

1804. July 10.

BOSWELL and others *against* The MAGISTRATES and BILLET-MASTER of Cupar.

Mrs ISOBEL BOSWELL, and certain other unmarried women, residing in the town of Cupar in Fife, presented a bill of suspension and interdict, complaining of a judgment of the Magistrates of that burgh, subjecting them to have soldiers billeted in their houses. THE LORD ORDINARY appointed the case to be stated in memorials to the Court. It was *contended* by the suspenders, that the original rule with respect to billeting soldiers was, that those persons only should be liable who are bound to perform the service of watching and warding within burgh; Procurators of Glasgow *against* the Magistrates, 10th February 1785*; Earl of Wemyss and others *against* the Magistrates of Canongate, February 6, 1789, No 25. p. 13080. But even in those cases where this rule had not been strictly observed, an exception had always been made in favour of schoolmasters, unmarried women, widows, and paupers; Crawford *against* Wilson, 3d June 1794; No 28. p. 13084; Aitchison and others *against* Magistrates of Haddington, May 31. 1796, No 29. p. 13086. The exception is founded in justice and humanity, in favour of persons, who, being unprotected, ought not to be under the necessity of admitting soldiers into their houses.

The Magistrates maintained, on the other hand, that in times of national danger, when it was necessary to have a great number of troops quartered throughout the country, it was just and reasonable that all descriptions of persons should bear a part of the burden; that the suspenders, though unmarried women, were in good circumstances; and that if they were to be exempted, the hardship would become greater upon the more indigent inhabitants; that in the cases of Beith and Haddington, referred to by the suspenders, the exception of unmarried women had been limited to such as were in poor circumstances, which was not pretended in the present case. But, at all events, whatever might be the rule in general, in the present times, when it was necessary to keep up a powerful army in the country, and to provide occasional quarters for the troops stationed in the different towns, no exception should be allowed, except that of inability. And with regard to the hardship of single women admitting soldiers into their houses, nothing had ever been demanded from the suspenders except a dry billet, for which they had to pay a small sum each week, without being obliged to furnish lodgings to the soldiers in their own houses.

THE COURT found in terms of the interlocutor of the Magistrates, being of opinion, that in the case of transient quartering in time of war, there ought to be few or no exceptions.

Lord Ordinary, *Craig*. For Suspenders, *Maconochie*. Agent, *J. Thomson, W. S.*
 Alt. *Wm Erskine*. Agent, *Geo. Tod*. Clerk, *Menzies*.

J.

Fac. Col. No 176. p. 397.

* Not reported. See APPENDIX.

Clause on a Feu-charter relieving from Public Burdens. See CLAUSE.
 See APPENDIX.

No 30.
 When the circumstances of the country require a great number of troops to be quartered in a particular district, the magistrates may order soldiers to be billeted in the houses of unmarried women.