial at the feet of the Messengers, the the Employer passeth from any punishment done to himself *McKenzie* *ibid.* The Reason why the Messengers or person formally Interdicted can in no case be Received to bear witness in a trial of Deforcement and the witnesses in the Messengers Execution may be admitted; is because law considers the Messengers and party injured, but not the witnesses in the Messengers good Executions, to be Deforced, and upon that the own presumed they Retain a Resortment Against the Deforcement.

It hath been Contraverted whether a Messengers Execution of Deforcement per se, without other Evidence, will prove that he was Deforced? The Answer Arguably it should prove, and because; of Greater Authority in his que spectant ad Imperium officium, Prosperi Garinde testibus que 56 n. 380. 381. Malcap. de probat. Vol. 1 Boneh 189. n. 7. 8. 29 In Civilibus the Execution of a Messengers is always believed till it is Impugnated. 301. Ceterum Nuncia per hoc non sufficit per se ad firm vel Verborum in ipsa executione & this suff

of Dauphiny Quia Pap. Socii. 628 & 629. Florence. But the Messengers are to be trusted in things belonging to their office, as that they Cities any persons or Denounced them fugitives from Justice; yet by the Statute of most other Nations (Cabal. ad. 127. Prosperi. Farin. lib. n. 374 375. 376. Monac. de Arbitr. iniquitat. cas. 112 n. 12. 13.) In your law *McKenzie* *ibid.* Vard. whether the Execution of Deforcement a Messengers Execution of Deforcement doth not prove that he was Deforced, Glud. such an Execution in the pointing of tenants goods bearing that the Messengers offered the goods pointed to any person that would witness his Right thereto, and that none did appear for that Effect, was allowed to be taken, and by contrary proof that they were claimed at the time by Vertue of the Masters Key followed for a Year and dies to him 17 June 1706. Glud. Robins to others. When Deforcement is proved, the ordinary Verdict of the a jury they find the pannel guilty of Deforcement such a Messengers; but when the a jury find only the pannel guilty of robbing the Messengers in his office, and would not find him guilty of Deforcement; the Justices of the Peace during those times as Equivalent, they punished the Pannel as a Deforced, *McKenzie* *ibid.* Jul. 26. 8. infernall but the Interest of the Fifth and party injured in the case of Deforcement can be Recovered only by Action; Nothing hinder the officer Deforced to found on the Deforcement to take off the guilt of homicide Committed by him. therein Glud. in a trial of flight against a Messengers, it was found Absolut to Exculpate him himself, that the person killed invaded the pannel with a drawn Dag, the person in the Excuse of his office before the pannel admitted him. For proving which Deforced the pannel found subscribed as witness of the Pannels Execution of the Deforcement, was Received as witnesses; at least they had heard the principal witnesses Examined and what they heard: Because their Testimonies were to