In elections at the beginning the clergy and the people both had to do, although not both after one sort. The people gave their testimony, and shewed their affection, either of desire or dislike, concerning the party which was to be chosen. But the choice was wholly in the sacred college of presbyters. Hereunto it is that those usual speeches of the ancient do commonly allude: as when Pontius concerning S. Cyprian’s election saith, he was chosen “judicio Dei et populii favore,” “by the judgment of God and favour of the people,” the one branch alluding to the voices of the ecclesiastical senate which with religious sincerity choose him, the other to the people’s affection, who earnestly desired to have him chosen their bishop.

Again, Leo⁵; “Nulla ratio sit, ut inter episcopos habeatur qui nec a clericis sunt electi nec a plebibus expectati.”

“No reason doth grant that they should be reckoned amongst “bishops, whom neither clergy hath elected nor laity coveted.”

In like sort Honorius⁴; “Let him only be established bishop sometimes. the favour. chose.

⁴ Pseud. Ambros. in 4 ad Epheb. v. 11, 12. “Non per omnia conveniant scripta apostoli ordinat

ium, quae nunc in ecclesia est.”

⁵ In Vit. Epheb. [sect. 5.]


onical Epistle to Rusticus, archbishop of Narbonne, t. i. 405, ed. Quenstel. c. 3. A.D. 452.: and compare the canonical letter of Coelestine to the bishops of Gaul, A.D. 428; can. v. “Nullus invitis detur episcopus: clerici, plebis, et ordinis consensum et desiderium re quiratur.” Coelest. Hard. i. 1260.⁷


Why transferred to the Sovereign here in England.

“in the see of Rome whom Divine judgment and universal consent hath chosen.”

[3.] That difference, which is between the form of electing bishops at this day with us, and that which was usual in former ages, riseth from the ground of that right which the kings of this land do claim in furnishing the place where bishops, elected and consecrated, are to reside as bishops. For considering the huge charges which the ancient famous princes of this land have been at, as well in erecting episcopal sees, as also in endowing them with ample possessions; sure of their religious magnificence and bounty we cannot think but to have been most deservedly honoured with those royal prerogatives, [of] taking the benefit which groweth out of them in their vacancy, and of advancing alone unto such dignities what persons they judge most fit for the same. A thing over and besides even therefore the more reasonable; for that, as the king most justly hath preeminence to make lords temporal which are not such by right of birth, so the like preeminence of bestowing where pleaseth him the honour of spiritual nobility also, cannot seem hard, bishops being peers of the realm, and by law itself so reckoned.

Now, whether we grant so much unto kings in this respect, or in the former consideration whereupon the laws have annexed it unto the crown, it must of necessity being

1 places. munificence. seasonable. the law.

Concil. tom. i. [col. 1238. ed. Hard. Beatus dixit sua predicatia, id ad cunctorum clericorum notitiam volumus pervenire, ut si quid forte religioni tue (quod non opus) humana sorte contingat, sciunt omnes ab ambitionibus esse cessandum. At si duo contra fas temeritate certantes fuerint ordini nati, nullam ex his futurum penitentiam, tuis sacerdotem, sed ilium solum in sede apostolica permanuerit, quem ex numero clericorum nova ordinazione divinum judicium et universitatis consensus elegerit.” Cir. A.D. 419.]

25 Ed. 3. [c. 6. A Statute of Provisors, reciting the Statute of Carlisle, 25 Edw. i. c. 4. preamble: “Whereas the holy Church of England was founded in the estate of prelacy within the realm of England, by king Edward and his progenitors, and the earls, barons, and other nobles of his realm, and their ancestors, to inform them and their people of the law of God, and to make hospitableness, ams, and other works of charity, in the places where the churches were founded, for the souls of the founders, their heirs, and all Christians; and certain possessions, as well in fees, lands, rents, as in advowsons, which do extend to a great value, were assigned by the said founders to the prelates and other people of the holy Church of the said realm, to sustain the same charge, and
granted, both make void whatsoever interest the people aforesaid hath towards the choice of their own bishop, and also restrain the very act of canonical election usually made by the dean and chapter; as with us in such sort it doth, that they neither can proceed unto any election till leave be granted, nor elect any person but that is named unto them. If they might do the one, it would be in them to defeat the king of his profits; if the other, then were the king’s preeminences of granting those dignities nothing. And therefore, were it not for certain canons requiring canonical election to be before consecration, I see no cause but that the king’s letters patents alone might suffice well enough.

"especially of the possessions which were assigned to archbishops, bishops, abbots, priors, religious orders, and all other people of holy Church, by the kings of the said realm, earls, barons, and other great men of his realm; the same kings, earls, barons and other nobles, as lords and advowees, have had and ought to have the custody of such voids, and the presentments and the collations of the benefices being of such repleaces," &c. A.D. 1350.

3 Ibid. fol. iii. "The election was first granted by the king’s preceptors upon a certain form and condition, as to demand licence of the king to chuse, and after the election to have his royal assent, and not in other manner." Stat. at Large, by Ruffhead and Runtington, t. i. 260. 62.

2 25 Hen. VIII. c. 20. § iv. "Be it ordained and established by the authority aforesaid, that at every avoidance of every archbishop, bishop, or bishoprick, the king may grant to the prior of convent, or the dean and chapter of the cathedral churches or monasteries where the see shall happen to be void, a licence under the great seal, to proceed to election..."

3 "nul...canonice electum consecrat. Quod si pre...et consecratus et...deponatur." This is the tenth Canon of the first Lateran council, held under Calixtus II, A.D. 1123. See Concil. Hard. t. vi. pars ii. p. 1112.

Foreign Precedents for such Prerogative in Kings. 423
to that purpose, as by law they do in case those electors should happen not to satisfy the king’s pleasure. Their election is now but a matter of form: it is the king’s mere grant which placeth, and the bishop’s consecration which maketh, bishops.

[4.] Neither do the kings of this land use herein any other than such prerogatives as foreign nations have been accustomed unto.

About the year of our Lord 425, pope Boniface solicited most earnestly the emperor Honorius to take some order that the bishops of Rome might be created without ambitious seeking of the place. A needless petition, if so be the emperor had no right all at in the placing of bishops there. But from the days of Justinian the emperor, about the year 553, Onuphrius himself doth grant that no man was bishop in the see of Rome whom first the emperor by his letters patents did not license to be consecrated. Till in Benedict’s time it pleased the emperor to forego that right; which afterwards

4 for Cl. Tr.

1 Tom. i. Concil. [l. 1237. ed. Hard. "Ecclesiae meae, cui Deus noster neum sacerdotium, vobis res humanas regentibus, deputavit, cura stringet, ne causis ejus, quamvis adhibis corporis incorrupti, moderato detinet, proper con..."

2 Onuphr. [Onuphrius Panvinius, of Verona, 1423-1538, annotated and continued the Lives of the Popes, by Platina, 1421-1481] in Pelag. 11. [in his note on Platina’s life of that pope, who was next before S. Gregory the Great; and of whom Platina had remarked, that owing to the Lombards who beset the city, he was elected without the emperor’s consent; A.D. 577.] "Nil enim tunc a clero in eligendo Pontificem actum erat nisi ejus electionem Imperator approbatis. On which Onuphrius observes, "Gotthic Italia lia omni per Narsen Patricium pulsis, eaque cum urbe Roma orientalis imperii parte facta sub Justiano Imperatore, ex aucto..."

3 "noster neum sacerdotium, vobis...res humanas regentibus, deputavit, cura stringet, ne causis ejus..."
was restored to Charles with augmentation, and continued in his successors till such time as Hildebrand took it from Henry IV, and ever since the cardinals have held it as at this day.

Had not the right of giving them belonged to the emperors of Rome within the compass of their dominions, what needed pope Leo the fourth to trouble Lothier and Ludowic with those his letters, whereby, having done them to understand that the church called Reatina was without a bishop, he maketh suit that one Colonius might have the room, or, if that were otherwise disposed of, his next request was, “Tusculanum ecclesiam, quæ viduata existit, illi vestra serenitas dignetur concedere, ut consecratus a nostro præsulatu Deo Omnipotenti vestroque imperio grates neecluth.

1 Grat. Decr. pars i. dist. 63. c. Hadrana. (A.D. 774.) Carolus . . . constitutum synodum cum Hadriano
2 papa in patriarchatu Lateranensi, in ecclesia Sancti Salvatoris: quo synodus celebrata est ut ciiiii epi- scopis religiosis et abbatibus. Hadriana autem papa cum universa
3 synode tradiderunt Carolus jut et potestatem elegendi pontificem, et ordinandi apostolicam sedem . .
4 Insperiarchiepiscopos et episco-
5 pos per singulas provincias ab eo
6 investituram accipere definitivit;
7 ut nisi a rege laudetur et invest-
8 iatur episcopus, una con-
9 secretetur: et quicquid contra
10 hoc decretum ageret, anathematis
11 vinculo eum innotavisset.” col. 322.
12 Lugd. 1572. This seems to have been altogether false, though a story current in the time of Gratian, (A.D. 1131,) who took it from an interpolated copy of the Chronicle of Sigebert. (A.D. 1101.) Vid. Pagi in Ann. Baron. iii. 341.

1 [The council at Rome, A.D. 1086, in which Henry IV, was finally deposed, and Rodolph of Suaiba confirmed emperor in his place. Canon i. “Sequentes statuta sancti
torum patrum . . . decrenims . . .
2 ut siquis deinceps episcopum
3 vel abbatiam de manu alius
4 laicce personae susceperit, nullate-
5 rius inter episcopos vel abbates
6 habeatur . . . Insper etiam episcopi
7 etiam S. Petri et introitum ec-
8 clesiae interdicimus.” . . ii. “Item,
9 si quis imperator, regum, du-
10 cum, marchionum, comitum, vel
11 quilibet securariam potestatam
12 ac personam investituram epis-
13 copium vel alius ecclesiastic-
14 ius dignitatis dare prasumsteri,
15 ejusdem sententiae vinculo se ob-
16 strictum esse sciat.” Conc. Hard.
17 t. vi. pars i. col. 1587.
2 C. Beatus. Dist. 63. [Decr.
3 Grat. pars i. d. 63. § 16. “Reatina
4 ecclesie, que per tot temporum
5 spatia pastoralibus curis destituta
6 consistent, dignum est ut brachio
7 amplitudinis vestrae sublevetur, ac
8 gubernationis regimine protegat
9etur. Unde salutationis alloquio
10 praemissis, vestram manusuen-
11 diam, de usu, ad ecclesiam
12 humili diacono eandem ecclesiam
13 ad regendam concedere dignemini:
14 ut vestra licentia accepta, ibidem
15 eum, Deo adjutande, consecrare,
16 valeamus episcopum.” circ. A.D.
17 847. The Church was greatly de-
18 pressed at that time, the Saracens
19 often ravaging Italy to the very gates of Rome.

424 Right of Investiture in Hildebrand’s Time: 425

“peragere valeat.” “May it please your clemencies to grant
unto him the church of Tusculum now likewise void;
that by our episcopal authority he being after conse-
crated may be to Almighty God and your highness
therefore thankful.”

[5.] Touching other bishopricks, extant there is a very short but a plain discourse, written almost 500 years since, by occasion of that miserable contention raised between the emperor Henry IVth and pope Hildebrand, named otherwise Gregory the VIIth, not, as Platina would bear men in hand, for that the bishop of Rome would not brook the emperor’s simoniaical dealings, but because the right, which Christian kings and emperors had to invest bishops, hindered so much his ambitious designments, that nothing could detain him from attempting to wrest it violently out of their hands.

This treatise I mention, for that it shortly comprehended not only the fore-alleged right of the emperor of Rome acknowledged by six several popes, even with bitter execration against whomsoever of their successors that should by word or deed at any time go about to infringe the same, but also further these other specialties appertaining thereunto: First, that the bishops likewise of Spain, England, Scotland, Hungary, had by ancient institution always been invested by their kings, without opposition or disturbance. Secondly, that such

1 The Act of Investiture as it now stands, is a very different thing from this, by the intermediate state.

“Ecclesiastic. de Discrimine Potes-
“tatis imperialis et ecclesiastic.” pp. 72-74, Argentorat. 1618, [published by Ulric Huten, 1526.] The tract was written, A.D. 1100: by a German bishop, a strong partisan of the imperial side.

2 [Ibid. “Legitur etiam de episci-
popio Hispanice, Scotiae, Anglie, 
“Ungarie, quomodo in antiqua
“institutione, usque ad modernam
“novitatem, per reges introient,
“cum pace temporalium, pure et
“integre.]"
BOOK VIII. was there their royal interest, partly for that they were founders of bishoprics, partly because they undertook the defence of them against all ravenous oppressions and wrongs, partly in as much that it was not safe that rooms of so great power and consequence in their estate should without their appointment be held by any under them. And therefore that bishops even then did homage and took their oaths of fealty unto the kings which invested them. Thirdly, that what solemnity or ceremony kings do use in this action it skillett not, as namely whether they do it by word, or by precept set down in writing, or by delivery of a staff and a ring, or by any other of that means whatsoever, that use and custom would, to avoid all offence, be kept. Some base canonists there are, which contend that neither kings nor emperors had ever any right hereunto, saving only by the pope’s either grant or toleration. Whereupon not to spend any further labour, we leave their folly to be controlled by men of more ingenuity and judgment even among themselves.

Duarenus¹, Papon², Choppinus³, Ægidius⁴, Magister⁵, Arnulfus Ruzæus⁶, Costius⁷, Philippus Probus⁸, and the rest, by whom the right of Christian kings and princes herein is maintained to be such as the bishop of Rome cannot lawfully either withdraw or abridge or hinder.

But of this thing there is with us no question, although with them there be. The laws and customs of the realm approving such realtages, in case no reason thereof did appear, yet are they hereby abundantly warranted unto us, except some law of God or nature to the contrary could be showed. How much more, when they have been every where thought so reasonable that Christian kings throughout the world use and exercise, if not altogether, yet surely with very little odds the same. So far that Gregory the Tenth forbid such realtages to be newly begun where they were not in former


² [Jean Papon, a lawyer in the service of Catharine de Medicis, and author of a work called Nataire, or Secrets de Nataire, in three parts, in the third of which, b. iii. p. 155, &c. is a statement and vindication of the rights of the Crown of France in the matter of presentation to benefices.]  
³ [“De Sacra Politia forensi,” Par. 1577. 1589. Vid. supr. c. ii. § 14. note 3.]
⁴ [Ægidius de Columbia, archbishop of Bourges, 11316, contemporaneous with Boniface VIII. and tutor to Philip the Fair: in his “Questio de Utraque Potestate,” inserted by Goldastus in Monarch. S. Rom. Imp. t. iii. 95, &c.]
⁵ [Ægidius magister, “De Regia."
⁶ [Arnulfus Ruzæus, “De Jure Regalia.” Par. 1534, 1551. Ibid. t. xii. 357, &c.]

1 [Ibid. p. 72. “Qui a primo Constantino gesta et decreta recollavit, patriae instituit, quod per reges et imperatores et devotos laici Romana ecclesia, aliqua in orbis terrarum ecclesiae, in funis et mobilibus diditae et exsaltatae sint: sibiique tutelas et defensiones contra tyrannos et raptores retinuerint, ut gladius regalis et stola Petri sibi invicem subveniant.”
2 [Ibid. p. 73. “Episcopatus qui sub Romano in stolens imperio, majoribus fundis et amplissimo vigente justitiis: et ideo propter majus scandalum a stola Petri deserti et sanctandi sunt: qui a sanctissimo non omnibus sunt Petrus, qui tenet sedem Petri.”
3 “Postquam a Sylvestro per Christianos reges et imperatores dotate, dictatam et exaltatam sunt ecclesiae in fundis et aliis mobilibus, et iure cittativa in talonibus, monetis, vilis, etc. per reges delegata sunt episcopis: congruum fuit et conœcruis qui utrum est in papulo, et caput populi, invesigat et inquireret episcopum: et contra irruptionem hostium sciatur qui civitatem suam credit, cum suis suum in domum illorum transulterter.”
4 [Ibid. Longe ante decreatum Adriani papae, ejusque successorum reges, qui erant unci, et majores domus, investitur epi- scoporum fecurter.”
5 [Ibid. “Nihil referit, sive verbo, sive praecipio, sive baculo, sive alia ut quam in manu tenetur, invesigat aut inquireret et imperator episcopum, quo die con- secrationis veniens, annulum et baculum ponit super altare, et in cura pastoralis singula accepit a stola et authoritate S. Petri. Sed congruum magis est per baculum, qui est duplex, ets temporalis et spiritualis.”
6 [Ibid. p. 72. “Quaestiones, libri vii.” in Tract. Illustr. Jurispr. Ven. 1584. t. xv. pars ii. The author was accounted by Thuanus one of the most distinguished of the French jurists of the sixteenth century.”
7 [Jean Papon, a lawyer in the service of Catharine de Medicis, and author of a work called Nataire, or Secrets de Nataire, in three parts, in the third of which, b. iii. p. 155, &c. is a statement and vindication of the rights of the Crown of France in the matter of presentation to benefices.”
8 [“De Sacra Politia forensi,” Par. 1577. 1589. Vid. supr. c. ii. § 14. note 3.]
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10 [Ægidius magister, “De Regia."
11 [Arnulfus Ruzæus, “De Jure Regalia.” Par. 1534, 1551. Ibid. t. xii. 357, &c.]
times, if any do claim those rights from the first foundation
of churches, or by ancient custom, of them he only requireth
that neither they nor their agents damnify the Church of God
by using the said prerogatives. 8

[6.] Now as there is no doubt but the church of England
by this means is much eased of some inconveniences, so like-
wise a special care there is requisite to be had, that other
evils no less dangerous may not grow. By the history of
former times it doth appear, that when the freedom of elec-
tions was most large, men’s dealings and proceedings therein
were not the least faulty.

Of the people S. Jerome complaineth1 that their judg-
ments many times went much awry, and that in allowing of
their bishops every man favoured his own quality; every
one’s desire was, not so much to be under the regiment of
good and virtuous men, as of them which were like himself.
What man is there whom it doth not exceedingly grieve to
read the tumults, tragedies, and schisms, which were raised by
occasion of the clergy at such time as, diverse of them standing
for some one place, there was not any kind of practice, though
never so unhonest2 or vile, left unassayed whereby men
might supplant their competitors and the one side foil the
other. Sidonius, speaking of a bishoprick void in his time,3
“The decease of the former bishop.” saith he, “was an
alarum to such as would labour for the room: whereupon
the people, forthwith betaking themselves unto parts, storm
on each side: few there are that make suit for the advance-
ment of any other man; many who not only offer, but en-
force themselves. All things light, variable, counterfeit:
“what should I say? I see not any thing plain and open
but impudence only.”

1 prerogative. 2 dishonest.

1 Hieron. adv. Jovin. i. [19].
2 "Nonnuncum errat plebis vul-
gique judicium, et in sacerdotes
comprobatis unusquisque suis
moribus favet, ut non tam bonum
quam sui similem querat pra-
postumum."
3 L. 7. Ep. 5. [“Ecclesia” (Bi-
turicarum, i.e. Bourges.) “nuper
summo viduata pontifice, utrius-
que professionis ordinibus ambi-
endis sacerdotii quodammodo clas-
sicum cecinit. Fremit populus
per studia divisus: pauci alteros,
multi sese non offerunt solum, sed
inferunt. Si aliquid pro virili pos-
tione secundum Deum consules,
veritatemque, omnium occurrant
levia, varia, fluctua; et quid di-
cam? sola est illic simplex impu-
dentia.” In Bibl. Patr. Colon. r. v.
part i. p. 1022.

In the church of Constantinople about the election of book viii.
S. Chrysostom4, by reason that some strove mightily for him
and some for Nectarius, the troubles growing had not been
small, but that Arcadius the emperor interposed himself:
even as at Rome the emperor Valentinian, whose forces were
hardly4 able to establish Damasus bishop, and to compose the
strife between him and his competitor Ursicinus, about
whose election the blood of a hundred and thirty-seven was
already shed. Where things did not break out into so
manifest and open flames, yet between them which obtained
the place and such as before withstood their promotion, that
secret heart burning often grew5, which could not afterwards
be easily slaked. Insomuch that Pontius doth note4 it as a
rare point of virtue in Cyprian, that whereas some were
against his election, he notwithstanding dealt ever after in
most friendly manner with them, all men wondering that so
good a memory was so easily able to forget.

[7.] These and other the like hurts accustomed to grow
from ancient elections we do not feel. Howbeit, lest the
Church in more hidden sort should sustain even as grievous
detriment by that order which is now of force, we are most
humbly to crave at the hands of our sovereign kings and
governors, the highest patrons which this church of Christ
hath on earth, that it would please them to be advertised thus
much.

4 Pontius in Vit. Cypri. c. 5.
5 [“Invitus dico, sed dicam necesse et est. Quidam illi restituere et eum
ut viceret; quibus tamen quanta
lenitatem, quam paucier, quam
benevolentem indulsit! quam ele-
mentor ignoravit, animissimos eos
postmodum et inter necessarios
computans, mirabilis multis!
Cui enim posset non esse mira-
culo tam memoriosi mentis ob-
livio?”]