

Pavel KRAFL

Constantine the Philosopher University in Nitra,
Slovakia

The Law of Patronage in Czech Dioceses in the High and Late Middle Ages

SUMMARY. The main founder of churches and ecclesiastical institutions in the early Middle Ages was the duke, while from the 12th century magnates also became involved in founding these institutions. Gifts went to God and the saints. In the early period of founders, the property donated to the Church was treated in the spirit of respecting the rights of the proprietary churches. The law of patronage, which was progressively implemented during the 13th century and first half of the 14th century brought change. The most common holders of the right of patronage in the Bohemian Kingdom and the Moravian Margraviate were the king, the margrave, individual noble families, bishops, monasteries, chapters, Royal towns, and occasionally patrician families. A priest who applied for a parish benefice had to submit proof of his ordination and a presentation document from the church patron. Following confirmation from the vicar general, he received a confirmation document showing that he was the authorised holder of the particular parish benefice. Parish benefice confirmations were recorded in the confirmation books held by the vicars general.

KEYWORDS: Law of patronage, Canon Law, Kingdom of Bohemia, Middle Ages.

Introduction

One important piece of medieval canon law was the law of patronage (*jus patronatus*). This governed the relationships between the founder of a benefice and the respective Church institution. In this article we focus our attention on the application of the law of patronage within Czech dioceses during the Middle Ages. Specifically, these are the Diocese of Prague, the Diocese of Olomouc, and in the period from the mid-14th century to the Hussite Revolution, also the Diocese of Litomyšl. In 1344, the Bishopric of Prague was elevated to an archbishopric, with the Bishopric of Olomouc and the newly established Bishopric of Litomyšl subordinated to it. The aim of the article is to give a basic overview of the penetration, application and development of the law of

patronage in medieval Bohemia and Moravia. Documents and official books regarding the law of patronage are presented¹.

Some important sources in regard to the law of patronage in Bohemia include the Prague Archbishopric's confirmation books, in which confirmations of benefices were recorded, and erection books, which recorded newly set up benefices. František Antonín Tingl and Josef Emler published confirmation books from 1354–1419², while Kliment Borový and Antonín Podlaha published erection books from 1358–1407³. The court books of the Prague Archbishopric's Vicars General, which in the period following 1379 contain many records on disputes over benefices and the right of patronage, was edited by Ferdinand Tadra⁴. The legatine, provincial and diocesan statutes and the synodical protocols promulgated by bishops and archbishops of Prague, which contain provisions on the law of patronage, were edited by Rostislav Zelený, Jaroslav V. Polc, Jaroslav Kadlec and Zdeňka Hledíková⁵, while synodical statutes of the Diocese of Olomouc were edited by Pavel Krafl⁶.

¹ For the history of canon law in Czech dioceses, see Pavel Krafl, *Dějiny církevního práva v českých zemích ve středověku [The History of Ecclesiastical Law in the Czech Lands in the Middle Ages]*, *Ius canonicum medii aevi*, vol. 3a (Košice: Viena, 2023); shortly Pavel Krafl, "Prawo kościelne w Czechach i na Morawach w średniowieczu" ["Ecclesiastical Law in Bohemia and Moravia in the Middle Ages"], *Echa Przeszłości* 11 (2010), 19–36. For penitence and liturgical law in Czech dioceses, see Pavel Krafl, "Overview of Penitence Law in the Kingdom of Bohemia in the Middle Ages", *Transilvania* 4 (2023), 71–87; Pavel Krafl, "Liturgy and Ecclesiastical Law. Medieval Liturgical Law in Czech Dioceses in the Middle Ages", *Annales de Historia Antiqua, Medieval y Moderna* 57, no. 1 (2023), 65–82. For the law of patronage in neighbouring Poland, see Władysław Abraham, *Początki prawa patronatu w Polsce [Beginnings of the Law of Patronage in Poland]* (Lwów: Nakładem redakcyi Przeglądu Sąd. i Adm., 1889); Maria Koczarska, "Prawo patronatu w Polsce późnego średniowiecza i jego wpływ na kulturę pisma społeczeństwa świeckiego" ["The Law of Patronage in Poland in the Late Middle Ages and its Influence on the Culture of Writing in Lay Society"], in *Sacri canones servandi sunt. Ius canonicum et status ecclesiae saeculis XIII–XV*, ed. Pavel Krafl, Opera Institutii historici Pragae, series C Miscellanea, vol. 19 (Praha: Historický ústav AV ČR, 2008), 224–234.

² *Libri confirmationum ad beneficia ecclesiastica Pragensem per archidioecesim*, edited by Franciscus Antonius Tingl and Josef Emler, Vol. I–VII (Pragae, 1867–1886).

³ *Libri erectionum archidioecesis Pragensis saeculo XIV. et XV.*, Vol. I.–VII., ed. Clemens Borový, Antonius Podlaha, Josef Pelikán and Hana Pátková (Pragae, 1875–2002).

⁴ Ferdinand Tadra, *Soudní akta konsistoře Pražské (Acta judiciaria consistorii Pragensis)*. *Z rukopisů archivu kapitolního v Praze*, Vol. I.–VII. (Historický archiv, Vol. 1, 2, 8, 11, 15, 18, 21; Praha: Česká akademie císaře Františka Josefa pro vědy a slovesnost a umění, 1893–1901).

⁵ Rostislav Zelený, *Councils and Synods of Prague and their Statutes (1343–1361)*, Estratto da Apollinaris 45 (Roma: Institutum utriusque iuris Pontificae universitatis Lateranensis, 1972); Jaroslav V. Polc, "Councils and Synods of Prague and their Statutes 1362–1395", *Apollinaris* 52 (1979), 200–237, 495–527; 53 (1980), 131–166, 421–457; Jaroslav Kadlec, "Synods of Prague and their Statutes, 1396–1414", *Apollinaris* 64 (1991), 227–293. For reedition, see *Pražské synody a koncily předhusitské doby [Prague synods and councils of the pre-Hussite era]*, ed. Jaroslav V. Polc and Zdeňka Hledíková (Praha: Karolinum, 2002).

⁶ Pavel Krafl, *Synody a statuta olomoucké diecéze období středověku / Medieval Synods and Statutes of the Diocese of Olomouc*, 2nd edition, Opera Institutii historici Pragae, series B Editiones, vol. 10 (Praha / Prague: Historický ústav / Institute of history, 2014).

The law of patronage required that the original church owner, at that time the church patron, did not appoint the priest for the church, but rather that he merely proposed an appropriate candidate to the bishop (presentation). The bishop would then confirm the proposed person as long as he met all requirements (confirmation). The patron had the right and obligation of supervision over the church's assets⁷. The original ownership right of the church founder became the right of patronage, with the relationship to the original property expressed in the application of founder's rights⁸.

In early times, the relationship between the church's founder and the church was set up along the lines of a system of proprietary churches. Churches that were set up were owned by their founder, i.e. the duke. This arose from the idea that anything that stood on the territory of a landlord was the property of that landlord, including churches and monasteries. A church and its income represented a specific type of asset for the founder, whether sovereign or nobleman, and it was understood to be private property. The landlord actually appointed a priest to the church, and demanded a part of the church's income, including the final estate of the priest. If a church was unoccupied, all its income went to the landlord⁹.

A conflict between Bishop of Prague Andreas (1214–1223) and King Přemysl Ottokar I of Bohemia was of significance for the Church's emancipation and its further development in Bohemia. Andreas's efforts reflected the direct influence of the papal curia and the reform programme of the papacy. Upon his return from the Fourth Council of the Lateran, Andreas attempted to enforce the concept of the Church as an independent body. In so doing, he was also challenging laymen to refrain from appointing priests to churches without the Bishop's agreement. Andreas remained alone in his battle, and it proved impossible to change ingrained customs easily. Instead of the judicial statement the Bishop was expecting, the papal curia allowed the situation to be resolved through political negotiations with the Bohemian King. An agreement came out of Andreas's negotiations with the royal counsel, Master John

⁷ Peter Landau, *Ius patronatus. Studien zur Entwicklung des Patronats im Dekretalenrecht und der Kanonistik des 12. und 13. Jahrhundert*, Forschungen zur kirchlichen Rechtsgeschichte, vol. 12 (Köln–Wien: Böhlau, 1975).

⁸ Václav Vaněček, *Základy právního postavení klášterů a klášterního velkostatku ve starém českém státě (12.–15. stol.) (Zakladatelská práva – Pozemková vrchnost – Imunita) [Foundations of the legal status of monasteries and monastery estates in the old Bohemian state (12th–15th century) (Founders' rights – Manorial lords – Immunity)]*, Vol. I. *Zakladatelská práva [Founders' rights]*, Práce ze Semináře československých právních dějin na Právnické fakultě Karlovy university, no. 18 (Praha: Jan Kapras, 1933). For founders' rights in Moravia, see Tomáš Borovský, *Kláštery, panovník a zakladatelé na středověké Moravě [Monasteries, the monarch, and founders in medieval Moravia]* (Brno: Matice moravská, 2005).

⁹ Jaroslav Kadlec, *Přehled českých církevních dějin [An overview of Czech ecclesiastical history]*, Vol. I. (Praha: Zvon, 1991), 85–87, 92; Marie Bláhová, Jan Frolík and Naďa Profantová, *Velké dějiny země Koruny české [The Great History of the Lands of the Bohemian Crown]*, Vol. I. (Praha–Litomyšl: Paseka, 1999), 361–362, 364, 425.

de Scacario, in 1221, which acknowledged all spiritual administration of the Church in Bohemia, in particular the installation of priests according to the right of patronage. Pope Honorius III summarised its conclusions in a document, and this was subsequently confirmed by King Přemysl Ottokar I of Bohemia¹⁰. The privilege for the Prague Bishopric and church, given the *omnem libertatem*, was restored. After that, the issue of the right of patronage disappeared from the agenda. Provisions regarding the right of patronage do not appear in the King's privilege for the Prague church from 2 July 1221, nor in the Great Privilege for the monasteries in the Diocese of Prague from 10 March 1222. Nevertheless, these privileges did consolidate the ownership rights of ecclesiastical institutions¹¹.

The right of patronage was applied across almost the entire thirteenth century, and partially also in the fourteenth century. Many members of the higher nobility became bishops from the end of the thirteenth century; the position of bishops was in this way strengthened. They could better secure the needs of a particular church in its spiritual and temporal stand against secular power (i.e., against the nobility and the sovereign)¹².

In 1273, the Bishop of Olomouc, Bruno of Schaumburg (1247–1281), noted to Pope Gregory X (1271–1276) that only the Bohemian King respected the law of patronage in Bohemia, and that, considering the established customs there and the number of opponents, the Bishop of Prague could do nothing without the support of the Holy See¹³. Papal legate Giovanni Boccamazza stressed the necessity of preventing parish and chapels from being occupied by unauthorised persons, i.e. contrary to the law of patronage. Amongst extant documents, there is a broad range of presentation and confirmation documents, including real and form-based documents. We have many documents from the period of Bishop of Prague Tobiáš of Benešov¹⁴.

According to the chronicler František Pražský's interpretation, during the episcopate of Bishop of Prague Jan IV of Dražice (1301–1343), a priest who did not obey his patron was cast out of his church and replaced by a new priest, who would arrive after him during the period from St George's Day until the following St George's Day.

¹⁰ *Codex diplomaticus et epistolaris regni Bohemiae*, Vol. II, ed. Gustavus Friedrich (Pragae: Sumptibus Comitorum Regni Bohemiae, 1912), n. 209, p. 194; n. 212, p. 197–198.

¹¹ Josef Žemlička, *Počátky Čech královských 1198–1253. Proměna státu a společnosti [The Beginnings of Royal Bohemia 1198–1253. The transformation of the state and society]* (Praha: Lidové noviny, 2002), 119–120, 124, 125, 128.

¹² Zdeňka Hledíková, "Šlechta a hierarchie v Čechách od druhé poloviny 13. do počátku 15. století" ["The Nobility and Hierarchy in Bohemia from the late 13th century to the early 15th century"], *Mediaevalia historica Bohemica* 1 (1991), 58–74.

¹³ *Codex diplomaticus et epistolaris regni Bohemiae*, Vol. V/2, ed. Jindřich Šebánek and Sáša Dušková (Pragae: Academia scientiarum Bohemoslovaca, 1981), n. 719, p. 374.

¹⁴ Pavel Krafl, "Würzburg legatine statutes of 1287 and the Kingdom of Bohemia", *Temas Medievales* 29, no. 2 (2021), 12–15; Pavel Krafl, *Dvě studie k synodálnímu zákonodárství (Würzburg 1287, Kališ 1420) [Two studies on synodal legislation (Würzburg 1287, Kališ 1420)]*, *Ius canonicum medii aevi*, vol. 2 (Nitra: Univerzita Konštantína Filozofa, 2021), 25–30.

The bishop went to the King and the nobility and asked that this approach no longer be taken. According to the chronicler, noblemen responded that it would be better to become pagans than to accept his requests¹⁵.

The diocesan and provincial statutes give opinions on the unauthorised occupation of benefices. The Prague provincial statutes of 1349 ordained that unauthorised holders were removed from benefices. In the Moravian diocesan statutes from 1318 there was a provision against the unjustified occupation of parish benefices by secular persons. That is, the right to the church was denied to persons who were appointed as parson by secular authorities or who somehow inveigled himself into the position¹⁶. From 1380, the vicars general of the Prague Archbishopric took over disputes over benefices and the law of patronage from officials, such disputes having become the most common kinds of disputes¹⁷.

It was the owners of the church who had the law of patronage at this time, i. e. the noble families and perhaps the monarch. Most patrons were recruited from the nobility, and it was generally churches in villages which they owned. With increasing foundations of Church institutions and additional donations to these, possession of the right of patronage over parish churches expanded to monasteries and collegiate chapters. In general, it was churches in villages which Church institutions gained ownership of. Royal towns also became patrons of churches, and this was typical for Prague's towns. On noble estates, the law of patronage was fully respected from the mid-14th century. In most cases, the bishop or his vicar general obliged the patron and confirmed the presented cleric for the benefice. For towns which had the right of patronage over their parish church, it was the town council which selected the candidate. In Prague's towns including its suburbs, for example, there were more than forty parish churches, and the town was the patron of the majority of these¹⁸.

¹⁵ *Fontes rerum Bohemicarum*, ed. Jana Zachová, series nova, Vol. I. (Praga: Nadace Patriae and Historický ústav Akademie věd České republiky, 1997), 43; Josef Žemlička, "Návrat českých pánů k pohanství? Ke zprávě Františka Pražského o křivdách na farním kléru" ["The return of Czech lords to paganism? On František Pražský's report on injustices on parish clergy"], in *Pohané a křesťané. Christianizace českých zemí ve středověku*, eds. Martin Nodl and František Šmahel (Praha: NLN, 2019), 33–34.

¹⁶ Pavel Krafl, "Spoliatores bonorum ecclesiasticorum et captivatores clericorum in Bohemian and Moravian Synodal Legislation", *Rivista Internazionale di Diritto Comune* 28 (2017), 248–249; Pavel Krafl, "Loupění či napadání církevního majetku a zajímání kleriků v českém a moravském církevním zákonodárství" ["The theft and pillaging of ecclesiastical property and the detention of clergy in Bohemian and Moravian ecclesiastical law"], *Sborník prací Pedagogické fakulty Masarykovy univerzity, řada společenských věd*, 28, no. 2 (2014), 8.

¹⁷ Zdeňka Hledíková, *Úřad generálních vikářů pražského arcibiskupa v době předhusitské [The office of vicars general for the Prague Archbishop in the pre-Hussite period]*, Acta Universitatis Carolinae, Philosophica et historica, monographia, vol. 41 (Praha: Universita Karlova, 1971), 68.

¹⁸ For an overview of Prague parish churches, see Zdeněk Boháč, *Topografický slovník k církevním dějinám předhusitských Čech [Topographic dictionary of the ecclesiastical history of pre-Hussite Bohemia]* (Praha: Historický ústav, 2001), 23–46; Dietrich Kurze, *Pfarrerwahlen in Mittelalter. Ein Beitrag zur Geschichte der Gemeinde und des Niederkirchenwesens*, Forschungen zur kirchlichen Rechtsgeschichte und zum Kirchenrecht, vol. 6 (Köln–Graz: Böhlau, 1966), 465.

The appointment of all benefice holders by the bishop allowed for separate Church administration to be applied, with supervision over the diocese's clergy. Jurisdictional authority could be applied at a local level (archdeacons), and this was followed by the development of central ecclesiastical courts¹⁹. The confirmation of parish priests became an official step of a formal nature in which no real decision was made. The mass nature of the agenda played a role, and the presenting patron played the decisive role²⁰. Even so, there were also cases where the vicar general refused to confirm a priest to a church. This occurred, for example, in 1386, when the priest Albert, proposed by Vrbík of Tismice and the joint patrons of the church in Ratenice, was found unsuitable²¹.

Much writing of documents was involved in the appointment of an altar administrator and parish parson. The priest submitted an ordination document (*litterae formatae*) and a presentation document from the church patron. This naturally included the seal of the patron. It is assumed that it was actually the presented cleric who wrote in it on behalf of the patron. It was only to a limited extent that the patron came in person to the office to present him. The priest went to the office with both these documents, where he received the confirmation document, which authorised the recipient to receive the benefice and its wages. A ceremony was meant to take place in which the new parish parson or altar administrator would be publicly announced at the place where the church was located. This also involved a call that any objections be made there. If there were no objections, the priest was introduced to his office by one of the neighbouring parish priests. If there were objections, then this was generally followed by a dispute. The executors together made a decision, and their acts were also recorded in the confirmation book. A priest who was applying for a benefice did not have to appear in person, but rather could be represented by his procurator. The procurator required written power of attorney²². Exceptionally in the presentation of a cleric the legal custom of secular law was also applied, as

¹⁹ Johann Schlenz, *Das Kirchenpatronat in Böhmen. Beiträge zu seiner Geschichte und Rechtsentwicklung. Quellen und Forschungen aus dem Gebiet der Geschichte* 4 (Prag: Verlag der Deutschen Gesellschaft der Wissenschaften und Künste für die Tschechoslowakische Republik, 1928), 32–167; Zdeňka Hledíková, “K otázkám vztahu duchovní a světské moci v Čechách ve druhé polovině 14. století” [“On the question of the relationship between religious and secular power in Bohemia in the second half of the 14th century”], *Československý časopis historický* 24 (1976), 251.

²⁰ Hledíková, *Úřad generálních vikářů*, 35.

²¹ —, “K otázkám vztahu,” 251, footnote no. 22.

²² —, “Arcibiskupství a písemná kultura ve středověku” [“Archbishopric and written culture in the Middle Ages”], in *Pražské arcibiskupství 1344–1994. Sborník statí o jeho působení a významu v české zemi*, eds. Zdeňka Hledíková and Jaroslav V. Polc (Praha: Zvon, 1994), 75. An extant list from the Prague Chapter Archives which comes from the office of the Prague administrators shows payments for sealing the documents affirming the confirmation of parish priests and provisions on spiritual administration for the period from 8 March 1498 to June 1499. Zdeňka Hledíková, “Registrum perceptorum a sigillo (Z agendy pražských administrátorů na konci 15. století)” [“Registrum perceptorum a sigillo (From the agenda of the Prague administrators at the end of the 15th century)”], *Acta Universitatis Carolinae, Philosophica et historica* 5, *Z pomocných věd historických* 3 (1975), 89–104.

was the case in the passing of the hat to the presented cleric from the secular patron of the church in Žlutice in the Žatec district in 1402²³.

Records of confirmations made were put in confirmation books (*Libri confirmationum*). These began to be kept from June 1354 in the Archdiocese of Prague. The records were anonymous in the first four years (specifically until June 1358), and with few exceptions the issuer of the decision is not listed. The initial entry in the second half of the first book implies that during this period, the Archbishop himself undertook confirmations, i. e. Arnošt of Pardubice (1344–1364), and to a lesser extent his vicars general. 1358 saw a major change in the keeping of confirmation books. There were no longer separate records for each archdeaconry, and a single chronological list began to be kept. The stylisation of the records also changed, with the issuer of the confirmation document listed, i. e. the specific vicar general, and initially also rarely the archbishop. In addition to the records, there were also occasionally copies of confirmation documents of vicars general²⁴. Records of changes in the possession of immovable property and various salaries, as well as changes in who held the right of patronage were found in the judicial books of vicars general²⁵.

For illustration, we can give the number of confirmations in the Prague Archdiocese during the first six years that confirmation books were kept, as evidenced in their records. In 1354, a total of seventy-four confirmations were entered in Prague confirmation books from their establishment until the end of that year. In the subsequent year, there were a total of ninety confirmations, and in 1356, a total of a hundred-and-three confirmations, while in 1357 the number increased to a hundred-and-forty-three confirmations. 1358 saw a hundred-and-ninety, while in 1359 the figure fell to a hundred-and-twenty-five confirmations²⁶.

Only a fraction of Olomouc confirmation books are extant, these covering the years from August 1452 to May 1455. These comprise 12 folios, and they are written on paper. They contain records of a hundred-and-four confirmation documents. However, a number of folios covering records from March 1454 to January 1455 are missing. The documents are written in chronological order and abbreviated, with an

²³ Jan Hrdina, “O klobouku, klericích a patronovi. Netradiční forma prezentace plebána k farnímu beneficiu pražské diecéze na počátku 15. století” [“On the hat, clergy, and patrons. Unconventional forms of presenting the parish priest to parish benefices in the Prague Diocese in the early 15th century”], in *Církevní topografie a farní síť pražské církevní provincie v pozdním středověku*, eds. Jan Hrdina and Blanka Zilynská, *Colloquia mediaevalia Pragensia*, vol. 8 (Praha: Filosofia, 2007), 199; 203–206.

²⁴ Hledíková, *Úřad generálních vikářů*, 25; 31–32. For edition, see *Libri confirmationum*, ed. Tingl and Emler.

²⁵ —, “Soudní akta generálních vikářů” [“Vicars general court books”], *Sborník archivních prací* 16 (1966), 161.

²⁶ —, “K otázkám vztahu”, 248. Statistics on entries in confirmation books on individual days in 1407 and 1408 are summarised in a table by Jan Adámek, “Úřední dny v pražské arcibiskupské kanceláři na počátku 15. století” [“Office days in the Prague Archbishopric office in the early 15th century”], *Acta Universitatis Carolinae, Philosophica et historica* 2, *Z pomocných věd historických* 15 (1999), 150–167.

average of five documents on one page, most with a contemporary heading²⁷. On the basis of the data, i.e., a hundred-and-four documents covering two time periods comprising a total of twenty-three months, we see that, on average, during this period there were up to fifty-four confirmations per year. Each month, one to nine confirmations took place, with five being the most common (in eight months of the total of twenty-two months), alongside just two (in five months of twenty-two)²⁸. Doubts as to the complete nature of the records in confirmation books have been expressed for the Prague and Olomouc books²⁹.

Only a minority of churches in Bohemia had a bishop's patronage, with the Archbishop of Prague holding thirty-three patronages. A high number of monastery patronages in some of the (micro-)regions often related to the concentration of assets around the monastery. Monasteries and donated villages often also acquired the right of patronage over the local parish church. In the Broumov deanery, for example, the Břevnov monastery had seven patronages and three noblemen. For the Knights Hospitaller and the Teutonic Order, the representative of the order's province decided on the presentation. In the former case, this applied to thirty-one churches, and in the latter, twenty-five churches. In terms of numbers, amongst secular patrons the nobility dominated. Noble patronages were only rarely concentrated in the hands of a single holder. Some of the major holders of patronage included the head of the House of Rožmberk, who had the right of patronage over sixty churches. In the mid-14th century, the King of Bohemia held just a fraction of the patronage rights over the original total number of churches founded by the monarch. As founder, the monarch had the law of patronage to most collegiate churches. A large section of the monarch's patronages were parish churches in Royal towns and cities, including dowry towns. Exceptionally, patronage was transferred to patrician families, as in the case of some churches in Prague's Old Town. A number of burghers from Žatec, Kadaň, Litoměřice, Plzeň and Kutná Hora also had the right of patronage³⁰.

Beginning in the 14th century, we encounter interventions from the Holy See regarding the occupation of parish benefices. People who received parish benefices

²⁷ Petr Elbel, "Zlomek olomoucké konfirmační knihy z let 1452–1455. Předběžné výsledky rozboru opomíjeného pramene k poznání církevní topografie, diecézní správy a konfesního soužití na Moravě po polovině 15. století" ["A fragment of Olomouc confirmation books from 1452–1455. Interim results of the analysis of an overlooked source in ascertaining Church topography, diocesan administration, and denominational co-existence in Moravia after the mid-15th century"], in *Církevní topografie a farní síť pražské církevní provincie v pozdním středověku*, eds. Jan Hrdina and Blanka Zilynská, *Colloquia mediaevalia Pragensia*, vol. 8 (Praha: Filosofia, 2007), 93–94.

²⁸ *Ibid.*, 97, 119–135.

²⁹ *Ibid.*, 97.

³⁰ Hledíková, "K otázkám vztahu", 256, 260, 262–264. For an analysis of the structure of the law of patronage for the Plzeň basin region from the borders to the Rakovník and Podbrdy districts, see Zdeňka Hledíková, "Ke studiu a možnostem využití patronátních práv v předhusitských Čechách" ["On the study and possibilities of the use of the law of patronage in pre-Hussite Bohemia"], *Folia historica Bohemica* 7 (1984), 43–99.

even though they did not meet canon requirements, such as being of the right age or having been ordained, often asked for a dispensation from the Holy See. They then received a document from the Pope which annulled the offence and called upon him to give up the benefice. It was then regranted to him by apostolic authority. This process was called habilitation, and it is recorded from the time of Clement VI (1342–1352) and Innocent VI (1352–1362). Otherwise, the papal curia was able to confiscate it from a cleric who held a church and parish not in accordance with canon law, and then grant it to somebody else on the basis of provision. The papal curia also secured the occupation of a parish if it had long been vacant on the basis of a decree of the Council of the Lateran of 1179. There are also records of papal confirmation for a parish church from Innocent VI's pontificate³¹.

During George of Poděbrady's reign, only confirmations of the most important persons and confirmations of chapter prebends were recorded in administrators' acts³². In the Jagiellonian period, we have documents on confirmations in one administrators' official book. Mixed books contain a list of confirmations for parish priests for the period of 1490–1492³³.

Conclusion

According to the right of patronage, the founder of a church who was originally its owner became the church's patron. The patron had the right and obligation of supervision over the church's assets, and, in regard to the church's assets, so-called founder's rights were applied. Common patrons of churches were members of the nobility, the sovereign, Church institutions (monasteries, collegiate chapters), the Bishop, royal towns, and, exceptionally, individual burghers from royal towns. In 13th century Bohemia, evidently only the Bohemian king fully respected the right of patronage, as a report produced for the Pope by Bishop Bruno of Schaumburg (1273) attests to. On noble estates, the right of patronage was fully respected from the mid-14th century.

³¹ Jaroslav Eršil, *Správní a finanční vztahy avignonského papežství k českým zemím ve třetí čtvrtině 14. století [Administrative and financial relationships of the Avignon papacy to the Czech lands in the third quarter of the 14th century]*, *Rozpravy Československé akademie věd, řada společenských věd*, no. 10/69 (Praha: Nakladatelství Československé akademie věd, 1959), 79–83. On the occupation of parishes by the papal curia in Moravia, see Petr Elbel, "Die Besetzungen der Pfarreien in der Diözese Olmütz durch die päpstliche Kurie in Spätmittelalter (1389–1447)", in *Pfarreien im Mittelalter. Deutschland, Polen, Tschechien und Ungarn im Vergleich*, eds. Nathalie Kruppa and Leszek Zygnier (Göttingen: Vandenhoeck & Ruprecht, 2008), 363–515.

³² Antonín Mařík, "K postavení katolické církve v Čechách v době poděbradské (Činnost katolických administrátorů za Jiřího z Poděbrad)" ["On the status of the Catholic Church in Bohemia in the Poděbrady era (the activity of Catholic administrators under George of Poděbrady)"], *Folia historica Bohemica* 7 (1984), 131.

³³ Veronika Macháčková, "Církevní správa v době jagellonské (na základě administrátorských akt)" ["Church administration in the Jagiellonian period (based on administrator acts)"], *Folia historica Bohemica* 9 (1985), 242, list of confirmations on pp. 280–282.

Enforcement of the right of patronage resulted in the bishop's position being strengthened relative to the parish clergy, as he was better able to exercise his authority over them. This supervision was applied either directly or through archdeacons, who had visitation rights.

While the former owner of the church directly appointed the priest to the church, the patron was equipped only with the right of presentation. The right of presentation meant that the patron proposed a suitable candidate to the bishop. The proposed cleric would be assessed at the bishopric to ensure he met all relevant requirements according to canon law. The priest submitted a document showing that they had been ordained, as well as a presentation document from the church's patron. The bishop, or a person appointed by him, then confirmed the proposed individual (confirmation). Over time, the confirmation of priests turned into an official procedure of a formal nature, during which an actual decision was not made. It was usually the vicar general who executed the bishop's competencies regarding confirmation. Records of confirmations which had taken place were recorded in confirmation books. The priest received a confirmation document which entitled him to receive the benefice. A ceremony was meant to take place during which the priest would be publicly announced as the parish priest at his new parish. Sometimes, clerics who did not meet the requirements of age or ordination applied for dispensation from the Apostolic Penitentiary. There are a large number of extant presentation and confirmation documents, including actual documents and formulary documents, beginning in the period when Tobiáš of Benešov was Bishop of Prague.

Diocesan and provincial statutes contain many provisions regarding the unauthorised occupation of benefices. According to a 1349 codification by Arnošt of Pardubice, in the event of an unauthorised holding of a benefice, the benefice was lost. There were many disputes over benefices and the right of patronage. In the Prague bishopric, disputes regarding benefices and the right of patronage were originally brought before the court of the official, and, from 1380, before the court of the vicar general. Such disagreements represented the most common subjects of dispute proceedings. Beginning in the 14th century, we come across interventions from the papal see in regard to the occupation of parish benefices.

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Pavel KRAFL

PATRONATO TEISĖ ČEKIJOS VYSKUPIJOSE BRANDŽIAISIAIS IR VĒLYVAISIAIS VIDURAMŽIAIS

S a n t r a u k a

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RAKTAŽODŽIAI: patronato teisė, kanonų teisė, Bohemijos karalystė, viduramžiai.

Pavel KRAFL – Doctor of History, professor of the Faculty of Arts, Constantine the Philosopher University, Slovakia. Fields of interest – medieval canon law, especially medieval synods in East Central Europe. Address: Hodžova 1, SK-949 74 Nitra, Slovakia. E-mail paotk@proton.me.

Pavel KRAFL – istorijos daktaras, Konstantino Filosofo universiteto Nitroje, Slovakijoje, profesorius. Mokslinių tyrimų sritys – viduramžių kanonų teisė, ypač viduramžių sinodai Rytų Centrinėje Europoje. Adresas: Hodžova 1, SK-949 74 Nitra, Slovakija. El. paštas paotk@proton.me.