Higgens' Case, 5 *Co.* 45; *Bidleson* v. *Whytel*, 4 *Burr.* 1548; *Drake* v. *Mitchell*, 3 *East*, 258; *Riddle* v. *Mandeville*, 5 *Cran.* 330.

But the cases in which this general rule is laid down, do not profess to declare, that the obligee, on a joint and several bond, may not sue one or both obligors; but that he may, if he pleases, sue one only, or all, as at law. For, if it were not so, there would be no difference in equity betwixt a joint bond, and one joint and several; and if any of the obligors have paid all or a part, the obligor who is sued, or his representative must bring a bill and have it allowed; and it must also lie upon him to compel the other obligors to contribute towards payment of the debt; not upon the creditor who lent his money upon a security that enabled him to sue the obligors severally, if he should think fit; and indeed, if it were otherwise, that which was intended to strengthen the security would tend to hurt it extremely; for the creditor might not be able to find out all who might thus be bound to him; because by the same reason, that all the other obligors themselves must be sued, if any of them were dead, their heirs as well as executors must be made parties; and then, as it would be difficult to commence the suit; so the suit, when commenced, would be subject to continual abatements, which would be a great difficulty on an honest creditor who had fairly lent his money. *Collins* v. *Griffith*, 2 *P. Will.* 313; *Ex parte Rolandson*, 3 *P. Will.* 405; *Haywood* v. *Ovey*, 6 *Mad.* 113.

But if these principles are to be sustained by any thing to be deduced from this general rule, that all persons interested must be made parties; then it would be indispensably necessary, in every creditor's suit, when a creditor presented a claim, for the satisfaction of which the deceased with others had been bound, that such creditor should be permitted and required, in some way, to make all the co-obligors of the deceased parties to the same case; for **524** * otherwise, it would be impossible, or improper, or unsafe, according to the reasons of the principles of the Court to decide upon the relative equities of the deceased debtor whose representatives were then before the Court and his co-obligors; without compromitting the interests of some, or doing gross injustice to the creditor.

Under our system of partible inheritances the difficulties which beset a creditor's bill, by which it is necessary to bring before the Court a large family of heirs and devisees of a deceased debtor, together with his executors or administrators, have been found to be so very great, that it has been attempted to remedy the evil by requiring the heir at common law alone to be served with process, and allowing all the others to be called in, by a general publication, and to appear or not as they might think proper. 1797, ch. 114; *Kilty* v. *Brown*, *ante*, 222. There is, however, no instance to be found in the English books, nor among the records of this