

He has promised, to save him harmless from the Engagements into which he is enter
 and to ratify what he has well done l. 2. c. 9. ff. de negot. gest. If he who has
 managed the Affair of an absent Person has laid out on it Expenses that are
 necessary or useful, and such as the absent Person himself would and ought to have
 done, he shall recover them d. l. 2. c. 45. pr. ff. ed. If more Expence hath
 been laid out than was necessary, it will be reduced to what ought to have been
 laid out on this Business l. 25. ff. ed. Where the Negotiator has been oblig'd
 for defraying such Expence either to borrow Money upon Interest, or to advance
 it himself to his own Loss, the Master of the Affair will be bound to pay the In-
 terest of the Sum so advanced, even altho he who hath advanced the Money
 shall have been oblig'd thro some Necessity to take upon him the Care of the
 said Affair l. 18. c. de negot. gest. l. 9. §. 4. in fin. ff. ed. If the Expence was
 necessary and such as the Master himself would have been oblig'd to make,
 and if by some Accident what has been usefully done perishes or is lost, the
 Master is nevertheless bound to refund the Money to the Person who has laid
 it out, and who cannot be blamed for the Loss of the Thing. Thus for Example
 if a Friend of an absent Person whose House was in Danger of falling,
 takes Care to have it propped up, or if he buys Provisions necessary for the Sus-
 tenance of his Family and the House or Provisions perish by Fire or by some
 other Accident, without any Fault of the Person who had done the said Services,
 he will nevertheless recover the Money which he had laid out on them l. 30. §. 1.
 l. 22. ff. de negot. gest. The Expenses which shall be laid out imprudently for
 one who was not willing, or even not in a Condition to make them, will fall
 upon him who has expended the Money of his own free Motion, and he will
 get his Labour for his Pains, and must seek his Expenses from him who set
 him on Work. As if for Example, he has made in a House some useless Repair, or
 some Change which the Master was neither able nor willing to make: For he
 ought not to have engaged the Master indiscreetly in an Expence which would be burden-
 some to him l. 30. §. 1. ff. de negot. gest. But if he whose Affair has been man-
 aged by another, has approved of what has been done after having had Information
 of the Matter, he cannot afterwards complain of it, even tho' he should have Reason
 not to approve, unless that some Fraud be afterwards discovered, which did not at
 first appear l. 9. ff. ed. One who had Notice that a Privateer whom he suspect-
 ed to be a Pirate had taken a Ship freighted with Dails and other Timber
 upon the North Coast of Scotland having bought a Parcel of the said Cargo from
 him, and the Person with whom he bargained being found thereafter to be a
 Pirate, and the said Ship to be a free Ship unjustly taken by the Pirates, The
 Buyer pursued the Owners of the Cargo to hear and see it found and declared,
 that he had for their Advantage made the said Bargain, seeing otherwise the
 Pirates might and would have carried away the said Ship and Cargo: And that
 the Owners ought to restore and make up to him what he had given to the
 Pirates for the said Parcel of Dails and Trees for their Advantage. It was
 pleaded for the Defendants that those who buy Goods from Pirates are looked
 upon

upon as Receptatores: And the Pursuer was in pessima fide to have any
 Dealing with the Seller whom he suspected to be a Pirate. Nor can he then
 pretend to have been negotiorum gestor to the Owners: Seeing they were all gi-
 ven unknown to him, and he did not buy the whole Ship and Cargo per aversio-
 nem, but only a Parcel of the Cargo for his own Interest at a very easy rate
 and great Undervalue; and when the Ship was brought ashore he did not give
 Notice to any Magistrate that it might be seized to be forthcoming to those
 concerned. Some of the Lords were of Opinion, that there was no Foundation for
 this Pursuit, but more Ground to censure the Pursuer as a Receptator whose
 Practice should not be encouraged. But others being of Opinion, that the Pur-
 suer having preferred the Pursuit thought his own, and a Benefit arising to the
 Owners by his Transaction his Case was favourable: The Lords recom-
 mended to the Parties to settle their Difference 14 June 1698. *Conclusio* N. Gen-
 contra
 rem veris is not competent to one who does another's Business by Force or
 third Person without Intention to serve him whose Affair he manages: But he
 can only pursue in the Name of his Employer qui agit per alium, and whose
 Fide he follows. In which case all Objections and Defences that are against
 the Employer, will be effectual against him 21 June 1720. *Johnston of West-*
hall contra M. of Armandale: The Expenses which one Person is at for another
 out of a Motive of Liberality or out of the Duty of Charity, cannot by the Civil
 Law be recovered, nor placed in the Rank of Expenses laid out by those who man-
 age the Affairs of others in hopes of being repaid what they have advanced of
 their own. But he is intitled to recover his Expenses, if he acted with a Design, or
 Intention to engage or oblige the absent Person, and not to gift or supply a grati-
 ty him, or which Design a Judgement may be made by Circumstances of the
 Quality of the Person, or their Estates, or the Precautions taken by him who
 lays out such Kinds of Expenses, and others of like Nature: As if a Mother who
 took Care of the Estate and Affairs of her Children, had educated and maintained
 them, it would be presumed in this case that the Intention of the Mother was only
 to maintain the Children out of their own Estate, of which she had the Dominion, and
 she would still admit of less Difficulties, if she had kept an Account of it with
 a Design to recover Payment l. 1. c. 11. l. 13. c. 15. c. de negot. gest. l. 27. l. 34. ff.
 ed. *Suble Lord Stair's Opinion* Inst. lib. 3. tit. 8. Negotiators are not pre-
 ssumed to lay out their Pains and Expenses gratis. By the Law of England, he who
 without Order meddles with the Affairs of another Person (tho' to his Advantage) has
 no Action for his Costs, but rather is a Trespasser *Ward's Imper. Inst. pag. 257.*
 Negotiorum gestor is answerable to him whose Affairs he manages, if he fail in
 the exactest Diligence: Law obliges no Body to take Care of the Affairs of others, except
 those who are charged with them by Reason of some particular Duty, such as Tutors
 Curators and other Administrators, But he who undertakes willingly the Care of ano-
 ther Person's Affairs, is not any longer at Liberty to abandon it; for he shall be bound
 for the Consequences of his Administration to continue what he shall have begun till
 he have made an End of it, or till the Master be in a Condition to take up for it
 himself; and he shall be accountable for what he has done or neglected to do l. 2. c. 21.