

## **Benefice – consistorial benefice**

The first Christian community of Jerusalem emphasized the community of goods. This initial impulse was based on feelings of solidarity that were not universally shared, but nonetheless the faithful contributed according to their means towards the support of worship, to works of charity, and to the upkeep of the clergy. The communal property was under the control of the bishop. Quite soon it was divided into four parts, for the bishop, for the poor, the the fabric and administration of churches, and for the clergy. Towards the sixth century, when rural parishes were appearing, the priests who served them were assigned property of their own. All the same, wherever it was feasible, the communal life was held in high regard by the clergy, and with it the community of goods. Around the ninth century, some members of the clergy wanted to have their part of the revenues of ecclesiastical goods. In the strict sense, then, a 'benefice' is defined as the income of certain goods of the Church assigned to a given office. In the broader sense of the word, a 'benefice' includes both an ecclesiastical office and the right to receive the revenues that go with it, which correspond to the duties and rights of the benefice holder. Given its nature, a benefice is instituted by the competent ecclesiastical authority, which brings together permanently a spiritual element and a temporal element, putting the latter at the service of the former. During the Middle Ages, the laity did not hesitate to usurp the right to confer ecclesiastical goods on members of the clergy. The Second Lateran Council of 1139 condemns this practice, depriving the benefice holder of the benefice which he has improperly received, since, 'the laity, even if they belong to the communion of the faithful, do not have any power to dispose of ecclesiastical goods' [see however Appendix below].

The endowment of a benefice can include property which assures a regular income; it can consist of the obligations of a lord or a family to pay, annually, a specified sum for the maintenance of a parish priest. The famous 'rights of stole', emoluments due to the parish priest for burial and funerals, solemn baptism, or marriage, are included among 'curial' benefices. As for canons [in collegiate churches or cathedrals], the distributions to those who took part in the divine office were partly included in the benefice [prebend].

There were several types of benefice:

- 1) *Consistorial benefices*, which were conferred in the papal consistory, such as the office of cardinal, the episcopate, and certain abbeys, in particular the 'flagship' abbeys of the order, which were under the jurisdiction of the Congregation of the Consistory
- 2) *Religious* or *secular* benefices, belonging respectively to members of the secular clergy and members of religious orders. The system of *Commenda*, by which abbeys, priories, or monasteries were placed under secular control, represented one of the most shocking abuses so far as benefices were concerned, since the revenues of a religious house were given to a secular or lay person who was not responsible for the spiritual office that went with the benefice.
- 3) Benefices were either 'for the care of souls', which involved residence in the diocese, abbey or religious house, or 'simple benefices' which did not carry with them the duty to reside: chaplaincies or responsibility for an altar in an important church for instance.

The 1917 *Codex of Canon Law*, canons 1409-1488, dealt with the discipline of ecclesiastical property, a distinctly complicated field, in that it was possible for the founder of the benefice, at the time when it was instituted, to lay down particular conditions with the approval of ecclesiastical authority. Canon 1471 #2 of the 1917 *Codex* made the following provision for such cases: 'The conditions which have been allowed cannot be validly suppressed or changed by the ordinary [normally, the bishop] unless the changes in question are favourable to the Church and have the consent of the founder.'

The incorporation of benefices was frequently the main cause of disputes. There are various forms of incorporation of benefices, in that there are a range of different ways of attaching them to an ecclesiastical institution, collegial or non-collegial, such as a church, a seminary, or a Catholic hospital. Sometimes the assignment is 'for temporal things only'. In this case the religious community is supported by the revenues of the parish. The superior of the religious community presents a secular priest to the bishop as the parish priest of the parish, and assigns to him a *pars congrua*, that is a 'suitable proportion' of the income. If the assignment is *pleno iure*, with full rights, it then belongs to the religious community. The superior nominates as curate a priest from his institution, and this man should be canonically instituted by the ordinary of the place and be subject to him like the other parish priests. In other cases, the Congregation of the Council [a key body instituted shortly after the Council of Trent in the later sixteenth century] could join a parish to a religious house *ad nutum Sanctae Sedis*, for as long as the pope thought fit. It was a precarious situation, which imposed the obligation of distinguishing clearly between the revenue of the benefice and the revenue of the community. The same holds good when a bishop makes a formal agreement to entrust a parish to a religious institution. The ordinary of the place has certain rights regarding the administration of the endowment and the legacies to a parish which has been entrusted to a religious institution, and it is also his job to demand accounts for goods given directly to the parish. All the same, if the parish church belongs to the religious community, the management of the alms given for the construction and maintenance of the church come under the authority of the superiors of the religious order. Foundations in the strict sense, made in parish churches which belong to religious who are exempt from obligations, depend entirely on those at the head of the order.

The holder of a benefice has, in principle, a permanent right to its fruits. The benefice can be lost: by resignation, by its holder being moved, when it is revoked, and also when the holder is deprived of it. Thus in many cases, the holders of benefices *in commendam* renounced the benefices obtained in this way to transfer them to a member of their family or to whomever they chose. It was in this way that Cardinal Francesco Pisani, an abbot *in commendam*, agreed after the Colloquy of Poissy of 1561 to renounce his *in commendam* control of the mother house of the order of Prémontré, which he had held from 1555, despite the provisions of the Concordat of Bologna (1516), but he then yielded his *commendam* to Cardinal Ippolito d'Este, who continued to hold the abbey between 1562 and 1572.

So far as benefices were concerned the turning point was the Second Vatican Council (1962-1965). The Council's decree 'On the ministry and life of priests' (*De presbyterorum ministerio et vita*) laid it down that 'priority has to be given to the function which consecrated ministers carry out. Accordingly, the so called 'system of benefices' should be abandoned, or at least reformed in such a way that the 'benefice' aspect, that is to say the right to revenues attached

to this function, is regarded as secondary, and the priority is given in law to the ecclesiastical function itself, which will be understood from now on to refer to any task conferred on a permanent basis to be exercised in view of a spiritual end (N° 20).

The 1983 Code of Canon Law dedicates canon 1272 to ecclesiastical benefices and entrusts to episcopal conferences the task of establishing administrative criteria, which should be subject to the approval of the Apostolic See. It is hoped that the capital that goes with benefices should be transferred to the body in every diocese with has the task of collecting goods and offerings to provide for the subsistence of ecclesiastics, when special conditions do not require exceptions.

### **Bibliography**

N. GARCÍAS, *Tractatus de beneficiis*, Magonza, 1614; P. GOHARD, *Traité des bénéfices ecclésiastiques*, Paris, 1734; A. SICARD, *La nomination aux bénéfices ecclésiastiques avant 1789*, Paris, 1876; U. STUTZ, *Geschichte des kirchlichen Benefizialwesens*, Berlino, 1895; J. GÉRARDIN, *Étude sur les bénéfices ecclésiastiques aux XVI<sup>e</sup> et XVII<sup>e</sup> siècles*, Nancy, 1897, réed. 1971, Genève, ristampa 1995; P. BLET, *Le clergé du Grand siècle en ses assemblées : 1615-1715*, Paris, 1995; A. BUCCI, *La vicenda giuridica dei beni ecclesiastici della Chiesa*, Cerro al Volturno, 2012.

BERNARD ARDURA  
(TRANSL. DAVID D'AVRAY)

## **Appendix: LAY AND MONASTIC PATRONS OF CHURCHES**

### **Systems and tensions**

By the twelfth century, the following systems were entangled in a complex unplanned knot: the episcopal system, the system of parish churches, lay patrons (including but also very many small 'squire' type landowners), and monasteries. How these different strands became tangled up takes some explaining.

### **The episcopal parish priestal delivery system**

In late Antiquity, bishops in towns were the key element in the parish priestal delivery system. In a big city, the bishop's church would not be the only one, but the clergy of the city would form a community and probably most of them would know most of the others. Outside towns, there would be relatively little parish priestal provision. The word 'pagan' comes from 'countryman'. We should imagine well-filled city churches with a rich liturgical life, and rural villages with no churches at all. Nonetheless, even in Roman times, the slow penetration of the countryside by Christianity had begun. 'In Roman Britain, the church at Water Newton ministered to a tiny community. Nonetheless it had a solid silver chalice, given by a Publianus – "Dependent on thee, I honour thy holy altar"...' (Peter Brown, *Rise of Christendom* (2<sup>nd</sup> edn., p. 79). Whatever Christianity there was, however, came under the authority of the diocesan bishop, and this remained the case in principle, in Church law.

### **Ruralisation of Christianity: minsters and *pievi*.**

As the Roman Empire in the West became just a memory, Christianity there was becoming rural. It was a twofold process. On the one hand, cities were shrivelling and commercial life dwindled. There were fewer Christians in cities because there were fewer people in cities. On the other hand, the barbarian invasions created an elite of warrior landowners with rural estates manned by peasants who supported them. Kings were the greatest of these landowners. They founded whole communities of clergy. These took many forms, from institutions that we (or a later medieval person) would recognize as proper monasteries, to groups of clerics and their wives living a fairly secular life. In England these are called 'minsters' and they have been well studied by John Blair in

his *Church in Anglo-Saxon Society*. They may correspond to Italian *pievi* and to similar communities in the lands between England and Italy, which have been less studied from this point of view. How far Blair's findings for England apply elsewhere remains an open question. It may be that kings were not so central to the process of creating religious communities across the channel, and that may be because there was sharper line between specialised landowner warriors and peasants there than in England. These questions can be set aside for the present purpose of tracing the evolution of ordinary parish churches. Many of these were built on the initiative of bishops, and monasteries were responsible for some churches on their lands, but huge numbers owed their existence to generous lay landowners.

### **Laymen build churches in the countryside**

It was a natural thing for a Christian landowner to build a church near his main dwelling. Proximity was convenient: he did not need to travel to go to Mass. Furthermore building and endowing a church had the latent function of enhancing his hegemony over his peasantry. Peasant life was monotonous. A church would have been the most impressive and interesting building to which an early medieval peasant had easy access, and the services, spread out over a liturgical year with a logic to it, gave intellectual access to a world of meaning full of interesting layers which different individuals would penetrate to different degrees.

The latent function may have been especially important in England. In the second half of the Anglo-Saxon period, a system of far-flung estates seems to have been transformed into a system of consolidated villages connected to manors, to whose lord peasants owed services and/or dues. This process benefited lords and may have involved disruption of the lives of those who worked for them. Building a village church would make up for a lot. The creation of the manorial system was in my view (and Maitland's) a late process in English history and the creation of a system of parish churches was also later, probably, than across the channel. (As so often with early medieval history, detail is sketchy.) The churches founded were sometimes just chapels, but often parish churches. Whenever these village churches appeared, the process owed a lot to lay landowners.

### **Landowners as church patrons**

Landowners expected something in return. For one thing, they could expect status. We can guess that they sat at the front of the Church, and that any liturgical processions gave the lay patron pride of place - see document. Read carefully, the document also implies that the church might be a continuing source of income for its patron. Patronage itself was the greatest advantage however: it enabled the local lord to find a job for life for a younger son, nephew or favoured relative, or to repay favours by appointing someone from outside the family. Patronage was power in a gift exchange world. To get a real sense of this it helps to read nineteenth century novels such as the *Barsetshire* series by Anthony Trollope. We see that a system of control by the squire of the local village church was still normal in the nineteenth century. That system goes back to the early Middle Ages. It was one aspect of lay power over religious life that the eleventh century reformers failed to change. Indeed, they hardly even tried, except that they created an atmosphere in which it seemed a little more incongruous than before.

### **Gifts of churches to monasteries**

That probably encouraged a tendency to for lay patrons to hand the churches they controlled over to monasteries. Gifts of property to monasteries had been an expression of lay piety from the end of late Antiquity, and if you were making a donation, what more appropriate than a church? Especially if you did not have a younger son to worry about, to give a way patronage of a church would hurt less than giving away a manner, and it fitted with the spirit of the times, with the emphasis on a distinction between religious and secular. Monasteries are a new kind of environment for minor churches and sometimes a less friendly one than the lay patron had been as they could take more of the income.

### **A tangled web**

'O what a tangled web we weave when we first practice to deceive', says the proverb, but the evolution of episcopal authority, the parish system, the patronage system, monasticism, and the

reform movement, systems distinct from one another but environment to each other, created a problem for the hierarchy. Given that the bishop was supposed to be responsible for everything in his diocese, including parish churches, how should the hierarchy accommodate the rights of lay patrons and, increasing, the powers of monastic patrons, especially when the latter used the churches they acquired simply as a source of income. It fell to the papacy to work out a hierarchical structure that could accommodate these elements that had no place in early canon law.

### **Monasteries and their churches**

Papal system resolves problems between monastic patronage and episcopal system, addressing the danger of exploitation of the parish. Alexander III in the later twelfth century being especially important (Wood, p. 902: 'It was largely due to Alexander III that churches belonging to monasteries came under patronage law'). Here a brought papal authority was brought to bear on practice by bishops, who bishops intervened in the second half of the twelfth century to regularise financial arrangements between monasteries and the minor churches they owned (Barrow, 324-5).

### **Churches, lay patrons, and the papacy**

Alexander III also draws together the law on lay patronage, helping to crystallize the system by which the patron 'presented' and the bishop 'admitted' and 'instituted'. We can look at this through the prism of Dumont's anthropology of hierarchy. The lay patron had the actual power to appoint. Nonetheless, in the world view of the reformed Church the appointment of a parish priest was ultimately a religious matter. The ritual of institution safeguarded the principle, while the lay patron had the practical advantages, which the papacy knew better than to contest.

### **Lay jurisdiction**

Thanks to the distinction between 'presentation' and 'institution', this compromise was acceptable enough to the papacy, but harder to digest was the claim by English kings to jurisdiction over disputes between different patrons. This was a battle that in the end the Churchmen lost, in England at any rate. This is a straw in the wind would blow with increasing force in the direction of the English Reformation

### **An Argentinian parallel**

In the new world, a very similar system of lay patronage could grow up: see the Di Stefano article. Case from 18<sup>th</sup> century Buenos Aires: 'When he applied for the competition to be priest of Los Arroyos, Master Ambrosio de Alzugaray claimed that he had done a favour for the congregation by "animating and moving Captain Domingo Gómez, my uncle, so that he would fund the chapel, which he has now done at his own expense, and which Your Lordship has seen fit to elevate to parish church"'. (Di Stefano, 'Lay Patronage', p. 78. A parish church could be a nice little earner for the lay patron who founded it, 'in the form of first fruit offerings, alms, and donations'; 'the 'influx of the faithful to fulfil annual religious obligations, for saint's day celebrations, and for Sunday mass justified the opening of a food shop, a beverage shop, and a general store near the church'. On the other hand, parish priestal provision before the lay patrons appeared on the scene had been miserable.

Di Stefano's analysis can help us understand the kinds

The systems whose evolution has just been described: lay patrons, bishops, monasteries, popes, kings, not to mention the priests at the end of the parish priestal delivery system, each had its own dynamics and 'autopoiesis'. An overarching system for controlling these interactions was put in place in the later 12<sup>th</sup> century: the 'law of patronage', which then continued for centuries

### **Document**

'To your inquiry we give the following response: that, if someone builds a church with the consent of the diocesan bishop, this entitles him to the right of patronage. For the rest, in a conventual church, the assent of the patron is required, to do things properly,<sup>1</sup> not for carrying out the election of the person who is to be put in charge, but once it is a *fait accompli*, unless [the patron] has in

---

<sup>1</sup> 'honestius'.

some other way obtained the jurisdictional right to have a share in the process of election. It is however otherwise with a chapel, in which one priest only is chosen by the patron, and presented to the bishop of the place for the institution to be carried out. For the sake of the foundation of the church, too, the pride of place<sup>2</sup> in a procession is kept for the founder, and, if he finds himself in need, help may within reason be provided by the church, as has been ordained by the sacred canons.’

(Decretals of Gregory IX, X.3.38.25; 1190 ruling of Clement III: see Wood, *Proprietary Church*, pp. 896-897.)

Abstract of Roberto Di Stefano, ‘Lay Patronage and the Development of Ecclesiastical Property in Spanish America: the case of Buenos Aires, 1700-1900’ *Hispanic American Historical Review*, 93 (2013), pp. 67-98.

‘Beginning with the dissolution of colonial Christendom, the development of church property has been closely tied to processes of secularization in Latin American countries. This process is to be understood not as the marginalization of religion but as the restructuring of religious matters in modern societies. The practice of lay patronage—which was common in America, as it was in Europe for centuries—channelled family wealth into the financial support of certain institutions, which in turn allowed lay patrons to intervene in decisions about religious life. In the case of Buenos Aires such properties were absorbed or expropriated during the nineteenth century as part of a process of centralization, in which local church authorities, the papacy, and the state all participated. Thus in Buenos Aires the process of disentailment of church property did not involve the transfer of property from the church to the state, as might be supposed by extrapolating from the liberal reforms that took place in other countries. Rather, there was a process of appropriation by the state and by the church of property and managerial authority that had previously been held by families and various local institutions. It is worth asking if this phenomenon was unique to Buenos Aires, or if it can be generalized in some measure to other parts of the Hispanic world.’

---

<sup>2</sup> ‘honor’