

1742. *June 29.*ROWAN *against* BAR.

No 16.

THE landlord of a house, who, after the tacksman's death, had obtained a sequestration of his household furniture, and got the same to be roup'd for payment of his rent, being pursued at the instance of the furnisher of the tacksman's funeral expense, was, upon this ground found liable, that the creditor *funerarius* is preferable upon the moveables of the defunct to all other creditors even *hypothecariis*.

Fol. Dic. v. 4. p. 142. Kilkerran, (COMPETITION.) No 4. p. 138.

No 17.

1749. *July 26.*

PETER and MONRO, Competing.

THE Commissaries of Edinburgh having preferred Alexander Peter wright, the *funerator* of Miss Ross, daughter to Captain Ross of Portivoë, upon her executry, to John Monro surgeon, furnisher of medicines on her death-bed; upon a report of the Ordinary on the bills, of advocation presented by John Monro, the Lords advised the Ordinary to remit the cause to the Commissaries, with this instruction, to prefer them *pari passu* to the other creditors, but at the same time to consider the reasonableness of the *funerator's* account, whereof one article was no less than L. 18 for flannels.

Some of the Lords thought the *funerator* preferable, as a dead person must be buried; others thought the furnishing medicines to be no less a debt of humanity, and that *privilegiatus contra privilegiatum non utitur privilegio*; and in this the plurality agreed.

Fol. Dic. v. 4. p. 142. Kilkerran, (FUNERARY EXPENSE.) No 1. p. 226.

1750. *July 5.*LADY DUNIPACE *against* WATSON and VERT.

No 18.

HOUSE-RENT for one year was found to be a privileged debt, on the same principle with a servant's wages.

Fol. Dic. v. 4. p. 142. Kilkerran, (PRIVILEGED DEBT.) No 1. p. 433.

*** D. Falconer's report, see No 125. p. 11452, *voce* PRESUMPTION.

1753. *January 19.*HALL *against* MACAULAY and LINDSAY.

No 19.

MOURNINGS furnished to such of the family of a defunct as must be present at the funeral, are considered as a privileged debt, but not such articles as were used after the interment.

Fol. Dic. v. 4. p. 142. Sel. Dec. Fac. Col.

*** This case is No 67. p. 4854, *voce* FORUM COMPETENS.