

No. 51. upon more persons, and simply accepted by one, or more of them, obliges all *in solidum*;

Which the Lords found relevant, and instructed by the testimonies of several knowing merchants chosen by the Lords.

Stair, v. 2. p. 313.

* * Dirleton also reports this case :

A BILL of exchange being drawn upon three merchants, without mentioning that it was drawn upon them either severally or conjunctly, and one of the persons upon whom it was drawn being pursued for the whole sum in the said bill, being accepted by them all simply, without mentioning that they had accepted the same only for their own parts, it was alleged, That they were only liable for their own parts, being *correi debendi*; which is understood in law, that they should not be liable *in solidum*, unless it were so expressed, especially seeing the pursuer cannot say, that they were either partners, or that each of them had provision extending to the whole sum.

The Lords, having thought fit to try the custom of merchants, and to take the opinion thereupon of certain merchants in Edinburgh, and the report being positive, that it was the custom of merchants, both in the place where the bill was drawn and here, that there should be action *in solidum* upon such bills, when they are drawn and accepted simply in manner foresaid, found the defenders liable *in solidum*.

Dirleton, No. 231. p. 110.

1685. January 17. WILLIAM ROBERTSON *against* MR. DAVID FORBES.

No. 52.

In this case, the Lords found the bill of exchange being payable to two, they were *correi credendi*, and that payment made to any one of them liberates the debtor for the whole, reserving action to the other party, as accords, to call him who received the money to account for his proportion of it.

Fel. Dic. v. 2. p. 381. Fountainball, v. 1. p. 332.

* * Harcarse reports this case :

1685. January 17.—THE sum in a bill of exchange, payable to two persons in a particular society, was found to divide, and to belong to them equally as *correi credendi*; so that neither of them could indorse the whole sum, but only the half.

Harcarse, (BILLS OF EXCHANGE AND RECEIPTS), No. 163. p. 36.