

No 269.

mother's obligation to pay it could not oblige him, much less her use of payment in favour of her daughter, without her son's warrant. It was *answered*, Albeit the obligation or payment of a third party could not constitute annualrent; yet where it was paid by a party who had a presumed warrant as a factor or servant, their payment was sufficient, and their warrant presumed, unless the contrary were proved; much more payment by a mother who meddled with her son's whole estate, and paid the same by her son's means, and not by her own, which the LORDS found relevant, and sustained the annualrent. It was also *alleged*, That the defender, in his father's life, paid a year's annualrent. But the LORDS decided upon the first ground only.

Fol. Dic. v. 2. p. 158. Stair, v. 2. p. 2.

. Gosford's report of this case is No 9. p. 483, *voce* ANNUALRENT.

S E C T. II.

Acts by Wives or Servants.

No 270.

Presumption of a wife's warrant to borrow a small sum, inferred from having in her custody the bond which she impledged for it.

1665. February 4.

PATERSON *against* PRINGLE.

ISOBEL PATERSON having lent to Pringle's wife L. 100 Scots, and having received a bond of Pringle's in paund thereof, he thereafter seeking a sight of the bond, took it away without warrant, whereupon she obtained decret against him before the Commissaries, which he and his wife suspended, on this reason, that he never borrowed any sum from the charger; and if his wife did borrow the same, he knew nothing thereof, or that it was applied to his use, and that she impignorated his bond without his knowledge, or warrant.

THE LORDS found, That her having of the bond in her hand did infer a warrant to borrow the money, and oblige her husband, being a matter of small importance.

Fol. Dic. v. 2. p. 158. Stair, v. 1. p. 264.

No 271.

A servant took off goods from a merchant in his master's name. He was found not

1665. November 17. HOWISON *against* COCKBURN.

THE EXECUTORS of David Howison pursue James Cockburn, for the price of several ells of cloth, which the said James, by his ticket, produced, granted him to have received, in name, and for the use of the Laird of Langtoun, his master. It was *alleged*, Absolvitor, because, by the ticket, the defender is not