

Detained prisoner that he may provide or give surety for an Altiment to him not more than three Shillings Scots per diem, or a sufficient to his liberation: which if the Creditor Refuse or Delay to do within the space of ten days thereafter, the Magistrate may let the poor prisoner at Liberty Act 32 J. 6. Cap. 4. W. This Law is Commonly Called the Act of Grace.

Magistrates are not liable Subsidarie for such a Debtors escape out of prison, whom the Creditor's obliged to Altiment, after he was required to do it in the terms of Law: Albeit the Magistrates gave no order for the prisoners liberation; he respects they might have let him at Liberty 13 Decemb. 1711. Gylfets and his factor contra Magistrates of Glasgow. A Prisoner having compliance to the Magistrates of the Burgh where he was in prison, and made faith that he was not able to Altiment himself, upon which an Instrument was taken in his Name; and Intimation being made thereof to the Creditors by leaving him the first Instrument, and requiring him to Altiment the Prisoner or Consent to his liberation, upon which an Instrument was taken against him also in Name of the said Prisoner; and the Creditor having made no offer to Altiment him within ten days thereafter; the Magistrate were found to have warrantably dismissed the prisoner. Albeit none of the Instruments afore said bore any Intimation to the Creditor by the Magistrates, or by their procurators, or by any person in their Name, to Altiment the prisoner; but was taken only in the prisoners own Name, and there was no Intimation to the Creditor previous to the prisoners expiring that he was not able to Altiment himself; nor yet was the prisoners oath advised, and he found to be poor by the Magistrates sentence 8 July 1714 Boyle contra Bailies of Hamilton because the Law doth require only Intimation to be made to the Creditor which may be as Effectually done by the prisoner himself or in his Name, as in the Name of the Magistrates who are not bound to send procurators to the several Corners of the Nation to make such Intimations to Creditors. And all the trial of the prisoners poverty required, is his own Compliment and Making faith: Residue Venter non patitur Moram. Nor Is Intimation to the Creditor previous to the Debtors Making faith

faith necessary: being thereafter to Must be required; and the Debtors Making faith in this Manner, doth not bind the Creditor from Understanding on any particular fund he is longing to the prisoner and demanding a right bill.

Magistrates are obliged either to Modify an Altiment to a poor prisoner in the Prison, than as aforesaid, payable by the person advised to Altiment him, or to Altiment him themselves, so long as they detain him in prison 20 Feb. 1713. Grogan of Glasgow Supplicator contra Magistrates of Dumfries. A Magistrate has not a Detentionary power to liberate or detain at his pleasure a prisoner from the Creditor as prisoner at Law. Instance being committed declined to Altiment.

A prisoner who engaged the benefit of the Act of grace and Altiment to be paid by his Creditor, being imprisoned in Glasgow, was found not bound off from the Altiment by his making a Cito Bannum 8 Novemb. 1704. Hamilton contra Belshes of 1711.

Act 5.

Concerning a Suspension of the Charyer Personal Attachment is Stopped by a Suspension of the Charge. See party Book 6 Sup. 2. Tit. 1. Act. 3.

The proper effect of a simple Suspension is 1^o to Stop Charys and Annunciations upon banning and the effects thereof. 2^o to Stop winding up Decrets of furth coming. 3^o to Stop the Entering of Vassals by others than their immediate Superiors, till the Suspension be Dissolved.

The Effect of Suspension and Relaxation is 1^o to give personam Standium. Dicio. 2^o to Exclude Rescous of goods acquired after Relaxation.

The Effect of a Suspension and Charge to Let Liberty is set forth Supra page 1189

Chaps. 3

Arrestment, is an authoritative order given to a person