

king, and not compearing, was declared fugitive, and denounced; which could only extend to his escheat: as was found in the case of William Yeoman and Mr Patrick Oliphant, that Mr James Oliphant being cited before the justices for killing his mother, which is treason, as being murder under the greatest trust; and being declared fugitive, and denounced; yet a gift of his escheat and forefaulture was found only to extend to his moveables: and the certification in criminal letters, even for treason, is only, in case of not-compearance, the moveables shall be escheat but nothing can infer the effects of forefaulture but the doom of forefaulture. It was answered, That, in the case alleged, it was only for petty treason by statute, but this was contumacy in a citation for lese-majesty. The Lords found the defence relevant, and that the gift could only extend to moveables.

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1671. *December 8.* CAPTAIN GUTHERY *against* M'KERSTOUN.

CAPTAIN Guthery having married the Lady M'Kerstoun, who was infest in the miln of M'Kerstoun, with the astricted multures; and the tack of the miln is from Whitsunday to Whitsunday, for farm, whereof the one half is payable at Candlemas, and the other half at Whitsunday;—the liferenter died after Martinmas, but before Whitsunday; and the question having arisen, whether the liferenter had right to the whole rents of the miln that year, 1669, having died after Martinmas 1669; which having been decided before, upon a petition, it was taken to consideration again. Some were of opinion that miln-rents had no legal terms as land-rents, but were due *de die in diem*, as the rent of a salt-pan, coal-heugh, or fishing; because the rent was due for the service of the miln; so that, if the liferenter had been in possession of the miln, and had died so, the heritor would enter to possession, and have the benefit of the whole multures till Whitsunday. But whatsoever might be the case of a miln without land or thirl,—yet, in this case, the Lords adhered to their former interlocutor, and found, that, there being here astricted multures, the same had legal terms, as farms of land, which are Whitsunday and Martinmas: and that the liferenter, surviving both terms, had right to the whole; albeit, by the conventional terms, the one half was due after her death, which, though it delayed her payment till Whitsunday, yet took not away her right established by the running of the legal term at Martinmas:—and therefore adhered to their former interlocutor.

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1671. *December 16.* CHISHOLM *against* LAIDLAW.

CHISHOLM and Laidlaw possessing a room *pro indiviso*, Chisholm pursued Laidlaw, before the sheriff of Roxburgh, for constituting a stent of the sums of the room, and for payment of the over-sums; whereof Laidlaw pursues reduction, on this reason, That the decret was *a non suo iudice*, the defender living within the Marquis of Dowglas his regality; whereupon he did not only decline, but