

Execution of Justice which could not be inflicted on the
 Jurors. An offender who has confessed or is convicted
 cannot be bailed l. 5 ff de custodia. et Exhib. Acor. the the
 crime he is charged with be punishable only by a fine
 Prosp. Garin. ibid. quest. 33 n. 9 & 10. Nor can a person once
 released upon bail, having fled and forfeited his bail, be
 again, if apprehended, admitted to bail for the same crime,
 as having rendered himself unworthy of that privilege,
 Prosp. Garin. ibid. n. 34. One becomes surety to present a
 criminal on a certain day under a penalty, will find
 himself liable to pay the penalty, tho he was not
 required by an instrument to present him. Gomes. 3 Val
 Resol. de captura Acor. cap. 9 n. 9. Prosp. Garin. ibid. n. 129 &
 130. Because in that case dicitur interpellat pro homine. 126.
 Contra. & committit stipula.

By the law of Scotland all crimes not inferring capital
 punishment, are bailable. In which case a prisoner
 or person ordered to be imprisoned, for such a crime, may
 apply by a petition to the Committer, or Lord of Justice
 any, or other Judge competent to the trial, and offer caution
 to answer for the crime charged, at any time within
 six months, under such penalty, as he shall modify within
 24 hours. Which formerly could not have exceeded 6000
 Marks for a Nobleman, 3000 Marks for a landed Gentleman,
 1000 Marks for any other Gentleman or Burgess and 300 Marks
 for any other person Act 6 Sept. 1829 Parl. G. W. But the sum
 aforesaid having been found by Experience to be too small and
 disproportioned to the danger of criminals escaping from
 the punishment appointed by law; Judges are now allowed
 to extend the bail to be given in the said several and
 respective cases, if they upon the circumstances of
 the case, shall think fit 22 G. 1 cap. 25. On which offer
 of sufficient bail under the said penalty, and instrument
 taken thereon, the Committer or Judge competent
 must order the prisoners liberation and discharge
 his

his imprisonment, under the penalty of wrong out imprison-
 ment. But this is without derogation to the laws requir-
 ing bail to be given by Chieftains, land lords or others in
 the highlands; and doth not hinder Inferior Magistrates
 or Justices of peace, to take security for the good behaviour
 and peace, as formerly Act 6 Sept. 1829 Parl. G. W.

Upon Application of any prisoner for custody in order
 to trial, whether for Capital or Bailable crimes, by a pe-
 tition to any Lord of Justice; or other Judge or Judicator
 competent, and production of a double of the warrant of
 his imprisonment, under the Kings hand, the Judge or Judi-
 cature competent is ordained, under the pain of wrong out
 imprisonment, to give out within 24 hours, letters or pro-
 cepts directed to Messengers, for intimation to his Ma-
 jesties advocate, or procurator Fiscal, and party appear-
 ing by the warrant to be concerned, if any be within Scot-
 land to fix a diet for the trial within 60 days after the
 intimation; with certification that if they fail to do so,
 the prisoner shall be discharged and set at liberty; which
 the said Judge or Judicator competent is required to do
 without delay under the penalty aforesaid, unless the
 delay be upon the prisoners desire. The diet of the
 trial being prefixed, the prisoner is to be put to before
 the Judge competent, and or ^{his} ~~the~~ ^{procurator} ~~procurator~~ provided
 by the Judge his Majesty's Advocate, or procurator
 Fiscal, and the trial to be finally determined by the
 Lord of Justice within 40 days, and by any other Judge
 reported, and the prisoner immediately set at liberty. If
 no process be raised and executed, or if process be not in-
 sisted on and concluded within the respective times
 aforesaid the Judge or Judicator competent is upon
 the prisoners application and instructing thereof, and
 instruments taken thereupon, obliged within 24 hours,