

ally suggests a consideration of the past and present position of the law in reference to intramural interments. At common law every parishioner had a right to interment in the parish churchyard. It does not seem probable that at any time a common law right existed to burial within a church. In fact, it is most probable that the modern practice of placing cemeteries without the limits of the town actually existed in early Saxon days. Some time or other, however, before the time of Edward the Confessor, the practice of intramural interments had sprung up and was checked by a canon of uncertain date (*Spel. Conc.* 559, n. 9), which, whatever its legal force, practically regulated the law until modern times. It laid down that to prevent the conversion of churches into charnels, the privilege of intramural burial should be restricted to priests and holy men. At common law the parson only had the power to give permission for such burial, and even he could only give permission for the particular burial about to take place, and could not confer a general right. To this rule there was, however, an exception. Although before the Norman epoch intramural interments took place within the nave, and it was only after Lanfranc's time that vaults within the chancels seem to have been sanctioned, the right of burial in a chancel may be at common law prescribed as belonging to a messuage. "Upon the foundation of freehold the common law has one exception to the necessity of the leave of the parson—namely, when a burying place within the church is prescribed as belonging to a manor-house, the freehold of which they say is in the owner of the house, and that by consequence he has a good action at law if he is hindered to bury there." (*Gibs.* 453; *Brooke Little*, 'Law of Burials,' p. 20). The incumbent could not at common law grant any part of the church or churchyard for the purpose of a vault for an individual or a family without a faculty. To come to modern legislation. So far as modern churches are concerned the practice is chiefly regulated by 58 Geo. III. c. 45, s. 80, and 11 & 12 Vict., c. 63, s. 83 (repealed and re-enacted by section 43 of the Public Health Act, 1875, part 3, schedule 5), which latter Act forbids the making of any vault or grave within any church built subsequently to August 31, 1848. As to other churches, under 14 & 15 Vict., c. 185, which applied only to the metropolis, section 5, all burials in any place prohibited under that Act by an Order in Council are prevented, an