BONA ET MALA FIDES.

SECT. I.

Bona Fides non Prodest Acquirere Volentibus.

1682. *March.* TROTTER *against* ALEXANDER YOUNG, Factor.

No 1.
A factor's commiſſion was recalled. Goods were ſent to him a few days after. His cautioner was not liable, altho' no intimation had been made, that the factory had been recalled.

THE cautioner for one Suttie, a factor in Flanders, being purſued for goods ſent to him from Eymouth, ſeven days after he was depoſed by the convention of boroughs at Glaſgow;

Alleged for the defender; That he was free from the very time the factor was diſcharged from his office.

Answered; The lieges were *in bona fide* to correſpond with the factor, till his diſcharge was intimated; and the goods purſued were ſhipped before the commiſſioners return from the convention.

Replied; That as he was named a factor without public intimation, there was no neceſſity to intimate his depoſition; at leaſt the cautioner is not to be burdened with the intimation.

THE LORDS aſſoilzied the cautioner. This is hard.

Fol. Dic. v. 1. *p.* 104. *Harcarse,* (CAUTIONER.) *No* 238. *p.* 57.

1670. *June* 11.
MARGARET HUNTER *against* The CREDITORS of JOHN PETER.

No 2.
The ſum in a woman's contract of marriage was vitiated and diminiſhed, after marriage, without her conſent. Found, that creditors of the huſband, who had adjudged, and who had truſted that

THERE being a competition betwixt Margaret Hunter, the relict of umquhile John Peter and his creditors, appriſers or adjudgers of his lands, in *anno* 1658; the ſaid Margaret produced an infeftment by her huſband, of a yearly annualrent of 700 merks, bearing to be for implement of her contract of marriage; which being alſo produced, by her regiſtrate, bearing only to 4000 merks of tocher; and an obligement, that upon payment of the tocher, the huſband ſhould employ the ſame, and 4000 merks more for her in liferent; whereupon the creditors *alleged,* That her infeftment behoved to be reſtricted to the annualrent of 8000 merks: And ſhe having alleged that her contract was vitiated after the marriage, and did bear 7000 merks of tocher, and an annualrent thereof; and of other