

a tumultuary and of the Manner Inward a Messenger who was going to execute paining and Caption in a Court house Menaced him if he should enter to do his office there; or preparation, that one Officer out of the Court discharged a Pistol at him, and Comanded him to Desist from executing his office, and threatened him if he did not. Albeit it was pleaded for the pannel, that the Messenger could not be said to have been Deforced, unless some hurt words were to him, or that he had Endeavoured to Make patent Doors, and was violently hindered in the Attempt. In Respect it was shewed that ever such an Account Deforcement of officers who were then in the Exercise of their office: And the Messengers being obliged to give over Executing the Letters, and hindered to Attempt the opening of Doors by Reason of Just force arising from the Menaces of Angry Men armed with offensive Weapons; is Deforcement in the sense of Law 20th of 1718. In the Statute of 1st of Common Pleas. One being Indicted of Deforcement in the Execution of a Caption, for that he and others Mentioned in the Libel Armed with offensive Weapons did Violently Inward molest and apprehend a Messenger having his Blazon Displayed with the wand of peace in his hand, and Advancing to Make a person prisoner, and drawing of swords and threatening to kill him if he should do it, whereby the Prisoner was a Libel. It was pleaded for the Pannel, that the Libel was not Relevant to Infer Deforcement, because it did not bear, that the Messenger apprehended or touched the party with his wand of peace, or that he was in Actu prodsimo of apprehending or laying arms; and a Messenger supposes he has no Caption about him if he has his wand. That there may be a Deforcement where the party is not actually apprehended, v. g. when Men standing at a little Distance about their houses at a Messengers breast, and hindered to seize the person against whom he had a Caption. The Lord found the Libel Relevant to infer the period of Deforcement, and Reported the Deforcement being 1722 James Campbell

of Law. A Libel of Deforcement in the Execution of a Caption for not payment of a fourth part of a Rent, the fourth part was not Liquidly specified, nor the land out of which it was payable expressed, whereby the Pannel was Deforc'd the Benefit of Excusing himself by producing a Discharge or suspension of such fourth part. Because the Messenger ought to have shewed the will of the Caption, unless a suspension of the Debt had been produced to him: And the a Discharge of it had been shewing as there was none, had no power to Confess the Verity or Falsity thereof. 19 Feb. 1692 Gordon of Braes. A Libel bearing that the pannels with Weapons in their hands, Inward a Messenger in the Exercise of his office of providing, and Masterly took from him a powder House he was providing, was sustained to infer a Deforcement: Albeit it did not specify the Weapons. In Respect the very taking and the powder good by strength of hand without Weapons, was a Deforcement; and the Weapons can be understood only of Invasive Weapons, when Violence and force is libell'd, 25 July 1701 Stewart of Marshall and his servants.

Deforcement a Sheriff officer who by warrant of the Sheriff had seized a kine, was found Relevant to Infer the pain of Law, 20 November, 1699 Sir James of Burch. A Mart Cow out of every parish of the shire of Perth to be bright yearly having been in use to be kept by the shire without farther Ceremony or solemnity, than by sending his officer to the parish with a written precept or warrant to catch and put upon the kine, and offer to the owner and possessor five shillings, rather than the Kings Money; who, upon Application, shall for his Relief so much out of every Mote land in the parish: First hearing the shireward officer whom he came to seize such a Cow, and Reserving the Cow from him after presenting the Sheriff's warrant for the same, which was found Relevant to Infer an Arbitrary punishment, Albeit it was pleaded for the Pannel