

Real Patronato, Military Ecclesiastical Jurisdiction, and the Licensing of Royal Chaplains in Manila, 1734–1737: A Case Study

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Abstract: Jurisdictional conflicts between the Church and the Crown were a common feature of political and religious life of the Philippines in the early modern period. Although there are many studies that focus on these conflicts, there are also many gaps in the historiography. This study addresses some of those gaps by examining a case from the first half of the eighteenth century where the controversy regarding the Real Patronato touched on the issue of royal chaplains and the exercise of military ecclesiastical jurisdiction within Patronato law. The examination of the documents produced during the course of the crisis affords us a glimpse into the actual procedure for naming royal chaplains, a practice hitherto undescribed in historiography for the Philippines. It highlights the contrast between legal theory and actual practice based on local custom by analyzing the main arguments used by the parties in the case and the sources that they utilized to make those arguments. Finally, this case study permits us to view the resolution of the controversy in the wider context of the monarchy's efforts to establish a distinct ordinary jurisdiction for the military under the protection of the Real Patronato. Specifically, by viewing the king's decision within the broader framework of military ecclesiastical jurisdiction, we are able to see how the evolution of this vicariate affected decisions regarding the application of the Real Patronato that represent a break from past interpretations for the purpose of bringing the Patronato more

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firmly under the control of the Bourbon monarchy, especially as it touches on the regular clergy in the islands.

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The Real Patronato was, in the words of one eighteenth-century official, “among the greatest privileges of Your Majesty... an inherent jewel in your crown, adornment the most worthy, ... Your very own beautiful, precious stone, and one of the greatest prerogatives of Your Majesty.”¹ Included among the many instructions given to the King’s vice-patrons in the Indies was the charge to protect this right at all costs and to “proceed with all rigor against those that violate the observance and firmness of our right to patronage.”² Given the strict orders to governors and viceroys to zealously guard the king’s right to ecclesiastical patronage, it is not an exaggeration to say that violations against the Patronato were among the least tolerated infractions in the many various jurisdictional disputes between Crown and Church officials during the colonial period. Nor is it surprising that those who attempted to circumvent, diminish, or deny the royal prerogatives found themselves facing the full fury of the colonial government.

Such was the case in 1734, when a conflict arose in Manila regarding the naming and licensing of priests who were to serve as chaplains on ships, in hospitals, and on military expeditions organized and funded by the Crown. Pitting royal officials against the members of the cathedral chapter in *sede vacante*, the incident became a protracted battle over the application and scope of the Real Patronato, as well as the nature of ecclesiastical jurisdiction under the Patronato as practiced in the islands. Such crises were not unusual in the Philippines during the first two-and-a-half centuries under Spanish rule, and this particular crisis did not alter the balance of power between Church and Crown under the Patronato. Ultimately King Philip V settled the controversy in 1737 by ruling in favor of the cathedral chapter against the determination of the officers of the Audiencia, which would suggest that little

¹ “... entre las regalías mayores de Vuestra Majestad, que es alhaja inherente de su corona, esmalte la más digna y bella piedra preciosa suya, y una de las mayores prerrogativas de la Majestad.” Pedro de Hontalba y Arce, *Dictamen en justicia sobre la jurisdicción de los Señores Reyes de Castilla, y su Supremo Consejo de la Cámara, para el conocimiento de todos los negocios pertenecientes al Real Patronato de la Corona* (Madrid: Diego Miguel de Peralta, 1738), 9v-10r. All translations throughout the essay are mine, and I have modernized the spelling, accentuation, and punctuation of all original quotations from the period found in the footnotes.

² “... procedan con todo rigor contra los que faltaren la observancia y firmeza de nuestro derecho de Patronazgo.” *Recopilación de Indias*, Book 1, Title 1, Law 1 (Madrid: Antonio Balbás, 1756).

remains to be said on the issue. Yet the details of the dispute and its denouement are not without interest. To be precise, the incidents of 1734–1737 represent a case study of the actual practice of naming royal chaplains in the Philippines in the opening decades of the eighteenth century. It sheds light on the interpretation of laws regarding the Real Patronato during this period by providing a contrast between legal theory and praxis based on local custom. Furthermore, an examination of these phenomena in the archipelago permits us to view the king's decision in the wider context of the monarchy's efforts to secure universal royal patronage and, more importantly for this case, to formally establish a distinct ordinary jurisdiction for the military under the aegis of the Real Patronato.

The documentation for this case study comes primarily from records found in the Archivo General de Indias and includes manuscript documents produced by Audiencia officials as they pursued their case, as well as texts printed in Manila as part of the debate surrounding the controversy.³ Additionally, this study will compare the Manila imprints with related texts from the same period, i.e., the *Recopilación de Indias*, papal bulls, royal decrees, legal commentaries, and the writings of prominent jurists.⁴ The comparison of these texts with the Manila imprints demonstrates the nature of juridical discourse as practiced in the Philippines, the sources that the parties relied on to make their arguments, and the interpretations of laws about the Patronato that were common in the period. Doing so reveals a notable consonance of thought across the empire regarding how jurists and lawyers understood the laws upon which the Spanish monarchy based the Real Patronato. The purpose of this comparison is not to vindicate one side or the other, nor to prove one position as right or wrong, but rather to understand how practitioners of the period understood the law, how they implemented it, and why King Philip V made the determination that he did.

“Literature review”

The literature surrounding the 1734 Manila conflict is sparse. Besides Matthew J.K. Hill's 2015 dissertation, to date only Barrio Muñoz has written about it in any detail, and his treatment of the topic only relates the basic events of the conflict

³ AGI, Filipinas 145, N. 16.

⁴ Copies of some of the Manila imprints studied in this paper can be found online on the PARES website as a part of the documentation in Filipinas 145, N. 16. Specifically, one can find the “Alegato fiscal,” the “Papel,” “La verdad defendida,” and the “Diálogo mixti fori” at the end of that file. The copy of the royal cédula printed by the Cabildo in 1737 can be found physically in the AGN Mexico, but the manuscript text of the cédula can also be found on PARES in the places cited below. The text “Por la jurisdicción,” by Joan de Archedera, which I do not examine here, is located in the Biblioteca Digital Hispánica via the website of the Biblioteca Nacional de España.

as part of a larger section on the relationship between the Church and Crown in a biography on Fernando Valdés Tamón.⁵ Furthermore, the primary documentation upon which he bases his discussion is different from that of Hill's, corresponding to the royal cédula written by the Council of the Indies and Philip V that summarizes the facts of the conflict and lays out the king's decision to the Audiencia and Cabildo in Manila.⁶ For that reason, this essay builds on the research done by Hill and delves deeper into the issues regarding the Patronato, chaplains, and military jurisdiction in the Philippines, while ignoring issues surrounding the printing press and the Inquisition.

In terms of the Real Patronato in the Philippines, the literature is more abundant yet still not as much as for Latin America or Spain. The majority of studies for this topic focus generally on jurisdictional issues, especially on conflicts between the Church and the Crown, or between the regular and the secular clergy, whose competing and overlapping authority and privileges made conflict all but inevitable. Horacio de la Costa provides the foundation for discussion on the topic in his 1954 and 1969 essays on episcopal jurisdiction under the Spanish.⁷ This is followed by Salvador Escoto's 1976 article on the battles between archbishop Basilio Sancho de Santa Justa y Rufina and the regular clergy over the issues of parish visitation and secularization that began in 1767 with his ascension to the see of Manila.⁸ Pablo

⁵ José Ángel del Barrio Muñoz, "Fernando Valdés Tamón, Gobernador General de Filipinas (1729-1739)" (doctoral dissertation, Universidad Nacional de Educación a Distancia, 2010), 322-25, <http://e-spacio.uned.es/fez/eserv.php?pid=tesisuned:GeoHis-Jadelbarrio&dsID=Documento.pdf>; Matthew J.K. Hill, "Intercolonial Currents: Printing Press and Book Circulation in the Spanish Philippines, 1575-1821" (doctoral dissertation, University of Texas at Austin, 2015), 126-83. <http://hdl.handle.net/2152/31619>.

⁶ AGI, México 1082, L. 52, ff. 12r-28r. Although Barrio Muñoz does cite Filipinas 145, N. 16, his use of it is minimal. As a side note, the manuscript cédula in México 1082 is also found in AGI, Filipinas 147, N. 15 labeled as a "Compulsa" (notarized or certified copy) of the same cédula, and is accompanied by a 1738 letter from Valdés Tamón giving an account of the reception of the cédula and his actions in fulfillment of it. A printed version of the cédula, with slight modifications to make it suitable for public consumption, can also be found in the files for this case located in the Archivo General de la Nación in Mexico City (AGN, Novohispano, Inquisición, 861, Exp. s/n). The AGN documentation is only incidental to the issue of chaplain licensing since it comes from the archives of the Inquisition in Mexico City and pursues questions related to the jurisdiction of the Inquisition in Manila in its role as the sole arbiter of censorship in Spain and its empire. For that reason, I do not include it as a part of this study.

⁷ Horacio de la Costa, "Episcopal Jurisdiction in the Philippines in the 17th Century," *Philippine Studies* 2, no. 4 (September 1954): 197-216; Horacio de la Costa, "Episcopal Jurisdiction in the Philippines during the Spanish Regime," in *Studies in Philippine Church History*, edited by Gerald H. Anderson, 44-64 (Ithaca: Cornell University Press, 1969). Costa also included a similar discussion in his monograph, *The Jesuits in the Philippines, 1581-1768* (Cambridge, MA: Harvard University Press, 1961).

⁸ Salvador P. Escoto, "The Ecclesiastical Controversy of 1767-1776: A Catalyst of Philippine Nationalism," *Journal of Asian History* 10, no. 2 (1976): 97-133, <http://www.jstor.com/stable/41930217>.

Fernández, in chapters 12 through 15 of his *History of the Church in the Philippines* (1979), provides a general overview of the structure and use of the Patronato in the islands, as well as describing some of the key elements of these jurisdictional conflicts.⁹ More recently, Manchado López (1989, 1994, 1996, 1997), Coello de la Rosa (2013, 2016), and Blanco Andrés (2004, 2018) have written on aspects of royal patronage in the Philippines.¹⁰

However, there is a notable gap in these studies, both in terms of chronology and in terms of topic. Chronologically, they skip over most of the first half of the eighteenth century, jumping from the controversies of the end of the seventeenth and beginning of the eighteenth centuries, to the visitation and secularization conflicts under Santa Justa y Rufina, already mentioned, and into the nineteenth century, well beyond the circumstances of the present conflict. Topically, the visitation and secularization of parishes is the predominant focus of these studies, though both Coello de la Rosa and Blanco Andrés approach the question from the perspective of the cathedral chapter as a key element in these confrontations.

Additionally, the 1734-1737 controversy contains another distinct problematic element not found in any of the previous conflicts or studies on those conflicts: the issue of military ecclesiastical jurisdiction (*jurisdicción eclesiástico castrense*). Unlike the battles over visitation and secularization, in 1734 the issue was

⁹ Pablo Fernández, *History of the Church in the Philippines (1521-1898)* (Manila: National Book Store, 1979). To be precise, he discusses the controversies surrounding Felipe Pardo, Diego Camacho y Ávila, and Francisco de la Cuesta.

¹⁰ Marta María Manchado López, “La «Concordia de las Religiones» y su significado para la historia de la iglesia en Filipinas,” in *España y el Pacífico*, edited by Florentino Rodao, 65-79 (Madrid: Agencia Española de Cooperación Internacional; Asociación Española de Estudios del Pacífico, 1989); Marta María Manchado López, *Conflictos Iglesia-Estado en el extremo oriente ibérico: Filipinas (1767-1787)* (Murcia: Universidad de Murcia, 1994); Marta María Manchado López, “Las relaciones entre la autoridad civil y las órdenes religiosas en Filipinas durante el gobierno de don Pedro Manuel de Arandía,” *Anuario de Estudios Americanos* 53, no. 1 (1996): 37-52, <https://doi.org/10.3989/aeamer.1996.v53.i1.431>; Marta María Manchado López, “Extensión y límites del Real Patronato en Filipinas. La Diócesis de Cebú en la segunda mitad del siglo XVIII,” in *España y el Pacífico*, edited by Antonio García-Abásolo, 195-206 (Córdoba: Dirección General de Relaciones Culturales; Asociación Española de Estudios del Pacífico, 1997); Alexandre Coello de la Rosa, “Conflictividad capitular y poderes locales en el Cabildo de Manila (1690-1697),” *Colonial Latin American Review* 25, no. 3 (2016): 325-50, <http://dx.doi.org/10.1080/10609164.2016.1227623>; Alexandre Coello de la Rosa, “Los conflictos jurisdiccionales entre los arzobispos de Manila y los jesuitas por las doctrinas de indios (siglos XVI-XVIII),” *Boletín Americanista* 67 (2013): 105-24, <https://revistes.ub.edu/index.php/BoletinAmericanista/article/view/13736>; Roberto Blanco Andrés, “El cabildo eclesiástico de Manila y la defensa de los derechos del clero secular de Filipinas,” *Philippiniana Sacra* 39, no. 115 (January-April 2004): 119-43; Roberto Blanco Andrés, “El cabildo eclesiástico de Manila: entre el patronato y la defensa de los derechos del clero secular de Filipinas (1797-1872),” in *Gobernar colonias, administrar almas*, edited by Xavier Huetz de Lemps, Gonzalo Álvarez Chillida, and María Dolores Elizalde, 91-114 (Madrid, Casa de Velázquez, 2018), <http://books.openedition.org/cvz/6335>.

not over the administration of parishes, i.e., permanent rights to a specific territory and its benefices with an obligation to attend to the care of souls. Rather, it was over chaplaincies, temporary positions filled at the order of the vice-patron to accompany military and naval expeditions sponsored by the Crown, sometimes in war zones, often without remuneration, traversing multiple ecclesiastical jurisdictions while performing the same pastoral responsibilities for the individuals who were aboard the vessels or part of the expeditions.

The literature on military ecclesiastical jurisdiction in Spain and its colonies tends to be more general in nature, with a notable emphasis on its origin and development from a modern perspective. The earliest modern study I have found dates to 1868 but it is only part of one chapter of a multivolume work on procedural issues of canon law.¹¹ Zaydín y Labrid (1925) wrote the first systematic and complete study of the topic, including transcriptions and translations of the original documents that established military ecclesiastical jurisdiction, together with commentary on the same.¹² Since the mid-twentieth century there have been a small number of studies that have built on Zaydín y Labrid's work, such as Muñozerro's (1954) and Tovar Patrón's (1964) respective monographs, and articles by Ruiz García (1967) and Fernández Murias (1985), although the latter two largely summarize previous research and all except Tovar Patrón extend the chronological scope of their examination into the twentieth centuries.¹³ Others have focused on a specific geographic region such as García de Loydi for Argentina (1965) or González Forero for Colombia (2018).¹⁴ More recently, two studies have appeared that focus on two distinct aspects of military ecclesiastical jurisdiction, i.e., Pérez Fernández-Turégano's chapter on the legal and organizational development of the corps of naval chaplains in the eighteenth century (2011), and Irigoyen López and Sánchez Baena's article on the professional trajectories of naval chaplains in the first half of that century (2015).¹⁵

¹¹ Francisco Gómez Salazar and Vicente de la Fuente, *Tratado teórico-práctico de procedimientos eclesiásticos*, vol. 2 (Madrid: Imprenta y Librería de D. Eusebio Aguado, 1868), 99-107.

¹² Plácido Zaydín y Labrid, *Colección de breves y rescriptos pontificios de la jurisdicción eclesiástica castrense de España* (Madrid: 1925).

¹³ Luis Alonso Muñozerro, *La jurisdicción eclesiástica castrense en España* (Madrid: Vicariato General Castrense, 1954); Jaime Tovar Patrón, *Los primeros súbditos de la jurisdicción castrense española* (Bilbao: Seminario Diocesano, 1964); Félix Ruiz García, "Patriarcado de Indias y Vicariato General Castrense," *Revista Española de Derecho Canónico* 23, no. 65 (1967): 449-71, <https://dialnet.unirioja.es/servlet/articulo?codigo=5403668>; José Antonio Fernández Murias, "El Cuerpo Eclesiástico de la Armada: pasado, presente y futuro," *Revista General de Marina* 208 (March 1985): 325-40, https://publicaciones.defensa.gob.es/media/downloadable/files/links/r/g/rgm_208.pdf.

¹⁴ Ludovico García de Loydi, *Los capellanes del ejército. Ensayo histórico* (Buenos Aires: Dirección de Estudios Históricos, 1965); Ángel Ricardo González Forero, "La capellanía militar dentro del concepto de parroquia personal (master's thesis, Pontificia Universidad Javeriana, 2018), <https://repository.javeriana.edu.co/handle/10554/38081>.

¹⁵ Carlos Pérez Fernández-Turégano, "El Cuerpo de Capellanes de Marina en el siglo XVIII. Ordenación legal y consolidación," in *El Ejército y la Armada en el Noroeste de América: Nootka y su*

As can be gathered from this brief review of the relevant literature, with the exception of Hill and Barrio Muñoz, there is nothing written about this particular controversy. Likewise, there is virtually nothing written about chaplains, the Patronato Real, and ecclesiastical military jurisdiction in the Philippines at all, let alone for the specific period of the first half of the eighteenth century. Therefore, this study aims to fill some of the more noticeable gaps on this subject through the examination of relevant documents.

The Real Patronato in the Context of the Colonial Legal System

The Real Patronato Indiano had its origin and model in the universal right of patronage granted to the Catholic Kings for Granada following their conquest of that kingdom.¹⁶ In return for the Church giving its confirmation of and blessing for Spain's American conquests, it put the Spanish monarchs under the obligation of evangelizing the indigenous peoples and building up the Church in the newly conquered lands. This obligation included managing and financing the entire missionary enterprise; erecting churches, monasteries, and other religious foundations; and providing for the clergy that would serve in the American Church. However, the responsibilities also came with significant powers and privileges granted to the Spanish monarchs in perpetuity, the fundamental elements of which are as follows: 1) the right to receive and administer tithes paid to the Church; 2) the ability to define the limits of dioceses in Spanish territories; 3) the *pase regio*, by which all communications from the Holy See to Spain's colonies (and vice-versa) had to be approved by the king and the Council of the Indies; 4) the right to choose the missionaries for the work of evangelization, granting to the monarchs complete control over who went to the Indies to preach the Gospel; and 5) the right of presentation, giving the Spanish kings universal faculties to appoint clergy to ecclesiastical offices.¹⁷ The right of presentation comprehended every level of Church hierarchy, from archbishops to the lowliest parish priest, including royal chaplains, and is the focal point of the conflict in question.

tiempo, ed. Leandro Martínez Peñas and Manuela Fernández Rodríguez, 161-210 (n.p.: Universidad Rey Juan Carlos, 2011); Antonio Irigoyen López and Juan José Sánchez Baena, "Análisis de las relaciones de méritos de los capellanes de la Armada para la petición de prebendas americanas en la primera mitad del siglo XVIII," *Naveg@américa* 14 (2015): 1-28, <http://hdl.handle.net/10201/44091>.

¹⁶ Alberto de la Hera, "El Patronato y el Vicariato Regio en Indias," in *Historia de la Iglesia en Hispanoamérica y Filipinas (siglos XV-XIX)*, ed. Pedro Borges, vol. 1, *Aspectos generales* (Madrid: Biblioteca de Autores Cristianos; Estudio Teológico de San Ildefonso de Toledo; Quinto Centenario (España), 1992), 66-68.

¹⁷ María Vicens Hualde, "Dos poderes enfrentados en la Nueva España: Iglesia vs. Monarquía durante el Virreinato del Marqués de Villamanrique (1585-1590)," *Naveg@américa* 24 (2020), 1-3, <https://doi.org/10.6018/nav.418621>.

This description of the faculties of the Patronato gives the impression that it appeared on the historical stage fully formed, implemented, and accepted by all. Yet the Patronato as we know it today was not an inevitable fact, but rather the result of a long process of development and negotiation that began with Spain's conquest of the Americas and gradually expanded to include near universal control over all Church affairs—in theory at least.¹⁸ Between its canonical foundation in 1508 and its culmination in the Concordato of 1753, there were many conflicts as the theory of the Patronato collided with the reality of ecclesiastical governance, obligating the Spanish monarchs and their ministers to issue decrees and clarifications on how to appropriately interpret and implement the Patronato for a particular situation. Many of these royal mandates were codified in the *Recopilación de leyes de los reinos de las Indias*, finished in 1680, published in 1681, and reprinted occasionally over the course of the eighteenth century.

The *Recopilación* became the basis for governance in the Indies from the time of its publication, and it remained in force through the end of the colonial period in the Americas. Yet the continued promulgation of new laws, the ambiguity and lack of clarity in the wording of existing laws, the presence of contradictory instructions within the *Recopilación* (as well as opposing decrees not included in the *Recopilación* that remained in force), the structure of colonial governance, and the vicissitudes of time and history made conflict in the application of Patronato law inevitable. This was particularly true when it came to powers that bishops had traditionally exercised but that the Patronato had taken away from them. The history of the Catholic Church in the Indies is replete with such conflicts, and some of the laws regarding the naming of chaplains in the *Recopilación* came about precisely as the result of prelates in Manila violating the royal right of presentation, and these same laws would be used by the parties to the 1734 conflict in pursuit of their case.

Additionally, as Eduardo Martiré points out, despite the great importance of the publication of the *Recopilación*, by the eighteenth century it “was unable to satisfy the need for knowledge of current law that preoccupied legal practitioners, since in reality it was evident from very early on that that text, completed after so many difficulties, was inadequate.”¹⁹ He continues, writing that “almost immediately after its promulgation, it was necessary to update the 1680 code, and already in the first years of the century (1714) there was talk that they could add two more

¹⁸ Hera, “El Patronato,” 68-74.

¹⁹ “...no podía satisfacer la necesidad del conocimiento del derecho vigente que preocupaba al hombre de leyes, ya que en realidad desde una época bien temprana aquel cuerpo, logrado luego de tantas vicisitudes, resultó insuficiente.” Eduardo Martiré, *Guion sobre el proceso recopilador de las leyes de Indias*, Lecciones de Historia Jurídica V (Buenos Aires: Editorial Perrot, 1978), 38.

volumes of laws dictated after 1680 to the already existing [four volumes],” an action that never took place.²⁰ Furthermore, the process of compiling and standardizing the *Recopilación* resulted in a code that separated the final law from its historical context; that is to say, the editors of the laws often only took the central idea from the original royal determination, eliminating much of the introduction and background text that was part of the original decree.²¹ Although such streamlining was a necessary step in the creation of a unified legal code, the separation of the final law from its original text contributed greatly to confusion in its interpretation and application.²²

Complicating those already intractable problems was the widespread inclusion of the work of respected jurists in legal documents during the course of a lawsuit. At first glance such an appeal to scholarly authority would seem a logical and natural part of legal praxis, and indeed it was. Both Luque Talaván and Martiré discuss the long tradition in Europe, from the medieval period up until the nineteenth century, of relying on the opinions of jurists, theorists, scholars, and commentators—the so-called *communis opinio doctorum*, or common opinion of the doctors of law—to interpret the meaning of the law and bolster the arguments in any legal contest.²³ This is uncontroversial. The complications that arose did so less because of the use of legal opinion *per se*, and more because of the abuses to which it was prone and the undesirable effects on royal authority that came as a result. A common feature of many texts in the early modern period (not just legal texts) was a surfeit of quotations from authorities. Theologians, saints, figures of classical antiquity, jurists, kings, the Bible, and many others, appeared in writings of the period as a demonstration of the author’s erudition. The prevailing logic seemed to be that the higher the number of quotes from authorities one could include in a given text, so much greater was the erudition and subtlety of the writer. As it touches on the legal profession, this tendency found critics in some legal circles, who opposed “the false erudition of those authors that accumulated in their writings quotations from works that they had not even consulted.”²⁴ Even more problematic was the fact that it was possible to come to diametrically opposed conclusions on the same point of law by relying on different

²⁰ “...prácticamente a poco de su promulgación se hizo necesario actualizar el código de 1680 y ya en los primeros años del siglo (1714) se hablaba de que podrían agregarse dos tomos más, a los ya existentes, de leyes dictadas luego de 1680.” Martiré, *Guion*, 38-41.

²¹ María Rosa Pugliese, Estudio preliminar, in *Autonomía y descentralización legislativa en el régimen colonial español. Siglos XVI a XVIII*, by Rafael Altamira y Crevea (Buenos Aires: Instituto de Investigaciones de Historia del Derecho, 2011), 26, 30-31.

²² Pugliese, Estudio, 30-31.

²³ Miguel Luque Talaván, *Un universo de opiniones. La literatura jurídica indiana* (Madrid: Consejo Superior de Investigaciones Científicas, Instituto de Historia, 2003), 75, 83-84; Martiré, *Guion*, 37-38.

²⁴ “...la falsa erudición de aquellos autores que acumulaban citas en sus escritos de obras que ni tan siquiera habían consultado.” Luque Talaván, *Universo*, 100-103.

yet equally authoritative scholars, calling into question the actual commonality of the so-called common opinion.²⁵

Finally, the ascension of the House of Bourbon to the Spanish throne in 1700 meant the beginning of the end of the influence of the writings of the *communis opinio*. The institution and practice of legal literature collided with the increasing absolutism of the monarchy, which considered anything that detracted from its powers and prerogatives as detrimental to the state. Therefore, the existence of a body of literature and literati whose purpose was to give authoritative explanations of the law, represented an inexcusable intrusion into those activities that the Bourbons considered the sole province of the Crown. Additionally, the nature of legal commentary by jurists and scholars offered the possibility of multiple valid interpretations of the law, a position at odds with the centralizing, uniformizing tendencies of the Bourbon regime. For that reason, practices and interpretations of law that had been commonplace under the House of Austria came under suspicion, and those privileges and powers that the monarchy had lost through custom and attrition were brought back into the sphere of royal power through attempts to define the one “official” interpretation of the law, which, categorically, only the king could do. This is not to say that any and all influence of legal literature had suddenly ceased in 1700. On the contrary, authoritative legal literature in the tradition of the *communis opinio* remained an important part of legal proceedings throughout the eighteenth century, but its use decreased over the course of that century as official royal antipathy toward it increased.²⁶

As the above discussion has shown, the Real Patronato was *the* guiding force behind the development of the Catholic Church in Spain’s colonies, yet its acceptance by the colonial ecclesiastical hierarchy was not automatic or without resistance, and the conflicts that its implementation provoked were part and parcel of the operations of the colonial Church. The Patronato also forms a significant part of the content of the *Recopilación de Indias*, and a portion of these laws came about directly as a result of royal direction due to violations of the Patronato by Philippine prelates. However, because of the reasons mentioned above, the *Recopilación* was unable to foresee or resolve all Patronato-related questions, obligating colonial officers to address novel complications via the authority of *literatura jurídica indiana*, legal literature in the tradition of the *communis opinio doctorum*, until the king of Spain could provide a solution. All of these elements came together in 1734 to create a perfect storm of conflict surrounding the scope of the Patronato as it pertains to the selection of military chaplains, providing both the impetus of the dispute as well as its resolution, as we shall have opportunity to see.

²⁵ Luque Talaván, *Universo*, 87.

²⁶ *Ibid*, 86-90, 100-01, 219-20.

Beginning of the Conflict

In March of 1734, Father Francisco Méndez, *procurador* (legal representative) of the Jesuit province in the Philippines, presented a complaint and petition to Fernando Valdés Tamón, Governor and Captain-General of the Philippines.²⁷ As governor, Valdés Tamón was the vice-patron, the individual responsible for making ecclesiastical appointments in the King's name and in his absence, according to the privileges of the Patronato. According to Méndez's letter, late in 1733 Valdés Tamón had appointed the Jesuit father Francisco Javier Mompó to serve as chaplain on a military expedition against the indigenous inhabitants of Mindanao. Father Mompó was already aboard the expedition ship in Cavite harbor when the *Cabildo* (cathedral chapter) in sede vacante sent a message to the Jesuit superior in Manila expressing surprise at the fact that Mompó had not appeared before them to request confirmation of the governor's appointment and to receive the necessary licenses to administer the sacraments and serve in the office of royal chaplain. Consequently, the *Cabildo* sent a written license to the Jesuit superior so that he could, in turn, send it to Mompó so that the sacraments would be validly administered. However, the superior refused to accept the license because the ordinary had already examined and approved their religious and granted them licenses to preach and confess in the diocese—standard practice for all religious orders whenever a new group arrived from Mexico. Méndez further claimed that no one from their order had ever received second, additional licenses to serve as royal chaplains. More importantly for the purposes of this paper, accepting these additional licenses could result in a violation of the Patronato. Therefore, from the perspective of the Jesuits, it was necessary to inform the governor of this new development. Accordingly, Méndez made two visits at the end of December, relating the incident verbally to the governor's office.

However, the *Cabildo* did not let the issue rest. On January 2, 1734, it sent a message to the Jesuit superior indicating that all Jesuit fathers were suspended thenceforth from serving as royal chaplains unless they consented to appear before the ordinary to receive a new license to administer the sacraments. When Méndez visited the governor's office for the third time in mid-March 1734, it was to complain about the *Cabildo*'s actions and to ask the governor to intercede on behalf of the Society by forcing the *Cabildo* to lift the suspension and to not insist on the issuing of additional licenses to those named as military chaplains by the governor. It is unclear why Méndez waited so long after the suspension to inform the governor of the new development, nor why Méndez's first two visits did not spur the governor to action. Whatever the reasons, Méndez's letter prompted the *fiscal* (prosecuting attorney) for the Audiencia of Manila, Pedro de Bedoya y Osorio, to present the case

²⁷ AGI, Filipinas, 145, N. 16, ff. 1r-5v.

to Valdés Tamón as one in which the governor had the obligation to intervene as the Vice-patron in the islands, basing his opinion on Law 50, Title 6, Book 1 of the *Recopilación*, which reads,

We declare and command that the naming of the head chaplain and other chaplains of the armadas, galleys, ships, and other vessels of sponsored by us, belongs to us, and in our name to the captains general of the Philippine Islands and [of] the other parts of the Indies where it is necessary to name them, as it is done in the galleys of Spain, Italy, and other places. And we exhort and plead that the archbishops and bishops do not name them, only that they intervene to give their approval and license to administer the holy sacraments.²⁸

Bedoya's understanding of the application of this law, based on both experience and on custom, was that the intervention of the diocesan prelates—i.e., their approval and license—was to have occurred prior to being named as chaplain, specifically at the moment when new clergy arrived in a diocese. This practice had its foundation in the Council of Trent, with several scholars of the Patronato reaffirming and explaining the doctrine.²⁹ Furthermore, it was a practice that had already taken root in the Philippines, as seen in the skirmish over episcopal examination of confessors during the time of archbishop Diego Camacho y Ávila (1697-1705).³⁰ The archbishop had sent out an edict ordering all previously examined confessors to submit to a new examination of their aptitude and sufficiency, to which the religious orders unanimously responded that the preceding archbishops had already examined their priests, and that their privileges made a new exam unnecessary.³¹ The regulars based this assertion on a royal cédula of 1634, included in the *Recopilación* as Law 7, Title 15, Book 1, which states that, “the religious that have been examined and approved once for a *doctrina*, are not to be examined again, neither by the same archbishops nor bishops, nor by their successors, and this is to be understood for the

²⁸ “Declaramos y mandamos que el nombramiento de capellán mayor y otros capellanes de las armadas, galeras, navíos y cualesquier bajeles de nuestra cuenta, nos pertenece, y en nuestro nombre a los capitanes generales de las Islas Filipinas y las demás partes de las Indias donde sea necesario nombrarlos, como se hace en las galeras de España, Italia y otras partes. Y rogamos y exhortamos a los arzobispos y obispos que no los nombren, y solamente intervengan en dar su aprobación y licencia para administrar los Santos Sacramentos.”

²⁹ Council of Trent, Session 23, Chapter 15: “No one shall hear confessions, unless he be approved of by the Ordinary.” *The canons and decrees of the sacred and oecumenical Council of Trent*, ed. and trans. James Waterworth (London: C. Dolman, 1848), 185. The other scholars are Pedro Frasso in his *De regio patronatu indiarum*; Juan de Solórzano Pereira in his *Política indiana*; and Diego de Avendaño in his *Thesaurus indicus*.

³⁰ Although traditionally a bishop's tenure is measured from the time that he was appointed, throughout this study I list only the years when they actually lived in and occupied the see of Manila since that is of greatest relevance to the topic at hand.

³¹ Manchado López, “Concordia,” 73.

same archbishopric or bishopric in which they were examined.”³² Manchado López indicates that Camacho y Ávila yielded to the regulars’ resistance, and they did not submit to another examination, sending instead a list of the licensed confessors from their orders.³³ In 1734, Bedoya would have seen the Jesuit’s predicament as being similar to that of the orders in the clash with Camacho y Ávila. Furthermore, based on this understanding, the motives of the Cabildo for mandating a second license or approval were immediately suspect, and Bedoya’s “natural” conclusion was that the Cabildo had no other object except to claim the king’s right of presentation for themselves. Accordingly, Bedoya requested that governor send a formal request to the Cabildo to cease in their pretensions.

Rather than the Cabildo recognizing its error, as Bedoya saw it, it doubled down on its position. In its written response to the governor, the Cabildo affirmed that all jurisdiction in spiritual matters belonged exclusively to the ordinary and its Cabildo in sede vacante. They further claimed that the license to preach and to confess given to the religious at the time of their first examination in the islands did not include the authority to administer the sacraments as royal chaplains. They also claimed (falsely, as we shall see) that the practice of clergy seeking second, additional licenses to serve as chaplains was a well-established custom practiced since time immemorial in that archdiocese, and for all of these reasons, they could not accede to the governor’s request.³⁴

The Cabildo’s reply spurred Bedoya into action. Its assertion that the need for additional licenses was supported by the uninterrupted practice must have given the fiscal pause, making him consider whether the Jesuit position was indeed the canonical practice sanctioned by law and custom. To determine the actual practice of naming and licensing royal chaplains in Manila, Bedoya requested that the prelates of both the regular and the secular clergy give permission to their subordinates who had served as royal chaplains to exhibit any and all licenses they had received from the archbishop or the Cabildo in sede vacante in confirmation of their appointment. In fulfillment of this mandate, the *escribanos* (notaries) of the Audiencia, Miguel de Allánegui and Domingo Cortez de Arquiza, brought the request to the superiors of regular orders in Manila and to the Cabildo.

³² “...los religiosos examinados y aprobados una vez para una doctrina, no han de volver a serlo, ni por los propios arzobispos, ni obispos, ni por sus sucesores, y esto se ha de entender para el mismo arzobispado u obispado en que fueron examinados.” The term “doctrina” here refers to remote parishes for indigenous peoples who were new in the faith.

³³ Ibidem.

³⁴ AGI, Filipinas 145, N. 16, ff. 7r-10r.

The Regular Clergy Respond

The superiors of the regular orders in Manila readily consented to the request and instructed the religious under their direction to fully comply. Arquiza's commission took him to the convents of the Dominicans, the Franciscans, the Jesuits, the Augustinians, and the Discalced Augustinians. Over the course of May and June of 1734, he interviewed a total of seventeen regulars who had served as chaplains.³⁵ Specifically, his commission was to ask them to display any and all chaplain licenses they might have received in the past from the Cabildo, as well as "the reasons they had to request said approvals, those that have them, and those that do not, why they did not request them like the others."³⁶ Of those seventeen priests, only one had received the additional license. Yet all of them unanimously affirmed that they had never asked for a second license because they did not believe it was necessary because they had already received permission to confess and to preach in the archdiocese. Finally, in view of these existing licenses, they believed that they were able to serve as royal chaplains with only the appointment of the governor, without the need of additional licenses from the ordinary.

The only regular interviewed by Arquiza that had received the second license was Augustinian friar Ignacio de Gracia. In 1732, while Gracia was in the town of Parañaque on his way to Cavite to board the galleon *Nuestra Señora de Guía*, the Cabildo sent him a license via one father Castellón. According to his testimony, Gracia initially refused to accept the license, but at the insistence of Castellón, Gracia relented and sent him the money for the license "so that he would not suffer any loss... were I to not send him [the money]."³⁷ His motives for initially rejecting the proffered second license were twofold: first, he denied the claim made in the text of the license itself, i.e., that he himself appeared before the Cabildo with the governor's appointment and asked for confirmation of the same; and second, that because he had a "previous license to confess in areas belonging to this archbishopric [Manila]," he considered the act of presenting himself for a second license to be superfluous.³⁸

³⁵ It should be noted that a large section of the pages from AGI, Filipinas 145, N. 16 is missing (folios 47r-63v), so it is likely that the testimonies of other clergymen were taken but do not appear in the extant documentation from this case. The names and affiliation of the regular clergy whom Arquiza did interview are: *Augustinians*: Ignacio de Gracia, José Gil, Manuel de Obregón, and Juan Bellogín; *Dominicans*: Agustín Esquivel, José de San Vicente, and Pedro Enríquez; *Discalced Augustinians*: Salvador de Santa Rosa; *Jesuits*: Antonio Masvesí, José de Bobadilla, Felipe Mesía, Pedro José de Zisa, Francisco Javier del Salce, Nicolás Aguirre, Antonio Marimón, Juan Angles, and Baltasar Vela.

³⁶ "...los motivos que tuvieran para solicitar dichas Aprobaciones, los que las tuvieran, y los que no, por qué no las solicitaron como los otros," *ibid.*, ff. 10r-11r.

³⁷ "...que por súplicas de dicho padre Castellón, remití desde Cavite los reales pedidos, porque dicho maestro no padeciera detrimento en pagar los reales, de no remitirles yo," *ibid.* 42rv.

³⁸ "...licencia anterior para confesar en partes perteneciente a este arzobispado, y conocer asimismo ser superflua mi presentación," *ibidem.*

The answers given to Arquiza by these seventeen regulars also provide insight into how the regular clergy in the Philippines received their appointments as chaplains, which is especially important in light of their insistence on never seeking out from the Cabildo confirmation of their appointments via these second licenses. The words of the priests themselves are revealing. The Dominicans explained that “they already [had] approval of their *legitimate* prelates, and presentation made to said ordinary” (*italics added*).³⁹ Jesuit Antonio Masvesí described the process thusly: “the manner of naming chaplains is and always has been through the voice of their prelate,” “without any other requirement.”⁴⁰ Salvador de Santa Rosa of the Discalced Augustinians stated that “the process has been ... only through the request of the ... governors to the prelates of the holy religious orders, in virtue of which they name a religious under their obedience as chaplain, without necessity of a new license or approval from the ... Cabildo,” emphasizing that this had been the practice from “time immemorial.”⁴¹ As can be seen in the testimonies of these former chaplains, the procedure they describe is the same, even when the specific language differs slightly from priest to priest. Summing up this process, it appears that when the need for a royal chaplain arose, the vice-patron (the governor) sent a request (*ruego y encargo*) to the superiors of the religious orders, who then delegated the responsibility to one of the priests under their obedience. Although we do not currently have the testimonies of the Franciscans, based on the experience of the other orders in Manila, it is reasonable to affirm that the process they followed would have been similar.

They key element for the regular clergy in all of this was the mandate of their superior. Presupposing the establishment of their sufficiency and aptitude by the ordinary at the time of their first examination in Manila, which granted them their license to preach and confess in the archbishopric, they considered themselves fully qualified and certified to serve as royal chaplain with only the governor’s appointment and their prelate’s assignment. The answer of the Dominican chaplains even goes so far as to suggest that anything given to them by the Cabildo after their first appearance would have been illegitimate, their own superior being the only person who could legitimately grant them the spiritual jurisdiction to serve as chaplain. This concept and the practices that arose out of it have parallels from other times and in other spheres of pastoral care in the Philippines.

³⁹ “...por tener ya la aprobación de sus legítimos preladados, y presentación hecha a dicho señor ordinario,” *ibid.*, 25v.

⁴⁰ “...fue sólo por orden de su prelado, sin otro requisito... y que este estilo de nombrar capellanes es y ha sido siempre por voz de su prelado,” *ibid.*, 26rv.

⁴¹ “...ni lo ha oído decir en tiempo inmemorial haya habido novedad alguna, respecto a lo que ha sido estilo es solamente el ruego y encargo de los muy ilustres señores gobernadores a los preladados de las sagradas religiones, en virtud del cual nombra un religioso de su obediencia para capellán, sin necesidad de nueva licencia ni aprobación del ilustrísimo Venerable Deán y Cabildo,” *ibid.*, f. 27v.

To be precise, it seems that the regulars held the naming of chaplains as being similar to what they practiced for the assignment of priests to the parishes under their care in the early years of Spanish colonization, as described by Fernández. Discussing the *omnimoda* privileges granted to regular orders by various papal bulls in order to carry out missionary work in the Indies, he writes,

Favored with these privileges, the religious missionaries exercised the care of souls exclusively at the license of their respective provincials. They did not receive their faculties from the local ordinary, nor did they undergo any canonical investiture or installation; but they were absolutely exempt from the jurisdiction of the diocesan prelate.⁴²

Of course, by 1734 the regulars had been submitting to the examination, approval, and licensing by the ordinary for some time, as discussed above. This means that they did, in fact, receive their faculties from the local ordinary and were only exempt from his jurisdiction when they were serving “in regions outside of the immediate control of a bishop, which was defined as a two-day ride.”⁴³ Additionally, by order of the king, the position of chaplain was not to be filled by presentation, meaning that canonical investiture or installation was not necessary for the chaplain to act within his office, though receiving the ordinary’s approval and license was.⁴⁴

Furthermore, in 1734 the continued validity of those privileges was in doubt, with some affirming that they remained in force, and others declaring that succeeding popes had long since abrogated them in virtue of the canons of the Council of Trent and because of the continued development of the Church in the islands.⁴⁵ Yet such arguments against those prior privileges did not prevent the regular clergy across the Spanish empire from holding on to them and practicing the care of souls as if they were still in effect, applying them also, it would seem, to their service as royal chaplains. Because of this, the regular clergy believed that any additional license or approval that they might have needed in order to serve as chaplains, they received from the superior of their order when the latter gave them their assignment. This belief, together with the perceived long-standing practice of their religious going out with only the appointment from the governor, formed the foundation of their resistance to the additional licenses issued by the Cabildo.

⁴² Fernández, *History*, 110.

⁴³ John Frederick Schwaller, *The Church and Clergy in Sixteenth-Century Mexico* (Albuquerque: University of New Mexico Press, 1987), 4-5.

⁴⁴ *Recopilación*, Law 23, Title 4, Book 3, “Que los generales nombren capellanes y los prelados los examinen y aprueben. [...] Los generales de nuestros ejércitos nombren capellanes que administren los Santos Sacramentos, y den buen ejemplo a los soldados y a las demás personas que concurrieren, y los puedan remover a su voluntad. Y encargamos a los *prelados eclesiásticos que los examinen y den licencia para administrar, siendo suficientes, y no se haga presentación, como en las doctrinas*, conforme a la ley 50 del título del Patronazgo” (my italics).

⁴⁵ Costa, “Episcopal Jurisdiction (1954),” 210; Fernández, *History*, 111-12.

The Cabildo and The Secular Clergy: Evasion, Recrimination, and Escalation

The fiscal's commission to determine the historical practice of naming and licensing chaplains in the Philippines included the secular clergy. To that end, the notaries of the Audiencia visited Isidoro de Arévalo, precentor (*chantre*) of the cathedral of Manila and interim vicar general (*provisor*) of the Cabildo in sede vacante, to request that he give his subjects—the secular priests of the archdiocese of Manila—permission to exhibit any licenses given to them in confirmation of their appointment as chaplain. Although this might seem a reasonable step toward resolving the disagreement, seeing as it was merely an exploratory procedure and had the potential to favor the Cabildo if their assertion were true, the members of the chapter did not see it that way. Based on their reaction documented in the Audiencia's records, they seemed to have considered the fiscal's request as a demand rather than a request, one that violated the jurisdiction of the ordinary and the immunity of its subjects.

Upon receipt of Bedoya's first request, Arévalo demurred, replying that he was unable to respond to the fiscal's entreaty on his own authority as interim vicar general, and that the request had to be made to the entire Cabildo. Consequently, Bedoya sent the governor's decree to the chapter so that together its members could come to a decision. However, in its reply to the governor, they claimed that the fiscal had not made the request in the proper form: "...although the notary put the file in the hands of our secretary, we have noticed it is not the standard and proper dispatch that is used in such cases."⁴⁶ The governor again ordered the fiscal to resend the decree in the way expressed by the Cabildo "so that the [matter] that is discussed in the file might not be delayed, and desiring on the part of this Superior Government the public peace," even though, in his opinion, they had already used the proper method of communication.⁴⁷ Again the Audiencia notaries brought the decree to the Cabildo, summarizing all actions taken up that point in pursuit of determining the practice of naming and licensing chaplains. The governor also added an urgent, personal message to this third request: "in the name of His Majesty... I exhort and request, and for my part I plead and ask said distinguished gentlemen of the very Venerable Dean and Chapter, governor of this archbishopric in sede vacante, to see fit to grant your permission for the aforementioned purpose."⁴⁸ A dignified response.

⁴⁶ "...aunque el receptor puso en manos de nuestro secretario el expediente, hemos echado de menos el despacho regular y competente que en tales casos se practica," AGI, Filipinas 145, N. 16, 12v-13r.

⁴⁷ "...para que no se embarace el que se trata en este expediente, y deseándose por este Superior Gobierno la quietud común," *ibid*, 13v.

⁴⁸ "...en nombre de Su Majestad (que Dios guarde), exhorto y requiero, y de la mía ruego y encargo a dichos ilustres señores del muy Venerable Deán y Cabildo, gobernador de este arzobispado en sede vacante, se sirvan de conceder su licencia para el efecto prevenido," *ibid*, 18v.

Unfortunately, the chapter continued to cavil, on this third occasion postponing a substantive response by asking the governor to provide legal testimony of the request before they would respond. This was the last straw for Bedoya, who after reading their response, penned a notably miffed (yet restrained) report to the governor, wherein he accused the Cabildo of acting in bad faith, of disrespecting the office of the governor, of dragging their feet vis-à-vis the request, and of engaging in frivolous and vain paperwork that only served to delay business of the highest importance. He also advised the governor that, given the Cabildo's bad faith and stonewalling, they were free to carry out the commission directly with the former chaplains among the secular clergy, without any violation or injury to ecclesiastical privilege or immunity. The governor agreed with the fiscal, and on May 19, 1734, he instructed the head notary of the Audiencia to copy Bedoya's memo, word for word, and include it in the fourth and final request to the members of the cathedral chapter.⁴⁹

This new approach did not go over well with the Cabildo, who, it seems, was trying to buy itself time to respond to the fiscal's request in a way advantageous to its privileges and authority. When they finally did reply to Bedoya's petition for the secular clergy to exhibit their licenses, it was based on the opinion of the Cabildo's own legal adviser (*promotor fiscal*), Nicolás de León, who counseled the chapter members to not only withhold consent from the secular clergy, but also to urge the governor to recuse himself from any further inquiries into the matter. From his point of view, this was a strictly spiritual issue, one that had no impact, positive or negative, on the privileges of the Real Patronato. It could only, says León,

serve to determine if said licenses should or should not be requested by the chaplains, or accept those that might be given, a point which should not be disputed in a secular court, accepting as established that in spiritual matters, for anything that is not within the sphere of the Real Patronato, ecclesiastical [tribunals], in whom alone resides the jurisdiction for a decision on such matters, should take cognizance of them.⁵⁰

He further urged the Cabildo to admonish Bedoya for his indecorous words toward them. It is worth mentioning here that in both substantive responses up to this point, the Cabildo did not produce any evidence in support of their position, limiting themselves to assertions of rights, privilege, authority, and jurisdiction over the secular tribunals in the islands in spiritual matters. Nor do they cite any

⁴⁹ Ibid., 20r-22r.

⁵⁰ "... sólo podrá servir para determinar si se debe o no solicitar dichas licencias por los capellanes, o admitir las que se las diese, punto que no se debe controvertir en juicio secular, dando por asentado que en materias espirituales, toda la que se saliere del punto del Real Patronato, debe conocer de él el eclesiástico, en quien sólo reside la jurisdicción para la decisión de semejantes puntos," *ibid.* 35v-36r.

laws beyond affirming that theirs was the accurate and canonical understanding of Law 50, Title 6, Book 1 of the *Recopilación de Indias*. That is, that the license and approval mentioned in that law refer to an act that necessarily had to take place *after* the governor's appointment, and it was that act that conferred upon the chaplain the appropriate jurisdiction and all the necessary faculties to carry out the work of that office. This would change in later communications, of course, as the conflict wore on, but at this point the Cabildo had nothing to support their claims or their defiant attitude toward the Audiencia.

With its letter, the Cabildo set the stage for a jurisdictional impasse, its members on one side and the governor and Audiencia officials on the other, both firm in the belief of the justice of their respective positions and neither willing to make any concessions in law or in practice. For the Audiencia, the Cabildo's attitude justified the fiscal's determination that they could now deal directly with the secular clergy who had been chaplains rather than going through their superior. As they had done with the regular clergy, the Audiencia's notaries reached out to the secular priests living in the city that had served as chaplains, interviewing eight of them (at least, of which we have record.) The experience was quite distinct from what they experienced with the regulars. First, it was more difficult to track them down. It took several visits, for example, for Arquiza to track down one Manuel de Ochoa y Zárate, who seemed to be avoiding him. Others did not comply with the order, stating that they would not show the licenses until they received permission from the ordinary, doing so only after multiple notices from the Audiencia and being compelled under the threat of *temporalidades*, i.e., losing the pecuniary and other temporal benefits associated with the work of an ecclesiastical office.

Two key facts come out of the interviews with the secular clergy. The first is the high proportion of licenses found among the secular clergy. Of the eight interviewees, all but one had received additional licenses from the Cabildo in confirmation of their appointment, and some had more than one license because of having served as chaplain on multiple occasions. The second and more curious fact is that not all of the secular clergy agreed with the Cabildo on the need for second licenses, with only one of the secular interviewees positively affirming that need because of his status as secular priest. The one priest who had not received an additional license, Manuel de Ochoa, made the following statement in this regard:

He has no title or approval from the ... Cabildo to show, and although he was designated as chaplain of the aforementioned galleon [*Sacra Familia*] by the Superior Government in the year '29, he only began to exercise said employment with the simple appointment of the predecessor of his lordship [governor Toribio José Cosío y Campo], and that he ... stopped in

to say goodbye to... Carlos Bermúdez [archbishop of Manila], who in their farewell only told him to go with God and to live up to the honor given him as chaplain, without any other dispatches or approvals beyond those of confessor and preacher.⁵¹

It is also relevant to note that another priest, Miguel García, made the same affirmation as Ochoa, i.e., he did not believe that any additional licenses were necessary to serve as chaplain, even though he had received a chaplain license under Diego Camacho y Ávila during the same confrontation described above. He indicated, however, that he received it only with “repugnance” and only because it was issued to him by his prelate, and that on none of the other four occasions that he had served as chaplain in the royal hospitals of Manila did he ever receive additional licenses. He further added that when Francisco de la Cuesta (1707-1723) ascended to the see of Manila, he rescinded García’s chaplains license, examined him again, and issued to him the general license to confess and to preach in the archdiocese, and with that he continued to serve as royal chaplain.

During the process of gathering information about the presence of additional licenses among the ex-chaplains in Manila, the first one he came across was from Ignacio de Gracia, cited above. In his examination of Gracia’s license, Bedoya found the unusual and alarming phrase, “and in case it is necessary, we select and name him as chaplain.”⁵² If Bedoya saw in the Cabildo’s insistence on second licenses a violation of the Real Patronato and a subtle attempt to insinuate itself into the naming of chaplains, in this phrase he saw concrete proof of a blatant power grab on the part of the Cabildo against the king’s right of presentation. Accordingly, he ordered the Cabildo to display their record book (*libro de gobierno*) so that he could examine it in order to determine if there were any other chaplain licenses registered in their records, especially ones with that phrase. When the Cabildo informed Bedoya that they did not have a record book and that they gave the original licenses to the chaplains, they had two of their scribes review the extant record books of the past ordinaries or their chapters in sede vacante to see if they had issued any such licenses, and if so, how many.

⁵¹ “...no tiene que exhibir ningún título ni aprobación de su ilustrísimo Venerable Deán y Cabildo; y que aunque fue despachado por el Superior Gobierno de capellán en el citado galeón [*Sacra Familia*] el año de veinte y nueve, sólo pasó a ejercer dicho empleo con el puro nombramiento del señor antecesor de su Señoría, y que sólo pasó a despedirse del ilustrísimo señor don Carlos Bermúdez, quien en la despedida sólo le dijo que se fuera con Dios, y que cumpliera con su obsequio como tal capellán, sin otros despachos ni aprobaciones más que las de confesor y de predicador,” *ibid*, 69r-70v.

⁵² “y en caso necesario, le elegimos y nombramos por tal capellán,” *ibid.*, 43v.

In conformity with this determination, the scribes of the Cabildo examined the record books for Pedro de Arce (1631-1635),⁵³ Miguel de Poblete Casasola (1653-1667), Diego Camacho y Ávila (1697-1706), Francisco de la Cuesta (1707-1723),⁵⁴ and Carlos Bermúdez de Castro (1728-1729), finishing their review on July 2, 1734 (see Appendix 1). The review of these licenses presents a very mixed picture. Of the 61 chaplains documented in the record books and oral testimonies, 34 of them received additional licenses from the Cabildo. Of these 34, the vast majority (28/34) were secular priests, and the regulars that received them did so in 1661, 1662, 1700, 1701, 1705, and 1732. The 27 regulars who did not receive additional licenses are predominantly Jesuits, with a handful each of Dominicans, Augustinians, Franciscans, and Discalced Augustinians. Based on these numbers, it is difficult to see the uninterrupted custom alleged by Arévalo. Added to this is the fact that, in the license issued to Ignacio Gracia, it states that the friar presented himself before the Cabildo seeking confirmation of his appointment. This Gracia categorically denied, thus casting doubt on the Cabildo's claim and raising the (unfortunately unanswerable) question of whether any of the other licenses were issued in such a way. Finally, as Bedoya and Correa point out, there had been so many chaplains sent out on so many expeditions over so many years, yet there were only a relatively small number of licenses, definitely not in proportion to the number of chaplains.

On the other hand, the documentation available to the Audiencia to address the matter was woefully incomplete since there were no record books for 56 of the 100 years covered in Bedoya's investigations, with the books missing from the bishoprics of Fernando Montero Espinosa, Juan López, Felipe Pardo, and all of the chapters in sede vacante, and some of the existing books were likely incomplete (e.g., Fernando de la Cuesta's, commencing halfway into his tenure). It is not difficult to imagine many of the record books being destroyed through natural disaster, violence, or neglect—if it is that they really did keep records of all chaplain licenses issued—so we must keep this in mind when looking at the numbers presented to us in the existing documentation. The search for old licenses also highlights the possibility that the Jesuits and their allies in the other regular orders in Manila could have been mistaken. The presence of at least six regulars receiving licenses in that 100-year span indicates that the practice they claimed as uninterrupted and universal and from time immemorial, was, in fact, not. Alternatively, the Jesuits could have sent Méndez to the governor with the goal of intentionally misleading him (as the Cabildo accused them of doing) into the defense a non-canonical practice whose only beneficiaries

⁵³ Arce was an Augustinian and the bishop of the Diocese of Cebú from 1613 to 1645. However, when the see of Manila and its suffragan dioceses in Nueva Segovia and Camarines fell vacant, he had the obligation to assume the interim management of Manila until his replacement would arrive. This happened on two occasions, from 1616 to 1620, and again from 1629 to 1635.

⁵⁴ The documentation states that the book for Francisco de la Cuesta commenced in 1715.

were the regular orders, doing so by framing their objectives in the light of a defense of the Real Patronato. Either way, these hypotheses are unproveable, and at the very least the situation demonstrates that human memory is fallible and has a very short lifespan, allowing both the regulars and the Cabildo to make their claims of uninterrupted custom and law being on their side.

The Conflict Continues In The Press

With the new evidence in hand Bedoya pressed his case against the Cabildo's pretensions, noting both the use of the offensive phrase "and in case it is necessary, we select and name him as chaplain" in several of the licenses—most notably from Francisco de la Cuesta onward—and the supposedly low numbers of licenses issued over the years. Yet the Cabildo persisted, growing more adamant and, according to Bedoya, constantly and loudly complaining about the abuse and shame they were allegedly suffering because of the fiscal's lawsuit against them. It must have been this that pushed Bedoya to make their dispute public, writing the "Alegato fiscal" in mid-June 1734, and publishing it by the end of that month with the assenting opinion of his adviser Correa.

The "Alegato" is based heavily on the documents produced as the Audiencia pursued its case against the Cabildo, and so many of the facts, disputes, and arguments made for and against Bedoya's case appear therein. The tone of the document is factual but with a notable undercurrent of condescension and irritation at the Cabildo's stubbornness, as he saw it. The difference between the manuscript documentation and the "Alegato" resides in its detailed discussion of law and the analysis/refutation of the arguments made by the Cabildo in their communications with the Audiencia. Bedoya divides his text into 21 sections (§), tackling a different aspect of the Cabildo's arguments in each one, with the basic arguments of the overall text being as follows.

1. The Cabildo misunderstood the language of Law 50, Title 6, Book 1 of the *Recopilación de Indias* to confuse the concepts of "jurisdiction" and "approval," causing them to impose an additional but unnecessary confirmation beyond the establishment of suitability (*idoneidad*). In support of this, he cites the original cédula given by Philip IV in 1609 that became Law 50, and while much of it is the same, there are parts left out of the final version of the law that are key to understanding the original intent. Specifically, the king points out to archbishop Diego Vázquez de Mercado that his predecessor had attempted to name chaplains, claiming authority to do so as bishop. However, the king sets him straight, writing,

being such an established fact that in the galleys of Spain, Italy, the Indies, and other parts, my captains general of those regions name the senior chaplains and [junior] chaplains without the archbishops nor bishops nor their vicars interfering in any of this, *those chaplains being approved and having license from the ordinary to administer the sacraments.*⁵⁵ (italics added)

The text of the *cédula* strongly suggests that when the law talks about “license and approval,” the king’s original intent was the establishment of suitability.

2. Priests named as chaplains—regular or secular—have an *omnimoda* license to administer all sacraments independently of the ordinary because of the unique circumstances in which chaplains operate. Specifically, because they have to transit between multiple jurisdictions, it is not feasible nor desirable for a military chaplain to request permission to preach and administer the sacraments from every ordinary in his path. Furthermore, because of the loss of jurisdiction in moving from one diocese to another, the licenses granted by the ordinary in Manila would expire as soon as the chaplains left the diocese, rendering them useless and making necessary an *omnimoda* jurisdiction that would make them exempt from and independent of any bishop they might encounter. In fact, it was the constant problem of conflict of jurisdiction among the Spanish armies in Spain and Italy that led to the creation of the position of *Vicario General de los Ejércitos*—Vicar General of the Army—with the goal that such conflicts would cease. This led to the inclusion of this line in Law 50: “as it is done in the galleys of Spain, Italy, and other places.”⁵⁶ This practice formally began in 1645 with a brief of Innocent X, though it was applied unevenly, as Zaydín y Labrid indicates.⁵⁷ In

⁵⁵ “...siendo cosa tan asentada que en las galeras de España, Italia, las Indias y otras partes nombran el capellán mayor y capellanes mis capitanes generales de ellas, sin que los arzobispos ni obispos ni sus vicarios se entremetan en cosa ninguna de esto, siendo los tales capellanes aprobados y teniendo licencia del ordinario para administrar los sacramentos,” AGI, Filipinas 329, Legajo 2, ff. 94v-95v. It is interesting to note that the king’s warning did not work, since two years later the king writes again admonishing Vázquez de Mercado for attempting to name chaplains, against the king’s explicit instructions (AGI, Filipinas 329, Legajo 2, ff. 144v-145r).

⁵⁶ “...como se hace en las galeras de España, Italia y otras partes.” See, for example, a 1734 broadside from the vicario general of the Spanish armies in Pisa, Italy: “Nos Don Juan Bernardino Rojo, Presbítero, Capellán Mayor, con las facultades de Vicario General por erección Pontificia y Regia, Delegado Apostólico, Juez privativo del Ejército Católico, Administrador en lo espiritual de los Reales Hospitales, Ciudadelas, Castillos &c. Comisario del Supremo, y Santo Tribunal de la Inquisición de España &c. Por cuanto nos tiene acreditado la experiencia los abusos...” The digital copy I have comes from the Biblioteca Nacional de España (<http://byu.worldcat.org/oclc/1030674831>).

⁵⁷ “Breve de institución de la jurisdicción eclesiástica castrense dirigido por su Santidad Inocencio X a S. M. El Rey de España D. Felipe IV en 26 de septiembre de 1645... (*Cum sicut Majestatis*),” Zaydín y Labrid, *Colección de breves*, 1-12, 16-18.

making this assertion, Bedoya puts the vice-patron in the islands in the role of, or as the equivalent of, Vicar General of the Army, since this person can appoint chaplains at will, and the authority and jurisdiction to administer the sacraments and resolve questions of conscience, etc., flow directly from the pope into the priest so named. Thus, according to Bedoya, even though in 1734 there was no one appointed or exercising the role of Vicar General in Manila, this did not impede chaplains named by the governor from exercising full jurisdiction and authority during the military expeditions to which they had been assigned, as long as the ordinary of Manila had examined and approved the priest and given them license to preach and confess in the diocese, i.e., established their suitability.

3. Because of the reasons mentioned in number two, the issue of chaplain licensing comes firmly under the aegis of the Real Patronato, making it the governor's business and making him the competent authority to determine how the issue should be decided. He continues for several sections on this idea, emphasizing the special nature of the patronage of the Spanish monarchs in the Indies and explaining how, because of this special right, the kings of Spain and their vice-patrons are able to take cognizance of said cases, even when they touch on spiritual things, without violating ecclesiastical immunity or jurisdiction. This is a direct refutation of the assertions made by Nicolás de León urging the governor to concede jurisdiction to the Cabildo and recuse himself from any cognizance of the issue.
4. Beyond the issues of suitability, jurisdiction, and competency, the Cabildo violated the Patronato by inserting the phrase "and in case it is necessary, we select and name him as chaplain" into the licenses they were issuing, a clear indicator, in Bedoya's mind, that the Cabildo's intention was not to follow the law as its members understood it, but rather to acquire the king's right of presentation for itself, against all law and custom.

The time from the publication of the "Alegato fiscal" until mid-July marks the most active period of the case since it began because of the return of Jesuit legal representative Francisco Méndez. On or around July 2, Méndez wrote to the governor asking him to force the Cabildo to lift the suspension of their priests so that Miguel Quirós could serve as chaplain on the *Nuestra Señora de las Caldas*, which was fully laden and ready to depart for the Marianas Islands and was only awaiting

the chaplain to do so. From that time until July 9, when the Cabildo finally lifted the suspension, the entire Audiencia was fully engaged in negotiations with the Cabildo to get them to lift the suspension, including a special session with all the oidores in conference with Isidoro de Arévalo and Gregorio de la Fuente Yepes, interim canon preacher (*canónigo magistral*) of the Cabildo.⁵⁸ It is likely that the Cabildo would have remained firm in their determination were it not for the imminent departure of the ship to the Marianas. Since the members of the Cabildo did not want to be responsible should the ship sink or run aground because of inclement weather due to a late departure—an ever-increasing possibility the longer it delayed its departure, they were forced to relent. With this concession, Bedoya and the governor had won the day, and the Jesuits and other regulars continued for a time to serve as chaplains without the need for additional licenses from the Cabildo.

Audiencia vs. Cabildo, Round 2: Isidoro de Arévalo's "Papel"

As the final proceedings of the initial struggle were concluding, the state of affairs in Manila more or less returned to normal. Though the Cabildo was by no means content or even resigned to the governor's decision, the AGI documentation shows very little activity between that body and the Audiencia until late October/mid-November of 1734. At that time, Bedoya ordered the Cabildo to do nothing in pursuit of their agenda until the king replied with his decision, and the Cabildo affirmed that it would comply. Other texts, however, belie the apparent calm of this month and help to put the records of the Audiencia into context. According to a letter to the king from Governor Valdés Tamón dated July 20, 1735, the Cabildo went on the offensive when Isidoro de Arévalo published a legal manifest (hereafter "Papel") defending its position in the controversy.⁵⁹ Its full title, translated here for greater comprehension, is as follows:

"Manifest which attempts to persuade that the intention of the Venerable Dean and Chapter of Manila, Governor of its Archbishopric in sede vacante,

⁵⁸ There were two individuals with the surname "De la Fuente" in the Cabildo at this time: Juan de la Fuente, interim archdeacon, and Gregorio de la Fuente, the canon preacher mentioned here. In AGI, Filipinas, 145, N. 16, it distinguishes between the two using both their respective positions in the Cabildo as well as their academic credentials: Juan was a "doctor" and Gregorio was a "maestro." Both are listed as having the second surname of "Yepes" at different moments in the documentation, though it is possible that this was an error on the part of the scribe (*ibid.*, ff. 194r, 196r). A note in the same documentation indicates that Gregorio died between the beginning of the conflict and its resolution (*ibid.* p. 393).

⁵⁹ The date of the publication of Arévalo's manifest is uncertain, but in the same letter, Valdés Tamón states that he published it around November of 1734 ("por Noviembre del año inmediato pasado"). It was likely the beginning of November or end of October because another imprint, the *Diálogo mixti fori*, which was written in response to Arévalo's "Papel," appeared around November 8, 1734. AGI, Filipinas 145, N. 16, n. pag.; AGN, Novohispano, Inquisición, V. 861, Exp. s/n, ff. 84r-96r.

was not to intervene in the naming and confirmation of the chaplains of armadas, galleys, and ships that are dispatched by the order of His Majesty, nor in the cognizance of things pertaining to the Royal Patronage, but only to defend the jurisdiction that it enjoys as Ordinary, of which they are trying to deprive it. And that the Prosecutor should, by virtue of his office, protect it, being in conformity with the will of His Majesty, explained in his laws and other decisions of the Royal Patronage.”⁶⁰

Arévalo divided his “Papel” into 72 numbered paragraphs in which he dissected Bedoya’s “Alegato” and attempted to refute its arguments. Arévalo’s purpose in writing was to defend the Cabildo’s claims and to vindicate its honor and reputation, impugned, as they saw it, by Bedoya. In the process, he faulted the Audiencia for interfering in affairs that do not concern it and surreptitiously accused the Jesuits of being duplicitous, disobedient, and of fomenting discord and prejudice against the Cabildo. The general arguments of the “Papel” are as follows.

1. The Audiencia misinterpreted Law 50, Title 6, Book 1 of the *Recopilación* when they claimed that the words “approval” and “license” are the same thing and that the act of the ordinary granting approval should happen *before* the religious receives the governor’s appointment. Arévalo affirms that the Cabildo’s understanding of that law is the correct, authorized, and canonical one, supported by law and longstanding practice. Under this interpretation, the term “approval” refers only to the ascertaining of suitability, while “license” refers to the delegation of jurisdiction to the priest. Therefore, the words “approval” and “license” refer to two separate acts, the first taking place before the governor’s appointment, and the second taking place afterward in confirmation of that appointment. In support of this argument, Arévalo compares the process of naming a chaplain to that of naming prebendaries for a cathedral or priests for a parish, that is, the ordinary has to confirm the appointment made by the vice-patron via collation and canonical institution if it is to be valid. Furthermore, he rejects Bedoya’s interpretation of Law 24, Title 4, Book 3 of the *Recopilación*, which states that, for chaplains, “presentation should not be made, as [it is] for *doctrinas*.”⁶¹ Whereas Bedoya in the

⁶⁰ Isidoro de Arévalo, *Papel en que se intenta persuadir no ser la intención del V. D. y C. de Manila, Gobernador de su Arzobispado en sede vacante, introducirse en el nombramiento y confirmación de los capellanes de armadas, galeras y navíos que se despachan de orden de su Majestad, ni en el conocimiento de cosas pertenecientes al Real Patronato, sino sólo defender la jurisdicción de que goza como Ordinario, de que se le pretende desposeer. Y que el señor Fiscal debe, por razón de su oficio, ampararlo, por ser conforme a la voluntad de su Majestad, explicada en sus leyes y otras decisiones del Real Patronato*, (Manila: Colegio y Universidad de Santo Tomás, 1734.)

⁶¹ *Recopilación*, Law 24, Title 4, Book 3: “Los generales de nuestros ejércitos nombren capellanes que administren los Santos Sacramentos, y den buen ejemplo a los soldados y a las demás personas

“Alegato fiscal” understands the term “presentation” in this law to refer to an act similar to collation and canonical institution, Arévalo argues that it refers to *how* they are presented, i.e., the king or his vice-patron can change or remove chaplains at will. This is in contrast to a parish priest, who holds his office in propriety.

2. The general licenses to preach and confess in the diocese are insufficient to fully imbue a priest with all the faculties necessary to serve as royal chaplain, principally because the jurisdiction of the general license only includes the sacrament of penitence and none other. This is reflected in the licenses displayed in Bedoya’s investigation, which often contained the phrase “without prejudice to parochial rights,” meaning that the privilege of administering all of the sacraments—and the temporal benefits that that privilege entails—belongs exclusively to the parish priest.⁶² Although a belief and a custom arose among the regular clergy that they did not need the additional licenses, this does not mean it was right or that it had the force of law. Furthermore, Arévalo disputes the fiscal’s assertion that the “correct” way of naming chaplains is what the regulars claimed because, in his eyes, Bedoya did not establish that as fact before making the claim.
3. Arévalo contradicts the fiscal’s interpretation of a papal bull issued by Urban VIII that Bedoya cites in the “Alegato fiscal.” In the fiscal’s text, he claims that this bull, *Cum sicut accepimus*, grants jurisdiction to regulars named as chaplains by virtue of the appointment alone, but according to Arévalo, it actually does the opposite. The precentor does acknowledge that there was another bull that granted a somewhat similar privilege to the Dominicans, but it was only to apply when the ordinary on two occasions was unwilling to grant them licenses, which was not the case in 1734. He also says that although later popes extended the privilege to the other orders, Gregory XIII revoked all of them.
4. The kind of *omnimoda* jurisdiction that Bedoya affirms for royal chaplains cannot exist because there is no Vicar General of the Army to communicate it. In support of this assertion Arévalo cites a royal cédula from 1678 that King Charles II issued as a result of a chaplain—Gerónimo de Herrera y Figueroa—claiming complete exemption from

que concurrieren, y los puedan remover a su voluntad. Y encargamos a los prelados eclesiásticos que los examinen y den licencia para administrar, siendo suficientes, y no se haga presentación, como en las doctrinas, conforme a la ley 50 del título del Patronazgo.”

⁶² “sin perjuicio del derecho parroquial.”

the ordinary's jurisdiction in the Philippines based on his appointment as senior chaplain (*capellán mayor*) of the royal chapel of La Encarnación, attached to a regiment stationed in Manila.⁶³ In the cédula, the king refuted Herrera's claim and declared that there was no other ordinary jurisdiction in the islands except that belonging to the bishop or his cabildo. Ergo, ecclesiastical jurisdiction and the ability to delegate it to others could not reside in any of the chaplains named by the governor unless the ordinary communicated it to them. He buttresses his claim by citing the "Ordenanzas militares" issued by Philip IV in 1632, wherein it states that, "where there is no Vicar General of the Army and Navy, both [senior and junior chaplains] are to be approved by their ordinaries."⁶⁴ Additionally, Arévalo, citing the eighth conclusion of the scholars of Salamanca, affirms that even if there were a Vicar General of the Army in the Philippines, his jurisdiction would end as soon as the army was no longer in an active campaign.

5. Related to the ideas in the preceding number, Arévalo rejects the possibility that the king can communicate spiritual jurisdiction to anyone due to the fact that he is a layperson, and the same principle applies to the governor as vice-patron. He states that, although the king has power to appoint Vicars General of the armed forces, the jurisdiction to administer spiritual things emanates directly from the pope into the person appointed. He also adds the novelty that the king cannot delegate jurisdiction to junior chaplains (*capellanes menores*), using the phrase, "pudiendo lo más, no puede lo menos."⁶⁵ In other words, the king can appoint a Vicar General of the Army or Navy, who then receives jurisdiction immediately from the pope, and then that person can in turn delegate his jurisdiction to junior chaplains, but the king cannot directly delegate jurisdiction to junior chaplains.⁶⁶ If the king were able to communicate jurisdiction by virtue of his royal privileges, he would not need the brief from Innocent X, ergo, "[the king] does not have the faculty to name a Vicar General with spiritual jurisdiction by virtue of

⁶³ AGI, Filipinas 331, L. 7, ff. 273r-273v.

⁶⁴ "...y los unos, y los otros, han de ser aprobados por sus Ordinarios, donde no hubiere Vicario General del Ejército, y Armada." Philip IV, "Real ordenanza de 28 de Junio de 1632. Sobre la disciplina militar, mando, sueldos, ventajas, provisiones de empleos, y otras cosas," in "Ordenanzas militares de los Austrias," special issue no. 1, *Revista de Historia Militar* 61 (2017), 432, https://publicaciones.defensa.gob.es/media/downloadable/files/links/r/h/rhmextra1_2017.pdf. Although Arévalo cites item 73 as the location of the text quoted, it was actually item 74.

⁶⁵ Arévalo, "Papel," 17r.

⁶⁶ *Ibid.*, 16v.

his general Patronage [or] his special [Patronage] for the Indies.”⁶⁷ By this same token, the king and his vice-patrons are excluded from taking cognizance of spiritual matters, leaving the ordinary (or his chapter) as the only person able to do so.

There are other minor points that Arévalo includes in his “Papel,” but on the whole they tend to serve as support for these overarching concepts, which are the key points upon which he rests his case. However, although he cites and analyzes Patronato laws and their interpretations, and many of his arguments are worthy of consideration, Arévalo also falls, in the apt judgment of Retana, into “the most trivial minutiae in order to justify the conduct of the Cabildo.”⁶⁸ The insistence on debating minutiae leads him to spend an inordinate amount of time belaboring certain points, such as the distinction between the terms “approval” and “license.” Furthermore, his style of argumentation depends greatly on rhetorical questions—“what if,” “what about,” “it could have been”—that raise doubts about the fiscal’s arguments but do not necessarily resolve the conflicts under discussion. Even when Arévalo admits that certain aspects of the licenses were in error, he demonstrates the tendency to deflect the blame onto others. For example, he acknowledges the inappropriateness of the phrase, “and in case it is necessary, we select and name him as chaplain,” that appears in most of the licenses, and indicates that the Cabildo is willing to erase it from any and all of them. Yet he does not take responsibility for it himself, blaming instead the Cabildo’s secretaries and other junior officers in that body for confusing the licenses for royal chaplains with those directed at chaplains for private vessels. He calls them “títulos de cajón,” or regularly issued titles, ones in which not much attention was paid to the language of the title, being similar to a form letter. In sum, despite the merits of some of his arguments, Arévalo at times demonstrates an inappropriate ingenuousness and bad faith that reflected poorly on the Cabildo and its pretensions.

“Maltratado, asado, y mofado:” The “Dialogo mixti fori” Responds to the “Papel”

If Isidoro de Arévalo felt any sort of satisfaction because of his defense of the ordinary jurisdiction in his “Papel,” the feeling would not have lasted long. On or around November 8, 1734, shortly after the publication of the “Papel,” an anonymous pamphlet was distributed to the regular communities and several prominent residents of Intramuros. Its title was “Diálogo mixti fori” and its appearance provoked an uproar in Intramuros and strained the already tense relations between the Cabildo

⁶⁷ “...la facultad de nombrar Vicario General con jurisdicción espiritual, no la tiene por su Patronato general, y especial de las Indias,” *ibid.* 18v.

⁶⁸ “...minucias las más triviales, a fin de justificar la conducta del Cabildo,” W. E. Retana, *Aparato bibliográfico de la historia general de Filipinas*, 3 vols. (Madrid: Imprenta de la sucesora de M. Minuesa de los Ríos, 1906), 1: 271, entry 243.

and the Audiencia as *manileños* took sides and prepared to defend their cause. The “Diálogo” is a satirico-legal piece in the form of a dialogue, and its principal objective was to refute the propositions of the “Papel.” Yet in doing so it spared no opportunity to insult and belittle Arévalo and the members of the Cabildo for their attempt to defend the alleged privileges and jurisdiction of the ordinary. Its full title (borrowing my previous translation and footnote) is as follows.

“Dialogue of mixed jurisdiction, and semi-spiritual conversation between the half-asleep author Bachiller Don Atanasio López Gatica and the white-haired Don Pedro Cabildo, opposed diametrically and by counter-argument to the flying-kite manifest and flying lights of the first intentions that the present Sede Vacante has cooked up this year of ‘34, on trying by sheer force to attribute to its collective Chapter a pseudo-Vice-Royal Patronage, and a kind of papal jurisdiction, that is way off target, what do I care, and who’s your daddy.”⁶⁹

Although the biting satire and countless *ad hominem* attacks are very witty and quite entertaining to a twenty-first century reader, for the purpose of this study they are irrelevant, so I will not dedicate any analysis to them except as they touch on the issue at hand.

The arguments that the “Diálogo” makes in pursuit of its larger goal place it firmly in the camp of the Audiencia. The interlocutors in the dialogue are the Bachiller and Pedro, as seen in the title, with Pedro playing the role of the humorous simpleton whose function is to set the stage for the Bachiller to refute the arguments of the “Papel” using sound jurisprudence. Since it is a repudiation of the precentor’s text, Pedro and the Bachiller spend the first half of the “Diálogo” responding to Arévalo’s minutiae, insulting him and the other members of the Cabildo, and expressing indignation at his audacity to engage in legal writing without any sort of training. Once they get past the minutiae, they begin discussing the arguments against the Cabildo’s position in the “Papel.” These are, on the whole, detailed, nuanced, and well-documented, though unfortunately at times they are also unclear because the point gets lost amid the taunts, insults, and incomprehensible eighteenth-century jokes. The summary of those arguments is as follows.

⁶⁹ Anonymous, *Diálogo mixti fori, y semiespiritual coloquio entre el autor semisopito Bachiller D. Atanasio López Gatica y el canudo de D. Pedro Cabildo, opuesto ex-diametro, & per antiperistasim al papalote defensorio, y voladores luces de las primeras intenciones, que ha fraguado la presente Vacante en este año de 34, sobre querer a puras fuerzas adjudicar a su Capitular agregado un re ejo Vice-Real Patronazgo, y una como jurisdicción papal, que tira por la calle de en medio, de qué se me da a mí, y sepan sólo quién es Callejas* (Manila, 1734). The footnote that I included in my dissertation reads thusly: “The *Nuevo diccionario de la lengua castellana* states that the phrase ‘saber quién es Callejas’ was used by someone to boast of their power or authority (‘Con que alguno se jacta de su poder o autoridad’). Since there is no direct translation for this phrase, I have used an analogous phrase in modern English.” Hill, “Intercolonial Currents,” 145, and note 286.

1. The Cabildo was indeed trying to interfere in the naming of chaplains, appropriate the king's prerogatives and jurisdiction, and make itself a judge in a case that does not fall under its purview, despite all its claims to the contrary.
2. The Cabildo's affirmation that they have held and exercised the right to issue second licenses for chaplains since time immemorial is an unsubstantiated exaggeration. Even though Arévalo states that it had been an uncontested custom, they have not yet proven that possession through evidence. On the contrary, all the evidence accumulated in the course of the investigation points to royal chaplains going out with just the general licenses, in support of which the Bachiller cites the testimonies of the regulars and especially those of Manuel de Ochoa and Miguel García in this regard. The additional licenses seem to be a recent invention, going back only 30 years with any regularity, but even in those years, there had been many more chaplains sent out than the Cabildo had licenses for. Thus, says the Bachiller, it was not the Cabildo that had an immemorial custom but the Audiencia through the Real Patronato. Furthermore, those licenses that had been issued did not count toward the establishment of a legitimate custom because they contained the phrase "and in case it is necessary...," rendering them null and void. Therefore, even though one might perform an action a hundred times, since "nothing + nothing = nothing," the illegitimacy of these second licenses makes them nothing in the eyes of the law: "the title being void is the same thing as not having a title."⁷⁰
3. The terms "approval" and "license" refer to the same thing, just as Bedoya had stated, and therefore, second licenses are unnecessary, and the act of approval and examination is to be understood as taking place *prior* to receiving the governor's appointment. Because Arévalo had spent so much time attempting to convince his readers that the two terms referred to distinct acts at different points in the process, the Bachiller does the same to demonstrate their interchangeability, citing several laws and legal scholars to show that the terms are used more or less synonymously.⁷¹ Because of this, Arevalo's interpretation of the phrase

⁷⁰ "...lo mismo es ser el título nulo que no tenerlo," *Diálogo mixti fori*, n/p.

⁷¹ Laws 50 and 24 of Title 6, Book 1 of the *Recopilación de Indias* (cited above); Law 54, Title 3, Book 9 of the same book; Giulio Capone in his *Disceptationum forensium*, Book 1, Part 2, n. 30; the fourth and seventh conclusions of the Doctors of Salamanca, mentioned earlier; the "Real ordenanza" cited by Arévalo; the royal cédula of 1609 that became Law 50; and Diego de Avendaño in his *Thesaurus indicus*, Volume 2, Title 12, Chapter 11, n. 338, and Title 17, Chapter 14, nos. 26 and 29.

“let not presentation be made” for chaplains (as seen in Law 24, Title 4, Book 3 of the *Recopilación*) is a *misinterpretation* that obligates chaplains to receive collation and canonical institution when the law expressly forbids that from taking place, precisely because it would make the priest a permanent chaplain, which goes against using Law 38, Title 6, Book 1 of the *Recopilación*.

To these ideas the Bachiller adds the following observation: if those second licenses are so important, how is it that so many chaplains have gone out without them? The logical conclusion is that, if they are necessary, the archbishops and the cabildos over the years have been grossly negligent and bear the brunt of the responsibility for the sacraments not being administered licitly because they did not insist on issuing the second licenses. But if they are not necessary, why is the Cabildo issuing them now? Either way, the Cabildo is in a bit of a pickle.

4. Military ecclesiastical jurisdiction falls under the protection of the Real Patronato, so all cases that arise in relation to it are of the competence of the secular tribunal, not the ecclesiastical one. In support of this, the “*Diálogo mixti fori*” cites one “Doctor... Francisco Ramos del Manzano,” who “affirms ‘that the protection and support and defense of this military jurisdiction belongs to His Majesty, and to his Patronage.’”⁷² The Bachiller gives the example of other secular persons obtaining spiritual authority, such as the masters of the military orders of Santiago, Calatrava, and Alcántara, pointing out how much greater the king’s authority is in this regard: “... His Majesty is general of the military orders, and like a bishop and patriarch;” he is, “in the Indies, the legate and vicar of the pontiff, with such complete power to administer and manage in these kingdoms, not only temporal things, but it also extends to spiritual things;” and a “all kings are clerics.”⁷³ In making these observations, the Bachiller emphasizes that the whole purpose of having a distinct jurisdiction for military chaplains was to exempt them from the ordinary in order to avoid jurisdictional conflicts, so it is not logical that the king would establish a separate jurisdiction, only to subordinate it to the ordinary, citing Capone and the canons of the Council of Trent in support of that position.⁷⁴

⁷² *Diálogo mixti fori*, n.p.

⁷³ “...su Majestad es General de las órdenes militares, y como Obispo y Patriarca”; “...en las Indias Legados y Vicarios del Pontífice, con tan plena potestad de administrar y disponer en estos reinos, no sólo las cosas temporales, sino que también se extiende a las espirituales;” “todos los reyes son clérigos,” *Diálogo mixti fori*, n.p.

⁷⁴ Council of Trent, Session 24, Chapter 11; Capone, *Disceptationum*, Title 1, Disceptatio 27, no. 4.

5. The lack of a Vicar General of the Army and Navy in the Philippines does not impede the chaplains named by the governor from acquiring the *omnimoda* jurisdiction and serving with no other approval except the initial examination and licensing. After citing yet again the seventh conclusion of the doctors of Salamanca, the Bachiller explains that this means that the chaplains named by the governor get jurisdiction directly from the pope after their appointment, just as the Vicar General of the Army and Navy gets his from the pope in virtue of the king's appointment. In doing so, he makes the vice-patron equivalent to the king in his role as patron, and the same principle of delegation of jurisdiction applies to the junior chaplains, even though they are not the Vicars General. The Bachiller makes this assertion based on the idea of "tacit delegation," as he calls it, which in turn he bases on the concept of "presumed licenses" as described by St. Thomas Aquinas.⁷⁵ By tacit delegation in this context, he means that, because the pope's clear intention was to grant to Philip IV full military ecclesiastical jurisdiction, it stands to reason that when the king's representative (vice-patron) names a chaplain, he does so with tacit sub-delegation, which grants the chaplain so named this jurisdiction with total independence from the ordinary while they serve in that office. Said differently, because the actions of the vice-patron should be understood as if the king himself had done them, it is as if the king had named the chaplains, and because he has done so, he has granted them full military ecclesiastical jurisdiction. Therefore, if the pope grants to the king's Vicar General his jurisdiction immediately upon being named, why cannot the same thing happen with the junior chaplains named by the governor in Manila?

The Bachiller also takes the opportunity in the discussion of tacit delegation to defuse Arévalo's assertion that, although the king has authority to communicate *omnimoda* jurisdiction to the Vicar General in virtue of his appointment, he does not have the authority to do so for the junior chaplains ("pudiendo lo más, no puede lo menos," in Arévalo's words). On the contrary, he says, the person who has the authority to command something to be done, also has the ability to grant the authority for it to be carried out: "He to whom is conceded the greater thing, is also conceded the lesser thing."⁷⁶ According to Arévalo's logic, if the king and his vice-patrons did not have this authority and jurisdiction, they would be subject to the ordinary and would be just like any other private ship whose captain names a chaplain and the latter has to go to the ordinary for his licenses. To this he adds that the king did not *have* to go

⁷⁵ Thomas Aquinas, *Summa theologiae*, 2.2. q. 32, art. 8, ad. 1.

⁷⁶ "...a quien se le concede lo más, se le concede lo menos," *Diálogo mixti fori*, n.p.

to Innocence X to get the brief that established military ecclesiastical jurisdiction, but he did so just to make it “official,” so to speak, to demonstrate that “what he was able to do based on custom, he was also able to do based on privilege.”⁷⁷

As one can imagine, the members of the Cabildo were not very pleased with the “*Diálogo mixti fori*.” In terms of the content of the text itself, while it is indeed a legal manifest, it also carries with it several months of unvented frustrations at the Cabildo’s vacillation and not a small dose of personal and professional resentment. The latter is particularly pronounced in the “*Diálogo*” because its author, who was presumably a lawyer, found Arévalo’s “*Papel*” an affront to his profession, since the precentor neither followed the rules of the writing in the discipline nor had a sound understanding of the methods or theory of law nor had the experience to accurately interpret the law according to the established precedent. At least, that is what the Bachiller thought. In terms of its impact on the conflict over chaplain licensing, besides the indignation of being publicly insulted, which caused the Cabildo no little grief (“mistreated, roasted, and mocked,” in Arévalo’s words⁷⁸), shortly after it appeared, the Cabildo published a decree ordering it to be censured and any copies collected. However, this action got them in trouble with the Inquisition, whose job it was to censure and ban written material of any kind. With the agreement they signed in mid-November pledging to not do anything about the issue until the king’s resolution should arrive from Spain, all avenues in Manila for the Cabildo to seek redress were shut.

Correa and “*La verdad defendida*”

The two years following the “*Diálogo mixti fori*” incident were largely uneventful. The Cabildo kept its word to not take any additional action in pursuit of their alleged right to issue second licenses, and the chaplains named by the governor continued to go out with only their initial approval and license. However, prior to the departure of the galleon in 1735, José Correa Villarreal, adviser to the fiscal, published a manifest titled “*La verdad defendida*,” whose complete title reads thus:

The truth defended against various propositions of the Manifest in which Maestro Don Isidoro de Arévalo, Precentor, Dignitary of this Holy Church, and Vicar General of its Archbishopric in sede vacante, attempted to impugn the Alegato of the prosecutor of His Majesty and the opinion of the adviser in the actions and records dealing with the Royal Patronage in regard to the naming of chaplains of armadas, galleons, and others.⁷⁹

⁷⁷ “...lo que podía por costumbre, podía también por privilegio,” *Diálogo mixti fori*, n.p.

⁷⁸ “maltratado, asado, y mofado,” AGN, Novohispano, Inquisición, V. 861, Exp. s/n, f. 2v.

⁷⁹ José Correa Villarreal, *La verdad defendida contra distintas proposiciones del Papel en que el Maestro D. Isidoro de Arévalo, Chantre Dignidad de esta Santa Iglesia, y Provisor de su Arzobispado en sede*

Correa's exact motive for writing and publishing this response to Arévalo's "Papel" are not completely clear. He writes in the text that he felt a duty to vindicate himself and the fiscal against incorrect assumptions found in Arévalo's text. It is also possible that the members of the Audiencia felt the need to justify themselves to the king in light of Arévalo's accusations to demonstrate that they had acted according to established law and without any malice or bad faith. Yet given that the Cabildo had already been silenced, the publication of "La verdad defendida" has the feeling of an unnecessary victory lap made out of spite.

Whatever the reasons, "La verdad defendida" is less about the merits of additional licenses and more about setting the record straight, both in terms of what actually happened according to the Audiencia's records, and in terms of the technical, legal acts that Arevalo asserts Bedoya and Correa carried out inappropriately. In other words, because of Arevalo's insistence that the fiscal and the adviser violated numerous legal protocols and laws of evidence and procedure, etc., in their determination of the violation of the Patronato, Correa Villarreal's main purpose is to demonstrate that the legal framework that undergirded the Audiencia's decisions was sound. Approximately 75% of the text is dedicated to disproving Arevalo's assertions on one hand, and, on the other, affirming the propriety and legality of the Audiencia's actions and determinations. The remaining 25% Correa dedicates to addressing the arguments about the Patronato that Arévalo raised in his "Papel." Because the first 75% of the text does not directly address the issue of chaplain licenses, the summary of his rebuttals that follows only considers those arguments that he directed towards the resolution of the license conflict itself.

1. The Audiencia did not try, nor would ever try, to completely prevent the religious from getting approval and license from the Ordinary, nor of completely excluding them from its jurisdiction. He addresses the 1678 cédula from the Geronimo de Herrera y Figueroa case (cited by Arévalo) but makes the distinction that Herrera was trying to completely exempt himself from the ordinary and establish his own jurisdiction. In 1734, the Audiencia was only trying to determine if it was necessary to issue new licenses when the ones they already had were still current, a recognition of the need for chaplains to still present themselves for examination in order to be able to preach and confess in the archdiocese. As in the "Alegato" and the "Diálogo mixti fori," Correa cites in support of this assertion the 1609 cédula, mentioned above, and the law that it became in the *Recopilación* (Law 50, Title 6, Book 1), again affirming

vacante, intentó impugnar el Alegato del señor Fiscal de su Majestad y el parecer de Asesor en las diligencias y autos tratados en el Real Patronato sobre el nombramiento de capellanes de armadas, galeones y otros. Manila: Imprenta de la Compañía de Jesús, 1735.

that the terms “approval” and “license” referred to an act *prior* to being named as chaplain.

2. The lack of licenses among the regulars lends strength to the Audiencia’s assertion that chaplains serving without additional licenses from the ordinary was an established practice, carried out with the knowledge and consent of the archbishops of Manila. According to Correa, the logical conclusion, assuming that they were all honest, good, educated, and zealous prelates, is that they would not have done anything—or allowed anything to be done—that would have been detrimental to the souls of the faithful under their care. But since, according to the historical record available at the time, they largely left the chaplains alone, among the logical conclusions that can be reached is that neither the archbishops nor the sedes vacantes had any problem with that arrangement. As in the “Alegato” and the “Diálogo mixti fori,” in “La verdad defendida” Correa emphasizes the role of custom in establishing that practice and affirms that the Audiencia had this custom in their favor. On the other hand, he asserts that Arévalo never proved or demonstrated the longstanding custom that he claimed for the Cabildo, reprimanding the precentor for spending too much time glossing, paraphrasing, and explaining the words “license” and “approval,” which ultimately led to nothing of substance.
3. He reprimands Arévalo’s use of conjecture with which he attempted to explain the lack of licenses found in the archdiocese’s record books. Several times Arévalo used the phrase “pudo ser”—it could have been—to hypothesize that the prelates could have given the chaplains the licenses verbally, or that it could have been the negligence of the Cabildo’s secretaries that introduced the offending phrase, to which he responded, “there is no reason to ignore what is and be satisfied with what could have been.”⁸⁰
4. Correa attacks Arevalo’s assertion regarding the king’s authority to communicate jurisdiction (the “pudiendo lo más, no puede lo menos” issue), but since his comments replicate what is found in the “Diálogo mixti fori” on this topic, my previous comments are sufficient.
5. Correa also cites Law 54, Title 30, Book 9 of the *Recopilación*, though the use he makes of it is different than what appears in the “Diálogo

⁸⁰ “...pues no se encuentra razón para que, dejando de la mano lo que es, nos demos por muy satisfechos de lo que pudo ser,” *La verdad defendida*, f. 35v.

mixti fori.” Whereas in the “Diálogo” the author’s purpose in citing the law was to demonstrate that the terms “approval” and “license” refer to the same thing, in “La verdad defendida” Correa includes it to point out that when clerics left for the Indies from Seville or Cádiz, they served as chaplains and administered the sacraments validly and licitly during the voyages. Yet the law makes no mention of approvals, licenses, ordinaries, Vicars General, jurisdiction, or any of the other issues brought up over the course of the conflict. Therefore, the conclusion that Correa reaches is that for chaplains that travel within the Spanish empire, including the Philippines, the only thing that is necessary is the ordinary’s examination establishing suitability and the subsequent approval and licensing that allows them to preach and confess in a given archdiocese.

With the analysis of the documents and arguments complete, how should we view the actions of the members of the Audiencia and the Cabildo in this conflict, independent of the final resolution? In terms of the arguments and sources that they used, the ones that touch on the Real Patronato are fewer than those that touch on general principles of law, which they applied to the situation at hand as interpretive tools for the correct understanding and implementation of the law, hence the continued debates on custom, evidence, immunity, and other issues that were tangential to the topic but relevant to how they discussed and understood it. Unfortunately for the parties involved, early modern jurisprudence was a notoriously slippery discipline. The “characteristic ambiguity” of Patronato law (in the words of Roberto Blanco Andrés) played no small role in this conflict; ambiguity in the struggle between what was and what should have been, between what was written in the law books and what was actually practiced.⁸¹ That ambiguity was the result of several factors, including: the steady accretion of laws and decrees over time, some of them contradictory; the uneven implementation of these laws across time and geography; the beliefs, experiences, and even whims of individual actors in the events that unfolded; and the multiple, contradictory, and (*valga la redundancia*) the ambiguous opinions offered by legal scholars. All of these elements contributed to the morass of law from which it was not always easy to find the “right” answer.

For that reason, in the documents produced in this conflict, one gets the impression of two people talking past each other without really communicating, often accusing each other of committing the same offenses but on different sides of the issues. There is a great deal of grandstanding and performance from both sides, as well as, at times, bad faith as the parties dissimulated in order to avoid giving in to the other. This is likely due both to the nature of the times in which they lived,

⁸¹ Blanco Andrés, “Cabildo eclesiástico de Manila,” 113.

when hierarchy was everything and honor was easily besmirched, as well as to the competing nature of royal and ecclesiastical jurisdiction during the colonial regime, which made conflict an inevitable and painful phenomenon. Unfortunately, it seemed that cooperation was not an option, in spite of the frequent royal pleas for the two branches of the colonial government to work with each other. Additionally, Arévalo's incursion into jurisprudence was seen as a professional slap in the face by the members of the Audiencia, who ridiculed and reviled him for his alleged incompetence since he was merely a theologian and had no experience interpreting the law. Although this borders on editorializing history, it seems that if cooler, humbler heads had prevailed, the situation would not have escalated to the level of public insults and anonymous imprints. Either way, neither Arévalo nor the Cabildo made any public response to "La verdad defendida," partly because of their previous agreement and partly because the regular clergy, who were the owners of the only presses in the islands at the time, had refused to print anything for them after the "Papel." And as mentioned above, the years 1735-1737 were relatively quiet as the parties waited for the king's response.

Consequences and Implications

That response arrived in Manila with the return galleon in July 1737 and was probably not what the Audiencia expected.⁸² In a cédula dated January 30, 1736, addressed to the Cabildo and the governor, King Philip V took the side of Cabildo, ordering all priests named as chaplains thenceforth to seek second licenses from the ordinary following their appointment. He expressed his displeasure at the governor's stance in the conflict and ordered him to completely drop the issue. The Cabildo received a mild warning to not include the offending phrase in any licenses, but the warning gives the impression of leniency in its expressions. The reaction from the governor and the Audiencia was muted. In his letter to the king written in 1738 giving an account of his actions, Governor Valdés Tamón briefly explained his justification for taking the actions that he did and then informed the king that he had complied with the royal order and communicated it to the parties involved. The Cabildo's response was less muted but not as exuberant as it might have been had the new archbishop, Juan Ángel Rodríguez, not arrived in 1737 and mediated between the two parties, who were no longer at odds with each other. At any rate, Rodríguez or his new cabildo ordered the cédula to be printed, and thus the conflict came to an end.⁸³

⁸² AGI, Filipinas 147, N. 15.

⁸³ Philip V, *Copia de la Real Cédula que, a pedimento del Venerable Deán y Cabildo de la Santa Metropolitana Iglesia Catedral de la Ciudad de Manila en las Islas Filipinas, se sirvió de despachar la Majestad Católica de Nuestro Rey y Señor, Don Felipe Quinto* (Manila: 1737), found in AGN, Novohispano, Inquisición, V. 861, Exp. s/n, ff. 221r-224v.

As far as the historical record shows, none of the individuals in the conflict suffered any long-term consequences as a result of their participation. Bedoya, in spite of receiving the same reprimand as the governor for his actions, took possession of the office of criminal prosecutor in Mexico City in 1736, having been named to that post prior to the events of 1734.⁸⁴ Isidoro de Arévalo became bishop of Nueva Cáceres, taking possession in 1741 and serving for ten years until his death in 1751.⁸⁵ Fernando Valdés Tamón remained in his position and served out the rest of his term, leaving office in 1739 and leaving the Philippines in 1740. He died of natural causes in Mexico on the return to trip to Spain at the age of 60.⁸⁶ I have not found any mention of José Correa Villarreal after 1740, but based on a computer search of the records of the Archivo General de Indias, he was still serving in his position as legal adviser to the Audiencia at that time. In sum, the conflict, despite the intense bitterness that it provoked in 1734 and 1735, ultimately had little negative impact on the careers, prestige, or public standing of its participants.

The above examination of the documents, imprints, and sources from the case tends to suggest that the evidence and arguments of the Audiencia are likely more accurate than those of the Cabildo, in the sense that they are probably more representative of how legal practitioners would have interpreted the laws of the Real Patronato in the 1730s. For example, Pedro de Hontalba y Arce in his treatise on the practice of the Patronato in Spain, gives arguments that are nearly identical to those found in the “Alegato fiscal,” “Diálogo mixti fori,” and “La verdad defendida” regarding the unequivocal right of the king and his vice-patrons to take cognizance of any issue pertaining to the Real Patronato, even if it apparently touches exclusively on spiritual matters.⁸⁷ A concrete example from this author is revealing. He cites a case from the 1660s from the Audiencia of Charcas when the distinguished jurist Pedro de Frasso was the Audiencia’s attorney.⁸⁸ During a lawsuit, the lawyer on the opposing side made the assertion that “Royal Patronage only gave extrajudicial protection for the churches of the Indies, and never cognizance of a case; Don Pedro... denounced this allegation as reckless, false, scandalous, and spoken maliciously and without foundation,” and after the members of the Audiencia investigated the matter, they deprived the lawyer of his position, fined him 1,000 ducats, and ordered that his words be struck from the case so that no one could ever read them again.⁸⁹ Correa

⁸⁴ Marya Svetlana Camacho Tongko, “Los ministros de la Audiencia de Manila en el Siglo XVIII,” (doctoral dissertation, Universidad de Navarra, 1996), 487; Barrio Muñoz, “Fernando Valdés Tamón,” 325.

⁸⁵ AGI, Filipinas 181, N. 10; Filipinas 183, N. 17.

⁸⁶ Barrio Muñoz, “Fernando Valdés Tamón,” 2, 10.

⁸⁷ Hontalbe y Arce, *Dictamen*. See, for example, ff. 33v, 42r-44r.

⁸⁸ The Audiencia of Charcas covered portions of what is today Argentina, Bolivia, Brazil, Chile, Paraguay, and Uruguay.

⁸⁹ “...el Patronazgo Real solamente daba protección extrajudicial de las iglesias de las Indias y

relates this exact same story in “La verdad defendida” and for the same purpose, even though Hontalba’s text appeared across the world in Spain three years after Correa published his manifest.

Similarly, the appeal to the ideas from the Conclusions of the eight doctors of Salamanca is a common feature in the texts on the subject. This source requires some explanation. In 1644 eight expert legal scholars from Salamanca received a request from the king to determine the authority and jurisdiction of Vicars General of the Army and Navy. These eight jurists deliberated and came up with eight conclusions, which were supposedly printed in Madrid in that same year, though I have not been able to locate a copy. Both Bedoya and Rivadeneira assert that these conclusions were the source of Innocent X’s brief officially recognizing the Vicar General in Spain and its territories, but the conclusions are cited by Bedoya, Rivadeneira, Diana, Ortega Verdecerrense, and the anonymous author of the “Diálogo mixti fori,” among others that I have not yet identified.⁹⁰ Given the practice established among the regulars (and some seculars) in Manila, given the near universal awareness of the conclusions of the doctors of Salamanca, it is difficult to imagine that all of these individuals, in different times and places, shared the same error. More logical is the idea that this was established precedent and the shared understanding among practitioners of the law. This does not mean that Bedoya and Correa were “correct” in their views, but it does suggest that, in other circumstances, the king would have upheld their interpretation of Patronato law.

In light of these factors, the determination of the king can seem arbitrary, surprising, or even strange. After all, both Bedoya and Correa were experienced lawyers with a sound knowledge of the law, and their credentials gave their arguments weight, especially considering Arévalo’s lack of experience in such matters. But particularly striking to the twenty-first-century mind is the complete absence of any kind of explanation for the king’s decision. The 1736 cédula that ended the conflict merely repeated the facts and opinions proffered by the two parties in Manila —often word for word—and then gave the king’s determination without commenting on the merits of the arguments, the strength of the evidence, or the long-standing *de facto* practice that had been in place in the islands for several generations. This includes both the regular and the secular clergy, as well as the archbishops and their cabildos

nunca conocimiento de causa; se acusó esta alegación por Don Pedro Frasso (que era fiscal de aquel negocio) como audaz, falsa, escandalosa y proferida malamente y sin fundamento,” *ibid.*, 45v-46r.

⁹⁰ Bedoya, *Alegato fiscal*, sec. 7; Antonio Joaquín de Rivadeneira y Barrientos, *Manual compendio del Regio Patronato Indiano* (Madrid: Antonio Marín, 1755), 278; Antonino Diana, *Resolutionum moralium*. Part 10, (Madrid: 1653), 366-68 [Tractatus 15, Miscellanea 5, Resolutio 15]; Francisco Ignacio Ortega Verdecerrense, *Jerarquía eclesiástica militar en España: controversias jurídico-morales* (Valladolid: Imprenta de la Congregación de la Buena Muerte, 1740), 212-213.

in sede vacante, whose habit of issuing these second licenses to chaplains named by the vice-patron was spotty at best, and at worst, represents a damning indictment of neglect in light of the many expeditions sent out at the expense of the Crown when compared to the relative paucity of additional licenses found in the Cabildo's own records.

Additionally, the resolution of the conflict points to the fact that the lengthy legal treatises with their appeals to legal authority; the quotes from jurists, lawyers, commentators, and compilations of laws; the arguments filled with subtle nuance, ornate, high-minded rhetoric, and Latin phrases; and the long-standing custom of naming and licensing chaplains, not only in the islands but also in other parts of the empire, ultimately mattered very little. The final and definitive arbiter and interpreter of laws, their meaning, and their application was the king, and none other. Although this practice is foreign to contemporary observers steeped in the tradition of transparency and the rule of law, in early modern Spain and its overseas territories, the authority of the king was absolute, his decisions indisputable and non-negotiable, and his reasoning his own.

However, if we view the king's determination in the broader context of colonial Philippine history and the Crown's efforts to establish universal royal patronage and its accessory, military ecclesiastical jurisdiction, the reasons become clearer, if no more satisfying. First, as Eduardo Martiré indicates, the first 50 years of the Bourbon monarchy in the Spanish empire were less about radical change and more about clarifying the meaning and scope of laws already in existence.⁹¹ As we have seen here, the royal ordinances and dispositions on the naming and licensing of chaplains were in no way "clear" to everyone involved, much to their dismay. It is possible—and the historical record supports this—that Philip IV's original intent *was* to exempt priests from the jurisdiction of the ordinary when serving as military chaplains, but Philip V's reforming and clarifying policies in these years led him to give what he felt should be the correct interpretation of the law, which represented a departure from the practice of previous years.

Second, because the relationship between the Crown and the different branches of the ecclesiastical establishment in the Indies had always been fraught, it is very likely that Philip V saw in the 1734 crisis an opportunity. In one stroke, he would be able to strengthen the authority of the secular clergy in the islands while simultaneously curbing the power and influence of the regular clergy by bringing the latter further under the authority of the ordinary. So even if at one point in the past the king's intention had been to exempt military chaplains in the Philippines from

⁹¹ Martiré, *Guion*, 38-40.

additional licenses, that was no longer the case, leading to a reinterpretation of the law.

Third, the contradictory nature of the *communis opinio doctorum* and the possibility for multiple valid determinations rendered suspect the many appeals to legal authority found in the texts produced in this conflict. Rather than a beacon of clarity, the opinions of jurists from centuries past seem to have been an obstacle to the king's assertion of his own authority, hence his apparent preference to ignore them in his declaration. On the other hand, as king, he was ultimately the sole arbiter and interpreter of his laws, and therefore, he had the right to do as he pleased without providing any explanation of his decisions to his subjects and subordinates. While that is unfortunate for those us trying to understand those decisions, it was the nature and the prerogative of monarchs to do what they wanted, no questions asked.

Fourth and finally, it is important to view this crisis in the overall evolution of legal practice surrounding the Patronato in the empire. Rather than viewing the events of 1734-1737 in isolation, it helps to see them along the continuum of the Spanish monarchs' efforts to achieve universal royal patronage for all churches in the empire, and a significant part of that push was the development of a distinct ecclesiastical jurisdiction for military chaplains, exempt from diocesan authority. Although the role of Vicar General had been in existence for some time and had even received papal support through the 1645 brief of Innocent X, uncertainty regarding the scope of military ecclesiastical jurisdiction and the continued validity of Innocent X's brief presented the Bourbon monarchs with a challenge as they assumed the reigns of the Spanish Church.⁹² In his article, Fernández-Turégano describes the development, first, of the formal corps of naval chaplains, and second, of the official, papally-sanctioned military ecclesiastical jurisdiction through the bull *Quoniam in exercitibus*, issued by Clement XII on February 4, 1736. The issues of jurisdiction and delegation and sub-delegation, of exemption from the ordinary, and of *omnimoda* faculties for military chaplains, as described by Bedoya, Correa, and "the Bachiller," are all contained in the brief, which was to last for seven years. Although the brief was not formally announced until 1741, it was the foundation of this jurisdiction that would last, with some changes and developments, throughout the eighteenth century.⁹³

As this touches on the events of 1734-1737, the issuing of the bull and its publication all came too late to have any direct impact on Philip V's decision to side with the Cabildo. The initial set of documents that Valdés Tamón sent back to Spain

⁹² Fernández-Turégano, "Cuerpo de Capellanes de Marina," 161-72.

⁹³ I refer the reader to Fernández-Turégano's article as the number and sequence of dates, bulls, briefs, etc., is numerous and important but not relevant to the current study.

in 1734 would have arrived in Spain in 1735, and after the king and the Council of Indies discussed the issue, the monarch made his determination on January 30, 1736, a month before the pope had even approved the brief. The *cédula* in favor of the Cabildo arrived in Manila in July 1737. That initial set of documents contained neither Arévalo's "Papel" nor the "Diálogo mixti fori" nor Correa's "La verdad defendida," nor any of the additional documentation accumulated by the Audiencia in 1734 and 1735. These materials the governor sent, together with a copy of the previous material, on the galleon to New Spain in July 1735. It is possible to speculate that, had those texts been included in the first set of documentation sent to Spain, the outcome might have been different. Yet despite this narrow miss, it is reasonable to infer that the king's decision was influenced indirectly by Clement XII's brief. It is obvious that the agents of the king were working to obtain papal authority to establish military ecclesiastical jurisdiction under the aegis of the Real Patronato around the time that the conflict began. Philip V, knowing that changes in the nature of military ecclesiastical jurisdiction were forthcoming, chose merely to indicate the direction of the Church in those matters rather than providing a long series of explanations and pronouncements of the arguments and points of law raised in the 1734 conflict. In other words, it would not make much sense for the king, even if he felt so inclined, to offer detailed commentary and rationale for a decision that was destined to be refashioned, revised, revoked, and rewritten in a few short years, and given the speed of communications between Madrid and Manila, this is a reasonable stance.

Other documents in the decades that followed reflected the changes that an established corps of naval military chaplains and a formal military ecclesiastical jurisdiction brought to the application of the Real Patronato in the Indies. For example, officials in Mexico City printed a two-volume set of *cédulas* and instructions collected by Audiencia of Mexico, among which are different sets of instructions from the Vicar General of the Spanish armies to his subjects scattered throughout the empire, in 1778, 1779, 1784, 1786, and 1787.⁹⁴ By the early nineteenth century much had already changed, with entrance into the corps of naval chaplains done through competitive application (*oposición*) and a slate of candidates to choose from rather than direct presentation from the vice-patrons.⁹⁵ Furthermore, the ultimate application of the series of papal briefs that established the Vicariato General and the military jurisdiction only served to reinforce the very problem that the military jurisdiction was meant to eliminate. By the mid-nineteenth century there

⁹⁴ *Recopilación sumaria de todos los autos acordados de la Real Audiencia y Sala del Crimen de esta Nueva España, y providencias de su Superior Gobierno*, edited by Eusebio Buenaventura Beleña, 2 vols. (Mexico City: Felipe de Zúñiga y Ontiveros, 1787), 2:89-90, 401-21, 427.

⁹⁵ Manuel Josef de Ayala, *Notas a la Recopilación de Indias*, Vol. 1. edited by Juan Manzano Manzano (Madrid: Ediciones Cultura Hispánica, 1945), 116-118. Ayala states that this was taking place by 1804.

were twenty-nine Lieutenant Vicars General (also called Sub-delegates) in Spain (all under the jurisdiction of the Vicar General), yet only four in the provinces of Ultramar (Philippines, Puerto Rico, and two in Cuba). The role of Lieutenant Vicar in Ultramar was performed by none other than the bishops and archbishops of those provinces.⁹⁶ So while *de jure* military chaplains in the Philippines were completely exempt from the authority of the diocesan ordinary, *de facto* they were firmly under the archbishop's jurisdiction, which situation lasted until the end of Spanish rule in the islands.^{PS}

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⁹⁶ "Reglamento orgánico del clero castrense," *Boletín Patriarcal*, vol. 11, no. 26 (June 15, 1879), 401, 405, 407, 414-415.

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Appendix 1: List of chaplains in Manila, 1634-1734

The follow table contains the names and affiliations of those who served as or at least received an appointment as chaplains in the Archdiocese of Manila from 1634 to 1734. It is organized by year and includes whether or not the chaplain received a second license from the ordinary or not. Some individuals served as chaplain on more than one occasion and therefore appear in multiple years, independently of whether or not they received a license.

Key:

* = Witness in the 1734 conflict

Y = Yes, the chaplain did receive a license

N = No, the chaplain did not receive a license

#	Year	Name	Affiliation	License
1	1634	Francisco Montero Saavedra	secular	Y
1635-1659 (24 years), no data				
2	c. 1660-1665	Cristóbal de Luna	secular	Y
3	1660	Juan García Serrano	secular	Y
4	1661	Mateo de la Asunción	OFM	Y
5	1662	Juan Polanco	OP	Y
6	1665	Jerónimo de Leyva	secular	Y
1666-1698 (32 years), no data				
7	1699	Antonio de Villanueva	secular	Y
8	1700	Tomás de Gurruátegui	OP	Y
9	1701	Francisco de Molina	OP	Y
10	1704	Miguel García* (revoked by Francisco de la Cuesta)	secular	Y
11	1704	Antonio Roberto	secular	Y
12	1705	Antonio de Rubio	OSA	Y
13	1707	Francisco Javier del Salce*	SJ	N
14	1708	José de Bobadilla*	SJ	N

15	1709	José de Bobadilla*	SJ	N
16	1709	Felipe Mesía*	SJ	N
17	1710	José de Bobadilla*	SJ	N
18	1710	Nicolás Aguirre*	SJ	N
19	1710	Pedro José de Zisa*	SJ	N
20	1711	Felipe Mesía*	SJ	N
21	1712	Felipe Mesía*	SJ	N
22	1715	José de Horacio	secular	Y
23	1716	Salvador de Santa Rosa*	OAD	N
24	1716	Buenaventura del Collado	unspec.	Y
25	1717	Felipe García*	secular	Y
26	1718	Miguel de Urrutia	secular	Y
27	1719	Sebastián del Río	secular	Y
28	1719	Agustín de San Miguel	secular	Y
29	1720	Nicolás Aguirre*	SJ	N
30	c. 1721-1722	Diego Navarro	secular	Y
31	c. 1721-1722	Pedro Díaz Mañozca	secular	Y
32	1721	Antonio García	secular	Y
33	1722	Nicolás de Navarrete	secular	Y
34	1722	José Faneli	unspec.	Y
35	1723	Felipe Mesía*	SJ	N
36	1723	Juan Angles*	SJ	N
37	1723	Miguel de Urrutia	secular	Y
38	c. 1723-1728	Simón de Gaviola*	secular	Y
39	1724	Antonio Masvesí*	SJ	N
40	1724	Antonio de Miranda	secular	Y
41	1726	Domingo de Achaval* (ship ran aground in Ticao)	secular	Y
42	1726	Vicente Afán de Rivera* (conditional on Achaval's presence)	secular	Y

43	1727	Felipe García*	secular	Y
44	1728	Simón Martínez Osorio	secular	Y
45	1729	Manuel de Ochoa*	secular	N
46	1729	Antonio Marimón*	SJ	N
47	1731	Vicente Afán de Rivera*	secular	Y
48	1731	Juan Angles*	SJ	N
49	1731	Miguel Servantes*	secular	Y
50	1732	Ignacio de Gracia*	OSA	Y
51	1732	Vicente Afán de Rivera*	secular	Y
52	1732	Baltasar Vela*	SJ	N
53	18th cent.	Pedro Enríquez*	OP	N
54	18th cent.	Pedro Enríquez*	OP	N
55	18th cent.	Agustín Esquivel*	OP	N
56	18th cent.	Agustín Esquivel*	OP	N
57	18th cent.	Juan Bellogín*	OSA	N
58	18th cent.	Juan Bellogín*	OSA	N
59	18th cent.	Juan Bellogín*	OSA	N
60	18th cent.	José Gil*	OSA	N
61	18th cent.	Manuel de Obregón*	OSA	N
Chaplains mentioned by interviewees or listed in ordinaries' <i>libros de gobierno</i> but not counted as royal chaplains in the above table, for the reasons described in brackets				
	1636	Juan de Alcázar [sent to presidio of Taiwan; called <i>capellán mayor</i> but also <i>cura beneficiado</i>]	secular	Y
	1658	Juan Antonio de Sana, Francisco Ferrer [sent to Mindoro as missionaries, not chaplains]	SJ	Y

	1663	Pedro Camacho [sent as vicar to the <i>partido</i> of Abucay]	OP	Y
	1664	Nicolás Cany, Diego de San Nicolás [sent to Mindoro as missionaries, not chaplains]	SJ	Y
	1716	Pascual Rodríguez [resident of Goa, serving on a private ship, not as royal chaplain]	secular	Y

Also mentioned as chaplain with no testimony or license:

Antonio Arias, Francisco Cavia, Pedro de Estrada, Alonso Quijano, Marcelo Fiderize, all Jesuits.

