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CHURCH AND STATE IN GUATEMALA

BY

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*To Professor Frank Tannenbaum
of Columbia University
who has so thoroughly understood the problems
connected with making this study*

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MARY P. HOLLERAN

WEST HARTFORD, CONNECTICUT

PREFACE

No one can understand any country or people in Latin America unless he is familiar with the story of the Church, and yet, because it is complicated and difficult of interpretation, the whole subject has been generally ignored or evaded, especially since the Independence movements of the nineteenth century. The matter is a delicate one — some attempts to explain or discuss various phases and angles of church-state problems have resulted in explosions of ill-feeling, charges and counter-charges of prejudice, hostility or persecution.

Various articles written by well meaning members of the Catholic Church have aided the historical or academic angle very little because they have deteriorated into emotional apologiae.

Another group has brought a fine array of hostile prejudices to the task—they run the whole gamut, beginning with a general condemnation of everything Spanish and ending with an indictment of the Church as being responsible for “backwardness” (which for me becomes increasingly difficult to define), illiteracy, poor health, inadequate transportation and communication, dirt, reaction, poverty, and a general “lack of social consciousness.”

This work is not intended to be pretentious or definitive. Its purpose is to set forth as clearly as possible, on a documentary basis, the main patterns and themes of church-state relationships in one specific Latin American area.

To do this it seems necessary to set the historical account into a broad background which, in this case, necessitates an examination of the formula for basic church-state relations in Spain, the Mother Country. This formula comes down to us in the present day as the “*patronato real*”.

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PART ONE

CHAPTER I

THE PATRONATO REAL

ALTHOUGH the purpose of this study is to consider the general phases of the relations of Church and State in Guatemala, it will soon become evident that much of the story will emerge in terms of the historical conflict which has been going on for centuries between the two. Sometimes the difficulties have been relatively latent, but on occasion they have rapidly risen to the surface. The battle lines have been sharply drawn when the energies of society at any given time have been inadequate for large scale organization and neither institution could gain much headway except at the expense of the other.

During the Middle Ages there were many drives conducted by secular rulers to bring the Church under their power. The reactions of the clergy were natural and usually took two directions, namely they sought to become independent of secular rule, and they in turn attempted to impose ecclesiastical controls on the machinery of the State.

When the Roman Empire was declining, barbarian kings often tried to usurp the rights of the Roman Empire over the Church; the Church in turn conceded or protested. With the rise of feudalism, the clergy, because they were disorganized or in need of protection, often surrendered control. As feudalism waxed strong, the secular rulers began to nominate and appoint clergymen to various church posts. Pope Gregory VII did not mince words when he identified lay investiture with simony, but such investiture was the means that civil rulers thought necessary in order to revive imperial power and to restore order to the State. Nevertheless, the opposition of the Popes to their tactics finally defeated the effort. The Empire was reduced to a shadow and the Medieval Church emerged supreme.

With the rise of the modern national governments the Papacy found that doctrinal unity could only be preserved at

a price. That price had to be reckoned in terms of loss of some ancient privileges, liberties, or revenues. Otherwise, schisms were threatened. King Henry VIII of England actually seceded. King Francis I of France did indeed make a concordat with the Vatican, but he received in turn the power to make appointments and the right to a certain share in the church revenues. The Church weapons of interdict and excommunication were no longer effective.

The Spanish Kingdom of Castile was ultra-Catholic in medieval times. The monarchs, who traced some of their privileges to Visigothic origins, were protectors of the Shrine of St. James, were patrons and protectors of the Archbishop of Toledo, they were the champions of the Church against the infidel Moors. In turn they came to regard it as proper that they should be given a tremendous degree of jurisdiction over ecclesiastical affairs. This pattern of "lay patronage" became known as the *Patronato Real*.

It developed into a fixed policy which was the chief means by which the Spanish sovereigns, most particularly Ferdinand and Isabella, built their version of an absolute monarchy. Their great crusades against the Moors were useful in extending their power over both clergy and laity.

Emphasis must be placed on the fact that the Popes were not enthusiastic about making concessions. They surely felt the steady and insistent pressure exercised upon them. They were grateful because the Moors were eventually expelled from the Iberian Peninsula. They were cognizant of the signal virtues, piety and devotion of their Catholic Majesties. Surely no one had dreamed of a more Utopian Church State (*res publica Christiana*) than Isabella; her test of allegiance was orthodoxy; her objective in governing, the advancement of religion. Her sincerity has never been seriously challenged.

Before Isabella's death in 1504 she had set an enduring pattern for the official institutional psychology of Castile. That pattern was to be continued by her grandson and his Hapsburg descendants. There came to be vested in the Crown an

absolutism as complete in the control of Church organization as the accepted doctrines of the Catholic Church were to be absolute in controlling the beliefs of the Spanish people.

On the one hand, Emperor Charles V was an unbending champion of orthodoxy throughout Europe and, on the other, he was a jealous guardian of his ecclesiastical privileges.

The Most Catholic King Philip II, who struggled stubbornly against Protestantism in Holland, was seldom considerate of the Bishops, and he did not for a moment hesitate to put meddlesome clergy in prison, even though their credentials came directly from Rome.

It may be truly stated that the Spanish Leviathan had two arms, of which the Church, the right limb, was by far the stronger and more responsive to the royal will than the left, the cumbersome semi-feudal machinery of several separate kingdoms.

It may be argued, however, that the ecclesiastical prerogatives of the Crown in the Iberian Peninsula rested on doubtful traditions, bold usurpations and grudging equivocal concessions, but it can never be denied that their vast power in the Indies rested securely, legally, incontestably and explicitly on a series of Papal Bulls.

The first of these documents, the famous Bull *Inter Cetera*, March 4, 1493, conferred on the Kings of Castile the exclusive right to propagate Christianity in the lands beyond the line of demarcation, and solemnly commanded them to see to it that the inhabitants of the new territories were instructed in the Catholic faith.¹

It is apparent from this Bull that the conquest and government of the New World could not be separated from the preaching of the Gospel. The temporal power was establishing dominions in America on pontifical concessions. The Church

¹ For the English translation cf. Davenport, F. G., ed., *European Treaties Bearing on the History of the United States and its Dependencies to 1648*, p. 75 ff., cited by Commager, Henry S., *Documents of American History*, New York, Crofts, 1944, pp. 2, 3.

could introduce the Cross only with the assistance of Spanish soldiers. Nor did it have any temples other than those erected by the Conquistadores.

This Bull may properly be said to have laid the foundation of the system of royal patronage for the New World. From then on the Spanish monarchs considered themselves as Apostolic Vicars empowered with the temporal and spiritual government of the Church.

A second Apostolic Bull, commencing *Eximiae devotionis*, dated November 15, 1501,² from the hand of the same Pope Alexander VI, conceded to the Spanish Kings all the prerogatives, faculties, exemptions and privileges previously granted by Apostolic Indults to the Kings of Portugal for their conquests in the East Indies, among which was the right of patronage, according to the Bull of Pope Calixtus III (1456).³ The monarchs were granted the use of tithes in America,⁴ and, in return, they were to defray from the Royal Treasury all expenses incidental to the propagation and maintenance of the faith.⁵

After the last voyage of Columbus (1504), the Catholic Kings, in order to consecrate their dominion over the new lands, were principally interested in organizing the Church, and therefore obtained from His Holiness Pope Julius II in 1508, for the increase of their honor and glory and all that would redound to them in wealth and security from the dominions of their kingdom, the exercise of the *Patronato* over all the churches of the Indies "for having raised the

² Hernáez, Francisco Xavier, *Colecciones de Bulas, Brevas y otros documentos relativos a la Iglesia de América y Filipinas*, Brussels, Alfred Vromant, 1879, I, 12-14.

³ Frasso, Pedro, *De Regio Patronatu Indiarum*, Madrid, Blasii Roman, 1775, Chap. XIX.

⁴ Muriel, Domingo, *Fasti Novi Orbis et ordinationum apostolicarum*, Venice, Antonio Zatta, 1776, p. 74.

⁵ Ribadeneyra, Antonio Joaquín de, *Manual Compendio de el Regio Patronato Indiano*, Madrid, Antonio Marin, 1755, p. 60.

standard of the Cross over unknown lands." In other words, there were granted to the Catholic Kings, as if by an Apostolic privilege, those rights which they claimed in Europe as their own.⁶

It was really this Bull of Pope Julius II, *Universalis Ecclesiae*, dated July 28, 1508, which in very explicit form granted the *Patronato Real* of the Indies, even though it might be presumed, though not very definitely, nor at length, from the Bulls of Pope Alexander VI.⁷

The Bull of Pope Clement VII for the erection of the Church of Mexico, September 9, 1534, *De Ereptione ipsius Ecclesiae*, folio VI, reiterated the concession of this right of patronage to the Kings of Spain.⁸

On December 18th of that same year, the Bull of Pope Paul III, erecting the See of Guatemala, *Illius Suffulti Praesidio*, likewise specifically conceded this right of *patronato real*.⁹

Pope Benedict XIV, in his first Bull of the Concordat with Spain on January 11, 1753, approved the continuance of the rights of the Spanish monarchs over the Indies, "there not having been any controversy over the nomination of the Catholic Kings to the archbishoprics, bishoprics and benefices which are vacant in the kingdoms of Granada and of the Indies."

In his second Bull, *Quam Semper*, dated June 9, 1753, Pope Benedict XIV stated:

In adhering to the aforesaid agreement, we do not propose to establish anything new . . . nor likewise in regard to the other Ecclesiastical Benefices of whatever nature or name which exist in the kingdoms and dominions of Granada and

6 Vélez Sarsfield, Dalmacio, *Relaciones del Estado con la Iglesia*, Buenos Aires, Librería La Facultad, 1919, p. 52.

7 Ayarragaray, Lucas, *La Iglesia en América y la Dominación Española*, Buenos Aires, J. Lajouane & Co., 1920, p. 164; Frasso, *op. cit.*, p. 3.

8 Ribadeneyra, *op. cit.*, p. 65.

9 Hernández, *op. cit.*, II, 92.

of the Indies . . . which have been and still are up to the present time, without any contradiction whatsoever, under the patronage of the said Catholic Kings by foundation or endowment, by privileges, letters or other legitimate title; rather do we wish and decree that the aforesaid Churches or Monasteries and other Consistorial Benefices, as well as all Ecclesiastical Benefices existing in the said Kingdoms of Granada and of the Indies and the others mentioned, be conferred or provided for by the nomination and presentation of the said Catholic Kings, as heretofore, whenever they become vacant or lack pastors.¹⁰

These two Bulls of Pope Benedict XIV were ordered observed by a third, *Postquam controversiæ*, September 10, 1753, and led to a new title in favor of the Spanish Kings, not only to the Universal *Patronato Real* of the Indies, in the manner in which they had enjoyed it by authority of the Apostolic See, which declared it free and exempt from all controversy, but also to the titles of endowment, foundation, privileges and Apostolic Bulls.¹¹

The Kings of Spain also mentioned this right in various laws and decrees. The *Recopilación de Leyes de los Reynos de las Indias*, Book I, Article VI, Law I, made the following reference: . . . "the patronage having been granted to us by Bulls of the Supreme Pontiffs of their own accord"; a decree of June 1, 1574, referring to this right as belonging to the Catholic Kings, used almost the same words: ". . . since it was granted to us by Bulls of the Supreme Pontiffs of their own accord. . .";¹² and another, dated June 22, 1591: "therefore there belonging to me, as it belongs to me by right and by Apostolic Bull as King of Castile and Leon, the Patronage over all the Indies of the West."¹³ In the *Instructions to the Viceroy of the Indies*, after having en-

10 Ribadeneyra, *op. cit.*, p. 67.

11 *Ibid.*, p. 378.

12 *Cédulas reales*, I, 83.

13 *Ibid.*, p. 167.

trusted to the latter the preservation and safe-guarding of this right of royal patronage, the king added: ". . . as it has been conceded to the Kings of Spain by the Holy Apostolic Sec." ¹⁴ A royal decree of March 28, 1620 declared: ". . . since there can not be permitted abuses in defiance of our patronage, and such cannot be called custom, but rather corruption, evil innovations and sin." ¹⁵

To the King belonged the power of erecting all the church buildings in the Indies, whether they were cathedrals, parish churches, monasteries, hospitals, chapels, or any other, in conformity with the law which read, "No church, nor pious place, may be erected without the permission of the King." ¹⁶ This, likewise, is in accord with the passage in the Bull of Patronage of Pope Julius II which prohibited the building in the Indies of any churches, monasteries, or pious places, without the consent of the King. ¹⁷

The pattern of the royal patronage as developed in Guatemala was similar to its application in other areas of the Indies. The records show the Spanish King, as patron, approving the project of constructing the Cathedral of Guatemala and assigning additional incomes on several occasions. ¹⁸ Likewise from time to time His Majesty approved the foundation and endowment of various institutions, e.g. on April 17, 1553, the *Colegio de Doncellas de Nuestra Señora de la Presentación* in Guatemala. ¹⁹

Also for the rebuilding, enlarging or moving of a monastery it was necessary to obtain the King's permission. ²⁰ On

¹⁴ Ribadeneyra, *op. cit.*, p. 62; Frasso, *op. cit.*, p. 5.

¹⁵ *Recopilación de Leyes de los Reynos de las Indias*, Madrid, Antonio Balbas, 1756, 2nd edition, Bk. I, Title VI, p. 26.

¹⁶ *Ibid.*, Bk. I, Title VI, Ley II.

¹⁷ *Universalis Ecclesiae*, July 28, 1508.

¹⁸ Pardo, J. Joaquín, *Efemérides para escribir la Historia de la muy noble y muy leal Ciudad de Santiago de los Caballeros del Reino de Guatemala*, Guatemala, Tipografía Nacional, 1944, pp. 11, 12.

¹⁹ *Ibid.*, p. 13.

²⁰ *Recopilación de Leyes de los Reynos de las Indias*, Bk. I, Title III, Ley II.

March 31, 1585 the Municipal Government of Guatemala wrote to His Majesty asking that he authorize the moving of the Convent of the Nuns of the Concepción to the house containing the Royal Hospital of Santiago, and the use of the building of the former for the hospital.²¹ On June 3, 1718 the Bishop of Guatemala, Alvarez de Toledo, consulted His Majesty on the repairing of the Church of San Sebastian after the earthquake of September, 1717.²² Again, after the earthquake of 1773, in the plans drawn up for the removal and rebuilding of the capital, the King was petitioned in the name of his *patronato real*, in the case of the Convent of the Presentation and that of the Poor Clares.²³

There are many references to the privilege of the *patronato real* in documents of the Indies. After Bishop Marroquín was consecrated as the first Bishop of Guatemala by Bishop Zumarraga in Mexico City in 1537, he drew up a document in which he inserted two letters of the reigning Pontiff, Pope Paul III, in the first of which the parish church of Guatemala was declared raised to the rank of cathedral and the *patronato* over it given to the Kings of Castile and Leon, and in the second of which Francisco Marroquín was named first bishop. According to the latter, Marroquín was to establish five dignities: dean, archdeacon, *chantre*, *maestrescuela* and treasurer. He was to divide the tithes into four parts, of which one should be applied to the bishop and another to the chapter by virtue of the concession to the Kings of Castile. The other two parts were to be divided into nine portions (*novenos*), two of them applicable to the royal treasury in recognition of the *patronato*, four destined for the parish priests, and the last three to be divided into halves, one for the corporate body

²¹ Pardo, *op. cit.*, p. 28.

²² *Ibid.*, p. 150.

²³ Carrillo, Agustín Gómez, *Compendio de historia de la América Central*, Guatemala, Tipografía Nacional, 1905, V, 162, 165.

administering the temporal goods of the church, and the other for the hospitals.²⁴

The Council of the Indies proposed Bartolomé de las Casas for the bishopric of the province of Chiapas when it became vacant, and the Emperor Charles V, using the right of patronage, sent the decree naming him to the bishopric November 20, 1542.²⁵ In 1545 Bishop de las Casas and Fray Antonio de Valdivieso wrote to the Prince, don Philip, "Consider, Your Highness, that the Kings of Castile have these lands, conceded by the Holy Apostolic See, for the foundation in them of a new church and the Christian religion and for the salvation of these souls."²⁶

There was no detail of the church administration that the King did not make his business. On May 22, 1553, he requested the bishop to inform him of the presence of priests and religious who were giving scandal or who were refugees from other dioceses now living in Guatemala. He asked Bishop Marroquín to treat the good friars better, to correct the bad ones, expel those known to be vicious and those who had deserted their monasteries elsewhere.²⁷

Under the *patronato real* the King administered the Bull of Crusade, extended to the Indies by papal brief of 1578 and in force throughout the Spanish régime. The revenues were considerable and were in the hands of royal collectors who obtained a percentage of the revenues.²⁸

The Bishops of the Indies, before they were handed the decrees of their appointment, had to take an oath that they would never oppose the *patronato real* and that they would

²⁴ Remesal, Antonio de, *Historia General de las Indias Occidentales y particular de la gobernación de las provincias de Chiapas y Guatemala*, Guatemala, Tipografía Nacional, 1932, II, 288; Baluffi, Gaetano, *L'America en tempo spagnuolo riguardata sotto l'aspetto religioso*, Ancona, Gustavo Cherubini, 1845, II, 41.

²⁵ Milla y Vidaurre, José, *Historia de la América Central*, Guatemala, Tipografía El Progreso, 1879, II, 288.

²⁶ Ayarragaray, *op. cit.*, p. 19.

²⁷ Milla, *op. cit.*, p. 111.

²⁸ *Recopilación de leyes de Indias*, Book I, Title XX, Ley I.

preserve it and comply in every way with its ordinances, fully and without any exception—and this before a Notary Public and witnesses.²⁹

At the beginning of the Conquest the catechizing of the Indians was left to any priest who could be found. These priests ministered to the Spaniards and Indians without obtaining nor even asking permission from the bishops, because in the early days there were none, and all was governed and directly administered and regulated by the King or by those appointed by him, "in virtue of the commission or delegation in this matter which he had received from the Apostolic See."³⁰ Bishop Bernardino Villapando, who succeeded Marroquín as head of the diocese of Guatemala, was reprimanded on November 3, 1567 by the King for having named clergymen to serve on mission stations without previous presentation to the Vice *Patron Real*, who was President of the *Audiencia*.³¹ Because of his irregular procedure, the Bishop was ordered to make the presentation of the pastors to the Governor, who, in the name of the King, would choose those whom he considered as the most worthy. The Bishop refused to comply and heaped abuse upon the head of the Governor, who further complained that the Bishop had held a Synod without the consent of the King. King Philip II referred the matter to Pope Pius V, who sent two letters, dated March 24th and April 17th, 1567, to the Bishop ordering him to observe carefully the duties of his state, forbidding him to give parishes to priests without first presenting them to the Vice *Patron Real*.³²

The King designated the boundaries of the bishoprics and regulated them according to political divisions, without any

²⁹ *Ibid.*, Book I, Title III, Ley XIII.

³⁰ Solorzano y Pereyra, Juan de, *Política Indiana*, Madrid, 1776, II, 122.

³¹ Pardo, *op. cit.*, p. 19.

³² Milla, *op. cit.*, pp. 153-5.

announcement or notice whatsoever from the Pope.³³ A royal decree on the establishment of the patriarchates of the Indies constituted a fundamental statute of the organization of the Church in the Indies. The King scrupulously gave instructions on the most minute details—officials, edifices, charges, appointments of the churches, provisions, candles, wax, bread, wine, vessels, hours of services, salaries, feasts and tithes.³⁴

The King named a bishop and presented his name to the Pope. As patron, the King was obliged to present the most worthy subjects as bishops,³⁵ and the most talented.³⁶ But, in the meantime, he ordered the civil heads to hand over to the nominee the government of the diocese. An example of this procedure is the case of Bishop Juan de Santo Matia Saenz Manozca y Murillo, who took possession of the See of Guatemala on June 13, 1668, while the Bulls declaring him bishop did not arrive until June 11, 1669.³⁷ Another case is that of Bishop Ramón Casás y Torres, who was nominated for the archbishopric of Guatemala by the Spanish Regency on March 30, 1811 and assumed office shortly after, in July, 1811, although the papal Bull confirming the nomination was not issued until 1815.³⁸

All disputes between bishops, pastors, canons and other dignitaries concerning benefices or the canonical capacity for obtaining them, could be decided only by the sovereign of the Indies, even though these were considered spiritual matters, and among persons subject to ecclesiastical law.³⁹

³³ Muriel, *op. cit.*, p. 151.

³⁴ Ayarragaray, *op. cit.*, p. 85.

³⁵ *Recopilación de Leyes de Indias*, Book I, Title VI, Ley XXIV.

³⁶ *Ibid.*, Ley XXVIII.

³⁷ Pardo, *op. cit.*, p. 79.

³⁸ Mecham, J. Lloyd, *Church and State in Latin America*, Chapel Hill, University of North Carolina Press, 1934, p. 370.

³⁹ Ribadeneyra, *op. cit.*, p. 112; Vélez Sarsfield, *op. cit.*, p. 61.

The predominating tendency of the King was to make the religious who were embarking for the Indies very dependent on his authority or that of the State, and naturally, the tendency of the Holy See was to give them more liberty for their missionary work and keep them more closely bound to the Church, avoiding conflicts and infractions of canon law and of ecclesiastical immunity, especially of the religious orders.⁴⁰

The great missionary orders of Franciscans and Dominicans sent ordinarily groups of thirty to fifty of their members to preach the Christian Doctrine in the Indies, always, of course, with the permission of the King. For example, in 1801, the King authorized the formation of a company of sixty-six Franciscans requested for Guatemala. The royal treasury was to pay the expenses of the voyage and, once arrived at their destination, their support would be assumed by the Franciscan Province of Guatemala.⁴¹

It was customary for these missionary groups to name a Superior from among their number to act during the time the ship delayed in Lisbon or Cadiz, and specially during the long voyage—and also to distribute the members of the group among the missions if their destination had not been arranged beforehand. The King, however, claimed that the choice of this Superior, or Commissary, was not the right of the Order, but his and the Council's.

Prelates were obliged to inform the King concerning the worthy subjects of their dioceses in conformity with the law which commanded that archbishops and bishops, at the same time that they sent reports of the dignities and prebendaries which were vacant in their sees, should inform the King about worthy, outstanding priests of their districts.⁴² In 1559 the King nominated Fray Pedro de Angulo as the first Bishop of

⁴⁰ Ayarragaray, *op. cit.*, p. 58.

⁴¹ Desdévaises du Désert, G., "L'Eglise Espagnole des Indes à la fin du XVIII^e siècle," *Revue Hispanique*, XXXIX, 1917, 268.

⁴² Fernández, Alonso, *Historia Eclesiástica de Nuestros Tiempos*, Toledo, Pedro Rodríguez, 1611, p. 143.

Vera Paz, persuaded thereto by the report of Las Casas as to his sanctity, intelligence and zeal.⁴³

The archbishops and bishops could not use nor permit the use in any form of Briefs or Bulls issued by His Holiness or the Nuncio Apostolic which had not first passed through the Royal Council of the Indies.⁴⁴

The following notes from the *Biografía de don Fr. Juan de Zumarraga*, by Joaquín García Icazbalcete, might be taken as a summary of the pattern of the *patronato real* of the Indies:

- a) No churches, monasteries nor hospitals could be built without the king's permission.
- b) No bishoprics nor parishes could be organized, except by royal decree.
- c) All clerics and religious going to the Indies had to have the express permission of the King.
- d) The King named bishops who immediately took possession of their dioceses without awaiting the papal confirmation of the appointment.
- e) The King set the boundaries of the bishoprics and changed them at will.
- f) The King had the right of presentation to all benefices or employments connected with the churches.
- g) The King might reprimand, recall to Spain or exile any bishop who disobeyed the orders of the government.
- h) The King administered and collected the tithes, determining those who must pay such tithes and how, without referring to Bulls or exemptions of the Church.
- i) The King fixed and regulated the incomes of the benefices at his good pleasure.
- j) The King judged many ecclesiastical cases and impeded with his reversals of decisions the work of the ecclesiastical courts.
- k) No disposition of the Pope could be carried out without the previous approval of the King.

⁴³ *Ibid.*, p. 144.

⁴⁴ *Recopilación de Leyes de Indias*, Book I, Title VII, Law V.

- 1) The problems of the bishops were presented to the King, rather than directly to the Pope.⁴⁵

So much for the general pattern of the *patronato*, which set many precedents which evolved into thorny problems when the authority of the Spanish monarchs waned and was ultimately lost to republican governments. From a chart in the appendix, which demonstrates how the pattern of the *patronato real* was specifically applied in Guatemala some very interesting facts emerge. At first, almost entirely through the sixteenth century and over into the seventeenth, the King personally issued the decrees connected with church affairs, but gradually, it may be noted, the King's deputies, or the crown officials of the municipal governments, began to assume some of these powers in the King's name. This might properly be called a transitional period which made it as natural as breathing for these same practices to be continued without a break by officials of the republican governments.

It remains for us now to examine the nature of the *patronato real* of the Indies, and for this consideration we have, as is almost always the same in regard to any subject, two schools of thought. They might be called the "regalists" and the "canonists". Briefly, the "regalists" believed that the royal patronage of the Indies was laical in origin and therefore inherent in temporal sovereignty. Solorzano affirmed it to be laical because the churches were endowed from royal possessions and thought that, although the right had somewhat of a mixed nature through having been granted by Apostolic privilege, still the laical quality predominated.⁴⁶

The "canonists" contended that the patronage was not laical but spiritual, and was founded wholly on pontifical concessions which were rescindable and non-transferable.⁴⁷

⁴⁵ Cf. Mecham, *op. cit.*, p. 43.

⁴⁶ *Fasti Novi Orbis*, p. 630.

⁴⁷ Mecham, "The Origins of the *Real Patronato de Indias*", *Catholic Historical Review*, Washington, D. C., April, 1928, VIII, No. 1, 205.

It will soon be noticed that the theoretical differences in interpretation came to have some bearing on reality when the Spanish Indies broke with the Mother Country. The new republics wanted desperately to be considered the natural and legal heirs of the *patronato* and loudly seconded the "regalists'" point of view. The Church, which now thought the time proper for asserting its independence, followed the "canonists'" view and contended that the *patronato* was passed down only to the monarchs and to their successors who were monarchs, i.e. the succession was personal and ended with the monarchical story. The Vatican has, quite naturally it seems, almost always followed the latter view and has maintained that the *patronato* was not inherent in sovereignty and so it could not be inherited by the new governments.⁴⁸

During the war for independence in the colonies there was a diplomatic struggle of the rebelling governments to obtain the recognition of the nations of Europe, but above all to have the moral approbation of the Holy See, without which the new régime would lack its principle of authority, in view of the traditional prestige which Spain had granted the Holy See in the constitution of its dominions. Very soon the revolutionists realized the tremendous handicaps under which they labored so long as the Kings of Spain maintained their historical authority and governing ascendancy in the *patronato*, above all, the right of presentation for the vacant bishoprics in America. The prelates thus named were natural agents of the King, venerated nuclei around which radiated the forces

48 A notable exception is the concession made by Pope Pius IX to President Carrera of Guatemala in the Concordat drawn up between the Vatican and the republic of Guatemala on Oct. 7, 1852. Article VII declares: "In view of the aforementioned commitments of the government, the Holy See concedes to the President of the Republic of Guatemala and to his successors in this office the *patronato* or the privilege of presentation for any vacant benefices of Metropolitan churches or episcopal churches, canonically erected, of worthy and outstanding ecclesiastics, having all the qualities required by canon law, and the Supreme Pontiff, in conformity with the laws of the Church, will give those presented canonical institution in the usual form. . . ." (*National Archives of Guatemala*).

of reaction, ideas of loyalty toward the Mother Country, and which in their turn sustained the native classes and the traditionalists, who either through prejudice or interest resisted the Revolution, considering it the result of irreverent or subversive ideas. When the emancipation of the colonies was virtually an established fact, Spain was still struggling to preserve the privileges of the *patronato*, considering them as the last symbol of her secular power in the Indies. As late as July, 1820, Ferdinand VII, clinging to his right as patron in the filling of an ecclesiastical vacancy, wrote to the Captain-General of Guatemala as follows:

Don Fernando VII, by the grace of God, and by the Constitution of the Spanish Monarchy, King of all Spain. The parish of Asunción Izalco having become vacant by the death of don Manuel Rivera who had held it; and edicts having been posted for its provision, in accordance with the regulations of the Holy Council of Trent and the laws of my royal patronage, several members of the secular clergy were examined in open competition by the Synodal Examiners, after having submitted the necessary credentials as to their competency for the administering to souls. The Very Reverend Archbishop of the Holy Metropolitan Church of the Capital of Guatemala, on the thirty-first of July wrote to my Captain-General, Chief Executive and *Vice Patron Real* of that Province, proposing three subjects from whom there might be chosen and presented in My Royal Name the one whom the *Vice Patron Real* wished, and naming in the first place don Tomás Saldaña. And by a decree which he issued on the first of this month, he approved of the latter and ordered the title forwarded at once, after having assured himself that the said subject possessed the necessary qualifications and merits for the exercise of the ministry; that he was of legitimate birth and of pure Spanish blood. He studied Latin and Philosophy, in the latter of which he took the degree of Bachelor, and attended classes of Theology with notable success. He was ordained priest in September last, and, after having become a priest as well as before, has manifested the most blameless conduct and sentiments most worthy of the sacerdotal

character. And in order that the above may have the necessary effects, in agreement with my Captain-General, the Chief Executive, I issue this present, by which I choose, present and name the aforementioned don Tomás Saldaña for the service and the administration of the parish of the Asunción de Izalco, in order that this nomination may be presented to my Very Reverend Archbishop so that he may give it canonical status and install the said cleric in the aforementioned parish, from which he may not be removed.⁴⁹

The *patronato* was an essential part of the character of Spanish sovereignty in her possessions overseas, and in the struggle to retain such privilege Spain not only adhered to the most elementary principles of her imperialistic policy, but also, by preserving this link with her dominions, maintained its power morally, and her hopes for future revindications.⁵⁰

For twenty years Spain with fierce tenacity tried to safeguard this foundation of her historic rights in the hope that by some whim of fortune she might be able to restore the empire. In her moment of downfall Spain turned to the spiritual cooperation of the Church and the mystical authority of the Pope, both of which elements had served her in conquering and organizing the Indies. When Spain had become convinced of the impotence of her arms in subduing the rebellion, it was logical for her to fall back on the *patronato* in order to retain, at least in that realm, her power in America. For the same reasons, but with opposite ends in view, revolutionary America struggled at the same time for the exclusive exercise of the *patronato* privileges.⁵¹

Their governments tried to negotiate and manoeuvre against the strong diplomatic influence of Spain in Rome. The dramatic and painful quarrel began to organize in 1820

⁴⁹ Vilanova Meléndez, Ricardo, *Apuntamientos de Historia Eclesiástica Patria*, San Salvador, Imprenta La Luz, 1911, p. 150.

⁵⁰ Ayarragaray, *op. cit.*, p. 173.

⁵¹ *Ibid.*, p. 176.

and each contending party exercised its ingenuity with untiring constancy around the Pope in order to divert to itself the most powerful moral support then existing in the world. When the Mexican government sent Francisco Vázquez to Rome in 1825 to appeal to the Pope for the restoration of ecclesiastical relations, the Guatemalan government entrusted to him the presentation of certain of its problems to the Pontiff at the same time.⁵² The Holy See tried to avoid as long as possible any definite decisions or responsibilities. In the initial period of the struggle, the Pope frequently formulated declarations and, at times, assumed attitudes favoring Spain and the traditional principles of the *patronato* of the King. Among the decrees issued by Ferdinand VII on his release by Napoleon in 1812 was one enjoining the Archbishop in Central America and his bishops to see that their subordinates did their duty faithfully, and entertained only wholesome opinions. No associations were to be tolerated which might lead to a disturbance of the public peace. The Pope lent his support to this measure with an encyclical letter dated Aug. 15, 1814 against freemasonry and other secret societies.⁵³ Again, in 1815, the Court of Spain sought the intercession of the Pope in order that the latter might issue a Brief exhorting the rebels in America to obedience, through the medium of the prelates residing there.⁵⁴ Pope Pius VII did not oppose the request of the King and, on January 30, 1816, he sent a Brief to the Bishops of America exhorting them to obey the King.⁵⁵

Inevitably, however, there rose before the Papacy a dramatic dilemma and crisis of conscience. How to abandon Spain, covered with venerable titles, in favor of America with its

⁵² Vilanova Meléndez, *op. cit.*, p. 81.

⁵³ Bancroft, Hubert Howard, *History of Central America*, San Francisco, History Company, 1887, III, 22.

⁵⁴ Ayarragaray, *op. cit.*, p. 182.

⁵⁵ Leturia, Pedro, S.J., *El Ocaso del Patronato Real en la América Española*, Madrid, Imprenta Razón y Fé, 1925, pp. 281-2.

disorders, at a time when there prevailed the ultraconservative tendencies of the Holy Alliance and the quietism of the absolute monarchies? ⁵⁶

When America undertook its wars for independence there were very few learned and professional leaders. Hence, it was the clergy for the most part which composed the enlightened or intellectual group. This explains why the clergy played such an important role in the new governments and congresses. As time passed a patriotic clergy was established which, with the lawyers, undertook the civil and diplomatic functions in the period of the revolution and in the subsequent period. The ecclesiastic who was a native of America became "one of the prime movers in the secession of the Colonies," according to a declaration made to the King by the Council of Castile.⁵⁷

This explains why the majority of the diplomats sent to Rome by the insurgent governments were priests; they were preferred to the seculars also because it was presumed that their ecclesiastical character would facilitate their mission to the Vatican. They could allege that their efforts were concerned with matters of conscience and spiritual needs. They were not having recourse to Caesar, but to the Vicar of Christ.⁵⁸ But—these representatives had to match wits with the astute, erudite and trained diplomats of both the Papal and the Spanish Courts.⁵⁹

The exercise of the *patronato real*, especially through the right of presentation, implied always for Spain and, after the secession of the colonies, for the governments of America, an *instrumentum regni*, and it was principally for such reasons of state that both Spain and America disputed over it, as a basis for their integral authority.⁶⁰

⁵⁶ *Ibid.*, p. 284.

⁵⁷ Ayarragaray, *op. cit.*, p. 204.

⁵⁸ Ayarragaray, *op. cit.*, p. 208.

⁵⁹ *Ibid.*, p. 180.

⁶⁰ *Ibid.*, p. 181.

The early colonies claimed for themselves as heirs of the Mother Country all the political faculties inherent in and necessary to the organizing of the new sovereignties, and foremost among these were the privileges of *patronato*.

Beginning with Fray Pedro Luis Pacheco, a Franciscan from Buenos Aires, in 1821, a rapid succession of representatives from the new American republics descended on Rome to obtain from the Pope recognition of their independence and the transfer of the *patronato real*. In every case the Pope insisted that the presentation of bishops had to be made by the King of Spain.⁶¹

Although the Pope received these delegates as individuals he would never entertain a word about temporal or political matters.

Coinciding with these events, the head of the mission from Mexico, Fr. Vázquez, wrote from Paris initiating negotiations to enter Rome. The Court of Madrid and the Spanish Embassy at Rome intervened. The Cardinal Secretary declared that the Pontiff was disposed to receive the Mexican delegation in his character as head of the Church, but that he was likewise strongly resolved not to recognize politically any delegation from a country which was rebelling against His Majesty. However, the objections of Madrid were so strong against the Pope receiving the group at all that the Vatican refused them entry.⁶²

In the meantime the revolutionary governments of America hastened to recognize as the State religion the Holy Roman Apostolic religion which was so well suited to a people whose education had been developed under the direction of Spain. The different Constitutions of the States of America proclaimed insistently the *patronato* as an indispensable basis of the American Church and necessary complement of the new sovereignties.⁶³

⁶¹ *Ibid.*, p. 231.

⁶² *Ibid.*, p. 232.

⁶³ *Ibid.*, p. 233.

The National Constitutional Assembly of the Republic of Central America, meeting at Guatemala on July 8, 1823 and believing itself "the lawful successor of the King of Spain in the patronage which he held over these Churches," drew up a law (Chapter II, Article 3) declaring that, since the nation had the right of proposing and presenting for bishoprics, dignities, prebendaries and benefices of the Church whose incomes it determined and sustained, it would undertake to regulate these matters in accord with the Holy See.⁶⁴

At the time of the separation of the province of Chiapas from Guatemala (1824-1825) the Mexican government tried to induce His Holiness to declare the See of Chiapas annexed to the archepiscopal See of Mexico instead of that of Guatemala, and to extend the patronage over it as a right of the Mexican nation.⁶⁵

Contained in the proclamation of the government of Guatemala during the Interdict of the Holy See in 1827 over the naming of a Bishop of San Salvador are the following words:

The *Patronato* over these Churches, with all the faculties and actions which correspond to it, is intimately connected with and inherent in the sovereignty, and arises not only from the apostolic or pontifical benefactions, but also from custom, from the conquest of territory, grants of councils, and, briefly, from the dominion itself in possession; these are the reasons alleged by Spain for keeping and defending it from any attempt of Rome, and with these same principles and political views, America claims it and attempts to exercise it as inseparable from sovereignty.

Thus we we must declare and thus we must defend it from any attempt of Rome or of the Holy Alliance which has such influence in that Curia. As a consequence, it is necessary to live prepared . . . in order that, under cover of religion,

64 Vilanova Meléndez, *op. cit.*, pp. 77-78.

65 *El Indicador* of Guatemala, April 18, 1825, cited by Marure, Alejandro, *Bosquejo histórico de las Revoluciones de la América Central*, Guatemala, El Progreso, 1877, I, 87.

they do not succeed in overthrowing, not only the bishopric, but also the State and independence itself.⁶⁶

The policy of the Pope in regard to the Church in America and its Spanish patron was one of arbitration and vacillation until the year 1827. Among the means to which the Holy See had recourse to avoid conflict was the consideration of the dioceses of America as "mission lands" under the authority of the Congregation for the Propagation of the Faith.⁶⁷ Likewise, the Pontiff used to designate for the vacant Sees of America Vicars Apostolic, that is to say, simple administrators, bishops in *partibus infidelium*, or titular bishops, without jurisdiction.⁶⁸ At first both Spain and the rebelling governments tolerated this plan, as can be seen in the case of Guatemala. Among the ecclesiastics designated titular bishops were Francisco de Paula Peláez, administrator of the archbishopric during the exile of Archbishop Casás y Torres and his successor, who had been named Bishop of Bostra; the marquis don José Aycinena, Bishop of Trajanopolis; José María Barutia y Croquer, Bishop of Camaco; Tomás Saldaña y Pineda, Bishop of Antigua; and Mariano Ortiz as Bishop of Teya, all assigned to titular Sees "in infidel countries."⁶⁹ In the midst of these uncertainties the Spanish Embassy in Rome had drawn up a secret plan which it proposed to the Holy See, strange enough in view of the laws of *patronato* and canon law, but tending to facilitate the political plans of His Majesty in America. The King would send under his signature and seal and in absolute secrecy, without previous consultation with his legal advisors, a list of nominees for candidacies, from among whom the Pope, just as if he were proceeding of

⁶⁶ Ayarragaray, *op. cit.*, p. 235.

⁶⁷ *Ibid.*, p. 255.

⁶⁸ Juarros, Fr. Domingo, *Compendio de la Historia de la Ciudad de Guatemala*, Guatemala, Tipografía Nacional, 1937, II, 11, 12.

⁶⁹ *Gaceta de Nicaragua*, Feb. 16, 1867; June 14, 1873; Vilanova Meléndez, *op. cit.*, p. 155.

his own accord, would choose whom he pleased to recognize as Bishops. The attempt was halted, however, due to the keen watchfulness of the American ministers in Rome.

Slowly the pontifical court's attitude changed, and the Spanish Embassy complained that the American diplomats were gaining easy access to the Court of Rome to present their petitions under cover of "spiritual necessities and cases of conscience."⁷⁰

As it became evident that there would be a definite emancipation of the provinces of the New World, Pope Leo XII decided, with his habitual reserve, to revoke the venerable Statute of *Patronato*, which for long centuries had regulated the relations between the Papacy and the Spanish monarchy. Before taking such a grave step he consulted the Ambassador of Austria, in order that the latter might inform the courts of the Holy Alliance. In May, 1827, in a celebrated consistory, he named bishops for the vacant sees of Columbia, omitting the *patronato real*.⁷¹ Pope Leo XII died March 31, 1829 and was succeeded by Pope Pius VIII who refused to recognize the national *patronato*. Only death saved him from the radical action of confirming proprietary bishops having full jurisdiction for America. The new Pope, Gregory XVI, theologian and orientalist, was capable of solving without direct conflict with Spain the difficulties arising from the application of the *patronato* in America, and of recognizing one by one the new republics, making use of an opportunist's policy adapted to reality and to facts.⁷²

The Spanish ambassador was quick to see that with Gregory XVI there would be an end to the uncertainty which had dominated the relations between Spain and the Papacy for so long.⁷³

⁷⁰ Ayarragaray, *op. cit.*, p. 257.

⁷¹ *Ibid.*, p. 258.

⁷² *Ibid.*, p. 302.

⁷³ *Ibid.*, p. 304.

First of all Pope Gregory XVI established as a norm for the filling of vacant Sees a reserve so impenetrable that he chose the bishops and gave their names to the Cardinal Secretary only a few hours before entering the Consistory, thus avoiding the habitual observations or protests of the Spanish Ambassador.⁷⁴

The latent tendencies of the new policy became apparent, however, in another direction, when the Pope, on August 5, 1831, issued the Bull "*Sollicitudo Ecclesiarum*", naming candidates for the vacant Sees of Portugal, whose ruler claimed the right of *patronato* previously held by the Spanish king. The principles upon which this Bull rested applied clearly also to the American situation. The document tended to free canonical acts of the Pontiff from all political character and connection, denying that they could signify temporal intervention, or even implicit recognition of the powers disputing, when he was filling vacant Sees in those lands. Nor did it, in the slightest degree, add any authority to those powers.

The Holy See was, therefore, disposed to exercise freely its spiritual rights and functions with no regard to political affairs. The Bull went on to declare that the Holy See was ready to establish relations with any government when it offered proof of stability. With such declarations, at long last there was virtually set down the position from which the Vatican has not often deviated.⁷⁵

In 1832 Pope Gregory XVI named bishops for Mexico, as well as for Chile and Argentina. From then on the Pope began to develop his apostolic policy, and in reply to the protest of the Spanish ambassador at his naming the bishops without

⁷⁴ *Ibid.*, p. 305.

⁷⁵ *Ibid.*, pp. 306 ff.

the presentation of the King of Spain, declared, "The King would not wish me to abandon so many souls of whom God will ask me an account some day."⁷⁶

In 1833 the Spanish ambassador, who had lost all heart in pleading for the privileges of the King over the bishoprics, convinced of the futility of "sustaining any longer the rights of His Majesty to present bishops in countries where for many years His royal authority had no longer been recognized," openly and frankly counseled the King to realize and admit that it was no longer possible to preserve "a shadow of the *patronato*."

When the Pope named a bishop to the vacant See of Quito, he announced the fact to the Spanish ambassador only a few minutes before the opening of the Consistory. This was one of those acts deliberately undertaken, no doubt, to make the King Patron realize that his secular prerogatives had ceased in the New World.⁷⁷ Probably to "save face", the Spanish ambassador stated that the sharp dispute over investitures had been terminated by a "manoeuvre of the Pope."⁷⁸

The death of Ferdinand VII and the turbulent civil war precipitated the end of the conflict. It was while Spain was engaged in the Carlist Wars that Pope Gregory XVI recognized the first republic in America, that of New Granada.⁷⁹

Thus ended one phase of a great quarrel which arose out of the struggles for independence in the New World and in which Spain had exerted all her historic strength to maintain the *Patronato*, "mystical pillar of the Empire."⁸⁰

⁷⁶ *Ibid.*, p. 308.

⁷⁷ *Ibid.*, p. 315.

⁷⁸ *Ibid.*, p. 316.

⁷⁹ November 26, 1835. Cf. Zubieta, Pedro A., *Apuntamientos sobre las Primeras Misiones Diplomáticas de Colombia*, Bogotá, Imprenta Nacional, 1924, pp. 597-598.

⁸⁰ Ayarragaray, *op. cit.*, p. 315.