

## SECT. XV.

## Company Creditors how to be ranked on the Estates of Individual Partners.

No. 41. 1741. *February 26.* A. *against B.*

THE creditor of a Company ought to sue the Company in the first place as his proper debtor.

*Fol. Dic. v. 4. p. 292. Kilkerran.*

\* \* This case is No. 8. p.14560.

No. 42.  
Manner of  
ranking.

1776. *July 4.* DUNLOP and Others *against SPIERS* and Others.

JAMES DUNLOP, a partner of Carlyle and Company, being indebted in a large sum to that company, both he and the company became bankrupt. The trustees for the partnership claimed upon Dunlop's estate for the debt due by him to the Company; and the same persons, as trustees for the creditors of the partnership, made a separate claim upon his estate for the whole amount of the debts due by the company, upon the ground of his being liable *in solidum* for the company's debts, admitting, however, that they could not upon both of these claims draw more than full payment of the last. The trustees for Dunlop's private creditors objected to this double claim, and particularly maintained, that his private estate could not be claimed upon for more than the balance of the partnership debts after exhausting the company's estate. The Lords found, That the claimants, as trustees for the partnership of Carlyle and Company, were entitled to be ranked on the estate of Dunlop for the amount of the debt due by him to the said company; and that, after computing the dividend arising from the said debt, and the dividend already paid from the company's effects, in extinction of the debts due by the company to their creditors, along with the other funds arising from the estate of the company remaining in the hands of the claimants, and yet undivided, the said claimants, as trustees for the creditors of the company, were entitled to be again ranked on the estate of Dunlop for the balance which would then be remaining due to the said creditors; the trustees on Dunlop's private estate being entitled to an assignation from the company-creditors, so far as they should draw upon the second ranking, for the purpose of operating a relief to the estate of Dunlop from the other partners of Carlyle and Company, in so far as the said creditors