DIVISION X.

Deeds betwixt Husband and Wife during marriage.

SECT. I.

Pure Donation how far Revocable. Donation after Proclamation of Banns.

1591. HEISLEID *against* LINDSAY. No 300.

THE Laird of Heisleid pursued Robert Lindsay, spouse to the Lady Knockdolean, for payment of certain sums of money, as he who had obliged himself to his said wife by a ticket subscribed by him to her, to pay her and her former husband's debts. *Excepted*, That the pursuer could have no action on that obligation, *quia erat contractus inter virum et uxorum, et quasi alienatio quæ non tenet de jure*. *Replied*, That the obligation being conceived in favours of a third person, was good and lawful, and should take effect. THE LORDS found, that the obligation was sufficient to give action against the defender at any creditor's instance.

Spottiswood, (HUSBAND and WIFE) *p.* 155.

*** See Colville's report of this case, No 316. p. 6106.

1637. *February* 18. MUNGALL *against* STEEL. No 301.

A sum was made payable to a husband, his spouse, and their heirs. In the same deed, a sum was gifted by the husband to the wife. Found, that the relict had no right to the liferent of the first, and that the second was revocable.

JOHN STEEL being obliged by his bond to pay to umquhile Mungal, and one Steel his spouse, and to their heirs, 'a sum of money,' (this was the tenor of the bond) and it bore not, To be paid to the longest liver of them two, nor to the heirs gotten betwixt them, nor no word of the husband's heirs, nor no substitution contained in the bond, but only proporting payment as said is, to the husband and his said spouse, and their heirs; the husband dying without bairns, and his sisters being confirmed executors, and charging for payment of this sum, the relict compeared and *alleged*, that she ought to have her liferent of the whole sum, in respect of the tenor foresaid of the bond, appointing payment to be made to her husband and her, and their heirs, which words must work something, and cannot be thought to be unusefully adjected: Likeas, she behoved to have right to the equal half of the principal sum, to be dispon-