

**THE LAW RELATING TO
SIMONY
CONSIDERED, WITH A
VIEW TO ITS REVISION**

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LAW RELATING TO SIMONY

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WITH A VIEW TO ITS REVISION.



BY

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LEX A MULTE IGNORATA, PAUCIS COGNITA.



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THE
LAW RELATING TO SIMONY
CONSIDERED.

THE prohibition of anything by Law naturally raises a prejudice against it, and we are apt to attach the idea of moral guilt to an act, as if in itself intrinsically evil, which would not be wrong unless forbidden by a supreme authority. Thus with respect to Usury,—there can be no doubt that in this country the stringent enactments formerly in force habituated people to the idea, that it was a *malum in se*, and not merely a *malum prohibitum*, to take more than five per cent. on an advance of money; or in other words, that the remark once said to have been made in the Legislature by an honourable member, who declared that five per cent. was the *natural* interest of money, did not appear to most persons so absurd as it certainly was. The Game Laws are another instance of a similar kind; and I think it will not be difficult to show, that the state of the Law in England against Simony is an example of the same confusion of thought,

and that an entire revision of it is urgently called for, to rescue it from many anomalies and inconsistencies, and give validity to transactions which, though at present illegal, appear to be in themselves unobjectionable: or at all events not more objectionable than many things of a kindred nature, which the law applicable to the subject allows.

I propose, in the following pages, first, to give a cursory history of the English law relating to Simony from the earliest times. Secondly, to show briefly the state of the law now respecting it. And, thirdly, to suggest some alterations which are, I think, much needed. My object is to remove unnecessary restrictions, and relieve certain transactions from the undeserved odium which attaches to them as Simoniacal; for in Church matters the terms Simoniacal and corrupt are considered as synonymous.

If I imagined for a moment, that a relaxation of the law against Simony would injure the Church of England, or loosen one single stone of her venerable fabric, which is, I trust, destined to last until time shall be no more, I should not care to call attention to the subject. But the removal of anomalies need not endanger institutions. My earnest desire is to see the Church unfettered, where she is, as I think, unwisely restrained; and I shall attempt to prove, that we have in modern times applied the terms Simony and Simoniacal, to contracts and transactions very different from those contemplated in the early periods of the history of the Church.

The origin of the term Simony is well known. (a) In the times of the Apostles, Simon Magus, a "sorcerer," of Samaria, offered money to Peter and John to purchase from them the power "that on whomsoever I lay hands he may receive the Holy Ghost." Now if ever a corrupt proposal was made in this world, here was one—and of the most flagrant kind. It was an attempt to bribe the Apostles of the Lord to communicate a supernatural gift. "Thy money perish with thee, because thou hast thought that the gift of God may be purchased with money," was the stern and fitting rebuke which the unholy trafficker received. In this fact then we have the first instance of the species of corruption called Simony: and we see that it was nothing more nor less than a bargaining with money for spiritual power. But the authority to appoint to the sacred office of ministers of the Church was vested in the Apostles and their successors, and was communicated by the laying on of hands. It might, therefore, naturally be supposed, when the period for working miracles was gone by, and no powers of this kind could be bestowed by any, even though divinely appointed forms, that the offence most nearly approaching that which brought down on Simon Magus the anger of the Apostles, would be an attempt to procure by money admission into the number of the Christian priesthood. This was effected by the imposition of the hands of the Bishop,

(a) In the words of Lord Coke, 3 Inst. 153. "Simonia est vox ecclesiastica a Simone illo Mago deducta, qui donum Spiritus Sancti pecuniis emi putavit."

and as such ordination would be a distinction coveted by many, it would in corrupt times be likely to offer temptations to bribery. Accordingly we find that such was the fact. St. Gregory says, "Sed Redemptor noster
 "Cathedras vendentium columbas evertit, quia talium
 "negotiatorum sacerdotium destruit. Hinc est enim
 "quod sacri canones Simoniacam hæresim damnant, et
 "eos privari sacerdotio præcipiunt qui de largiendis
 "ordinibus pretium quæerunt." And again, "Quicun-
 "que sacros ordines vendunt aut emunt sacerdotes esse
 "non possunt, ut scriptum est. Anathema danti, ana-
 "thema accipienti, hæc est Simoniaca hæresis." (a) And
 by the schoolmen and older canonists, Simony was de-
 fined to be, "Studiosa voluntas emendi vel vendendi
 "aliquid spirituale aut spirituali annexum opere sub-
 "secuto." (b) I might quote the authority of St. Atha-
 nasius, St. Basil, St. Chrysostom, St. Jerome, and St.
 Augustin to the same effect. The latter says, (Augustin,
 Tract. cap. 2.) "Caveant a flagello de resticulis, columba
 "(i. e., spiritus sanctus) non est venalis; gratis datur,
 "quia gratia vocatur. Circuit ergo aliquis
 "emere columbam; unusquisque ad propositum suum
 "laudat quod vendit." And the thirty-second Apos-
 tolical Canon takes the same view of the offence. It is
 headed, "Quod non debeant officia ecclesiastica pecuniis

(a) See Degge, chap. SIMONY.

(b) I apprehend that the words *spirituali annexum* refer to such rites as baptism, burial, extreme unction, &c., and not to any of the temporalities of the Church. My reasons for this interpretation will appear in the course of my argument.

“ obtineri,” and is as follows; “ Si quis Episcopus aut Presbyter, aut Diaconus per pecuniam hanc obtinerit dignitatem, dejiciatur, et ipse, et ordinatu ejus, et a communione modis omnibus abscindatur, sicut Simon Magus a Petro.” And the same kind of offence seems, in this country, to have been originally the only one contemplated under this appellation, for the earliest mention of Simony occurs in the resolutions of the Council held at Winchester, A.D. 1070, of which the two first are headed, 1. “ De introitu Episcoporum et Abbatum per Simoniacam hæresim.” 2. “ De Ordinationibus passim factis et per pretium.” And in another council held in the same place, A.D. 1076, the second resolution is “ Quod nullus per Simoniacam hæresim ordinetur.” And one of the canons passed in the council held in London, A.D. 1075, over which Archbishop Lanfranc presided, is as follows, “ Decretum est, ut nullus sacros ordines seu officium Ecclesiasticum, quod ad curam animarum pertineat, emat vel vendat. Hoc enim scelus a Petro Apostolo in Simone Mago primitus damnatum est. Postea a sanctis patribus vetitum et excommunicatum.”^(a)

So in the canons of Archbishop Richard of Canterbury, A. D. 1175, which were taken from former councils and decrees, it is laid down, “ The holy synod detests Simoniacal heresy, and ordains that nothing be demanded for orders, christenings, baptisms, extreme

(a) See Spelman's *Concilia*.