

Lovers ~~with~~ for administering the Sacrament of Baptism, and for the Caps Tables and Table-Cloths for administering the Lord's Supper, in case they be lost or applied to any profane Uses. And where such Utensils are wanting in a Church, the Minister may obtain Letters from the Lords of Session for charging the Parishioners to meet and stent themselves to provide the same Act 6. Par. 22. J. 6.

Every one must have some way to the Church, but cannot pretend to any special Way as the nearest, with proving immemorial Possession of such a Gate or Passage. Which immemorial Possession sufficeth thro another Man's ground to the Church 27 June 1623 Neilson contra Sheriff of Galloway. A Person was allowed to convey his predecessor's Possession of a Road to the Church thro his own Land, to make up immemorial Possession of the Service of that Road thro these Lands after they were disposed to a singular Successor Weems of Bogie contra White of Canrochie. Because the Road in Controversy was not a private Way, but via vicinalis secure to all Persons by publick Law: and Church Ways are not tied up to the strict Rules of Law, especially where the Service is innoxia utilitatis, and of little Prejudice to the solvent Grounds.

The Churchyard is a Spot of ground within which the Church stands appointed for the common burialplace of the Dead. Some in old Time especially the Martyrs used to be interred in the Choir of the Church, as a memento of Mortality to others. And as Superstition grew under Pope Gregory the Great, the Romanists began to curie in the Body of the Church: that the Friends of the deceased coming there for publick Worship, might at the Sight of his grave be put in Mind to send up Prayers for him. And it is with us the Custom at this Day, to allow the Corps of ^{some} Persons of note and Distinction to lie in the Church, either for a Reason of more Security to the Carcase, from being violated by rats and wicked Hands; or as a Piece of Deference to the Merit or Quality of the deceased; or perhaps on both these Accounts. For which a certain Acknowledgment is paid to the Poor, called in ancient Time, Symbolum animae, or pecunia sepulchralis. These besides their particular Tombs or grave Stones and Ornaments of their Body, have sometimes Coats of Arms, Ponons and other Ensigns of Honour hanged up for their Memory whereof the Property remains in the Executors, and to them actio in padrum and for Damages is competent, against such as presume to break deface or take away. I do not altogether disapprove the laying the Bones

of some eminent Persons in the Church: but it was the Opinion of Joseph Hall Bishop of Norwich that God's House was not a meet Repository for the Bodies of the greatest Saints. The same be interred in the Church, the most common Burying is in the Churchyard. 40 Paces about greater and 30 about lesser, was the determined Extent of a Churchyard by the Canon Law

By the Canon Law, much the same Respect was due to Church yards as to Churches, for both were Sanctuaries c. 6. cauf. 17. quest. 4. By our Law the holding of Courts within Churches or Church yards was once unlawful cap. 26. quon. attackianu. And the keeping of Fairs there was discharged under the Pain of escheating the goods Act 83. Par. 6. J. 4. Act. 70. Par. 6. J. 6. ~~But~~ Since the Reformation we do not own Churchyards as Sanctuaries. Courts are not forbid to be held in Churches. Nor are Markets in Churchyards restrained McKenzie Observ. on d. act. 83. But our Law allows to Churchyards and Churches equal Privileges in many Things. For the raising of Tumults or Frays, in Churches or Church yards is punishable with the Loss of Moveables Act 27 Car. ii. J. 6. And Manslaughter there doth make the Liferentor's Escheat fall to the King immediately after Declarator. tot. 110. Par. 12. J. 6. Tho in ordinary Cases, the Liferent Escheat doth not fall till the Rebellion is Year and Day old; and then it is due to the respective Superior

A Minister has Right during his Incumbency to the Church yard, and may shear the grass of it for ~~his~~ the Use of his Horse or Cows and may bind or others, but cannot cut or fell the Trees growing there, Stat. 35. Edw. i. because they are ~~of~~ planted and grow there for the Ornament and Shelter of the Church. However there is Action competent to him, against those who do cut them Dogge J. 10. If there should be a Coal found in the Churchyard, I think the same could not be wrought by the Minister, or the Patron, or yet by the Rectors: seeing that would not only spoil the Ornament of the Churchyard, but also invert the Use of it, which can no more be done, than it can be sold.

The Churchyard is fenced with Dikes, partly for Ornament, and partly as a Preservative to the dead Bodies, from being digged up and devoured by Beasts. The building and repairing of Church yard Dikes was once referred to the Privy-Council Act 76. Par. 9. 2. M. But now the Parishioners that is the Rectors, of the Parish, must build and repair them with Stone and Mortar two Ells high, having sufficient Stiles or Entrys: and the Lords of Session may issue out Letters of Forning against them for that End Act 232 Par. 15. J. 6.