

SOCIETY.

SECT. I.

What understood a Society?—How constituted?

1682. February. NEILSON *against* M^cDOUGAL.

No. 1.

Two men having contracted for a bargain of victual, which the seller was obliged to deliver to them equally; and he having delivered the whole to one of the buyers, who was his own goodson, and pursued the other for the half of the price:

The defender alleged, That he could be liable for no part of the price, having got none of the victual;—and the conjunct buyer who received the whole, was now insolvent.

Answered: The buyers being *socii*, delivery to any one of them was sufficient.

Replied: *Emptio rei facta a pluribus ementibus* infers no society, where there is no *contributio lucri et damni*.

The Lords assoilzied the defender from payment of any part of the price.

Fol. Dic. v. 2. p. 375. Harcarse, No. 853. p. 243.

1755. January 17.

CHARLES LIVINGSTON *against* CHARLES GORDON and Others.

IN March 1771, Robert Selby, plumber in Edinburgh, Henry Gutzmer, and Jack Somerville, sugar-boilers, entered into a contract of copartnery for carrying on, in company, a sugar-house for boiling, refining, and manufacturing sugar, in a house belonging to Selby, for 19 years. Gutzmer was to manage the whole business of buying raw sugars, boiling, &c. and Somerville was to keep the books; and, for this trouble, were to have a certain sum yearly.

No. 2.

A copartner-ship may be constituted, *rebus et factis*, without a written contract.