

see case of Miln against Magistrates of Edinburgh, determined in the House of Lords, 15th February, 1770, (not reported.) See APPENDIX. No. 30.

The Lords unanimously repelled the defence.

Lord Ordinary, *Stonfield.* Act. *Davidson.* Alt. *Ar. Campbell.* Clerk, *Sinclair.*
D. D. *Fac. Coll. No. 134. p. 305.*

 SECT. IX.

Dissolution of a Society must be notified.

1791. *May 24.* DALGLEISH and FLEMING *against* SORLEY.

No. 31.

SORLEY and Whyte, by mutual missives, in December, 1788, entered into a copartnership for carrying on a button manufactory, under the firm of Whyte and Company, of which Whyte was to be the sole manager and hirer of the workmen. It was stipulated, that the copartnership should last till the 1st January, 1790, and that Whyte should accept no bills under the company's firm without the express consent of Sorley. Whyte continued to carry on the business, in Edinburgh, as usual, after the 1st of January, though Sorley, who lived at Glasgow, alleged it was without his knowledge; and, on the 6th of March, the latter caused notification to be given, in the Edinburgh newspapers, that the company was dissolved; but, on the 9th January, Whyte had drawn bills, under the company's firm, on Dalgleish and Fleming, which they had accepted, and had given them a letter, obliging the company to relieve them of these acceptances. The acceptors having paid the bills, brought action on this obligation against Sorley, as a partner of Whyte and Company. Urged in defence, That the company was dissolved on the 1st of January. The Lords were of opinion, that a company cannot be dissolved by private stipulation of the partners, without a public notification; and, until that is made, an acting partner has a power to bind the company, notwithstanding any private and latent agreement to the contrary; and they therefore found Sorley liable. See APPENDIX.

Fol. Dic. v. 4. p. 288.

SECT. X.

The Company Stock of a Bankrupt Partner is liable PRIMARIO to the Company Debts; but not to a Debt due to another Partner individually.

1761. *January 24.*

JOHN CORRIE and SON *against* The TRUSTEES for JAMES CALDER'S CREDITORS.

No. 32.

Creditors to a company preferable on the company's subjects to the private creditors of one of the partners.

JOHN CORRIE and Son having sold goods to Rob and Calder in company, and the company having become bankrupt, Calder assigned his share in it to trustees for behoof of his creditors.

Corrie and Son pursued these trustees, before the Magistrates of Glasgow, for their debt, and insisted upon a preference before the private creditors of Calder; because the only subject of the company which Calder could assign to his trustees, was his share of the company's effects, after it was cleared of the company's debts; for, till then, it was not his estate, but the estate of the company.

The Magistrates of Glasgow found, "That the debts due by persons in society and copartnership, for subjects furnished to the copartnership, could not be affected for the debts due by any of the persons in the copartnership on their proper account, until the debts furnished to the company be paid."

In a suspension of this decret, "the Lords found the letters orderly proceeded."

Act. *Miller, Dalrymple.*

Alt. *Lockhart, Ferguson.*

Clerk, *Home.*

J. M.

Fol. Dic. v. 4. p. 288. Fac. Coll. No. 11. p. 18.

1779. *January 29.* JOHN CROOKS *against* JOHN TAWES.

No. 33.

Creditors in debts contracted by *socii* in a joint adventure are preferable on the proceeds to the particular creditors of either of the *socii*.

ANDREW PORTEOUS, mason, and Robert Young, slater, engaged in a joint undertaking of building a tenement of houses, on a spot of ground which they had purchased for that purpose. There was no written contract of copartnership, nor articles of agreement executed by them.

Young died after the building was begun, having appointed Crooks and other trustees for his children, and disposed to them his share of this adventure. The trustees, in order to forward this work, gave their own security to several persons who had debts due to them for materials furnished, or work done at the building.