

obliged to pay the cloth, and doth only act in name of his master, and therefore the merchant ought to have called for the account from his master within three years, which he has not done till many years, long after his master's death. It was *replied*, That the ticket must oblige him, at least, *docere de mandato*, for his doing in name of his master could not oblige his master, so that if he be not so obliged, the merchant loses his debt, and nobody is obliged. It was *answered*, That he who acts with any mandatar, should know his commission, and if he does not know it, it is upon his own hazard; but if the mandatar act, not in his own name but his masters, he does not oblige himself; and if servants who receive in their master's name should be thus obliged to shew their warrant, it would be of very evil consequence, seeing their receipt can be proved by witnesses within three years, and their warrant would not be so probable.

THE LORDS found, That *post tantum tempus*, the defender was not obliged to instruct his warrant, but the same was presumed to have been known to the merchant, unless it be proved by the defender's oath, that he acted without a warrant, or that he did not apply the cloth to his master's use.

*Fol. Dic. v. 2. p. 158. Stair, v. 1. p. 309.*

1755. July 23. SIR ANDREW MITCHELL *against* MARY GAINER.

MARY GAINER being pursued upon a surgeon's account, for furnishings to her family at London, and the same being referred to her oath, she, *inter alia*, deponed, "That she made no doubt, from the state of John Leitch, her servant, his health, medicines might have been got for him from the shop libelled."

*Pleaded* for her; A master is not liable for medicines furnished to his servant in this manner.

"THE LORDS found, That the articles of the furnishings to John Leitch, the servant, are presumed to be furnished with the defender's consent and knowledge; and therefore found her liable for the same."

Act. *Wedderburn.*

Alt. *J. Dalrymple.*

*J. D.*

*Fol. Dic. v. 4. p. 127. Fac. Col. No 160. p. 241.*

1786. June 21. JOHN SPOTTISWOOD *against* HUGO ARNOT.

THE practice of slaughtering cattle in the places within the town of Edinburgh hitherto used for that purpose, had been long complained of. Many meetings were held by the proprietors of houses in the New Town, in order to obtain relief, at which Mr Arnot attended.

No 271.  
liable personally, and being pursued long after, was not obliged to instruct his warrant.

No 272.  
A master found liable for medicines furnished to a servant with his knowledge.

No 273.  
Mandate presumed. Where one has attended meetings of parties con-