UDC 271.4-523.6(438+477)
DOI: 10.24919/2519-058x.17.219029

Yuriy STETSYK
PhD hab. (History), Associate Professor, Professor of the Department History of Ukraine, Ivan Franko Drohobych State Pedagogical University, 38 Ivan Franko Street, Drohobych, Ukraine, postal code 82100 (stetsyk_u_o@ukr.net)

ORCID: 0000-0003-1795-687X
ResearcherID: E-5136-2018

Illia SKVIRSKYI
PhD hab. (Law), Associate Professor, Professor at the Department of Administrative and Customs Law of the University of Customs and Finance, 8 Krutohirny descent, Dnipro, Ukraine, postal code 49000 (skviiirskij@hotmail.com)

ORCID: 0000-0002-0910-0636

Юрій СТЕЦИК
доктор історичних наук, доцент, професор кафедри історії України Дрогобицького державного педагогічного університету імені Івана Франка, вулиця Івана Франка 38, Україна, індекс 82100 (stetsyk_u_o@ukr.net)

Ілля СКВІРСЬКИЙ
доктор юридичних наук, доцент, професор кафедри адміністративного та митного права Університету митної справи та фінансів, узвіз Крутогірний, 8, м. Дніпро, Україна, індекс 49000 (skviiirskij@hotmail.com)

Bibliographic Description of the Article: Stetsyk, Yu. & Skvirskyi, I. (2020). The royal law of patronage as a mechanism of state regulation of the financial and property situation of the Basilian monasteries of the Commonwealth. *Skhidnoievropeiskyi Istorychnyi Visnyk [East European Historical Bulletin], 17.* 8–14. doi: 10.24919/2519-058x.17.219029

THE ROYAL LAW OF PATRONAGE AS A MECHANISM OF STATE REGULATION OF THE FINANCIAL AND PROPERTY SITUATION OF THE BASILIAN MONASTERIES OF THE COMMONWEALTH

Abstract. The purpose of the research *is to investigate the evolution of the royal right of patronage on the basis of the privileges of the Lavriv Basilian Monastery.* ***The research methodology*** *is based on analytical and synthetic critique of royal privileges. A comparison of different editions of privileges, which were preserved in the confirmations of later times or were included in the majestic books of the Standing Committee of the Governor's Office in Lviv, was made. Preference is given to the use of accrued privileges in the city act books.* ***The scientific novelty*** *of the research is seen in the establishment of the legal influence of the royal administration on the activities of the Basilian monasteries.* ***The Conclusions.*** *The Polish administration tried to control the activities of the self-governing bodies of the Basilian Order, demanding that its Constitutions be in accordance with the religious legislation of the Commonwealth. During the 17th – 18th centuries, the royal right of patronage in the Basilian Order underwent a certain evolution: from the appointment of hegumens, archimandrites to the regulation of property security. Such changes were due to the desire of the Order to achieve full self-government. For this purpose, the Basilian monasteries*

were removed from the jurisdiction of the local bishops and handed over to the protoarchimandrite. Protohegumens received the right not only to represent, but also to appoint hegumens of monasteries. The royal administration retained a limited right to approve candidates for the positions of archimandrites, with the exception of the protoarchimandrite, who was elected by the General Chapter of the Order. At this time there is a transition to the introduction of the election of senior administrative positions (protoarchimandrite, protohegumen, general and provincial consuls), while the middle (archimandrite) and lower (hegumen) rank of officials of the Order retained the ancient right to appoint as king (archimandrite), so on the part of the provincial administration (hegumens). The analyzed system of the administrative system of the Order was based on a mixed form of government: the election and appointment of officials at different levels (local, provincial, general). However, the restriction of the administrative component in the royal law of patronage did not mean its complete elimination, because the next component – property regulation – continued to operate. Royal privileges transferred table land ownership to the use of monasteries located on their lands, and determined their economic rights and freedoms.

Key words: *right, patronage, king, privilege, monastery, obliata (document record), confirmation.*

КОРОЛІВСЬКЕ ПРАВО ПАТРОНАТУ ЯК МЕХАНІЗМ ДЕРЖАВНОГО РЕГУЛЮВАННЯ ФІНАНСОВО-МАЙНОВОГО СТАНОВИЩА ВАСИЛІАНСЬКИХ МОНАСТИРІВ РЕЧІ ПОСПОЛИТОЇ

Анотація. Мета дослідження *– дослідити еволюцію королівського права патронату на підставі привілеїв Лаврівського василіанського монастиря.* ***Методологія дослідження*** *– опирається на аналітичну та синтетичну критику королівських привілеїв. Проведено порівняння різних редакцій привілеїв, які збереглися у конфірмаціях пізнішого часу або ж були внесені до австрійських нобілітаційних книг. Перевага надається використанню облятованим привілеям у гродських актових книгах.* ***Наукова новизна*** *дослідження вбачається у використанні досі не запроваджених до наукового обігу королівських привілеїв.* ***Висновки.*** *Польський король та сейм як світські колятори постійно шукали шляхи впливу на керівництво Василіанського Чину. Також намагалися взяти під свій контроль законодавчі акти василіанських капітул, домагаючись, щоб вони узгоджувалися із світським законодавством із релігійних питань Речі Посполитої. Впродовж XVII – XVIII ст. королівське право патронату у Василіанському Чині пройшло певну еволюцію: від призначення настоятелів, архимандритів до регулювання майнового забезпечення. Такі зміни були обумовлені прагненням Чину добитися повного самоврядування. З цією метою василіанські монастирі були вилучені із юрисдикції місцевих єпископів та передані у відання протоархимандрита. Протоігумени отримали право не тільки представляти, але й призначати ігуменів обителей. За королівською адміністрацією збереглося обмежене право на затвердження кандидатів на посади архимандритів, за винятком протоархимандрита, якого обирала генеральна капітула Чину. В цей час спостерігається перехід до запровадження виборності вищих адміністративних посад (протоархимандрита, протоігумена, генеральних і провінційних консульторів), В той час як за середнім (архимандрит) та нижнім (настоятелі) рангом урядників Чину зберігалося давнє право призначення як збоку короля (архимандрити), так із сторони провінційної управи (настоятелі). Проаналізована система адміністративного устрою Чину грунтувалася на змішаній формі управління: виборність та призначуваність урядників різних рівнів (локальний, провінційний, генеральний). Однак, обмеження адміністративного компонента у королівському праві патронату не означало його повної ліквідації, адже продовжувала діяти наступна складова – майнова регуляція. Королівські привілеї передавали столові землеволодіння у користування монастирів, що розташовувалися на їх грунтах, та визначали їх економічні права та вольності.*

Ключові слова: *право, патронат, король, привілей, монастир, облята, конфірмація.*

The Problem Statement. In 1569, the Union of Lublin was concluded, which provided for the unification of two states (the Kingdom of Poland and the Grand Duchy of Lithuania) into one state entity – the Commonwealth. In the future, there was unification not only in the administrative-territorial system, legislation, but also in religious relations. Thus, in 1596

the Brest Union was concluded between the Roman Catholic and Orthodox Churches of the Commonwealth. As a result of this event, the Kyiv Union Metropolis was formed, which extended its jurisdiction to Lithuanian, Polish, Belarusian and Ukrainian lands. In the newly formed Union Church in 1617 the Basilian Order was formed, which was organized on the model of Catholic orders. In particular, the Basilian monasteries were removed from the jurisdiction of local bishops, were temporarily under the authority of the metropolitan, and later passed into the direct subordination of the Pope. The establishment of the Basilian Order took place with the help of Polish kings, who granted that community a number of privileges and thus contributed to its development.

Analysis of Recent Research and Publications. Researchers have different origins and essence interpretations of the institution of patronage law in both the Eastern and Western Churches. The study of this problem was started by O. Konskyi, who believed that the origins of patronage should be sought in public and private property. He noted that the patron had the right to submit (recommend, nominate, approve a candidate for spiritual governments), control, commemoration (Konskyi, 1870, p. 5–8). For a long time, the question of the right of patronage was not studied in both Ukrainian and Russian church historiographies. The certain aspects of the right of patronage were considered only in some general works on the history of the Church. In particular, I. Chystovych singled out several forms of private patronage law: patronage, charity, gifts, administration and court (Chystovych, 1872, pp. 196–197). M. Hrushevskyi focused on this issue much more. He singled out several types of patronage law: private (magnate, noble), royal, metropolitan, episcopal, fraternal (Hrushevskyi, 1994, pp. 482–483). A special study of the institution of patronage was conducted by M. Vladymyrskyi-Budanov, who identified the following components: legislative, judicial, tax, property (Vladymyrskyi-Budanov, 1907, p. 53). K. Chodynicki's research is based on a rather extensive comparative material, noting that the right of patronage of the Polish king was reflected in the following forms: influence on the appointment of spiritual governments; defense of inviolability of possessions and judicial immunity; care for the moral level of the clergy (Chodynicki, 1934, pp. 119–120). I. Vlasovskyi considered the influence of the Western Church on the formation of the institution of patronage. According to the researcher, patronage took various forms: guardianship of church institutions; the right to transfer temples for use to clergy. The researcher determines that the institution of patronage was limited to the norms of the national legislation of the Commonwealth: the king had no right to distribute state lands to foreigners and persons without nobility; patrons provided land for temples and monasteries only with the consent of the king (Vlasovskyi, 1995, pp. 179–180). Recent research on the history of the Orthodox Church and monasteries summarizes information on the functioning of the right of patronage and submission (Ulianovskyi, 1994, pp. 172–174; Horin, 2007, pp. 26–31). Instead, there are no special works to study the peculiarities of the manifestation of royal patronage in relation to the Basilian Order. Most studies on the history of the Order are devoted to the study of purely domestic legislation of the Order, which mentions the influence of the royal administration on its development (Wojnar, 1949; Pidruchnyi, 2018).

The purpose of the article is to investigate the evolution of the royal right of patronage on the basis of the privileges of the Lavriv Basilian Monastery.

The Statement of the Basic Material. The Lavriv Monastery, which dates back to the princely period, in the absence of the original foundation documentation, is based on the royal privileges of later times, which included a forged charter of Prince Lev Danylovych (1292). However, the archaeological research convincingly proves that the monastery was founded in

the 13th century. Also the charter was repeatedly confirmed by the Polish kings Sigismund I (1524, 1549), Sigismund II (1553), Jan Casimir (1665), August II (1726), August III (1761). All these privileges were checked for legitimacy and nostrified by the Austrian Emperor Joseph II (1781). (CSHAUL, f. 575, d. 1, c. 246, pp. 110–119).

In accordance with the charter of Prince Lev and royal privileges, the boundaries of monastic landholdings were determined. In particular, in the privilege of Jan Casimir (1665), granted at the request of Przemyśl Bishop Anthony of Vinnytsia and Przemyśl Chapter, the possession of the Lavriv Monastery was determined: Nanchilkova Volia, ancient soils between the villages of Khliply, Pidlysky, Lyashky and other ancient legations that serve the Lavriv Monastery. With all the serfs, gardeners, storekeepers and their ancient duties. Folwarks at this monastery, which included arable land and wastelands, gardens, hayfields, apiaries, rivers, large and small streams, lakes, ponds, mills, taverns, forests, which have long belonged to this monastery, according to the ancient monastery boundaries: from the last yard of the Nanchilkova Volia village along the Linyna stream. The village of Nanchilka is located between Stolets and Mezhyrichchia mountains near this stream. These mountains form two separate monastic boundaries. Then across the Linyna stream to the right under Stolets mountain to the Monastery of St. Onufii, which is on the mountain, through the forest and meadows under Stolets mountain to the Velykyi Potik stream, and through that big stream to Kichera mountain, through the forest to the Mala Linynka stream, and through this stream under Voritnia mountain and from the top of Voritnia mountain to the bottom to the Velyka Linyna stream, and through this stream outside the Monastery of St. Onufrii. On the other side – to the left through the forest through the top of Mezhyrichchia mountain, and then to the Monastery of St. Onufrii, on the mountain, across the Ivanivskyi stream, and from it through the forest through the top of Ivanivska mountain, up to the top of the same mountain, under the top of Symkova Kychera mountain up to the Prokhyriv stream, then from it through Krenpaky below the Monastery of St. Onufrii, which stretches to the river Linyna, where the boundaries between the Monastery estates and the villages of Velyka Linyna and Voloshynova Volia on the one hand, and the Linynka and Nanchilka streams on the other hand and the same Monastery of St. Onufrii and the village of Volia Nanchilska, which belongs to it (CSHAUL, f. 13, d. 1, c. 530, p. 496).

In the same privilege the question of granting self-government for the Lavriv Monastery was considered. After all, the monastery was to proceed from the jurisdiction of the Bishop of Przemyśl and in its activities be guided by the charter of the Scythian Monastery: annually elect a hegumen who was to take care of the material support of the monastery and spiritual guidance for the fraternity (CSHAUL, f. 13, d. 1, c. 530, p. 497). Until 1659, the monastic landholdings were owned by the Eastern Rite bishops of Przemyśl in accordance with the privilege of King Wladyslaw II of Poland (1407) (Kupchynskyi, 2004, p. 808).

Due to significant material support and self-government, the Lavriv Monastery became the largest monastic center on the territory of the Diocese of Przemyśl at the end of the 17th century. In particular, in 1691 its hegumen Benjamin announced the transition of the monastery to the union. Between 1691 and 1713, the monastery was under the patronage of the Union bishops of Przemyśl, Innocenty and Jerzy Winnicki, who generously endowed the monastery with donations and turned it into one of the centers for preparing candidates for monasticism (there was no regular studio house for beginners). However, in 1707 there was a large-scale fire in the monastery, which led to its decline. During the fire, a significant part of the monastery's documentation was lost (Stetsyk, 2015, p. 161). To restore the privileges, Fr. Ezekyil

Bonchakivskyi, the hegumen of the monastery, appealed to the royal chancellery to confirm the gift record of Prince Lev and the privileges of Queen Bona and King Jan Casimir for the Lavriv Monastery. In response to this request, on 31 January 1726, King Augustus II issued a confirmation which included the prince's charter and the privileges of previous rulers, which determined the boundaries of monastic possessions (Kupchynskyi, 2004, pp. 1034–1037).

Upon entering the Saint Protection Province (1739), Lavriv became an educational center for the training of monks. During the second half of the 18th century, monastic studies in philosophy and theology operated there. According to the instructions of the provincial council, a monastery archive was formed. In connection with the loss of the original documents, extracts and copies of royal privileges were kept there, which at various times were included as obliatas (document records) in the Przemyśl city acts (CSHAUL, f. 13, d. 1, c. 613, pp. 425–439).

During the second half of the 18th century, the monarchs of the Commonwealth managed to regain the right to approve a candidate for the post of archimandrite. During this period, five archimandrites continued to operate on the territory of the Saint Protection Province: Myltsi, Zhovkva, Kaniv, Univ, and Ovruch. The secular legislation of the Commonwealth emphasized the nomination of representatives of Basilian monasticism with noble roots as archimandrites. Accordingly, a prominent secular social background deprived the monk of the opportunity to pursue a church career by reaching the positions of archimandrite, bishop, and metropolitan, which continued to remain for lifelong term.

The General Board of the Order tried to limit the royal right of patronage to appoint archimandrites, gaining in 1743 the right to nominate candidates from the monastic order for the position of archimandrite for approval by the metropolitan and for approval by the Polish king. The Apostolic See, considering the Constitutions of the Order, allowed the General (protoarchimandrite) of the Order to rule the archimandrites, who lost their autonomous self-government. According to a papal decree of 30 March 1756, the archimandrite was given the right to enthrone, visit, and dismiss archimandrites if they were not bishops. Accordingly, the archimandrites received an active and passive vote, could participate in all chapters, and had the right to be elected to all governments in the Basilian Order. However, the fact that the archimandrites were approved by the Polish kings and they were in their governments for life remained problematic (Patrylo, 1992, p. 203).

During the 17th – 18th centuries, the Basilian Order formed a tradition of conferring life titles on archimandrites for general government officials (protoarchimandrites). This approach was due to the fact that the protoarchimandrite did not possess the privileges used by the archimandrites. Receiving archimandrite ordinations made it possible to control the activities not only of monasteries but also of archimandrites who entered the Order.

During the 18th century, Polish kings, using the right of patronage, tried to change the status of the Lavriv Monastery by introducing the archimandra (a monastery ruled by an archimandrite). In particular, in 1730 Fr. Peter Kos was proclaimed Lavriv archimandrite, in 1768 – protoarchimandrite Hypacy Bilinski, in 1771 – Fr. Nykyfor Sheptytskyi. However, the administration of the Saint Protection Province of OSBM protested against the royal privileges of the archimandrite, which, relying on the Constitution of the Order and papal decrees, declared the impossibility of forming a new archimandrite, which would lead to a reorganization of the monastic community. Also, the first division of the Commonwealth (1772) and the entry of the Lavriv Monastery into the Austrian Empire did not contribute to the transformation of the monastery into the archimandra (Stetsyk, 2016, p. 143).

Protoarchimandrite Hypacy Bilinski, being nominated and enthroned as an archimandrite, was unable to occupy the government of the non-existent archimandra, mainly due to strong

opposition from the local monastic order and the Provincial Administration of the Saint Protection Province. The above material once again proves that the Basilian monasticism tried to be guided by the monastic law, rejecting the external influence of secular patrons and officials. In particular, by the middle of the 18th century, the corresponding legislative base was already formed, which was at the stage of unification and codification.

The important place of the Order in the Union Church is proved by the fact that during the second half of the 18th century the Polish Sejm repeatedly approved privileges for it, which provided for the appointment to church positions (archimandrites, bishops, metropolitans) of this monastic congregation (Bilyk, 2011, p. 39).

The first division of the Commonwealth did not weaken the influence of the royal right of patronage on the activities of the Order. On the contrary, King Stanislaw Augustus, trying to strengthen his power through the influence of monastic institutions on public opinion, expressed his demands at the Torocan General Chapter (1780) to the Basilian leadership: that in making decisions the monks take into account the contribution of Polish kings to the development of Basilian monasteries; that decisions be agreed primarily with the royal administration and not with the Apostolic See.

To these wishes, the Torocan Chapter (4 October 1780) replied that the Order would first take care to print the new Constitutions before sending them to Rome. To check, it had to get to the person appointed by the king. They also requested that they be further allowed to explain to the royal censor those points which would not be clear to him (Pidruchnyi, 2018, p. 259).

The Conclusions. The Polish administration tried to control the activities of the self-governing bodies of the Basilian Order, demanding that its Constitutions be in accordance with the religious legislation of the Commonwealth. During the 17th – 18th centuries, the royal right of patronage in the Basilian Order underwent a certain evolution: from the appointment of hegumens and archimandrites to the regulation of property security. Such changes were due to the desire of the Order to achieve full self-government. To this end, the Basilian monasteries were removed from the jurisdiction of the local bishops and handed over to the archimandrite. Protohegumens received the right not only to represent, but also to appoint hegumens of monasteries. The royal administration retained a limited right to approve candidates for the positions of archimandrites, with the exception of the protoarchimandrite, who was elected by the General Chapter of the Order. At this time there is a transition to the introduction of the election of senior administrative positions (protoarchimandrite, archbishop, general and provincial consuls), while the middle (archimandrite) and lower (hegumen) rank of officials of the Order retained the ancient right to appoint as king (archimandrites), so on the part of the provincial administration (hegumens). The analyzed system of the Order administrative system was based on a mixed form of government: the election and appointment of officials at different levels (local, provincial, general). However, the restriction of the administrative component in the royal law of patronage did not mean its complete elimination, because the next component continued to operate was property regulation. Royal privileges transferred table land to the use of monasteries located on their lands, and determined their economic rights and freedoms.

Acknowledgments. The authors sincere gratitude to all members of the editorial board for consultations provided during the preparation of the article for printing.

Funding. The authors received no financial support for the research and publication of this article.

BIBLIOGRAPHY

Bilyk, V. (2011). Urehuliuvannia pravovoho stanovyshcha vasylianskykh monastyriv u Pravoberezhnij Ukraini naprykintsi XVIII – u 30-kh rr. XIX st. [Settlement of the legal status of Basilian monasteries in the Right Bank of Ukraine in the late XVIII – in the 30s of the XIX century]. *Naukovyi visnyk Volynskoho natsionalnoho universytetu imeni Lesi Ukrainky. 23,* 38 – 48. [in Ukrainian]

Chodynicki, K. (1934). Kościół prawosławny a Rzeczpospolita Polska. Zarys historyczny 1370 – 1632 [The Orthodox Church and Poland. Historical outline 1370 – 1632]. Warszawa, 632 p. [in Polish].

Chystovych, Y. (1872). *Ocherky istoryy Zapadno-Russkoi cerkvy: v 2 ch. [Essays on the history of the Western Russian Church]*. Ch.1. Sankt-Peterburh, 1872. 220 p. [in Russian]

Horin, S. (2007). *Monastyri Zahidnoji Volyni (druga polovyna XV – persha polovyna XVII st.) [Monasteries of Western Volhynia (second half of the 15th - first half of the 17th century)]*. Lviv: Missioner, 336 p. [in Ukrainian]

Hrushevskyi, M. (1994). *Istoriia Ukrainy-Rusy [History of Ukraine-Rus']* (in 11 vol.,Vol. 5). Kyiv, 687 p. [in Ukrainian]

Konskyi, O. (1870) Pravo patronatstva v Yuho-Zapadnoi Rossyy v XVI v. [The right of patronage in Southwest Russia in the 16th century.] *Podolskye Eparkhyalnye Vedomosty, 15,* 5 – 8. [in Russian]

Kupchynskyi, O. (2004). *Akty ta dokumenty Halytsko-Volynskoi kniazivstva XIII – pershoi polovyny XIV stolit. Doslidzhennia. Teksty [Acts and documents of the Galicia-Volyn Principality of the XIII – first half of the XIV centuries. Research. Text]*. Lviv. 2004. 1284 p. [in Ukrainian]

Patrylo, I. (1992). Narys istorii Vasyliian vid 1743 do 1839 r. [Essay on the history of the Basilians from 1743 to 1839]. *Analecta OSBM. Ser. II. Sec. I. Vol. 48.* 183–278. [in Ukrainian]

Pidruchnyi, P. (2018). Istorychnyi narys zakonodavstva Vasyliianskoho Chynu Sv. Yosafata (1617 – 2018) [Historical sketch of the legislation of the Basilian Order of St. Jehoshaphat (1617 – 2018)]. *Analecta OSBM. Ser. II. Sec. I. Vol. 57.* Romae – Lviv, 392 p. [in Ukrainian]

Stetsyk, Yu. (2015). Vasylianski monastyri Peremyshlskoi yeparkhii (kinets XVII – XVIII st.): monohrafiia [Basilian monasteries of the Diocese of Przemyśl (end of XVII – XVIII centuries): monograph]. Zhovkva: Misioner, 388 p. [in Ukrainian]

Stetsyk, Yu. (2016) Dokumenty do zhyttiepysu iieromonakha Ipatiia Bilynskoho ChSVV (1704 – 1771 rr.) [Documents to the biography of the hieromonk Hypatius Bilinsky OSBM (1704 – 1771)]. *Naukovi zapysky Ternopilskoho natsionalnoho pedahohichnoho universytetu imeni Volodymyra Hnatiuka. Seriia: Istoriia, 2(3),* 142–149. [in Ukrainian]

Tsentralnyi derzhavnyi istorychnyi arkhiv ukrainy, m. Lviv [CSHAUL– Central State Historical Archives of Ukraine, Lviv]

Ulianovskyi, V. (1994). *Istoriia cerkvy ta relihijnoi dumky v Ukraini [History of the church and religious thought in Ukraine] (in 3 books. Book 1)*. Kyiv: Lybid, 256 p. [in Ukrainian]

Vladymyrskyi-Budanov, M. (1907). Cerkovnyie ymushchestva v Yuho-Zapadnoi Rossyy v XVI v. [Church property in Southwestern Russia in the 16th century.] *Arkhiv YuZR, 1(4),* 3–224. [in Russian]

Vlasovskyi, I. (1995). *Narys istorii Ukrainskoi Pravoslavnoi Cerkvy [Draw the history of the Ukrainian Orthodox Church]* (in 4 vol., Vol. 1). Niu-York–Kyiv, 294 p. [in Ukrainian]

Wojnar, M. (1949). De regimine Basilianorum Ruthenorum a metropolita Josepho Velamin Rutskyj instauratorum. *Analecta OSBM. Ser. II. Sec. I. Vol. I.* Romae : PP. Basiliani, 242 p. [in Latin]

The article was received on February 21, 2020.
Article recommended for publishing 26/11/2020.