

1694. *January 10.* M'LEAN *against* BECK and OTHERS.

HALCRAIG reported Mr M'Lean, dancing-master, and master of the revels, against Beck, and the other musicians who have erected the concert of music; craving that they ought to be licensed by him, before they could set up and exact money; seeing his office was to inspect and regulate all games and sports, and see that nothing immoral or indecent should be allowed.

The Lords, having perused M'Lean's gift, they found music indeed contained in it, but that it was inserted in that clause anent tragedies, comedies, and other theatrical scenes where music is always used, as also at puppet-plays; but that the liberal science of music itself was not comprehended in his gift: especially seeing musicians were not subject to the master of the revels abroad, where that place was better known than with us; and that he only used it to drain money from them, without restraining immoralities, if they paid him.

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1694. *January 10.* ANDREW HOME, Merchant, *against* JAMES STEELL, Vintner.

ARBUCHEL reported Andrew Home, merchant, against James Steell, vintner, for a spuilie of some goods out of his house, and whereon he craved his oath *in litem*. The defence was, The goods were my daughter's; and the marriage between you and her dissolving within year and day, their property returned again to the father; and having the keys, they might summarily intromit with their own, without hazard of a spuilie: and cited *30th January 1632, Maccartny*; (but in that case there was a disposition:) and *25th July 1676, Maxwell against Dalswinton*; where the having of keys presumed property, except against masters and parents.

The Lords thought, if this was the wife's cabinet, wherein she laid up her *paraphernalia*, her mother's meddling therewith was no spuilie, unless he will offer to prove, that he likewise made use of that cabinet to lay up his money and goods therein; in which case they would sustain it as a spuilie, and give him his *juramentum in litem*; but only to infer the restitution, or the value, and not violent profits.

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1693 and 1694. SIR JAMES COCKBURN *against* The LAIRD of LINTHILL.

1693. *January 18.*—THE Lords found Sir James Cockburn, having the rents of the lands of Whitcheater in his hands, for the three years he possessed, he could retain no more but the yearly annualrent of Crawford's sum, as it fell due for these three years; and that Home of Linthill behoved to come in *secundo loco* for the annualrent of his sum, whereon he craved compensation, as assignee to the Lady Lumsden's liferent on these lands of Whitcheater, as being the next preferable right; and that Sir James Cockburn could not exact the rents, nor