

No. 7. Miln and Bonhard; and found, that Bailie Marjoribanks was only liable for a sixth part of the loss of the whole subject of the tack.

Act. Ch. Areskine, H. Dalrymple, & W. Grant.
Reporter, Lord Newhall.

Alt. Graham, sen. & Dun. Forbes.
Clerk, Hall.

Fol. Dic. v. 4. p. 284. Edgar, p. 155.

1741. February 26.

A. against B.

No. 8.

THE creditor of a company cannot pursue one of the partners for a company-debt: His action lies only against the company.

Fol. Dic. v. 4. p. 283. Kilkerran, (SOCIETY) No. 3. p. 518.

1757. November 14.

JOHN STEVENSON and Co. against ROBERT MACNAIR, and two other PARTNERS of the ARRAN FISHING COMPANY.

No. 9.

In a process against a company, either the whole company or the directors must be called.

By the contract of copartnership constituting the Arran Fishing Company, a share in the copartnership was declared to be £50, and the capital stock to be £2000; and that no partner should have more than four shares.

It was further agreed, That the trade should be carried on by certain directors therein named; and by one clause the directors are "empowered to give such orders and directions concerning the stock, and management of the whole of the company's affairs, as to them shall seem meet, which shall be binding on all the partners to the extent of their respective subscriptions, until the same (viz. orders and directions) shall be altered by a general meeting;" which was confirmed by another clause, in these words: "Provided, nevertheless, that nothing herein contained shall be understood to import a power to the directors, or any general meeting, to compel any partner or subscriber to pay or contribute any more money to the stock than the sum by him subscribed." And by two other clauses it was stipulated, "That none of the company's stock should be liable to be affected with the private debts of any of the parties, or to diligence at the instance of any of their creditors, so as to give the creditors using such diligence any other right to the subject than the price at which his debtor's share shall be sold for at public roup: That in the event of any partner's share being affected by legal diligence, and in the event of the death of any partner, and more persons claiming right to his share than one, or the right of that one affected by diligence, it shall be in the power of the directors, or general meeting, to sell the share so affected by diligence, or that shall be claimed by more persons than one, by public roup;