

Tit. 1.

Of Churches and Church-yards.

A Church is a publick House erected for divine Worship and Service, and for preaching the Word of God: called in our old scottish Language a Kirk q. d. oikia kypikn domus dominica the Lord's House. Some thinking it a mean and derogatory Thing to confine or circumscribe the Worship of God within Walls made with Hands; would have no Churches among them, but performed the sacred Rites in the open Air as if the World only were a sufficient Temple for the Author of Nature. But the generality of Mankind have gone into the Practice of setting Churches apart for divine Service about the Origin whereof, there is much Difference among the Learned, which I shall not take Pains to decide. Pagans as well as Jews had their Temples, whereof some for the Curiosity and Magnificence of Fabrick were esteemed the World's Wonders. The primitive Christians during the first three Centuries, while they wanted the Continuance of Secular Powers, were forced to take up with Church-yards in stead of Churches, and to serve the living God among the Dead. They got afterwards into Churches, and were turned out of them by the Fury of Dioclesian's Persecution, but restored by Constantine the Great. In whose Time not only were the Heathen Temples converted into Christian Churches, but also many new and stately Churches were erected for the Use of such as professed the Christian Religion; and the Fancy of building fine Churches, was no less humoured in Scotland than any where. Constantine and some other Princes, had portable Churches, which they carried about with them in their Travels and military Expeditions, Brannenman de jure ecclesiast. Lib. 2. Cap. 12. 4.

The Pope believes to authorize the Erection of a Cathedral Church Bonaeus de benef. ad verba cum sua re dicitur. Cap. 2. Part. 1. §. 2. n. 2. And in Order thereto used to appoint certain Persons to inquire after the Thing might be done, without invading upon another's Right, and if it tended to promote divine Worship. The Bishop's Consent was sought to the founding of other publick Churches c. nemo 9. de consecrat. distinct. 1. Collegiate Churches were originally erected, out of several parish Churches united for that Effect: and where these belonged to different Patrons, all their Consents behoved to be obtained. But it was lawful for any Body to have an Oratory in his House or upon his Ground for the Use of his Family; so be, Mass was not therein celebrated c. unusquisque 33. §. 10. To the Celebration of Mass the Bishop's Leave was required, and seldom refused if there was just Cause for it, as the Privilege of the parish Church c. clericus 39. c. si quis etiam 35. §. 10. But now the Lords of Seignior as Commissioners for Plantation of Churches and Valuation of Tithes &c. are empowered to order the erecting of new Churches.

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An ancient Way of founding Churches was this. The Founders made their Application to the Bishop of the Diocese who came to the Place where the Altar was set up and said a Prayer: then took up one of the Stones, which having cut a Cross upon it, he laid with his own Hands upon the ground. That being done, the Workmen receiving a Signal proceeded to build. Such was the Favour shewn to Churches, that if any Person began to build one, he or his Heirs might have been compelled to finish it. Nov. 131. cap. 7. As the Building was got finished, and the Church endowed, and not till then, it behoved to be consecrated by the Bishop. Yea in some Cases Re-consecration was used, if the Church happened to be burnt down, or polluted by Murder, Fornication or Adultery therein committed. The Romanists do at this Day superstitiously consecrate their Churches and Church Utensils with various Rites and Ceremonies, by holy Water Unctions, sprinkling of Ashes, and Exorcisms. There is also a Form of consecrating Churches Chappels and Church-yards or Places of Burial in England. But there are no such Consecrations with us.

great Reverence hath been given to Churches. The Ethiopick Christians held it unlawful to enter a Church with covered Feet. Charities by the Canon Law c. 6. cap. 17. quest. 4. And also with us in old Time Statute. Alexaneri. 2. cap. 6. were sanctuaries, but have not had that Privilege in Scotland since the publishing of Popery. M'Kenzie Observ. on Act 36. Tor. 5. p. 3. According to the Laws, it is Sacrilege to steal any of the sacred Implements or Furniture out of the Church. But tho we have no Statute against that formal Crime of Sacrilege: yet we so far consider Churches, as places to which more than ordinary Respect is due; that Theft or Murder or Mutilation committed therein, is more severely punished than any the like Crimes committed elsewhere. M'Kenzie Crim. Part. 1. Tit. 19. §. 11.

About the fifth Century, a fourth part of the Rents of the Church was generally set apart for the Fabrick. But now since the Distinction of parishes, all Churches except where the King is Patron, and the mensal Churches of Bishops, are to be repaired by the Patron out of the vacant Stipends Act 18. Sep. 1. Tor. 7. 7. Where these fail, the Burden of building and repairing the Church doth lie upon the Rectors. Some have vented an Opinion, that such as have only Lands in the Parish and their Residence elsewhere, are not obliged to contribute for repairing the Church, as not having any Benefit there by the Ministry (preaching, or Administration of Ordinances, &c.) nor consist. Lib. 2. Tit. 2. def. 349. Others think that Forclosures or outdoellors, having Lands in the Parish are to be charged with repairing the Shell of the Church but not to pay any Proportion for the Bells Seats or Ornaments. Neither of which Opinions can be allowed, For the Distinction of the latter is groundless and without Foundation in Law. And as to the former, it can