

## FUNERAL CHARGES.

1697. June 5.

BORTHWICK *against* RAMSAY.

IN the action pursued by Borthwick of Pilmor, as executor confirmed to the deceased William Borthwick, against Sir John Ramsay, Sir James Fleeming, and many others, debtors to him for drugs conform to the count book, some of them deponed, they believed most of the articles might be furnished, he being the ordinary they employed at that time, (though they could not mind every particular) yet he was owing them as much on another account. THE LORDS found this quality extrinsic, unless they instructed the ground of their debt otherwise than by their own oaths. The pursuer having led no probation as to the current price, some being unclear in their oaths, were ordained to be re-examined. Sir John Ramsay's account being partly made up of articles for eviscerating his Lady, for searchcloath and odors thereto, the LORDS took notice, that the prices libelled at L. 224 were most exorbitant, and thought it unfit that by their decision they should countenance or sustain any such extortion, (though it be the usual practice of wrights for coffins, and all others who furnish any thing to burials in regard friends are unwilling to be heard at such a time) therefore they ordained the article huddled up *in cumulo* to be divided in a particular condescendence, that the same might be modified, and the lieges not abused by them. See QUALIFIED OATH.

*Fol. Dic. v. 1. p. 338. Fountainball, v. 1. p. 773.*

1709. February 9.

The LADY ORMISTON *against* HAMILTON of Bangour.

IN the count and reckoning betwixt the Lady Ormiston and Bangour, the Lady craves allowance of considerable sums paid to Sir Robert Blackwood, and others, for accounts furnished to the defunct. *Alleged*, No process for these, because prescribed by the 83d act 1579, not being pursued for within three years; and seeing they were not instructed by writ, and the defunct's oath not taken thereon, law now barred them from being proven by witnesses; so all

No 1.

The Lords will not countenance exorbitant charges for funeral expenses.

No 2.

*Actio funeraria* competent only for expenses that were necessary and decent, with regard to the defunct's quality, and