

the getting of Benefices by simoniacal practices and Murther, that even when they invaded the Authority of the Pope of Rome it was a Crime here called Baratry (from the Italian Barattoria a cheating trick) to apply to the Pope for a Benefice in Scotland Act 107 Parl. 7. S. 1. Because our law professors, that first straggled to Rome for a place, desired to have it by unlawful means, and that even the King himself would not be proof against a bribe the first Excommunication fallen upon Scotland this foreign Traffick about Benefices, was a Discharge to Export any out of Scotland: going beyond Beneficium non videtur non find their Account in a Journey to Rome without the Influence and powerful Argument of Money. But this after all Applications to the Pope were Declared punishable as Baratry by Banishment and Incapacity of Honour or Office to be tried either before the Justices Court or the Lord of Session Act 2 Parl. 1 S. 6.

For a more Effectual Check to the purchasing of Benefices at the Court of Rome and Introduction of Novels into the Church, all the Judges both Ecclesiastical and Secular were Discharged to go out of Scotland with out a License from the King or the Chancellor with the Pain of Baratry Act 53 Parl. 5 J. 4. But Merchants fell not under this prohibition of Laicks going abroad and it hath now Intirely gone into Disuse how Traffick abroad against the true Religion by persons going out of Scotland for their Improvement in Letters: it is punishable as Baratry Act 71 Parl. 6 S. 6. Where our young Nobility or Gentry were suspected in their Trade as inclined to Apostatize from the true Religion, the Privy Council of Scotland used to order their Parents to bring them home upon pain of fine and Imprisonment for such Offences on d. Act 71. Cap. 1. The Collation of Benefices in England by the Pope, called Resignation when one is out of the Realm to procure a Benefice

within 40 he was to be out of the Kings protection, and the Benefice was declared Void 12 R. 2 cap. 15 And several other penal Laws were made against procurators i. e. those who apply to the Court of Rome for a provision.

Act. 3.

of Bribery in Conforming and procuring Offices.

I wish no thing can be more palpably prejudicial to the Good of the publick, than to have places of the highest Concomment on the due Execution whereof the happiness of Both King and people doth depend, Disputed of not to those who are Most able to Execute them, but to those who are Most able to pay for them: Nor can any thing be a greater Discouragement to Industry and Virtue than to see these places of trust and Honour, which ought to be Rewards of those who by their Industry and Diligence have qualified themselves for them, conferred on such as have no other Recommendation, but that of being the highest Bidders; Neither can any thing be a greater temptation to officers to abuse their power by Bribery and Extortion; and also Act of Justice, than the Confusion of the great Excesses they were at in the gaining their places, and the necessity of sometimes steaming a point to make their bargain Answer their Expectation.

Bribery in Conforming particular Officers in England, or the taking and giving Rewards for Offices of a publick Nature, is restrained by several Statutes 12 R. 2 cap. 2. 5 Edw. 6 cap. 16. 1 M. 2 M. 10. 15. 16. 17. 18. 19. 20. 21. Where a bond to pay a certain sum at all Events for obtaining an Office, is a ground to Disable the Grantee to have or enjoy such Office and to forfeit the Grantees Right to the Nomination of such Office; but it is not Unlawful