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Ius patronatus as viewed by Edward Rittner

Abstract

Patronage can be defined as a group of privileges and duties granted by ecclesiastical authorities to the faithful who founded a church, chapel or benefice and to those who acquired this right from them. This is how Prof. Edward Rittner, the Rector of the University of Lviv, understood this concept. This article, entitled "*Ius patronatus* as viewed by Edward Rittner", presents the notion of patronage itself, as well as related issues, such as: the ways of patronage acquisition, the possibilities of patronage transfer, the content of *ius patroantus* and finally the ways of patronage expiration. This article is based on Prof. Rittner's lecture contained in his textbook "Prawo kościelne katolickie" (in English: Catholic Ecclesiastical Law), volume I, fourth edition from Lviv dated 1912.

Keywords

Foundations, *Ius patronatus*, patronage, Rittner Edward.

The figure of Prof. Edward Rittner was one of the outstanding personalities of the academic world at the end of the 19th century. Edward Rittner was born on 26th December 1845 in Bursztyn near Rohatyn. He was the son of Ignacy and Karolina née Kiesel. He attended secondary schools in Brzeżany and Lviv. In 1864–1868, he studied law at the University of Lviv. He worked in the governmental and municipal service of Lviv, among others as an assistant lecturer in canon law at the Department of Law of the city hall of Lviv (1872–1874). In 1870, he obtained his doctorate degree in law from the University of Lviv and he was

habilitated (based on his thesis entitled *Ist der Kirchenpatron zur Kirchenbaulast verpflichtet*) in 1873. He then became a Reader at the Faculty of Canon Law at the University of Lviv and an Associate Professor and head of this faculty a year later. In 1877, he became a Full Professor. He was twice the Dean of the Faculty of Law (1879/1880, 1885), Rector (1883/1884), Vice-Rector (1884/1885) and promoted the introduction of Polish as the main language of instruction. In 1886, he moved to Vienna where he served as a councillor at the Ministry of Education (1886–1893). Later he was a member of the State Tribunal (1893–1895), Minister of Education (1895–1896) and Minister for Galicia (1896–1898).[1]

As an expert in canon law, Edward Rittner dealt, among other things, with the issues connected with the essence of ecclesiastical authority, prioritisation of church offices and positions as well as giving away of offices. He studied the relationship of the Catholic Church law to the state and other religious denominations. He drafted an electoral reform in which he proposed universal suffrage in Galicia and a regulation on the compulsory knowledge of the Czech language by officials in the Czech territory. He was a member of the Diet of Galicia for the 5th, 6th and 7th term (1882–1899). During the 7th term of the Diet (1895–1901), Edward Rittner replaced the late Feliks Pohorecki on 1st June 1896, but did not live to see the end of his term, as he died on 27th September 1899 in Vienna.[2]

Among Prof. Rittner's interests, there was also the issue of the law of patronage, to which he devoted attention in his book entitled *Prawo kościoła katolickiego* (in English: The Law of the Catholic Church). This article addresses the issue of *ius patronatus*, paying attention to the very notion of this institution, ways of its acquisition, possibilities of its transfer, its content, and finally, ways of its expiration. There is no study on this subject in the literature, therefore it is worth bringing this institution closer, not only to the canonists, but also to a wider audience, an institution which is no longer to be found in today's canon law. This article, is based, first of all, on the source text which is the very textbook from which Professor Rittner, the Rector of the University of Lviv, delivered his lectures.[3]

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[1] https://encyklopedia.pwn.pl/haslo/Rittner-Edward;3968003.html (20.04.2021); https://pl.m.wikipedia.org/wiki/Edward_Rittner (20.04.2021).

[2] https://pl.m.wikipedia.org/wiki/Edward_Rittner (20.042021).

[3] There are many studies of a general nature in the literature on the subject of patronage. The following positions are worth consulting: S. Aichner, *Compendium iuris ecclesiastici ad usum cleri*, Brixine 1911; H. Böttcher, Patronat. I. Evangelisch, *Lexikon für Kirchen*, Paderborn–München–Wien–Zürrich, vol. III, 2004, pp. 178–179; P. Erdö, *Il giuspatronato in Ungheria*,

1. The notion of patronage

According to Rittner, the right of patronage is a group of rights vested in someone towards the church or benefice vested in an individual person by virtue of a separate legal title. Patronage was therefore an exceptional institution, "abnormal, because it did not accord with the Catholic system of the Catholic Church, in which all power was held by the clergy."[4]

Patronage was sometimes mistakenly identified with the right of presentation i.e. the right to present to ecclesiastical authorities a candidate for a vacant benefice. Rittner believed that such thinking was erroneous, as patronage included other elements apart from presentation. In practice, patronage was about the patron's participation in filling benefices.[5]

Historically, patronage developed under the influence of two factors: the Church legislation and feudal relations. The first law date back to the 5th century, according to which the founder was granted certain privileges in return for services rendered to the church. This was more of an incentive for generosity for church purposes, e.g. for the founding of new churches. In turn, the bishop was to reward the services of the founders, taking into account their wishes when filling the benefice they founded. In synodal resolutions, it was possible to find provisions that the church should support a founder who fell into poverty before other poor people, the name of the founder was to be mentioned during Mass. The founders and their heirs were allowed to have an insight into the management of the foundation. However, these were particular regulations, not systemically incorporated in a legal institution, as there was no institution of patronage in the sense that was later ascribed to this institution.[6]

"Apollinaris" 62 (1989), pp. 189–206; O Robleda, *Innovationes Concilii Vaticani II in theoria de officiis et beneficiis ecclesiasticis*, "Periodica" 59 (1970), pp. 295–313.

[4] E. Rittner, *Prawo kościelne katolickie*, vol. I, *Fourth revised and corrected edition*, Lviv 1912, p. 227.

[5] Cf. A. Müller, *Ciężary patronackie* (*onus fabricae*), "Miesięcznik Kościelny Archidiecezji Gnieźnieńskiej i Poznańskiej" 49 (1934), pp. 228–231; A. Müller, *Jak przedstawia się prawo patronackie w razie parcelacji gruntu, na którym spoczywa*, "Miesięcznik Kościelny Archidiecezji Gnieźnieńskiej i Poznańskiej" 49 (1934), pp. 73–74; E Nowicki, *O prawach honorowych patrona*, "Miesięcznik kościelny" 53 (1938), pp. 407–416; S. Tymosz, *Patronat*, in: M. Sitarz, *Leksykon Prawa Kanonicznego*, Lublin 2019, cols. 2084–2104.

[6] E. Rittner, *Prawo kościelne katolickie*, vol. I, p. 229.

Proper patronage developed under the influence of Germanic laws. The authority obtained by persons over the church in the Frankish and Germanic states was based on land ownership. According to German law, the landowner was the ultimate master of everything that remained on his land. So, this included churches, which he could give in fief, sell, pledge or donate. The landowner also had the right to put the church under administration, i.e. to appoint a clergyman to the given church. These property rights were then transferred to his heir, and if there was more than one heir, they shared the church the same as the rest of their inheritance. In this way, relations were formed in Germany, in France, in England and in Italy and despite the resistance of the church they persisted for centuries. Later, when the power of the papacy increased, the omnipotence of the landowner was opposed by the Church with the rule that a house consecrated to the service of God ceased to be private property. The church came under ecclesiastical authority and spiritual rule could be exercised by whomever the bishop called upon to do so. While firmly defending those rules, the Church did not completely break the knot that bound the landowner to his church. The landowner was the founder or successor of the founder and on that account had rights granted to him. By thus combining the historical rights of the landowner with the rules of ecclesiastical law, the papal legislation built upon this new theoretical foundation a completely new system of rights, which was henceforth subsumed under the technical expression of *ius patronatus*. This transformation was finally accomplished in the second half of the 12th century. Later legislation, especially the Tridentine decrees, modified or supplemented those rules in many respects, but in essence they remained unchanged.[7]

The historical basis of patronage can also be found in another legal institution which was *advocatia* (in Polish: *wójtostwo*). According to German law, anyone who did not belong to the army remained under the care (*mundium*, *mundeburdium*, *advocatia*). This rule was also applied to churches and clergy. The care of churches and their clergy was primarily the responsibility of the owner of the land on which the church was located. In this case *advocatia* coincided with patronage, hence the words *advocatus* and *patronus* are used in the sources as identical. But *advocatia* also existed independently of a land property. For example, the heads of *advocatia* were appointed for monasteries or church properties which were excluded from ordinary jurisdiction. Advocates

[7] Cf. S. Tymosz, *Patronat*, in: M. Sitarz, *Leksykon Prawa Kanonicznego*, Lublin 2019, col. 2085.

were appointed either by the king, who was granted the "advocacy" throughout the state, or by the monastery or church itself. Sometimes the king transferred the "advocacy" to others, or someone donated a church to a monastery or made it independent, reserving the "advocacy" for himself and his deputies. *Advocatia* was thus intended as a defence for the church, but over time it developed into a superior power over it. By virtue of their "advocacy", secular landowners interfered in the administration of land properties, appropriated inheritances from the clergy, oppressed churches and clergy with tributes and claimed the right to establish benefices. In time, the Church protested against these oppressive claims of the landowners. *Advocatia* fell, but exerted influence on the institution of patronage in many respects.[8]

The history of patronage shows the origins of yet another legal relationship that involves merging of churches with monasteries or chapels on the basis of incorporation. During the times when churches were still regarded as items of private property and ordinary trade, they were also acquired by monasteries on the basis of various titles, thus acquiring all the rights that, according to the practice of the time, were exercised by landowners. The title of acquisition was either the foundation of a church in the monastery properties or a legal act transferring an already existing church and its endowment to the monastery (either for a fee or by donation). Donation to the monastery was often the form by which properties, previously unlawfully taken, were returned to the church. The church favoured this kind of concession, as it not only improved the material existence of the monasteries, but also reduced the influence of lay people on church affairs by transferring it to the spiritual corporation. According to Rittner, "monasteries had the same position as other landowners towards the churches they gave to themselves, deriving their affairs, from the same legal principle as they did, from private property; and on this account they appointed clergy for their churches."[9]

[8] Cf. S. Tymosz, *Patronat*, in: M. Sitarz, *Leksykon Prawa Kanonicznego*, Lublin 2019, cols. 2087–2089.

[9] E. Rittner, *Prawo kościelne katolickie*, vol. I, p. 231. Cf. F. Baczkowicz, *Prawo kanoniczne. Podręcznik dla duchowieństwa*, vol. I, Opole 1957, pp. 356–357.

2. Ways of *acquisition* of *ius patronatus*

In order to address the issue of patronage acquisition, it is first necessary to draw attention to its division. There can be patronage in kind and personal patronage as well as clerical, lay and mixed patronage.

Patronage in kind takes place when it is connected with the possession of real property, so that each holder of this property is the same patron. In contrast, personal patronage occurs without regard to the possession of property. This personal patronage is subject to the rules of ecclesiastical law. Personal patronage can be either strictly personal (*ius patronatum personalissimum*) if it serves only the founder and expires with his death, or familial (*ius patronatum familiare*) if it passes to the founder's family. Personal patronage can also be hereditary (*ius patronatum haereditarium*) if the previous restrictions related to strictly personal and familial patronage do not apply.

Clerical patronage takes place if the foundation, from which the patronage originated, arose from ecclesiastical property, or regardless of the foundation source, if it serves a clerical person as such, that is, by virtue of his position or office. A clerical patron may be either an individual or a corporation, such as a monastery, chapter, collegiate church or even a fund created from church property. Lay patronage occurs when it did not arise from an ecclesiastical foundation, it serves a lay person or a clergyman, as a private individual, not by virtue of his official position. Mixed patronage takes place when it serves a lay person and a clergyman or when it arose from a partly secular and partly ecclesiastical foundation.[10]

The essence of patronage requires that it cannot be acquired by someone who is not Catholic. This position, according to Rittner, was generally accepted with regard to non-Christians, and in Austria state laws expressly forbade the exercise of patronage rights by Jews.[11]

With regards to the subject of patronage acquisition, Rittner makes this fact dependent on whether the patronage is to be created or whether an already existing one is to pass to another person. Accordingly, he distinguishes the following ways of patronage acquisition:

1. Foundation. This is the provision of all the material resources needed for the functioning of the church or benefice. "With benefices which

[10] E. Rittner, *Prawo kościelne katolickie*, vol. I, pp. 234–235.

[11] E. Rittner, *Prawo kościelne katolickie*, vol. I, p. 235.

do not require a separate church, e.g. with canons' houses, a foundation is made if adequate maintenance is provided. If, on the other hand, the object of the foundation is a church, the foundation includes three separate actions: *fundatio* i.e. the designation of land for construction; *constructio* i.e. the construction itself; *dotatio* i.e. the provision of funds for the maintenance of the church and subsistence for the beneficiary."[12] Sometimes, it may be the case that one who has contributed to the foundation of a church by only one action acquires the right of patronage on an exclusive basis. Such a situation can occur when, for example, the one who gave the land for the foundation or built the church with contributions from alms renounces the patronage. The same importance as the original foundation also applies to the rebuilding of the church in case of its complete destruction or to the re-endowment in case of losing the original foundation. In the first case, the former patron has priority over others. He can rebuild the church with his own resources and thus hold on to the patronage which practically expires if the church is completely destroyed. In contrast, the mere increase of a donation does not confer the right of patronage.[13]

2. Papal privilege. As noted by Rittner, the right to grant patronage used to be vested in bishops who often granted it to persons who had no merit to the church in question. "Therefore, the Council of Trent abolished all patronages derived from privileges, with the exception of patronages vested in the emperor, kings, reigning princes and universities. At the same time, it took away the right to grant such patronages from bishops."[14] By law, only the Pope could grant the privilege of patronage.
3. Usucaption. The requirements for such usucaption were ordinary i.e. forty years' possession, title, *bona fides*. The Council of Trent changed

[12] E. Rittner, *Prawo kościelne katolickie*, vol. I, p. 237. In particular, the point is that whoever has funded a church in full, that person and only that person acquires patronage over it. The one who has contributed to the foundation only with the designation of the land or only with the construction or furnishing thereof, acquires the patronage together with the one who has completed the partial foundation by, for example, adding an endowment to the land or building on the designated land. A joint patronage is then created and the partial founders become co-patrons (*compatroni*). Cf. E. Rittner, *Prawo kościelne katolickie*, vol. I, p. 237.

[13] E. Rittner, *Prawo kościelne katolickie*, vol. I, p. 238.

[14] E. Rittner, *Prawo kościelne katolickie*, vol. I, p. 238.

these conditions. The Council only allowed a statute of limitations from time immemorial, which is not a means of acquiring a right, but merely replaces its proof, creating a presumption that a state of affairs has arisen from time immemorial in a legal manner. Therefore, whoever claims the right of patronage is obliged to prove this right either directly by means of evidence or indirectly by invoking the statute of limitations from time immemorial i.e. the fact that as far as human memory can reach, he and his predecessors exercised the so-called right of presentation i.e. the right to present to the ecclesiastical authority a candidate for a vacant benefice.[15]

3. Transfer of patronage

Prof. Rittner separately discusses the issues of transfer of personal patronage and patronage in kind. In the case of the former, if there is no restriction in the foundation deed, personal patronage may pass to anyone who has the capacity to acquire patronage. This, in turn, can occur in five cases:

1. Patronage passes to the heir appointed by will or by law. As to the transfer of property by will, the matter raises no doubts. However, the order of succession without a will also applies to patronage according to national laws. If there are several heirs, they acquire patronage *in solidum*.[16]
2. Transfer of patronage by an act of donation. Such a donation requires the approval of the bishop when it concerns clerical patronage or when a lay patron wishes to transfer patronage to another lay person with the exception of a co-patron. If the lay patronage is to be donated to a clerical person, a church or an ecclesiastical institute, or if the lay patron surrenders his right to a co-patron, the bishop's approval is not necessary.

[15] E. Rittner, *Prawo kościelne katolickie*, vol. I, p. 239.

[16] "It is a matter of dispute whether in the absence of testamentary and intestate heirs, *libra collatio* arises, or whether the state when taking *bona vacantia* also acquires the right of patronage. Given that where the foundation does not provide otherwise, patronage passes to each heir, that, on the other hand, the state, when acquiring *bona vacantia* is considered as heir, there is no right in this case to deny the state the right of patronage. Confiscation of property is a different notion". E. Rittner, *Prawo kościelne katolickie*, vol. I, p. 240.

3. Personal patronage cannot be acquired by purchase. Patronage as *ius spirituale* cannot be the subject of valuation. The sale of patronage, as well as any other spiritual item in the eyes of the law, is simony and results in the loss of that right.
4. Personal patronage cannot be exchanged for a secular item or any material benefit. Only the exchange of patronage for another patronage or for some other *res spiritualis* is allowed and this only with the permission of the competent bishop.
5. The right of patronage may be acquired by way of usucaption i.e. by the long-term actual exercise of patronage rights (*quasi possessio*).[17]

On the other hand, patronage in kind may pass to another person in two ways:

1. Without eligible land. The patron may transfer his right to someone else as long as the foundation does not oppose it. In this way, patronage in kind becomes personal patronage. "In Austria, the government, when selling government property to non-Catholics, reserved the right of patronage to the emperor."[18]
2. Together with land. In this situation, patronage in kind changes the subject simultaneously with the land to which the patronage is attached. According to Rittner: "since, therefore, the land either by succession under a general title – namely inheritance – or by succession under a special title – as purchase, donation – passes to another owner, the right of patronage thereby passes to him and when the eligible property has passed to several owners, they all become patrons *in solidum*."[19]

If a person has acquired land by way of usucaption, he acquires the patronage associated therewith only if, when possessing the land, he has exercised the rights of patronage. Whether the land in question is subject to usucaption, this fact is to be assessed under national civil law.[20]

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[17] According to Rittner, there are different opinions as to the conditions of this usucaption. The most widespread claim is that 40 years are required for the usucaption of clerical patronage, 30 years for the usucaption of lay patronage. According to Austrian law, lay patronage can be subject to usucaption after 30 years, clerical patronage after 40 years, provided that during this period there were at least three occasions to exercise the rights of patronage and this opportunity was actually taken. E. Rittner, *Prawo kościelne katolickie*, vol. I, pp. 240–241.

[18] E. Rittner, *Prawo kościelne katolickie*, vol. I, p. 241.

[19] E. Rittner, *Prawo kościelne katolickie*, vol. I, p. 241.

[20] Not only the transfer of ownership, but also other legal and private relations concerning the eligible land may have impact on the attribution of patronage rights to them. Thus, e.g. 1/ in

4. Content of patronage

The essential content of patronage is the right of presentation (*ius praesentandi*). This is the right to present a clergyman to the competent ecclesiastical authority for a vacant benefice. The provisions concerning such presentation are based partly on common law and partly on particular law. In discussing this issue, Prof. Rittner poses four questions: Who presents? Who may be presented? How should presentation be made? What is the legal effect of presentation?

1. The right of presentation is exercised by the patron himself or by a plenipotentiary authorised by a separate mandate. Incapacitated persons are presented by a legal substitute – a guardian or a legal guardian. Civil laws define what person is to be considered incapacitated. In the case of imperial and governmental patronages in Austria, the right of presentation is exercised by: the national authorities, provided that the annual income from the prebend is more than one thousand PLN and that the authorities agree to the candidate whom the bishop has placed first in his proposal; the ministry of religion and education, for prebends with a higher income; in other cases, the emperor decides on the granting of the right of presentation. If there are several patrons, they may agree among themselves as to the exercise of the right of presentation. In particular, they may present *per turnum*, meaning, so that at each vacancy another co-patron presents, either together by vote, or so that each separately presents a candidate to the bishop, from among whom the bishop himself chooses one candidate. In the event that the co-patrons cannot agree on the manner of exercising the right of presentation, a majority (relative) vote decides. "If patronage is in dispute at the time the right of presentation is to be exercised, the one who presented *bona fide* at the last vacancy has precedence. The presentation exercised by him remains valid even if patronage is granted to someone else. If the very fact of exercise is disputed or if neither of the disputing parties has exercised the right of presentation before, the bishop has the right of free *collatio* until the conclusion of the dispute. The party winning the dispute may additionally grant the right

the case of the so-called divided ownership, the one who is served by *dominium utile*, i.e. a fief, a perpetual lessee 2/ a user (*usufructuarius*); 3/ a husband named after his wife to whom the eligible land belongs as dowry goods; 4/ a court sequestrator who has the management of the disputed land. E. Rittner, *Prawo kościelne katolickie*, vol. I, p. 242.

of presentation to a beneficiary established by the bishop, in order to gain possession of the patronage. The situation is different when the subject of the dispute is not the question of who the patronage serves, but in general whether the patronage exists or is *libra collatio*. In such a case, the bishop himself is an interested party in the dispute and he cannot, by filling the benefice *per libram collationem*, prejudge the court decision. The benefice is then to remain vacant and the bishop appoints a provisional administrator until the matter is finally settled."[21]

2. The presented person must be capable of holding the office in question. Therefore, he must meet personal conditions such as: must be a member of the clergy, of appropriate age, born as a legitimate child, education, moral qualities, related by blood or marriage to the bishop or the resigning beneficiary.[22] The pastoral benefices of clerical patronage cannot be filled otherwise than by means of a competition and the patron may present only such a candidate who, after a competitive examination, proved to be the most worthy. The situation was different according to Austrian law, which required a competition for the granting of canons' houses and for all pastoral benefices (parishes), the candidate not only had to take part in the competition, but also achieve a good result. In the case of a parish, the bishop selected the three most worthy candidates and presented them to the emperor.[23] The patron may not present himself. He could only, using the right of presentation, ask the bishop to grant him a benefice *per libram collationem*, which the bishop was not obliged to do. The patron could give the right of presentation to his closest relative or co-patron.[24]
3. The patron should exercise the right of presentation within the prescribed period. Common law gives the clerical patron a deadline of six months and the lay patron a deadline of four months from the day on which he learned that the benefice became vacant. In the case

[21] E. Rittner, *Prawo kościelne katolickie*, vol. I, p. 245.

[22] The law of 7 May 1874 defined the external relations of the Catholic Church and set out the conditions for obtaining ecclesiastical offices: Austrian citizenship, impeccable moral and civil behaviour, aptitudes ascribed to particular offices. E. Rittner, *Prawo kościelne katolickie*, vol. I, p. 216.

[23] Cf. H. Böttcher, *Patronat*. I. Evangelisch, Lexikon für Kirchen, Paderborn–München–Wien–Zürrich, vol. III, 2004, pp. 178–179.

[24] E. Rittner, *Prawo kościelne katolickie*, vol. I, p. 247.

of mixed patronage, this deadline is extended.[25] Upon ineffective expiration of this deadline, the patron loses the right of presentation and the benefice is conferred by the bishop himself. The presentation is invalid if the patron or the presented person has committed simony. The presentation for a benefice that is not yet vacant is also invalid.

4. 4/ The legal effect of a validly exercised right of presentation is that the bishop was obliged to confer a benefice on the presented person. If the bishop conferred a benefice on another person, even though the presented person fulfilled all the conditions, then at the request of the patron such conferment had to be annulled.

The right of presentation is the most important but not the only right of the patron. The patron has certain rights in relation to the administration of church property. However, he may not interfere in purely spiritual matters. During visitation, he may participate only if there is an express foundation provision in this regard. The patron is entitled to income or annuity from the church property only if the foundation expressly stipulates this. In addition, the patron also has certain honorary rights. He is entitled to a more honourable place during procession, a separate pew in the church, the right to place his coat of arms in the church (*ius listrae*), a separate mention in the church prayers (*ius intercessionum*), after his death to church mourning (*ius luctus*) and other honours that are allowed and specified by custom.

5. Expiration of patronage

Edward Rittner in his book entitled *Prawo kościelne katolickie* (in English: Catholic Ecclesiastical Law) lists six ways in which patronage expires. First, patronage expires when the subject itself ceases to exist. Thus, in the case of personal patronage, when the patron dies, in the case of familial patronage with the extinction of an eligible family or family line, and in the case of patronage serving a corporation, by its expiration. Then, patronage expires as a result of complete destruction of a church subject to patronage if the patron does not

[25] In Austria, the deadline for presentation was established regardless of whether clerical or lay patronage was the case and was six weeks when the patron stayed in the country and three months when the patron was abroad. This deadline began to run from the day the patron received the list of candidates. E. Rittner, *Prawo kościelne katolickie*, vol. I, p. 247.

wish to build or endow it anew within a deadline set by the bishop. Another way in which patronage expires is by renunciation. The patron can simply renounce the patronage and does not need the permission of the ecclesiastical authority to do so. Such renunciation may be either explicit or implicit. The expiration of patronage may also take place by way of criminal proceedings. This occurs when the patron sells or buys his right or when he appropriates church property. Patronage is also lost when the bishop has acquired the right of patronage in his own diocese. Then the personal patronage *consolidatione* expires because the right and duty are combined in one person. Finally, patronage expires *non usu* i.e. by non-performance. However, in this case we are not dealing with the expiration of *ius patronatus* in the literal sense, but with the fact of acquisition of the right of presentation by the bishop.[26]

6. Conclusions

1. Patronage can be defined as a group of privileges and duties granted by ecclesiastical authorities to the faithful who founded a church, chapel or benefice and to those who acquired this right from them.
2. According to Prof. Rittner, the right of patronage can be acquired through foundation, papal privilege and through usucaption.
3. According to the teaching of this professor from Lviv, patronage may be transferred to an heir appointed by a will or by law. The transfer may also take place by a deed of donation, it may be exchanged for another patronage and finally it may be transferred by usucaption.
4. The essential content of patronage is the right of presentation (*ius praesentandi*). In addition, the patron may exercise honorary rights: he is entitled to a more honourable place during procession, a separate pew in the church, the right to place his coat of arms in the church (*ius listrae*), a separate mention in the church prayers (*ius intercessionum*), after his death to church mourning (*ius luctus*) and other honours that are allowed by custom.
5. As can be concluded from this article, the right of patronage reduced the freedom of the Church. Hence, the Church sought to diminish *ius patronatus* and in the Code of Canon Law of 1917, Can. 1450 forbade

[26] E. Rittner, *Prawo kościelne katolickie*, vol. I, pp. 250–251.

the creation of new patronages while calling on ordinaries to encourage those with the right of patronage to accept the change of this right into spiritual goods for themselves and family members.

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