

No 110.

manner in which it is to be communicated to strangers. As a due regard must necessarily be paid to the advantages arising from such a communication, this will always vary, as trade and commerce are in a thriving, or in a declining state. Thus the present alteration is fully justified by the circumstances of the case; and the necessity of an additional revenue, on account of the expences recently incurred for the general utility, renders it altogether unavoidable.

The Court were unanimous in sustaining the defences. Even the Judges who, in the question from the town of Glasgow, voted against the exaction of new imposts of any sort, without Parliamentary authority, expressed their opinion, that the price of the right of burgesship might be proportioned, by the magistrates, to the benefits accruing from the participation of trade. See No 108. p. 1999.

THE LORDS sustained the defences; thus giving effect to the regulation in question.

Lord Reporter, *Stonefield.*

Act. *Solicitor-General Blair.*
Clerk, *Robertson.*

Alt. *Buchan-Hepburn, Hay.*

Craigie.

Fol. Dic. v. 3. p. 102. Fac. Col. No 288. p. 443.

1793. February 19.

WILLIAM MUIR and Others, *against* WILLIAM MACBEAN and Others.

No 111.

The Magistrates and Town Council of Edinburgh have power to form and regulate societies of porters, chairmen, &c. within the city.

Disbanded soldiers are not entitled to exercise a plurality of trades.

THE porters of Edinburgh were first formed into a distinct society, by an act of the town council, in 1738, by which they are allowed to exact admission-dues, &c. for the benefit of their poor, and are subjected to a variety of regulations, in order to secure their good behaviour. The act declares, 'That no person shall be allowed to labour or carry burdens within the city, in the character and station of a porter,' who does not obey its directions; Maitland's History of Edinburgh, p. 336, 337.

The chairmen form a distinct society, and were put under regulations by the magistrates in the same year.

The act relating to the porters was rescinded, and new regulations adopted, by an act of council in 1762, by which it is provided, that no chairman shall be allowed to enter into the society of porters.

In 1777, the council framed additional regulations for that society; in particular, they prohibited the chairmen from interfering with the business of a porter, under this exception, 'That they may carry furniture in flitting time, from the 15th to the 30th of May, on paying 1s. 8d. each every year into the porters' box, for the use of the poor.'

A similar regulation had been made annually for several years before.

It was declared by these acts, that the society formed by them, and the regulations which they introduced, should only continue during pleasure.

In spring 1790, the sum to be paid by the chairmen for the privilege of carrying furniture at flitting time, was by the sitting Magistrate increased to 2s. 6d.

Certain disbanded soldiers, who had become chairmasters, having refused to pay for this privilege, William Muir, boxmaster to the society of porters, complained to the magistrates, who gave judgment against the chairmasters.

In a suspension of this decree, the chairmasters

Pleaded: imo, Corporations with exclusive privileges can be formed only by the Legislature or the Crown; Blackst. v. 1. p. 472. and such as have long existed are presumed to have been sanctioned by their authority; Viner. Abr. v. Corporation.

The magistrates are entitled to make such regulations as are necessary for the police of the city, but they cannot bestow exclusive privileges. The suspenders, therefore, who are willing to submit to the former, cannot be compelled to contribute to the porters' box.

2do, Disbanded soldiers are entitled to follow such trades as they are qualified for, without being subject to the corporation laws.

Answered: imo, The magistrates of Edinburgh have, by charter from the Crown, and indeed the magistrates of every great city, from the nature of the thing, must have power to subject those classes of men who ply in the streets for hire within their bounds to such regulations as are necessary to secure to the public the faithful execution of their duty.

The exaction complained of, at least to the extent of 1s. 8d. is sanctioned by a decree of this Court in 1776.

2do, The Legislature did not mean that disbanded soldiers should have power to carry on a plurality of trades at one time, but merely that they might exercise any *one* for which they were qualified, without serving an apprenticeship, or paying dues of admission; 24th Geo. III. sess. 2d, c. 6.

THE LORD ORDINARY found the letters orderly proceeded.

Upon advising a reclaiming petition with answers, it was

Observed on the Bench: The Magistrates are clearly entitled to make regulations for the police of the city, subject, however, to the control of this Court. Those complained of seem to be very proper. At all events, they can only be set aside in a regular process of reduction. A single magistrate cannot make such regulations.

Disbanded soldiers cannot follow a plurality of trades. They have no higher privileges in this respect than a member of that corporation, whose trade they exercise.

THE LORDS found the letters orderly proceeded, to the extent of 1s. 8d. against the suspenders respectively.

And, after advising a second reclaiming petition, with answers, 'they adhered.'

Lord Ordinary, *Justice Clerk*. For the Suspenders, *Wilde*. Alt. *Honyman*. Clerk, *Sinclair*.
D. Douglas. Fol. Dic. v. 3. p. 103. Fac. Col. No 29, p. 58.