

PUBLIC BURDEN.

1773. *January 23.* BRUCE of KINROSS *against* HIS VASSALS.

IN a case, Bruce of Kinross *contra* Greig and Others, his vassals; "The Lords found, that the vassals had no claim of relief for any part of the expense laid out by them, in either building or repairing the church, manse, and office-houses belonging to the parish of Kinross." As to Greig, in his feu-charter, the superior was bound to relieve him of all cess, public burdens, minister's stipend, and schoolmaster's fees, payable forth of the lands, in all time coming."

The charters of the other vassals bore the prestations in them to be, for all burden, &c. exigible by the superior, or by any other person, and for whatsoever occasion.

Affirmed in the House of Lords, 24th November 1775.

RANKING AND SALE.

1776. *March* . THE CREDITORS of BELSHIER *against* HIS APPARENT HEIR.

THE Creditors of Belshier of Grange raised a sale of his estate, on the Acts 1681 and 1690: his apparent heir did the same on the Act 1695. The summonses were raised, executed, called, and enrolled on the same day. It was needless to proceed in both: the question came, Which was to be preferred?

The Lords, on report of Lord Kennet, "allowed the apparent heir's process to proceed, preferably to the process at the instance of the creditors."

The Lords thought the case of the apparent heir, and the privilege given him by statute, favourable, especially if there was a prospect of any reversion. They thought it a more advantageous and expeditious way to sell the estate first, and then to rank, which is the form in sales at the instance of apparent heirs, than to rank first, and then to sell, as in the case of sales by creditors: and one of the Lords wished that the form was made the same in both cases. Neither did it seem to weigh with their Lordships, that, in this case, in some of the constitutions the heir had renounced: He thought, that an heir renouncing to one creditor did not oblige him to renounce to all. And, at any rate, that his renouncing in processes of constitution did not divest him of the character of apparent heir, nor of this privilege among others. See Erskine, *B. 3. tit. 8, § 57.*