

HUSBAND AND WIFE.

DIVISION I.

What subjects fall *sub communiōe bonorum et debitorum*.

S E C T. I.

Illiquid or conditional claims.—Rights having *tractum futuri temporis*.
—Bygones.—Bills of Exchange.—Claims of relief.—Paraphernalia, &c.

1579. *March 14.* FORBES *against* Her last HUSBAND'S CREDITORS.

THERE was a woman called Forbes that pursued for the assythment of the slauchter of her husband, and the Laird of Tolly for the third of the same. It was *answered*, That there aught nothing be decerned to her for assythment; because, after the slauchter of her first husband, she married another husband, and so all the gear and graith she had, appertained to him; and that he, in his time, might have disponed her title and action of the same; and it was now of truth that her last husband had contracted such debts, *ita quod excederent bona*, and so the right of the said assythment, as it appertained to him the time of his lifetime, so now ought it to appertain to his creditors for relief after his decease. To all this was *answered*, That the husband being dead, *soluta est uxor a jure mariti, et res venit in hunc casum a quo incipere potuit*, and so the assythment ought to appertain to her as if she had never been married with the last husband.—THE LORDS pronounced by interlocutor, that, notwithstanding the marriage of the second husband, she might pursue for the assythment after his decease.

No 1.
A woman having married a second husband, who was *oberatus*, after his decease she (and not his creditors) was found to have right to the assythment for the slauchter of her former husband, as if she had never married again.

Fol. Dic. v. 1. p. 385. Colvil, MS. p. 281.