

I N N O V A T I O N .

1625. June 30. GOOD-MAN of Raploch *against* His TENANTS.

No 1.

THE good-man of Raploch seeking a decret of poinding of the ground of the lands of Letham, by virtue of an infeftment of annualrent which he had acquired out of the said lands; the tenants *excepted*, That he could not pursue by virtue of his wadset, because he had since taken an infeftment of the property of the same lands under the redemption of 2700 merks, in which sum was contained the former, whereupon he had obtained the wadset. The LORDS found, That the acceptation of a new right did exclude him from making use of the former, as long as the last was not quarrelled; but if he were put from it, that he might have recourse to his former right of wadset.

Fol. Dic. v. 1. p. 477. Spottiswood, (DOMINIUM.) p. 83.

*** See Durie's report of this case, No 5. p. 1267, *voce* BASE INFESTMENT.

1675. February 5. MARION BINNY *against* GILBERT SCOT.

No 2.

The deceased William Scot of Bonnington having three sons, William the eldest; and Robert, and Gilbert; the said William, by his contract of marriage, had the lands and estate of Bonnington disposed to him by his father Mr James Scot, but was not infeft therein; and after his decease, his brother Robert having succeeded to him, did renew a bond granted by the said William in favours of Robert Riddel; and having retired the said William's bond, did grant a new bond for the sum therein contained; and the said Robert having also deceased before he was infeft in the estate or served heir to the said William; and the said Gilbert the third son having succeeded, a pursuit was intended at the instance of the relict and executrix of the creditor against the said Gilbert, as representing the said William and Robert his brothers; at least, to hear and see it found and declared, that the said bond granted by Robert, was granted by him in contemplation and lieu of the said

A party had three sons. The eldest son, after his father's death, renewed a bond due by the father. The eldest son having died, the second son retired the bond, and himself granted a new one. He died in a state of ap-parency. The third son succeed-