

No 52. naging for his own interest, as well as that of the other creditors; and yet if the contrary were to hold, such apparent heir must pay the whole expense out of his own pocket; which were most glaring iniquity. Neither is it of importance, that an apparent heir may or may not bring such process, seeing it will not follow, that when he brings it for the common behoof of the creditors, he shall not be entitled to his own expense. It is not in the option of any real creditors, to intent a ranking and sale of a bankrupt estate at this day. But is that a reason for subjecting him to the expense? Agreeable to which it was determined, 3d February 1738, Creditors of Nicolson of Trabrown, see APPENDIX.

THE LORDS found, That the apparent heir, who draws no share of the price as such, is not to be burdened with the expenses of the sale and ranking; but that the same is to be paid by her, and the other creditors proportionally, effecting to the sums they shall draw of the price of the subjects sold.

Fol. Dic. v. 4. p. 216 C. Home, No 181. p. 302.

. Kilkerran's report of this case is No 8. p. 4029, *voce* EXPENSES.

1775. *January 25.*

JAMES INGLIS *against* WILLIAM JAMIESON, and Others, Creditors of
GEORGE HAMILTON.

No 53.

*Ratihabitio
æquiparitur
mandato, ap-
plicable to
the case of
an election
of a common
agent, in con-
sequence of
the act of
sederunt,
January 17.
1756.*

IN a competition for the office of common agent, in a process of ranking and sale of a bankrupt estate, the LORD ORDINARY pronounced the following interlocutor: "Having considered the debate, and, more particularly, that it is agreed there is but one creditor who voted for Mr Hay, and that, on the other hand, besides Mr Wilson himself, who is admitted to be a creditor, there are three creditors for whom Mr Wilson appears to be agent, having their interests in his hands, and in their names he voted for himself; finds, That, though there is no special power from these three to vote in the election, yet there is enough to cast the balance between the two unexceptionable votes, as it is not alleged any of the absent people are for Mr Hay; but appoints Mr Wilson, betwixt and the first sederunt day of January, to produce an approbation of his election by the absent creditors for whom he is agent."

Inglis reclaimed against this judgment; but the COURT adhered, moved chiefly by a circumstance stated in the answers, viz. That the respondents have, by writings under their hands, specially consented to and approved of Mr Wilson, as the common agent.

Act. Armstrong.

Alt. Northland.

Fac. Col. No 153. p. 18.