

M A N D A T E.

1628. February 2. L. DUFFUS against ———.

IN an action, the Executors of the L. Duffus against ———, for payment to them of the sum of 500 merks, addebted by his bond to the defunct; for exhibition of the which bond, the defender was convened, and for registration thereof, but not by way of action for payment; the defender *alleging*, that the defunct had written a missive letter to him, subscribed with his hand, shewing that he had given the bond to one called Snyland, to whom he desired the defender to make payment of that sum, and to receive from him his own bond, according whereto he had paid the same to him, and hath recovered his own bond, which he hath cancelled;—this allegeance was repelled, except the defender would herewith allege, that the payment was made by him, according to the direction of the foresaid letter, in the defunct's lifetime, before his decease, or else after his decease, the defender not knowing thereof; for the LORDS found, that if the payment was made after that the defender knew the director of the letter to be deceased, that that payment so made could not liberate the defender, seeing the person to whom the letter desired him to make the payment, was the defunct's servant, and so it was probable that he was appointed to receive the same only to his master's use, who being dead, the defender knowing the same, he could not be in *bona fide* to have done it, *quia mortuo mandatore expirat mandatum*.

Act. Gibson.

Alt. ———.

Clerk, Gibson.

Durie, p. 339.

1705. June 15. Competition betwixt the CREDITORS of WILLIAM WALWOOD.

HENRY WALWOOD, merchant in Edinburgh, having disponed his whole estate to William, his eldest son, with the burden of provisions to Henry, h's

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No 1.
Mandates fall
by the death
of the gran-
ter.

No 2.
An adjudica-
tion was ob-
jected to on
account of
pluris petitio,
because a