

No 47.

It was *objected* by the other creditors of James Drummond, That a bill not subscribed by the drawer, though accepted, could not be sustained as a ground of debt.

But as the creditor's name was inserted in the body of the bill in question, and thus there occurred all the essential requisites of a promissory note,

The Court repelled the objection.

Alt. Drummond. A.S. Dickson. Clerk, Menzies.
Stewart. Fol. Dic. v. 3. p. 76. Fac. Col. (Appendix.) No 7. p. 11.

1786. November 22.

ALEXANDER HARE *against* JEAN GEDDES, and Others.

No 48.
Found as
above.

In this case, being a comper of creditors, the objection was made to an accepted bill, That it was not subscribed by the drawer; which objection the Court considered to be obviated by the circumstance of the creditor's name being indorsed on the bill, over which stood receipts for partial payments. The name of the drawer was likewise inserted *in gremio* of the bill.

The Court therefore repelled the objection.

Alt. Honyman. Alt. Dalzell. Clerk, Home.
Stewart. Fol. Dic. v. 3. p. 76. Fac. Col. (Appendix.) No 8. p. 12.

See Fair *against* Cranston, *voce* BLANK WRIT.

See BLANK WRIT.

S E C T. VI.

Requisites of a Bill.

No 49.
A bill is in-
dorstable,
though not
bearing *To*
Order.

1726. January.

Competition CHARLES CRICHTON with JAMES GIBSON.

It was disputed betwixt these parties, if a bill not bearing *to order*, was notwithstanding indorstable? And it was *pleaded* for the indorsee, There can be no more necessity to make a bill payable *to order*, than to make a bond payable to assignees; especially in this case, where the bill is betwixt two. In both cases, an effectual obligation is contracted of loan; they are both *nominā debitorum*, which are always assignable by our law. Perhaps there may be a difference, where a bill is taken payable to a third party: For there it may be argued, that the possessor of the bill is more properly a mandatary than creditor; and, therefore, if the drawer of the bill that remits the money, intends that his correspondent shall have the disposal of the bill, he adjects, *or order*: And it is thought by some foreign writers, that otherwise the correspondent cannot indorse the bill. This, it is believed, gave rise to the words, *or order*; which thereupon became common in all bills; but can never be necessary, where the procurer of the bill is the lender of the money, and the creditor himself.

It was *answered*, That when bills depart from the settled style and tenor, they have not the extraordinary privileges, which are given only to writs of a certain