

the interlocutor is adhered to: *There* the Court refuses the petition, and adheres; they adhere simply, and with all the qualities attending the interlocutor, particularly as to its date, in which respect, it is considered in the same light as if no petition had been presented.

No 43.

Answered: The defender is accountable only from the date of the judgment of the House of Lords. His *bona fides* cannot be held to have ceased at any earlier period, unless it could be shown, that the original citation was sufficient to interrupt it. *Bona fides* is excluded by the *conscientia rei alienae*; but, as the question was of too doubtful a nature to allow the presumption that such consciousness was induced by the citation, so there is real evidence, that the defender did not entertain it during the dependence; otherwise he would not have submitted to the expence of litigating the question, both in this Court, and in the House of Lords.

'THE LORDS found, That the defender is bound to account for his intromissions with the rents of the lands, from the term of Martinmas 1764, being the term subsequent to the interlocutor of the Court, adhering to that of the Lord Ordinary.'

A&G. Ferguson.

Alt. Wight.

G. Ferguson.

Fac. Col. No 44. p. 347.

S E C T. IX.

With what Modifications *Bona Fide* Consumption Saves from Repetition.

1610. July 18.

JOHNSTON. against IRELAND.

No 44.

HE who has obtained a decret in a double pouding, for a principal sum and byruns, against a party not compearing, so long as the decret stands unreduced, he will bruik the duties received; because the decret and act of Parliament make these duties to be *fructus bona fide perceptos*; but he may be decerned to pay back the principal sum, being pursued to that effect, albeit the decret of double pouding be not reduced; if the party who was absent now pursuing show manifestly that the party that received it had no right.

Fol. Dic. v. 1. p. 107. Haddington, MS. No. 1971.

1683. January.

LADY HISLESIDE. against BAILLIE of Littlegil.

No 45.

FOUND, that an apprising extinguished within the legal, by the debtor's disposing a part of the comprised lands, coming in the person of a singular successor to the