

the common debtor's expense, and not by the donatar. THE LORDS found, by plurality, the property of these stones belonged to the donatar, and not to the real right, not being pointed. Then it was started, if upon their returning to the Privy Council after this decision of the Lords of Session, there would be ground to fine the Colonel for his riotous obstructing the carrying them away, and occasioning so considerable a loss and damage to Ochiltree. Some said *malitiis non est indulgendum*; others thought the question anent the property being nice, and, *in ipsis juris apicibus*, the Colonel's opposition was to be excused.

No 6.

Fol. Dic. v. 2. p. 353. Fountainball, v. 2. p. 350.

1715. July 19.

MILN *against* LADY GALRAW.

FOUND, that a Lady's intromissions with the rents of her deceased husband's lands, for aliment and education of the apparent heir, were *bona fide*, till she was interrupted by a citation in an action for mails and duties against the tenants at the instance of an adjudger.

No 7.

Fol. Dic. v. 2. p. 353. Bruce.

* * * This case is No 40. p. 1759, *voce* BONA FIDE CONSUMPTION.

S E C T. II.

Real Security, after what manner loofed.

1626. June 21.

MURRAY *against* DISHINGTON and SCOT.

SIR JOHN MURRAY of Philiphaugh having paid, as cautioner for Sir Thomas Dishington, some sums of money, for his relief thereof he arrested in Sir William Scott's hand some monies addebted by the said Sir William to the said Sir Thomas, as resting of the price of the lands of Ardrross, and upon the arrestment pursues Sir William to make the same furthcoming to him. The money was alleged by Sir William and Sir Thomas defenders, not to be subject to arrestment, seeing it was immoveable, being employed upon land to the said Sir Thomas his behoof, to whom the said Sir William had given charter and sasine for his security of the said money. It was *answered* by the pursuer, that that infestment was under reversion, and that Sir William Scot had used an order of redemption, and made consignment of the money, whereupon the lands were redeemable; likeas, after the consignment, he had appre-

No 8.
Money con-
signed in the
order of re-
demption of a
wadset, was
not found
moveable,
because the
order might
be passed
from, or
might not be
sustained.