

book, where these wines are posted as mine; and though it prove not *pro scribe*, yet it is good enough against him. Replied, If you make use of my book, you must take it complexly, and not divide it; for by it the wines are only to James Moncrieff's account, and I only constitute myself debtor to him for the same, and your name is only inserted *designative* to distinguish them from other wines. The Lords found the account-book did not prove them to be yet resting owing, but that Logy must prove it *aliunde, scripto vel juramento* of Durham. The third point was, if he could be convened *in solidum*, or only *pro rata* with James Moncrieff, deducting his share. The Lords found him liable *in solidum ex natura societatis*.

Fol. Dic. v. 2. p. 376. Fountainhall, v. 1. p. 806.

No. 15.

1728. November.

LUMSDEN. *against* GORDON.

THE point in debate was, Whether one in a society submitting to arbiters for himself and Company their joint affairs, can bind thereby the Company? It was objected, That indeed one partner can bind the whole with relation to every deed of ordinary administration; that is, such deeds which tend directly to the advancement of their joint concerns, and without which their business cannot be expedited; but a submission is no such deed, for that lies entirely out of the common course of their trade? and therefore a power of submitting for the society, is never understood to be communicated to the partners, since matters may be happily carried on without the supposition of any such power. The Lords found the submission of one partner does not bind the Company. See APPENDIX.

Fol. Dic. v. 2. p. 376.

No. 16.

1747. June 12.

JOHN KER *against* JOHN BRYSON.

JOHN BRYSON, and Robert Bousie, merchants in Edinburgh, made up between them a cargo to be exported on their joint account, by furnishing each their share of the goods, and by purchasing an additional quantity from Robert Ker, merchant in Paisley, on their conjunct bill, 1st April, 1728, for £.36 Sterling, payable six months after date. Afterwards they made up another cargo, by Bryson's furnishing his share as before, and Bousie's taking from Ker to the value of £.95, 28th September, 1728, for which he imagining both were to be bound, and not being undeceived by Bousie, drew upon them both, which Bryson refused to accept.

Bryson and Bousie, 2d October, 1728, wrote to Ker, excusing the not punctual payment of the first bill, and added two postscripts by Bousie, in these words:—
“ Sir, I have accepted the bill myself, because Mr. Bryson purchased as much value from one of his own acquaintance, and this is to keep clear accounts betwixt

No. 17.

Two merchants purchased goods, for which they granted a joint bill, and exported them. Intending afterwards to export another joint cargo, this they severally purchased. One of them