

hours, to issue out Letters or precepts to Messengers, for Charge
the Magistrates or keepers of the prison, to set him at
liberty, Under the penalty of wrongous Imprisonment, in
case of Delay or Refusal to grant such Letters or precepts,
or to set him at liberty after the Charge, the prisoner all
ways paying the keeper of the prison dues Act 6th Sept. 1589
Parl. J. W. ^{Supra} b. 2. pag. 1340. and b. 3. pag. 1587

When a prisoner is thus liberate, it is not lawfull and
the penalty of wrongous Imprisonment, to put or Detain him
in prison for the same Crime if his former liberation was
made known to the committer before he granted the warrant
or he be Detained after his former liberation is sufficient
Notified to the Keeper of the prison, who upon production
of the warrant thereto, is obliged to set the prisoner free
with at Liberty; Unless there be New Criminal Letters raised
before the Commissioners of Justice and duly Executed
against him. In which case of New Criminal Letters, the
raiser for the same Crime, he may be apprehended and secured
either at Executing of the Letters, or at any time thereof
before trial, and Detained in prison till he be set at liberty
in the due Course of law. Which New libel the King
vocate is to Indict in and prosecute to a final sentence, within
in forty days after the New Incarceration thereof; Unless
the prosecution be Delayed at the Desire of the prisoner,
otherwise the Diet is to be simply Deferted, and the prisoner
Dismissed, and never more to be questioned or tried
for that Crime or offence Act 6th Sept. 1589 Parl. J. W.

In case of Imprisonment for treason, the law of Scotland
allowed 40 days to prepare the process before the prisoner
could apply to have a Diet fixed for his trial. After
the Elapsing of which time, any Lord, of Justice was the
quitted, upon the prisoners Application to issue forth process
Letters, as in other cases; and in case of not Indicting,
or prosecuting the process as aforesaid, the prisoner was
to be set at liberty upon sufficient Bail (not exceeding
the

the double bail in other Crimes) to appear at any time when
called within 12 Months, and for his good Behaviour in the
Meane time d. act 6th Sept. 1589 Parl. J. W. But by the law of
England, if any person committed for treason, plainly and
specially Expressed in the Warrant of Commitment, upon
his pray or or petition in open court, the first week of the
term, or the first day of the sessions of Oyer and terminer,
or General Goal Delivery, to be brought to his trial,
shall not be Indicted some time in the next term, session
of Oyer and terminer, or General Goal Delivery, after
such Commitment, the Judges of the court of Kings Bench,
and Justices of Oyer and Terminer or General Goal Deli-
very, are Required, upon Motion in open court, the last
day of the term or sessions, to set at liberty the prisoner
upon Bail; Unless it appear upon Oath, that the witness
for the King could not be produced the same term
&c. And if such prisoner on his pray or &c. shall not be
Indicted the second term or sessions, he shall be set at
free from his Imprisonment, 31st Car. 2 cap. 25th. ^{commonly called the Habeas corpus Act of England} And the
Justices court and other courts having power to Judge
in cases of high treason and Misprision of high treason
in Scotland are authorized to hear and determine
the said offences, whereof any person shall be Indicted
before them, in such Manner as the Court of Kings
Bench, or Justices of Oyer and terminer in England
may do by the laws of England 7th A. cap. 21 53.

Upon Petitions presented by poor prisoners for Crimes
who are to be set at liberty, representing their poverty,
and that they are not able to pay the prison dues: the
Lords of Justice ordain them to be Indicted among the
publick prisoners, and recommend the keeper of the
prison to the Lord of treasury for their payment of
what the petitioners were owing to them and house
dues 25 March 1691 David Gurdintoun supplicant
21 July 1691 John Nicolson supplicant. Ats