

## 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.