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A FEW REMARKS

BEARING UPON

# "The Church Patronage Act,"

BY

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(ASSOCIATE OF THE INSTITUTE OF ACTUARIES, F.R.G.S., ETC.)

BEING "LEAFLETS" FROM

"THE PRIVATE PATRONS' GAZETTE,"

ISSUED BY

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# "THE CHURCH PATRONAGE ACT," 1882.

IN reply to numerous letters received, not only from our personal clients but from many Patrons to whom I am a stranger, I beg to make a few remarks upon the "Church Patronage Act," now before Parliament. Before doing so, I would state frankly, that I base my opinions upon the undisputable fact that Church Property (especially Advowsons) is *bonâ fide Private Property*—real property—the sale of which cannot be "stopped," except by giving full compensation to the owners. If, however, it is considered to be for the *bono publico* that the sale of Church Property should be "stopped," "stop" it by all means, *but*, recollect that it is private property which has been bought and sold from time immemorial, and that it must be dealt with in the same way as you deal with a house or lay lands which may be required for a railway or public improvement—viz., by giving full compensation to the owners. I am well aware that even in these days of "trifling with property" no one would dare to propose to stop the sale of Church Property without proper compensation—the danger is not from direct, but *indirect* confiscation.

Now, to understand the *morale* of the present Act, I will ask you to consider the following illustration: A Railway or Corporation require a certain house or property, but instead of taking the manly and honest course of giving proper compensation to the owner, they proceed to block up first one right-of-way to the house and then another, until the property is simply unsaleable and the owner practically ruined. This is practically and literally the present position of Church Property, and every one must see clearly that it is the thin wedge of confiscation without compensation.

I am happy to do the promoters of the Act the justice to say that they have not realized or intended this danger. Every well-wisher of the Church would naturally welcome that happy millennium when livings would all be *given* away and not sold, but this must be effected by honest and not dishonest means, and not by "robbing Peter to pay Paul." I cannot, and never could, and hope I never shall, see the justice and honesty of people—be they

Churchmen or our Nonconformist friends—clamouring for the "stopping," or even restricting (one leads to the other) the sale of Church Property, without a word of consolation being given to the owners that of course they must be compensated.

There can be no objection to the following clauses (14 to 21), requiring that a notice should be read in the Church to give the parishioners an opportunity of objecting to the proposed nominee, on the score of "moral, mental or physical infirmities." A similar notice is always read when a Candidate is applying for a Curacy with Title to Holy Orders. Also to clause 22, restricting the age of the nominee to between 25 and 70, at the discretion of the Bishop.

The objectionable clauses are the following:—

(1.) Clause 5, prohibiting the sale of Next Presentations. I do not enter into the question as to whether this can take place without compensation, but I submit that such a clause should not be retrospective, but only prospective. For example: a Layman has given £5,000 for a Next Presentation, with the intention of presenting a relative, who is, say, now at college. Well, this relative dies, or declines to take Orders. As the law *stands now*, the owner of the Next Presentation re-sells, and thus obtains his purchase-money. Thousands of pounds have been invested in this way, and it seems to me impossible that an Act can be passed to take away from these parties the right which at present exists of re-selling the Next Presentation. The clause might be altered in this way, that there should be a reservation in favour of those Next Presentations which have been *bonâ fide* purchased before the date of the Act coming into force. It should be observed that two of the Royal Commissioners, viz., His Grace the Duke of Cleveland (Chairman) and Lord Chief Justice James, both signed separate "reservations" to the effect that they did *not* agree with the proposal of prohibiting the sale of Next Presentations.

(2.) The second paragraph of same clause proposing that an Advowson shall not be sold within five years of the purchase, except by executors or trustees in bankruptcy, is also a very objectionable clause. For example: A.B. has purchased an Advowson with the intention of presenting his son when he takes Orders. The son dies, or declines to take Orders, and the Living is about to become vacant; under this clause A.B. would not be able to re-sell his Advowson under five years, which would cause him very serious pecuniary loss. Or again, a clerical patron may be *compelled* from pecuniary losses (not actual bankruptcy), or from illness or other serious family matters, to resign the Living *within* the five years, and to be prohibited from selling the property would entail upon him serious loss and inconvenience. One has only to try and realize what would be the effect of such a restriction upon the selling value of *lay* properties to appreciate the serious character of this proposal. Another result of this clause will be that Patrons whose five years' restriction has not expired, will present aged Clergymen to the Living when vacant, and then sell at the expiration of the period named, so that this clause positively *encourages* one thing which needs reform.

(3.) Clause 6 prohibits the payment of interest on the purchase-money of an Advowson during the life of an Incumbent. This entirely reverses the form of decrees of the Court of Chancery, and invents an entirely new law to supersede the present law of the land, and this alteration must necessarily tend to decrease the value of an Advowson without being any practical reform.

(4.) Clause 7 does away with the bond of resignation. This I consider a great mistake, because the result will be that in future, Patrons who wish to present a relative who is not yet in Holy Orders, will simply present an old life, and thus again the parish will be the sufferer by the proposed alteration. The present bond of resignation is restricted to a relative of the Patron, and I think answers very well, and there is no advantage to any one in altering it.

(5.) Clauses 9, 10 and 11, require that the Patron, and the Nominee, and also the resigning Rector, should make certain declarations, which declarations are most difficult to understand. I have over and over again carefully read these declarations, or, as they are called, "Schedules," and I really *cannot* understand what would be legal and what would be illegal. They practically amount, it seems to me, to an entirely new simoniacal law—in fact, should these declarations pass into law, it seems to me that no Patron or Nominee would be safe from being prosecuted for a misdemeanor. One would have thought that the time had passed for any further declaration or simoniacal restrictions of this nature.

Clause 13 makes a false declaration a misdemeanor.

To sum up, my objections to the main part of the Act are, that it is an unnecessary and unjustifiable interference with the rights of Property; that it will, in consequence, cause a serious depreciation in the selling value of these properties, practically amounting to "partial confiscation," and that of property which can ill afford to bear such a loss, especially in these unfortunate times of loss of rents, &c.

The "Reforms" really required are: (1.) To protect parishes from the institution of improper and unsuitable Clergymen, either by such clauses as 14 to 22 inclusive, or by giving the Bishop personally more power; (2) a quick and inexpensive method of "ridding" the Church, once and for all, of these characters, happily very few; *and* (3) *more* freedom of sale to *bonâ fide* owners of Church Property, as described by me in another part of this issue, so that every sale would be "open and above-board," and an end be made of the stupid and insulting epithets which have been heaped upon vendor, purchaser, and agent, all of whom have been pursuing their legitimate callings with the same honour and honesty as those connected with the sale of lay properties. There are "blemishes" in every institution, but that is no reason why every such institution should be levelled to the ground, and there are "black sheep" in every profession and walk of life, but that is no reason why we should denounce and vilify *every* member of such profession. Judge

of a man as you find him. I have been a careful observer of men and things during the years I have been connected with Church Property, and whilst I know well that there have been one or two *so-called* clerical agents who have *been most unprincipled and dishonourable characters* (and no one has tried more than I have to expose the doings of these men), I also know that there are, and have been, clerical agents as honest, honourable and straightforward as any other professional or mercantile men: happily these pests of society in the shape of the "black sheep" soon disappear, it is only a question of time, but, unfortunately, short as their time is, they do irreparable injury far and wide. Give the same freedom of sale to Church Property as appertains to lay property (subject to the clauses recommended), and the "black sheep," whether he be vendor or agent, will disappear.

Speaking personally, my great wish during the whole of my long experience has been to see Church Property freed from its "trammels," and placed upon the same footing as lay property.

I would venture to suggest that Patrons should take *immediate* steps to bring this matter clearly and forcibly before their Members of Parliament.

W. EMERY STARK.

## A FEW WORDS UPON THE PRESENT STATE OF PRIVATE PATRONAGE.

NOTWITHSTANDING the decided general improvement in financial and commercial circles, as shown by the published returns of our exports, etc., I am sorry to say that Church Property has not, as yet, shown any signs of an improvement in the selling value. One cannot at all be surprised at this, looking at the continued agricultural depression which exists in so many parts of the country, causing a serious reduction in the value of all agricultural lands; and, of course, glebe lands have not been exempt from a certain proportion of this reduction, though, happily, in my opinion, glebe lands have not suffered so much from the depression as lay lands, consequent upon the fact that glebe lands have as a general rule been more under-let than over-let. Still it cannot be disguised that glebe livings have suffered in point of income, and, as a natural consequence, are now suffering a depreciation in the selling value. Happily there are many parts of England which the agricultural depression seems to have touched very lightly, and where the rentals have not been reduced, still, even in these counties, glebe properties have suffered in sympathy with the depression elsewhere. Unfortunately for agricultural interests, the present price of cereals and other produce still continues very low, and this has caused a further fall in the value of tithe rent charge. Another cause which acts seriously—indeed more seriously, in my opinion, than the reduction in rents—against any improvement just now in the selling value of Church Property is the fear as to probable changes in the Ecclesiastical Laws relating to the sale and purchase. I sincerely hope and trust that the present session of Parliament will not pass away without having placed upon the Statute Book a new Church Patronage Act, one which will sweep away, once and for all, the absurdities, inconsistencies, and injustice of the so-called "Simoniacal" Laws, and give us in their place a consolidated and liberal Act more in accordance with the present times, which, whilst taking every possible security to prevent the institution of unfit clergymen, will give perfect freedom of sale by *bonâ fide* patrons of Church Property, the same as with lay properties. It is with great satisfaction I have noticed that since the report of the Royal Commission upon Church Property has been issued, there has been a marked improvement in the way in which the matter has been publicly discussed, both in the newspapers and diocesan synods, and by our public speakers. I have observed that a much more liberal and enlightened spirit has pervaded the whole matter, and it is evident that our public men are beginning to realize the injustice of the present laws and the necessity for more freedom of action in regard to these matters. It is not, as some of our quasi friends would have one believe, a matter simply affecting the presentation of a few unworthy clergymen, but it is a question seriously affecting the legal rights of a large body of clergy and laity of very

high standing, character and integrity. The present laws of simony were, in my opinion, never intended to be made use of in the way in which they are now. I believe—and I have had occasion to read very deeply into many of our old Ecclesiastical Law books—that the origin of the present laws of simony was due to the fact that in those days *public* offices, both clerical and lay, were systematically sold and bartered for; and it was intended more to prevent the barter of *public* patronage than to interfere with the rights of *bonâ fide* patrons that these Simoniacal Laws were made. The term "simony," as now applied to the sale of Church Property, is simply absurd, and indeed a perfect misnomer. Every man of common sense recognises this fact, and the sooner it is abolished the better. Indeed, the Earl of Devon, who was Chairman of the Royal Commission upon Church Patronage, in speaking at the Exeter Diocesan Synod (see *Guardian* newspaper, Nov. 2, 1881), made the following sensible remarks, "To apply "simony to the sale of a living was a misapplication of the term. Simony "implied an endeavour to purchase Spiritual Gifts, but buying a 'Living' "was giving money for power to exercise the Spiritual Function conferred "on a man by the Bishop in a particular locality."

One thing is quite certain, that so "mis"-called simony cannot be so very grievous a sin, seeing that by the Church Patronage Bill before Parliament last year, but subsequently withdrawn, it was proposed to make *legal*, and, in my opinion, rightly so, that which is now illegal, or in other words simoniacal, subject only — mark this — to the consent of the respective Bishops. After this proposal—and we do not forget that is was supported by the late Secretary of the Royal Commission—it would be a mockery to speak of simony.

It is interesting to read what the learned and wise Archdeacon Paley thought upon this subject. In "Vol. IV. of the works of Wm. Paley, D.D., published in 1823," page 138 we find the following remarks:—From an "imaginary resemblance between the purchase of a benefice, and Simon "Magus's attempt to purchase the gift of the Holy Ghost (Acts VIII. 19), "the obtaining of ecclesiastical preferment by pecuniary consideration "has been termed simony.

"The sale of Advowsons is inseparable from the allowance of private "patronage, as patronage would otherwise devolve to the most indigent, and "for that reason the most improper hands it could be placed in. Nor did "the law ever intend to prohibit the passing of Advowsons from one patron "to another, but to restrain the patron who possesses the right of presenting "at the vacancy from being influenced in the choice of his presentee by a "bribe or benefit to himself. It is the same distinction with that which "obtains in a freeholder's vote for his representation in parliament. The "right of voting, that is, the freehold to which the right pertains, may be "bought and sold as freely as any other property, but the exercise of that "right, the vote itself, may not be purchased or influenced by money.

"It is extraordinary that Bishop Gibson should have thought the oath to be "againt all promises whatsoever, when the terms of the oath expressly "restrain it to simoniacal promises; and the law alone must pronounce what "promises, as well as what payments and contracts, are simoniacal, and "consequently come within the oath, and what do not so.

"I doubt not but the oath against simony is binding upon the consciences "of those who take it, though I question much the expediency of requiring "it. It is very fit to debar public patrons, such as the King, the Lord "Chancellor, Bishops, Ecclesiastical Corporations, and the like, from this "kind of traffic, because from them may be expected some regard to the "qualifications of the persons whom they promote. But the oath lays a "snare for the integrity of the clergy, and I do not perceive that the requiring "of it in cases of private patronage produces any good effect sufficient to "compensate for its danger."

Now, let us consider for one moment what this "Legal Simony" really consists of. To help us in this, I cannot do better than quote from one of the first Ecclesiastical authorities, viz., "Cripps' Law of the Church and Clergy," page 585, as follows:—

"The result of these authorities is that the law is now settled as follows:

"It is not simony for a layman, or spiritual person, not purchasing for "himself, to purchase while the Church is full, either an Advowson or Next "Presentation, however immediate may be the prospect of a vacancy, *unless* "*that vacancy is to be occasioned by some agreement or arrangement between* "*the parties.*

"Nor is it simony for a spiritual person to purchase for himself an "*Advowson*, although under similar circumstances.

"If either a layman or a spiritual person purchase an Advowson while the "Church is vacant, a Presentation by the purchaser upon any future avoidance, after the Church has been filled for that time, is not simony.

"It is simony for any person to purchase the Next Presentation while the "Church is vacant.

"It is simony for a spiritual person to purchase for himself the Next Pre-"sentation, although the Church be full.

"*It is simony for any person to purchase a Next Presentation, or, if* "*the purchase be of an Advowson, the Next Presentation by a purchaser* "*would be simoniacal if there is an agreement or arrangement between* "*the parties at the time of the purchase for causing a vacancy to be made*

"If any person purchase an Advowson while the Church is vacant, a Presen-"tation by the purchaser for that vacancy is simony."

From the above quotation it should be carefully observed that simony does not consist simply of the buying and selling of Church Property, but in buying and selling under *certain circumstances.* The "Centre Point," and cause of all the trouble, anxiety and misconstruction, are the words printed in italics—the question of "Immediate Possession"—indeed this is the essence of "Simony." According to the above, there is "Immediate Possession" which is *legal*—and Immediate Possession which is Simoniacal. The inconsistency and utter absurdity of these laws are shown when we consider the following parallel cases. (1) The Rector, who is also Patron of an Advowson, say in Sussex, and who has received the offer of another living, probably from his Bishop, or some public patron, can sell his Advowson in Sussex with immediate possession, and the transaction would be *perfectly legal*, whereas (2) the Rector, who is also Patron of a living, say in Essex, whose health has broken down, or his wife's health, or some other

circumstances make it absolutely necessary for him to resign his Benefice, if he sells his Advowson and promises to resign, the law says the transaction is simoniacal. And yet another case (3), if the Patron of the living in Essex should be a layman —say a relative or a friend, or, indeed, anyone but the Rector—and the Rector decided to resign, the Patron could sell the Advowson with immediate possession, and the transaction would be strictly legal. Surely there is not the slightest *moral* difference between these transactions, and they ought to be equally *legal*

In the face of such unjust and contradictory restrictions, it cannot probably be a matter of surprise that *this part* of the Simoniacal Laws is—and has been ever since I have been connected with Church Property (now a quarter-of-a-century) — practically disregarded by eleven out of twelve persons—lay, clerical, legal, and I might add official—who have anything to do with the sale, etc., of Church Property; and it is evident that some Members of the late Royal Commission fully recognised this injustice, as in "The Church Patronage Act" of last year it was proposed to legalise the *whole* of the above transactions. What I would venture to suggest is that the words which I have italicised in the above quotation from "Cripps" should be omitted, this would leave to Patrons the right of selling with or without immediate possession, whilst the Bishop would still retain the right of refusing to accept a resignation if he thinks proper; and I sincerely and seriously believe that many of the Bishops would be glad to see this long-desired alteration in the laws—it would often relieve them from a very difficult position, when, as it often happens, a Clerical Patron, probably a Clergyman of many years standing and work in the Diocese, asks for permission to resign his Benefice.

As regards the legal position of Church Property, especially the Advowson or freehold, it is a well-known and undisputed fact that an Advowson is, to use a legal phrase, "real" property in every sense of the word, as much so as any lay estate or house. It is, and has been from time immemorial, subject to, and protected by, the same laws as lay property. It is mortgageable, it can be devised by Will, and, being "real" property, trustees can, and have, very largely purchased the same for investment. Upon the faith of the inviolable sanctity of our laws, an enormous amount of money has been invested in Church Property, the Lord Chancellor alone having received over half-a-million from the Sale of Advowsons in his gift. Such being the legal position of Church Property, it is as impossible to interfere with or stop the Sale of Advowsons, as it would be to stop the sale of lay properties. They are both equal in the eyes of the law, and neither one nor the other can be interfered with without dealing a serious blow to one of the greatest and most cherished trusts which have been handed down to us through generations, viz., "the rights of property." It is very evident, from the following important quotation from the official report, that the Royal Commissioners *fully* recognised this fact.

*Royal Commissioners' Report, pages 7 and 8.*

> Clause 6. We find that while the sale of the right of patronage has been from ancient times allowed with a greater or less degree of freedom by the legislature; yet that on the other hand the legislature has from time to time interfered to regulate the conditions of such sale on grounds of public policy. Examples of such legislation are to be found in the statutes 31 Eliz., c. 6, and 12 Anne, st. 2, c. 12 (sometimes cited as 13 Anne, c. 11), which are the principal statutes now in force.

Clause 7. It appears to us that the varied system of patronage, public and private, which now prevails, has the advantage of interesting in it all classes of the community and of ensuring within reasonable limits the due representation of coresponding varieties of thought and opinion in the ministry of our national church.

Clause 8. Nor should it be forgotten that a large amount of property has been invested under existing laws in private patronage, and that the total value of livings in the control of private patrons exceeds that of livings in public patronage.

Clause 9. These considerations have determined us not to recommend alterations of the present law which would strike at the root of private patronage. such, for instance, as the prohibition of the sale of an advowson or perpetual right of presentation; although the prohibition of such sale has been suggested to us by witnesses whose evidence was valuable in other respects.

Clause 10. We are of opinion that adequate remedies may be found for existing abuses without so wide a departure from the established practice in this country.

Clause 11. We regret to say that many flagrant cases of abuse connected with sales of advowsons and of next presentations, as well as with exchanges of livings, have been brought before us.

Clause 12. We are of opinion that the sale of advowsons by auction tends to public scandal, and ought therefore to be forbidden.

This official report of the legal position of Advowsons *must* tend to strengthen and improve the character and value of these properties.

There is, however, one important difference between Church Property and lay property, viz.: the former is property combined with a "trust," the "trust" being, in my opinion, that the patron is bound to present a fit and proper clergyman to the benefice; and by this term I mean that, above all things, the clergyman should be of undoubted good moral character and steady habits, and without any physical or mental incapacity which would interfere with the proper discharge of his duties. And there is no doubt that "the authorities that be" are justified, in the interests of public morality, as well as of the Church itself, in taking every precaution to prevent the introduction of an unsuitable clergyman to any parish. But I have no hesitation in repeating what I stated to the Royal Commissioners, that, in my opinion, the instances of clergymen of questionable character obtaining livings through *purchase* are *very few and far between*.

I am more than ever convinced—and I am not alone in this respect—that there are only two honest and rational courses in connection with Church Property—either (1) to stop the sale of *all* Church Property and allow compensation, the same as was done in the case of the Irish Church disestablishment, and also the same as occurred under the Army Purchase Bill, or (2) to allow "free sale."

It has often occurred to me that a compromise might be made in this matter, viz:—that Patrons should consent to have the sale of Next Presentations prohibited, and, on the other hand, that they should have perfect liberty

of action to sell the Advowson under any circumstances, viz.:—whether with or without immediate possession—in fact "free sale." Of course proper precautions to be taken as provided in the early part of the Church Patronage Act, against the presentation of unsuitable clergymen.

It may be of interest to our clients to know that in response to a courteous invitation from the Secretary, I attended before the Royal Commissioners and gave evidence upon the various matters connected with the Sale and Exchange of Church Property, &c., as also upon the general character and working of our business. My evidence practically amounted to (1) proving that our work has always been of a *bonâ fide* character, and on behalf of clergymen of good character; and (2) to pleading for a *relaxation* of the present laws relating to Church Property, *combined* with greater power to the Bishops to prevent the institution of any clergyman who was morally, or *clearly* physically, unfit for the position; and I sincerely hope, and venture still to believe that this will eventually be *the basis* of any alteration in the Ecclesiastical Laws.

I had the honour of addressing the following letter (see page 13), to the Royal Commissioners a few days after I gave evidence, which enabled me to give at greater length my views—based upon a life-long experience of Church Property—of the requirements necessary to place sales upon a more satisfactory footing; and in reference to this letter I would remark that the spirit of my appeal for reform was practically as follows:—(1) "remove the "present absurd restrictions which are a 'snare and a delusion'; (2) give "more freedom of action to *bonâ fide* vendors and purchasers; (3) define "clearly what transactions are legal and what illegal, and then as regards the "latter, viz.: what is decided to be illegal, you may take the strictest "possible precautions, by declaration or otherwise, to prevent any abuse, "*because with more freedom of sale* and a clearer and more defined state of "the laws, there would be no necessity for any evasions."

It is to be hoped that this long-continued agitation about Church Patronage Reform will before long cease, and that for good. It would be far better for Patrons to *assist* in passing an equitable measure of reform rather than that matters should remain in the present—unfortunate—state of uncertainty, which so seriously depreciates the value of Church Property.

W. EMERY STARK.

## COPY OF LETTER ADDRESSED TO THE ROYAL COMMISSIONERS.

23, Bedford Street, Strand, *June*, 1879.

Sir,

I have been seriously considering over the evidence which I gave before the Royal Commissioners (the proof copy of which I returned to you on the 24th inst. corrected), and it has struck me that there is wanting in that evidence a clear and practical *conclusion*. I venture, therefore, to ask permission of the Commissioners to rectify this omission by adding this communication to my evidence; or, if it is too late for this, to beg the favour of the Commissioners taking it into their serious consideration. I am the more induced to make this communication in consequence of a question put to me by one of the Commissioners (the Lord Bishop of Peterborough, I believe) as to what I would suggest to take the place of the present simoniacal laws—this letter being my reply to that important question.

1. I would advise the entire repeal of the present laws bearing upon Church Property, as also of the declaration against simony which a Clergyman has to take upon institution; and further, the abolition of the term simony, the whole being at the present time, as stated in my evidence, practically disregarded, and indeed worse than useless.

2. That it shall be legal to sell an Advowson under any circumstances—viz., with or without immediate possession, as also when the living is vacant, the Benefice having to be filled up within six months from the time of the vacancy according to the present law.

3. That a Clergyman shall have the full right of resigning his Benefice at any time, as also of exchanging, but in the latter case subject to the consent of the Patron, the Bishop having only the power of refusing to institute a Clergyman who was not of good character, as suggested below.

4. That full power and liberty shall be given to the Bishop to refuse to institute any Clergyman who was not of good moral character and steady habits.

5. That no Clergyman above seventy* years of age, or under (say) twenty-eight or thirty, shall be presented to a living.

6. That it shall be illegal for any Incumbent to receive or give any money in connection with an exchange of Benefices otherwise than for the *bonâ-fide* purchase or sale of an Advowson.

7. In place of the present declaration against simony required from the Clergyman before institution, I would recommend a written declaration *upon oath*, which would clearly embody what was legal and what was illegal, as suggested above. The object I have in suggesting that a declaration should be taken upon oath is to make it criminal should a Clergyman make a false declaration.

You will observe that I have so far omitted any reference to Next Presentations, and I have purposely done so, for this reason—viz.: Though it is perfectly clear that a Next Presentation is, according to law, as much a

* This should be extended to 75.

saleable property as an Advowson, still no thoughtful person can ignore the fact that there is a growing feeling amongst Churchmen of all views *against* the sale of Next Presentations; and there is no doubt that if it could be possible to abolish or restrict these sales, it would be a great benefit to the Church. At the same time, one must not forget, as stated above, that as a Next Presentation has always been considered a saleable property, it would be impossible to abolish altogether the power of sale without compensation to the parties interested. For instance, a great many persons have *purchased* this Right of Presentation, and of course compensation must be given to them should their right of re-sale be taken away.

In reply to a question from one of the Commissioners, I stated that the parties who would be most affected by the abolition of the sale of Next Presentations would be those who held the property in entail, or, in other words, had only a life interest in the same; but I forgot for the moment to mention that I believe it has been decided in law that the sale by a Patron of his Life Interest under such circumstances is tantamount to an Advowson, and such interest can be purchased by a Clergyman for himself.

Pending any alteration in regard to the restriction of the sale of Next Presentations, I would suggest:—

8. That it shall be legal for a layman to purchase a Next Presentation, whether with or without immediate possession, *so long as the living is not vacant.*

9. That it shall be illegal for a Clergyman to purchase for himself, either directly or indirectly, a Next Presentation.

10. That it shall be illegal to purchase a Next Presentation when it is vacant.

I would now briefly mention the advantages which I consider would be derived from the above suggestions:—

By Clause 1, you would do away with all the uncertainties, ambiguities, and, in the minds of many, absurdities of the present laws relating to the sale and purchase of livings, and would substitute a clear and distinct statement of what was legal and what was not legal. Further, by Clause 7, this declaration would be of that clear and definite character that it would not be possible for any one to mistake its meaning. And by making the declarations take the form of an oath, it would at once deter any Clergyman from making a false declaration.

Clause 2 would give Patrons that which they *maintain* to be their right—viz., the full power to sell an Advowson under *any* circumstances. By making these sales legal and open to the light of day you would at once sweep away all the underhand and mysterious transactions which are, to a great extent, incidental to the present state of the laws, and which, I believe, are the real cause of the so-called scandals which have continually arisen—the instances of bad Clergymen being presented through purchase being, so far as my experience and knowledge goes, few and far between. Another great advantage of this change in the law would be that Patrons would have no occasion whatever to present an aged life when the living became vacant. This of itself would, there is no doubt, be a great gain to the Church.

Clause 3 raises the important question as to whether it is good for the Church that a Clergyman should have free right of movement. I have found a very strong feeling existing amongst the Clergy in favour of this right of resigning or exchanging. I have already expressed in my evidence my opinion in favour of this course. I think it is desirable for the parish, as well as for the Clergyman, that if a Clergyman really wants to leave he should have full opportunity of doing so. One must not forget that the expenses of removal are so heavy that a Clergyman, like a layman, would not lightly undertake a change.

Clause 4 would give the Bishop the great power which is at present wanting of preventing the institution of improper Clergymen.

In reference to Clause 6, I have heard many Clergymen speak strongly in favour of a change in the law to enable incomes to be equalized by a monetary payment in connection with exchanges. If I were asked my opinion, I certainly should not give it in favour of this course, for, though it would undoubtedly greatly facilitate exchanges, it would open such a floodgate of monetary transactions that I do not think the cause the Royal Commissioners have in hand would be advanced. In spite of my advice, I know many instances where money has passed hands in connection with an exchange, and the ambiguity of the present declaration against simony has, in the opinion of the parties, allowed them to do so; but the declaration I have suggested would, I believe, entirely prevent this.

I have in the course of my time read the reports of Committees of Synod, of Congresses, of Convocation, and of the House of Commons upon the same question, and one cannot ignore the fact that all these have signally failed in making any change in the laws. In my humble opinion the cause of this failure is not far to seek. It is simply because the decisions have always been in favour of further restrictions, instead of relaxation. The consequence has been that the great body of Private Patrons have resolutely opposed the threatened interference with their full and legal rights.

I need hardly say that in a matter of such an intricate nature and deep importance as the whole question now before us, it has been impossible for me to give anything but a brief outline or skeleton of the changes which, from my long and practical experience with the inner workings of these matters I believe are desirable. My main objects have been that the new law should (1) clearly define what is legal and what is illegal; (2) give greater *facilities* for the sale in a *perfectly* open manner of *bonâ fide* properties, as provided in Clauses 2 and 8, especially the former. This is most important, and, in fact, without it I question whether there can be any satisfactory ending to the present unfortunate state of affairs; (3) place greater restrictions upon those transactions which are declared to be illegal. (See Clauses 6, 9 and 10). And (4) give the Diocesans power to refuse to institute improper Clergymen.

I have the honour to remain, Sir,
Your most obedient Servant.
W. EMERY STARK.

To Charles Stuart Wortley, Esq.,
*Secretary to the Royal Commission upon Church Patronage.*