

Churchyard Dikes are built and repaired at the Charge of the Parishioners, for that the Churchyard is the common Buriall place of the dead. Churchyards, or Places for common burying, are not in commercio, and so can neither be feued nor set in Tack Craig Feud. Lib. 1. Tit. 13.

Tit. 2.

Of Manse and Glebes.

(what Buchanan calls Congallus, the SSion)

Convallus, King of Scotland, for the Accomodation of Ministers, first appointed dwelling Houses to them at their respective Churches, now called Manses, quia in moment; and a little portion of Land which is termed their glebe, quasi gleba terra. And in after Times many Houses and Lands were mortified to the said Uses of Manse and Glebe. I shall first treat of Manses and glebes separately, and then explain what is common to both.

Sect. 1.

Of Manses.

A Manse, is a dwelling House appointed for the Minister of a Parish. The Parson or Vicar's Manse nearest the Church was appropriated to the Minister serving the Cure Act 40. Par. 3. J. 6. Where there was no such Manse formerly, Ministers provided to Cathedral or Abbey Churches, were to have one within the Precinct of the Cathedral or Abbey, unless the Prelate or Fower appoint them with another as good and commodious Act 116. Par. 12. J. 6. But if there is no Manse for a Minister, settled elsewhere, the Heritors must build him a sufficient Manse, not exceeding 1000 Pound or below 500 Merks of Value Act 21. Par. 1. Sep. 3. Ch. 2. Or the Minister may build one to himself, and get Repetition of them for what he truly expends in the Building, not exceeding the foresaid Quota of 1000 Pound & January 1670 Charters contra Parishioners of Curry.

It is usual to allow half an Acre of Ground for the Manse and Yard. The Law (Act 21. Par. 1. Sep. 3. Ch. 2.) impowers the Ministers deputed for design-
ing of Manses, and two or three of the most knowing discreet Men of the Parish with Tradesmen named by them, to proceed in Absence of the Heritors editally cited, not only to appoint a Place where the Manse should be erected, but also to liquidate the Value thereof and proportion it among the Heritors conform to their valued Rent, and name a Factor for upliffing the same. After which Establishment, any of the Heritors may be pro-
ceeded

ceeded against for their Proportions, notwithstanding that the Præcess must sist as to others in Respect of their Privilege of Parliament. But a Minister in whose Favour a Sum is thus modified and ~~altered~~ rated upon the Heritors, cannot claim from them Annualrent of the respective Proportions for the Time bygone, that he served the Cure and was improvided with a. Manse 29 January 1712 Stiel contra Parishioners of Lochmaben.

Where there is a competent Manse already built, the Heritors must repair it once sufficiently at the Entry of the Minister, who is to uphold the same during his Incumbency, and they do it out of the vacant Stipends while the Church is void d. Act 21. Par. 1. Sep. 3. Ch. 2. Liferenters are not liable to contribute for the building of a Manse 14 November 1679 Minister of contra L. and Lady Binstoun. Albeit where Liferented Land is adjudged, the Liferent is stated to a certain Proportion of the Property, according to the Value of it, and Age of the Liferenter. But possibly a Liferenter by Reservation would in this, as in some other Cases, be dealt with as an Heritor M'Kenzie Observ. on Act 40. Par. 3. J. 6. And where one's whole Estate is Liferented, the Liferenter who reaps all the Profit of the Lands is liable as an Heritor. Hair Justs Lib. 2. Tit. 6. §. 19. vers. 3. Liferenters were found free. But the ordinary Liferenters are not liable to pay for building of a Manse; yet they are bound to contribute for repairing it, which requires less Expence and cannot admit of Delay, as the Minister may build, so he may repair his own Manse upon the Expences of the Heritors and Liferenters; who are respectively liable to reimburse him of what he truly and profitably gives out that Way unless they offer to contribute their own Materials and he refused them M'Kenzie Observ. on Act 40. Par. 3. J. 6. But a Minister having conform to an Act of the Provincial Assembly 1642, paid a certain Sum to the Relict of his Predecessor impleg-
ed by him in repairing the Manse, by which Act the Payer was ordained to have Repetition of his Successor, the Lords found that Act to be no sufficient Warrant to cause the succeeding reimburse the ~~Minister~~ Minister January 1602. Filp contra Morison. Albeit the Titular or Factor of the Titular is in Use to repair the Quire of the Church, and the Heritors the rest of it, yet there is no Law or Custom for burdening the Titular with any Part of the Reparation of the Ministers Manse; but only the Heritors of the Lands within the Parish 16 January 1663 Relict of Swinton contra L. Wedderburn. Neither Building nor Reparation of the Manse is debitum fundi affecting singular Successors, but both affect only the Heritors and Liferenters at the Time & January 1670 Charters contra Parishioners