

the said adjudication, neither had he title to redeem the same; and found that he was not obliged to account by a rental from the time of his obtaining decret of declarator, nor even after the interlocutor preferring him to the mails and duties, for payment of his feu-duties bygone and in time coming, but was only accountable for his actual intromissions.

No 7.

For Grange, *Hay*.Alt. *A. Macdougall*.Clerk, *Kirkpatrick*.*Fol. Dic. v. 2. p. 94. D. Falconer, v. 1. No 258. p. 348.*1751. *January 23.* THE CREDITORS OF KINMINITY *against* SUTHERLAND.

In the case between these parties, 23d November 1748, *D. Falconer, p. 14. voce HEIR APPARENT*, the Lords having found the decreets of constitution could only have effect as decreets *cognitionis causa*, to affect those lands to which the debtor had a title made up in his person; in consequence removed the sequestration of the estate of Clyne.

The judgment was reversed upon an appeal, but there was no appeal brought against removing the sequestration.

The creditors pursued the heir of Clyne, and his mother the factor, for the rents of the said estate; who defended themselves, that she had employed them, in defending against the appeal: The sequestration being removed, the heir might recover the rents from the factor, and *bona fide* expend them; and it was the same thing if the factor, his mother, expended them for his use.

THE LORDS found, that the sequestration being removed, and no appeal brought against the order removing it, the lady was in *bona fide* to apply rents in her hand, in supporting the Lords decret against the appeal brought against it.

No 8.

Rents uplifted by a person in possession of a judgment of the Court of Session, being expended in defending that right in an appeal, where it was set aside, were found *bona fide percepti*.

Reporter, *Justice Clerk*.Clerk, *Forbes*.*Fol. Dic. v. 3. p. 95. D. Falconer, v. 2. No 184. p. 224.*1757. *December 1.* GORDON *against* MAITLAND.

A LADY having possessed an estate for some years, upon a disposition which was afterwards set aside, her *bona fide* intromission with the rents was found to impute in payment of the annualrents on a bond of provision due to her upon that estate; but the surplus rents were found *bona fide percepti*, and not imputable in extinction of the principal sum in the bond of provision.

No 9.

*Fol. Dic. v. 3. p. 94. Fac. Col. No. 63. p. 101**See* The particulars *voce* TAILZIE.