Tit. 1.

Of Crimes Committed in the Conferring and procuring offices.

One Sixth is Violated in the Conferring and obtaining offices, by Simony baratry and bribery.

Sect. 1.

of Simony.

Simony Called in the Civil and Ambitus Sacrorum by [illegible] caubessing & Collectation for the priesthood

Simony Called in the Civil and Ambitus Sacrorum by [illegible] caubessing & Collectation for the priesthood is the Crime of trading with Sacred things, particularly by purchasing an Ecclesiastical living with Money. Simony is so called from Simon Magus, who offered to buy the gift of the holy ghost with Money Acts 8. 19. And Pope Nicholas Decreed all such sellers and buyers to be Damned with Heresy for ever. But the Crime is More Extensive than what was. For by the Canon law simony is Committed by the buying or selling the Sacraments of Baptism Can. 1 Q. 1 And the Lords Supper c. 100 can. 1 Q. 1 Ordination can. 1 Q. 1 And the Lords Supper c. 100 can. 1 Q. 1 Ordination absolution c. 9 & 14 & 24 X. de simonia. As well as by the Nomination and Collation to Benefices. The fact which Comes Nearest to simon Magus sin is the selling of Holy Orders, the Reasoning persons upon the Motive or forbearing of Money. But seeing the office is Inseparable from the Benefice, and Used as the Mundane fine title among us. Therefore the giving or lending Money for a Presentation is Called simony, and punishable as such in as much that the it be not buying or selling of a Spiritual gift it is never the less the buying or selling of that which is Annexed to a Spiritual gift. So that the title to an Ecclesiastick office is of a quite Different Nature from all other Civil Rights: since those are the Strongest which are given for an Onerous Cause as an Equivalent price, or [illegible] or Valuable consideration as all Contracts for gain in Respecting of the Other go Under the odious Character of Simoniack practices and the parties are punished as guilty of simony Whatever is Reckoned simony by the Canon law, is held to be such in Scotland Mckenzie Crimes part 1 p. 583. Simony in England is not only restrained by

of the Church but also by acts of Parliament 31 Eliz. cap. 6 & 5 & Jac. 1 W. & M. cap. 16. 12 A. Stat. 2 cap. 12 & 2. Vide Rickard Gray Systim of English Ecclesiastical law Extracted from the Codex Juris Ecclesiastici Anglicani Tit. 34.

The Civil law punisheth simony by Degradation and perpetual Infamy of both the Buyer and Seller. Cod. 31 C. de Epis. & Clor. Ut simile pœna Comitetur quod par facinus coinquinat & Equat. And the Canon law doth punish it by Degradation c. Simil simoniaca 6 X. de simonia or Deposition. If the prosentee or Incumbent is simoniacal, privy or party to the simony, he is to be Deprived of that, and for ever Disabled to accept of any other Benefice. But if he is only simoniacal (no Motive by Contract between the Patron and the Incumbent or friend, or between the Incumbent & friend, and the Wife or friend of the Patron whereon to the Incumbent was not privy) he is Deprivable by Reason of the Corruption, but not Disabled to take any other Benefice or Ecclesiastical living. If by a simoniacal practice Made between the Intrant and Patron of a Benefice the Intrant is cut off from a Sufficient Maintenance Answerable to the Value of the Benefice, the presentation may be Refused; and the Lords of Session are to Judge in this Matter, and Determine what a Competency is act 1 Parl. 21 J. 6.

Simony, because of its Clandestine Nature may be proved by the oath of the offender act 1 Parl. 21 J. 6. Those who are called to be Ministers of the Gospel in Scotland must purge themselves by oath of the Crime of simony Gib. Wodr. Comm. ad tit. 8 de Lege Julia Ambitus. Tit. 5. in the Church of England must every Clerk do before Institution R. Gray ibid.

Sect. 2.

of Baratry.

Our Law-yers have been so Careful to prevent the