Tedent reserved that Privilege to himself 17 July 1711 Magistrates of Glasgow and their Stent Masters contra Sanders. Because the first grantee, or his Partners might defrude themselves by assigning their Share of the gift and Privilege to another who comes in their Place; they could not give away and retain the same Priviledge. Dans et retinens nihil dat. For otherwise the Gift might be divided and subdivided in Infinitum, or in so many parts as would turn the Privilege to be universal, and so no Privilege at all.

Mandates are either 1. General and Indefinite; or Special.

A General Mandate is for managing all Affairs. Some Lawyers distinguish general Mandates cum libera administratione, with an indefinite power to the Proxy to do whatever he thinks proper; from those without such Words; as if the former carried a greater Latitude of Authority than the latter. Which Distinction is disowned by others who think a general Mandate has the same extensive Power without the Words cum libera, as with them. Whatever may be in this there are a great many things which a general Mandatary cloaths with the most ample Powers of Administration cannot do without special Orders. Quedam grave Prejudicium in mandato. Thus a general Mandate doth not impower to transact or alienate immovables l. 60. ff. de procur. or to submit or transact any litigious Affairs. Because to transact or to alienate is to diminish the Goods. But only the Owner of them who can dispose of them in their Nature. Nor doth a general Mandate authorize one to gift. Because donare est perdere. Yet such a Mandatary may give gratifications for any pro- -per Cause, as Services done or to be done. Upon which account also Gifts by Magistrates or generally to induce the Receivers to do Mat- -ters of Importance being profitable, oblige their Constituents. A gener- -al Mandate is not a sufficient Warrant to annull what was done by the Authorizer l. 25. §. 5. ff. de minor. or to dispose of things peculiarly referred to him by Law or Deed, as Regalia. Nor doth a general Man- -date impower to serve one Heir to his Predecessor, vair Feud. Lib 2. §. §. 4. Because of the Hazard that might ensue if the Inheritance brings more Burden than Profit, by subjecting the Heir to the Payment of more Debts of his Predecessor than the Estate will satisfy. A Mandate bearing Authority to some special things, with a general Clause to do all other Affairs whatsoever, is not extended to any of greater Importance than those expressed. Which Rule holds also in general Discharges. One cannot in Virtue of a general Mandate contract Marriage for the Constituent; the Affection and Choice of a Wife being sin- -gular and incommunicable. Yet is true Abraham's Commission to Elie- -zer to take a Wife for his Son Isaac out of his Kindred was good, tho neither specified as to the Person or Family, when there were so few

few Families worshiping the true God to make Choice of. But now a Proxy to treat of Marriage, must specify not only the Family but the Person to be married. One commissioned to act for a Partner in his Absence in the Affairs of the Partnership, cannot effectually consent to the Ex- -clusion of his Authorizer without a special Order from him 6 Jan. 27 January 1609 Muirhead contra Crauck and others. A general Mandate empowers to Warrant Summar Riots or Trespasses. Nor can a general Mandatary discharge or receive Payment of a Debt due to his Constituent [illegible] Stewart Advocate. One who has a Commission from Holland would ordain abroad his returning such Commodities as he should find most profitable in Holland, and finding not expedient from misgiving as he pleased at a good Market by the [illegible] seeing to expone, that is had bought for the National Company Indian Bengalas which being returned in a Ship to some Port of the Low Countries, Order of a Traveller and had now good Market in Holland. But the Owners of Ship and Goods not to [illegible] but to the Factor the shipper it unless it could be proved by Bills of Exchange Letters of Advice or [illegible] says, as is usual in the East West Indies [illegible] Account of Factory 1676 [illegible] otherwise the Factor might impute to the Constituent whatever [illegible] lost as if loaded upon his Account, [illegible] Alienations some part of the things [illegible] cannot be by another. A Special Mandate is that which is granted and [illegible] Circumstances of Fact. Such as from one's suffering a Person [illegible] Process to intim in his Affairs without Interruption 1. 5. §. 2. l. 18. l. 23. ff. Mandati 23 Feb. 1627 L. Renton contra Dick Lowthorn. A Servant having given a Receipt for Cloath taken off by him from a Merchant bearing that he received it in the Name and for the Use of his Master was presumed to have had a Warrant from his Master in so doing if known to the Merchant at the Time: So as not to be liable to pay the Price to him; unless it were proved by the Servant's Oath, that he acted without a Warrant, or did not apply the Cloath to the Master's Use by Missing. 13 June 1628 contra Cockburn. Seeing it belongs to him who trusts a Mandatary to enquire for his Warrant. An Account of Goods being taken off [illegible] from a Merchant by a Trustee for another, and the Goods converted to that others Use, the Truster is liable to the Merchant, whether the Trustee had a Commis- -sion to take off such Goods from the Merchant or not, unless the Trus- -ter prove that he paid the Price of them to the Trustee. But where the Trustee knew that the Goods were taken off in his Name, and upon his Credit from the Merchant, he cannot safely pay the Price of the Goods to the Trustee without a Discharge from the Merchant whose