

# **Fiscal Administration and the Recruitment of State Agents Appointments to Office in the Joanine Kingdom of Brazil (1808-1821)**

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## **Abstract**

This article is a study of the allocation of public offices in the Americas, which aims to shed light on more general aspects of Portuguese administration during the period when the court was based in Brazil. As a royal prerogative, appointments to office were subject to various considerations, from the quality of the nominees to the state of the royal treasury. In a context marked by major upheavals, appointments to offices remained an important tool for the reinforcement of existing political loyalties or the creation of new ones.

## **Keywords**

venality of office, patrimonialization, bureaucracy, Ancien Régime, early modern.

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## **Administrar finanças e recrutar agentes Práticas de provimentos de ofícios no reinado joanino no Brasil (1808-1821)**

**Roberta Stumpf\***

### **Resumo**

As modalidades de recrutamento dos oficiais americanos é o objeto de estudo deste artigo que pretende contribuir para a compreensão de aspetos mais gerais da política e da administração portuguesas no período em que a corte esteve sediada no Brasil. Enquanto bens da Coroa, os cargos e ofícios podiam ser providos consoante muitas variáveis que iam desde os atributos dos nomeados até a situação dos cofres régios. Em um contexto caracterizado por grandes mudanças, podiam se constituir ainda um instrumento importante para reforçar ou criar novas fidelidades políticas.

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### **Palavras-chave**

venalidade de ofícios, patrimonialização, burocracia, Antigo Regime, modernidade.

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## Introduction

The provision of offices in the royal administration is an aspect of governance during the Ancien Régime that allows a privileged perspective on the administrative practices of the Braganza monarchy. This article sets out to analyse the methods for selecting and nominating public officials in Portuguese America from the time of the relocation of the royal family and the court to Rio de Janeiro (1808) to the eve of Brazilian independence (1821). In the context of major upheaval such as that experienced by Napoleonic Europe and the Iberian overseas possessions, it is futile to insist on sharp ideological-political boundaries, implied in the dichotomy Ancien Régime/Liberalism, but this work will nevertheless adhere to the notion of a “dynamic of conflict and interaction between new and old political forms,” which holds true for this period.<sup>1</sup> Nevertheless, in order to identify change and continuity in this specific aspect of Brigantine administration in Brazil, it will be necessary to look back to the reign of José I (when major transformations in the provision of public offices were implemented) while also taking into account the regency of prince regent João before his departure from Lisbon.

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Intrinsically linked to this is yet another question. Although this study does not take a social historical approach, analysing recruitment lists over the course of this period makes it possible to observe the emergence of policies favouring particular groups or individuals. The appointments to offices ultimately constituted a political tool of a monarchy that, uprooted from its centre of action, needed to reinforce or create new bonds with its subjects.

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<sup>1</sup> PIMENTA, João Paulo G. Estado e nação no fim dos Impérios ibéricos no Prata (1808-1821). São Paulo: Editora Hucitec/FAPESP, 2002, p.16.

## Towards “Modernity”?

Luso-Brazilian early modern historians generally agree that the Pombaline reforms were one of the key turning points in the history of the Portuguese monarchy from a variety of perspectives.<sup>2</sup> This prevailing consensus does not however preclude divergent interpretations of Pombal himself, or disagreements over the extent to which these reforms represented a sharp break with the past. This in turn makes it difficult to determine the chronological boundaries of the period, mainly because some of the new directives articulated tendencies already evident in previous reigns<sup>3</sup> or, conversely, which survived the so-called ‘Pombaline’ era by many years.<sup>4</sup>

As far as appointments to public offices are concerned, there is no doubt that they should be studied over a longer period, eschewing conventional chronologies. As we have already demonstrated elsewhere, if on the one hand Pombal made a radical break with the older practices of traditional political culture, delegitimizing the heritability of offices as enshrined in customary law,<sup>5</sup> on the other hand he reinforced existing practices, such as the sale of offices, legally encouraged under João V (1706-1750)<sup>6</sup>.

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<sup>2</sup> NOVAIS, Fernando. O marquês de Pombal, a história e os historiadores. *Revista população e sociedade*. No.16, Cepese, Edições Afrontamento, p.31-37, 2008. Available at: <http://www.cepe-publicacoes.pt/portal/pt/obras/populacao-e-sociedade/revista-populacao-e-sociedade-no-16> Accessed: 22 April 2016.

<sup>3</sup> Such as political centralization, see MONTEIRO, Nuno Gonçalo, D. José. *Na sombra de Pombal*. Lisboa: Círculo de Leitores, 2008.

<sup>4</sup> Such as for instance the policies to promote the economic recovery of the Portuguese empire, introduced by Pombal, and taken up (and given a new inflection) by D. Rodrigo de Sousa Coutinho (Secretary for the Navy and Overseas Territories, who succeeded Martinho de Melo e Castro in 1796).

<sup>5</sup> STUMPF, Roberta. Ser apto para servir a monarquia portuguesa: Profissionalização e hereditariedade. In: PONCE Leiva, Pilar; ANDÚJAR Castillo, Francisco (eds). *Mérito, venalidad y corrupción en España y América, siglos XVII y XVIII*, Valencia: Albatros, 2016, p.115-134.

<sup>6</sup> According to Lúcio Azevedo, “[Pombal] did not create the system. He found it in full vigour and proceeded in the same way. What he did was to transfer the seat (where the offices were sold) to Brazil.” AZEVEDO, Lúcio de. *Política de Pombal*

Those concerned were mainly the middle-ranking offices,<sup>7</sup> such as clerks and notaries, understood here as all those that neither conferred nor detracted from noble status, did not grant their possessors jurisdiction or executive power, but were essential to the functioning of the administrative ‘machine’, and the maintenance of order more generally. In the Portuguese monarchy, the higher government offices were rarely sold or granted in perpetuity—in contrast to the French and Castilian monarchies—and were almost always awarded on a temporary basis, usually for three years,<sup>8</sup> in a manner that would remain virtually unchanged until the Decree (*Regimento*) of 23 November 1770.

This decree was intended to abolish the custom invoked by presumed heirs to be confirmed in ownership of offices that had belonged to their forebears.<sup>9</sup> From then on, the middling public offices were to be leased to individuals (on a short-term or lifetime basis), abating the hereditary transmission of public offices that characterized the Ancien Régime. This should not however be understood as a sign of profes-

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em relação ao Brasil. Revista do Instituto Histórico e Geográfico Brasileiro, Rio de Janeiro, 1927. (Tomo especial. Congresso Internacional de História da América, v. 3). p. 194.

<sup>7</sup> In the absence of a more adequate terminology to describe this rather heterogeneous group, with regard to the functions they performed we have chosen to refer to them as ‘middle-ranking’ officials to differentiate them from the highest-ranking offices, which bestowed nobility on their holders, accrued greater social prestige, and were normally granted for 3 years. Of course, this designation would be unsuitable if we were to analyze an institution in which there were no subordinate offices, whose holders were unequivocally given the status of ‘mechanicals’. However, since this is an unusual situation, we have chosen to retain this term.

<sup>8</sup> STUMPF, Roberta. Formas de venalidade de ofícios na monarquia portuguesa do século XVIII. In: STUMPF, R.; CHATURVEDULA, N. (orgs). Cargos e ofícios nas monarquias ibéricas: provimento, controlo e venalidade (séculos XVII-XVIII). Lisboa: CHAM, 2012, p. 279-298. \_\_\_\_\_. Venalidade de ofícios e honras na América portuguesa: um balanço preliminar. In: ALMEIDA, S. Creuza C.de; SILVA, G. Carlo de M.; SILVA K. V.; SOUZA, G. F. C. de (orgs). Políticas e estratégias administrativas no mundo Atlântico (séc. XV-XVIII). Recife: Editora Universitária, UFPE, 2012, p.145-168.

<sup>9</sup> Regimento com forma de lei, de 23 de Novembro de 1770. “Pelo qual se prescreve como errôneo o abuso do direito chamado consuetudinário, e se dão as providências necessárias para o provimento, e serventia dos ofícios”. Apud SOUSA, José Roberto Monteiro de Campos Coelho, Systema, ou Collecção dos Regimentos Reaes, Lisboa: Oficina de Francisco Borges de Sousa, 1783, tomo v.

sionalization at the expense of inherited virtues, given that, as we have demonstrated elsewhere, it was under Pombal that the sale of middle-ranking offices increased, which will be the subject of this article as a means of understanding the rules that governed the provision of public service and other fundamental aspects of administration in the Portuguese monarchy in Brazil from 1808 to 1821.

This apparent contradiction between, on the one hand, policies designed to reinforce traditional practices, and innovations on the other, suggests the need to reconsider also in this sphere the conventional dichotomy between the Ancien Régime and Modernity, associated with liberalism, and the very idea of a linear progression from one political framework to the other.

Recent historiography on nineteenth-century Portugal has emphasized the bureaucratization and modernization of the state, not only in terms of the letter of the law but also in practice, as a consequence of the liberal triumph in the civil war of 1832-1834—contrary to a long scholarly tradition that tended to downplay the impact of liberal reforms, which were seen as unrelated to the striking economic growth which marked this period. Especially important in this regard are the works of Joana Estorninho de Almeida<sup>10</sup> and Pedro Tavares de Almeida who, although working on different periods, share many similar concerns. Both authors show how the political upheavals that accompanied the civil war, Septembrism, and the subsequent Regeneration, explain the delay in the application of many of the laws conducive to the bureaucratization and modernization of the Portuguese liberal state,<sup>11</sup> a process already underway in the 1820s. Moreover, they argue that Portugal in many respects matched and even surpassed the

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<sup>10</sup> On the first half of the nineteenth century and the period of Regeneration (1851-1891), see, respectively, ALMEIDA, J. Estorninho de. *A Cultura Burocrática Ministerial: Repartições, Empregados e quotidiano das Secretarias de Estado na primeira metade do século XIX*. Lisboa: Universidade de Lisboa, 2008. ALMEIDA, Pedro T. de; *A Construção do Estado Liberal. Elite política e burocracia na Regeneração*. Lisboa: Universidade de Lisboa, 1995.

<sup>11</sup> Like the logic of functional specialization, the reinforcement of the hierarchical structuring (both of the services and of the different categories of employees) is essentially the effort to standardize

development of other, ostensibly more ‘polished’ European nations, as they were referred to then. The authors thus propose a more accurate chronology of the development of a meritocratic state bureaucracy in Portugal,<sup>12</sup> with the introduction of a competitive system of official appointments, above all in the second half of the nineteenth century.

In the Brazilian context, there were some attempts to introduce new perspectives into studies of this subject, namely the work of José Murilo de Carvalho in the 1970s, whose study of the imperial political elites devoted a brief chapter to the bureaucracy, arguing that although it may not have conformed to Weber’s model, it could neither be called properly an estate.<sup>13</sup> The importance of this study lies in its opposition to an image inherited from social theory that minimized eighteenth-century changes and considered the supposedly patrimonial character of the imperial state as a Portuguese colonial legacy.<sup>14</sup>

The last two decades have witnessed the proliferation of studies on Brazilian independence and the formation of the Brazilian national state, as well as on the changes in the political culture and patterns of sociability, the press, and constitutionalism, among other topics, by some of the most renowned specialists, whose work is brought together

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organizational norms and bureaucratic procedures. ALMEIDA, Pedro T. A Construção do Estado Liberal. Op.cit, p.254.

<sup>12</sup> Given that the terms merit (*mérito*), ability (*capacidade*), and aptitude (*aptidão*) were also used during the Ancien Régime, albeit with slightly different meanings to those we tend to associate with the liberal state, it should be noted that here ‘merits’ are to be understood in the Weberian sense, as related to the notion of professional qualification. STUMPF, Roberta. Ser apto para servir a monarquia portuguesa. Op.cit.

<sup>13</sup> CARVALHO, José Murilo. A Construção da Ordem: a elite política imperial. O teatro de sombras. A política imperial. Rio de Janeiro: Civilização Brasileira, 2003, p.159. Other authors, like Neves and Gouvêa, have approached the study of imperial politics and administration as inseparable from one another. The latter is mainly focused on relations between the central authorities (Rio de Janeiro) and the Brazilian provinces. GOUVÊA, Maria de. O Império das Províncias. Rio de Janeiro, 1822-1888. Rio de Janeiro: Civilização Brasileira, FAPERJ, 2008. NEVES, Lúcia M. Bastos P. Estado e política na independência. In: GRINBERG, Keila; SALLES, Ricardo (orgs). O Brasil imperial. Volume I 1808-1831. Rio de Janeiro: Civilização Brasileira, 2009, p. 95-136.

<sup>14</sup> For instance, URICOECHEA, F. The Patrimonial Foundations of the Brazilian Bureaucratic State. California, 1980.

in two volumes edited by István Jancsó in 2003 and 2005 respectively.<sup>15</sup> From the first of these, one might single out the chapter by Wilma Peres Costa in which she reveals the shortcomings of efforts to modernize the tax system in the Joanine era up to 1830.<sup>16</sup> Although the author does not go beyond the First Reign, it seems like a crucial point that a study of the treasury reveals the contradictory nature of a Brazilian state that wished to modernize itself without altering its archaic structures.

However, in these and other studies on the modernization and bureaucratization of the Brazilian national state, there are few analyses of the administration and institutional mechanisms, fundamental to understanding its character and functioning, two of which are considered paramount here: venality and the patrimonialization of office. In an article published in this journal in 2012, José Reinaldo Lima Lopes dealt with this topic, opening with the question: “was there any continuity between the colonial ‘bureaucracy’ and its post-independence counterpart?”<sup>17</sup> The answer was in the affirmative because, while “the constitutional, liberal, and bureaucratic state was gradually emerging” in the Iberian Americas, there was as yet no definitive rupture with the past. On the contrary. However, according to the author, another rather less obvious reason should be kept in mind: the “stimulating precedents” set by this “colonial bureaucracy”<sup>18</sup> in terms of “requiring professional training and specific skills may be considered the seedbed of the new bureaucracy.”

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<sup>15</sup> JANCÓS, István (org). Brasil: Formação do Estado e da Nação, São Paulo: Hucitec, 2003; \_\_\_\_\_ (org). Independência: história e historiografia. São Paulo: Hucitec, 2005.

<sup>16</sup> “The movement towards fiscal transformation, which may be traced from 1808 to the 1830s, is marked by the somewhat fanciful efforts to adapt institutions thoroughly conformed to the colonial dynamics to the needs of a national state”. COSTA, Wilma Peres. Os impasses da fiscalidade no processo de independência. JANCÓS, István (org). Brasil: Formação do Estado e da Nação, Op.cit, p.181.

<sup>17</sup> LOPES, José Reinaldo de Lima. Do ofício ao cargo público – a difícil transformação da burocracia prebendária em burocracia constitucional. Almanack. Guarulhos, n.03, p.31-32, 1º semestre de 2012.

<sup>18</sup> The author had the following spheres in mind: “justice (magistrates and judges), clergy (the Seminário de Olinda had been restored), military (D. João founded a military academy and a military engineering school), and treasury (remembering the schools of commerce whose origin may be traced back to Marquês de Pombal’s initiative)”. Ibid, p.32.



Still, if this point is noteworthy, however tenuously relevant to the Ancien Régime and its recruitment criteria, it should also be borne in mind that in its closing stages, that is, at the end of the eighteenth century and the first years of the nineteenth, it is still very difficult to speak of a bureaucracy proper, one that is recognizably ‘modern’.

With regard to the professional training of royal officials, this requirement applied to very few groups of officials, and coexisted with approaches to the provision of public service that markedly diverged from the principles already applied in other nations, such as those articulated in the document that would become a key point of reference in all liberal states: the preamble to the French Constitution of 3 September 1791. Enshrining all that had been decreed in the preceding two years by the National Assembly, it declared the “irrevocable abolition of the institutions injurious to liberty and equality of rights,” adding that thenceforth there was “[n]either nobility, nor peerage, nor hereditary distinctions, nor distinctions of orders, nor feudal regime [...] Neither venality nor inheritance of any public office any longer exists.”<sup>19</sup>

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This liberal milestone would be referenced in the short-lived Portuguese Constitution of 1822, whose first title and chapter, article 12, proclaimed that “all Portuguese may be admitted to public offices without any distinction save their talents and their virtues”<sup>20</sup> while article 13 insisted that “public offices are not the property of any person ...”<sup>21</sup>. The Brazilian Constitution of 1824, for its part, while emphasizing the importance of talent and virtue in the admission of “all citizens” to “Civil, Political, and Military Public Offices,” nevertheless reveals itself as more conservative in omitting the reference to hereditary ownership of office, limiting itself to the abolition of “all those

<sup>19</sup> Preâmbulo da Constituição francesa de 1791. Available at: <http://www.fafich.ufmg.br/~luarnaut/const91.pdf>. Accessed: 23 October 2014.

<sup>20</sup> Constituição portuguesa de 1822, título 1º, capítulo único, Artigo 12º. Available at: <http://www.parlamento.pt/parlamento/documents/crp-1822.pdf> Accessed: 23 October 2014.

<sup>21</sup> Idem, Artigo 13º.

Privileges that are not deemed essential, and intrinsic to the offices, in the name of public utility”.<sup>22</sup>

These brief passages from the liberal constitutions clearly show the need to reconsider the basis for the provision of public service in a context in which the state had assumed an active role as the representative of the interests of a nation constituted by citizens with equal rights.<sup>23</sup> Yet, as António Manuel Hespanha has shown, in the text of the Portuguese Constitution of 1826 “in general terms, the principle of equality is not affirmed, nor is there any indication of a project to dismantle the profoundly discriminatory fiscal structure (charters, ‘banal’ rights, tithes), the modes of surplus extraction (royal domains, *comendas* of the military orders), or landholding structure (entailed estates: *morgadios* and *capelas*) of the Ancien Régime, even though reforms had been mooted from the time of Pombal”.<sup>24</sup> In fact, even in the practice of government, Portuguese and, later, Brazilian, during this period of constitution-making (c.1791-1826), public offices continued to be granted in property, and even sold, contrary to the liberal principle that the only criteria for admission should be the prospective candidates’ talents and virtues. There is consequently a need to understand by what means, and which groups were favoured by the Joanine regime in appointments to office.

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<sup>22</sup> Constituição Política do Império do Brasil, elaborada por um Conselho de Estado e outorgada pelo Imperador D. Pedro I, em 25.03.1824. Título 8º, artigo 174, item XIV e XVI (respetivamente). Available at: [http://www.planalto.gov.br/ccivil\\_03/constituicao/constituicao24.htm](http://www.planalto.gov.br/ccivil_03/constituicao/constituicao24.htm). Accessed: 23 October 2014.

<sup>23</sup> HESPANHA, António Manuel. *Guiando a Mão Invisível - Direitos, Estado e Lei no Liberalismo Monárquico Português*, Lisboa: Almedina, 2004.

<sup>24</sup> HESPANHA, António Manuel. O constitucionalismo monárquico português. Breve síntese. *Historia Constitucional*, n. 13, 2012. p.488. Available at: <http://www.historiaconstitucional.com> Accessed: 2 September 2016.

## The Transfer of the Court and the Recruitment of Public Officials

One of the most striking aspects of the establishment of the new capital of the Luso-Brazilian Empire<sup>25</sup> in Rio de Janeiro is the institutional configuration that it engendered. Being largely made up of the same higher administrative institutions as in Lisbon, recreated or transplanted wholesale “with the same [institutional] names and officials”, it was referred to with a certain exaggeration by A. Varnhagen in 1857 as a “cosy plagiarism.”<sup>26</sup> The essential point, emphasized in the work of K. Schultz, is that this institutional replication was not intended to create an autonomous administrative unit in America, not even when Brazil acquired the status of a kingdom in its own right, in 1815. Apart from the fact that Brazil at the time could hardly be thought of as a cohesive and homogenous kingdom, Schultz points to the essentially conservative ideal behind a measure whose objective was “the triumph of a unified, historic empire”, manifest in the official denomination of the United Kingdom of Portugal, Brazil, and the Algarves.<sup>27</sup>

Besides the re-creation in Rio de Janeiro of some imperial institutions, several administrative changes were made throughout the territory of the State of Brazil, much publicized and analysed by a vast literature, contemporaneous or later.<sup>28</sup> After many centuries of

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<sup>25</sup> GOUVÊA, Maria de Fátima Silva. As bases institucionais da construção da unidade. Dos poderes do Rio de Janeiro joanino: administração e governabilidade no Império luso-brasileiro. In: JANCÓS, István (org). Independência: história e historiografia. Op.cit, p.707-752.

<sup>26</sup> Albeit acknowledging that such institutions were useful to Brazil. VARNHAGEN, Francisco Adolfo de. História geral do Brasil. Tomo 2, Rio de Janeiro: Em casa de E. e H. Laemmert, 1857, p.316. Available at: <https://books.google.pt/books?id=G10OAAAAQAAJ>. Accessed: 19 April 2017.

<sup>27</sup> SCHULTZ, Kirsten. Versalhes Tropical. Império, monarquia e a corte real portuguesa no Rio de Janeiro, Rio Janeiro: Civilização Brasileira, 2008, p. 276-7.

<sup>28</sup> VARNHAGEN, Francisco Adolfo de. Op.cit. GOUVÊA, Maria de Fátima Silva. As bases institucionais da construção da unidade. Op.cit. SLEMIAN, Andréa. Vida política em tempo de crise: Rio de Janeiro (1808-1824). São Paulo: Editora Hucitec, 2006. MARTINS, Maria Fernanda Vieira. Conduzindo a barca do Estado em mares revoltos: 1808 e a transmigração da família

restraint in the creation of new colonial towns and cities, interrupted only under the Pombaline government, the establishment of these local administrative units gathered intense momentum beginning as early as 1808. To implement these measures, the nobility of those lands was gathered to elect municipal officials as well as to start the procedures for the appointment of royal officials of the councils (by the governors or the central institutions) that had acquired mechanisms of political representation. Reorganizations in the territorial jurisdiction of judicial districts (*comarcas*) and captaincies, such as the granting of administrative autonomy to those that were subordinate to the principal captaincies, also required some effort to staff the new institutions and organs of justice, the treasury, and local government. The study of these elections and appointments, whether from an administrative or social point of view, has yet to be done. To date, it has not attracted the attention of historians of Joane Brazil, whose research is for most part focused on the central administration in Rio de Janeiro or, to a lesser extent, the high-ranking bureaucrats of the local and regional administrative hierarchy.

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The need to accommodate a large number of *fidalgos* and their servants who accompanied the royal family to the New World largely determined the staffing of the institutions recreated in Rio de Janeiro, or even those already present in the capital. Many nobles who had served the monarchy in Lisbon were kept in their posts or reassigned to others of similar or greater prestige. Others, who were already in America, as governors of captaincies or viceroys, flocked to the court in Rio de Janeiro. They all possessed some of the qualities required to hold high administrative posts. They had administrative experience (civil or military), social clout, some training or education, and a degree of wealth,

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real portuguesa. In: FRAGOSO, José Luis Ribeiro; GOUVÊA, Maria de Fátima (org). O Brasil Colonial - Vol III 1720 – 1821, Rio de Janeiro: Civilização Brasileira, 2014, p.685-727.

which did not lessen the appeal of patronage or clientelistic practices that were also prevalent in the new capital.<sup>29</sup>

The transfer of the seat of the Portuguese monarchy to another continent did not alter the dynamics of political sociability long since established in Europe and Brazil. Dynamics that have been anachronistically interpreted as evidence of a decadent monarchy given over to vice and administrative abuses.<sup>30</sup> However, the criteria and mechanisms for the selection of higher and middle-ranking public officials, the subject of this study, and useful in the consideration of related issues, deserve closer attention, moving away from preconceived interpretations that diminish the complexity of this period of Luso-Brazilian history. The case that follows illustrates the persistence of the traditional politics of patronage during the regency and in the later reign of D. João VI in Brazil.

Following the death, in Rio de Janeiro, on 30 December 1809, of the secretary of state for the navy and overseas dominions, Visconde de Anadia [João Rodrigues de Sá e Melo Meneses e Souto Maior], chosen to replace him was the Conde de Galveias [D. João de Almeida de Melo e Castro], then secretary of state for foreign affairs and war. Galveias petitioned the king to have his senior subordinate officer and

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<sup>29</sup> DEDIEU, Jean Pierre. Patronazgo y politica. El ejemplo de la administración real española del siglo XVIII. In: VILAR, Herminia Vasconcelos; CUNHA, Mafalda Soares da; FARRICA, Fátima (Coords). Centro Periféricos de Poder na Europa do Sul. Lisboa: Edições colibri/CIDEHUS-UE, p. 273-289.

<sup>30</sup> VARNHAGEN, Francisco Adolfo de. Op.cit, p.316. Based on the testimony of the Austrian painter Thomas Ender, who was a member of Leopoldina's entourage, Prado offered his judgement: "Therein lay the greatest failure of the administrative machine dependent on a form of financial organization where resources increased in arithmetical proportion and expenses in geometric [dimensions]. There were some in the regent's service who are active, like the count of Linhares, but the bulk of the functionaries were subject to administrative vices and unheard of lethargy", PRADO, João Fernando de Almeida. História da formação da sociedade brasileira. D. João VI e o início da classe dirigente do Brasil; depoimento de um pintor austriaco no Rio de Janeiro. Coleção brasileira, v.345 1968, p.101. Available at: <http://www.brasiliana.com.br/brasiliana/colecao/obras/416/historia-da-formacao-da-sociedade-brasileira-d-joao-vi-e-o-inicio-da-classe-dirigente-do-brasil-depoimento-de-um-pintor-austriaco>. Accessed: 29 February 2017.

secretary, José Joaquim da Silva Freitas, likewise transferred as reward for the dignity with which he had served him.<sup>31</sup> In March 1810, his request was granted, and Freitas assumed the post of *oficial maior* until then occupied by José Manoel Plácido de Moraes who, for his part, was named deputy of *Junta Real do Comércio* of Rio de Janeiro<sup>32</sup> and awarded a commendation of the Order of Christ,<sup>33</sup> probably honorific.

The case briefly summarized above shows that patronage functioned, on the one hand, as a legitimate instrument in the appointment of a high official in a state secretariat, and, on the other hand, how the dismissal of an *oficial maior* was legally compensated with the grant of two new honours, for which Plácido de Moraes endeavoured to express his gratitude in writing.<sup>34</sup> Two mechanisms, accommodation and compensation,<sup>35</sup> fundamental in a political and social universe in which personal relations and respect for acquired privileges were also the basis of the system of granting of favours. However, this study will

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<sup>31</sup> Rio de Janeiro, 6 February 1810. Arquivo Histórico Ultramarino (AHU) \_ACL\_CU\_017, Cx. 257, D. 17583.

<sup>32</sup> Since the topic of the promotion of merchants to higher administrative positions cannot be dealt with here in detail, see the historiographical synthesis in Slemian. SLEMIAN, Andréa. Op.cit, p.38-40.

<sup>33</sup> Rio de Janeiro, 2 June 1810. AHU ACL CU 017, Cx. 258, D. 17660. The *Tribunal da Junta Real do Comércio, Agricultura, Fábricas e Navegação* (Tribunal of the Royal Board of Trade, Agriculture, Factories and Navigation) was created on 23 August 1808, replacing the *Mesa de Inspeção da Agricultura e Comércio* (Board of Agriculture and Commerce). Almanaque da cidade do Rio de Janeiro para o ano de 1811. Revista do Instituto Histórico Geográfico Brasileiro (RIHGB), n. 282, jan./mar. de 1969, p.103. The appointment of José Joaquim da Silva e Freitas as *oficial maior* of the *Secretaria de Estado da Marinha e Ultramar* and the transfer of Plácido de Moraes to the *Junta do Comércio* in February 1810 are mentioned in this same documentary source invaluable in the study of institutions and public officials of the Joanine period in Rio de Janeiro. Ibid, p. 103 e p. 133-134, respectively.

<sup>34</sup> Rio de Janeiro, 2 June 1810. AHU\_ACL\_CU 017, Cx. 258, D. 17660.

<sup>35</sup> See, for instance, the Decree of 1 September 1819 abolishing the *Casa de Fundição* (foundry) of the captaincy of São Paulo. "Because it is not my royal intention that the employees of the said house should by its abolition be deprived of the means of their subsistence, I should also be served to have delivered to my royal presence by the *Real Erário* an account of the persons and their occupations [in the foundry], with relations of the particular services [they have rendered], in order to provide a solution that is convenient for my Royal Treasury". Coleção Leis do Império do Brasil. Portal da Câmara dos Deputados, p.53. Available at: <http://www2.camara.leg.br/atividade-legislativa/legislacao/publicacoes/doimperio> Accessed: 7 May 2016.

not focus on the criteria but rather on the mechanism for recruitment to offices, because this is a relatively neglected topic that can shed a great deal of light on administrative questions, strictly speaking, during this and earlier periods of the Portuguese Ancien Régime. To this end, our analysis will be limited to appointments to the middling ranks of public officials, given that in the upper echelons, that is, appointments to the highest administrative posts followed a very regular pattern that left no room for patrimonialization or sale.

### Middle-Ranking Officials in the Joanine Monarchy of Brazil

Middle-ranking officials were found in various bodies and institutions, such as those of justice, treasury, and government (to mention only the civil ones), at different administrative levels (local, regional, and central). Perhaps this explains their proliferation, and the fact that they vastly outnumbered those higher up in the administrative hierarchy. It's harder to draw a quantitative comparison with the petty officials, mainly because the latter are mainly absent from contemporary sources, and even from lists of public offices. However, in determining the numerical weight of middling officials, the *Almanaque do Rio de Janeiro* of 1811 has been extremely useful.

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We know, for instance, that in the royal chancery (*Chancelaria-mor do Reino*) created shortly after the arrival of the royal family in Rio de Janeiro, alongside the chancellor there were nine middling and two petty officials.<sup>36</sup> In the *Erário Régio* (Royal Treasury) and its three *Contadorias Gerais*, of a total of 102 posts, 6 belonged to the upper echelons, 36 were middle-ranking officials, and 51 were petty officials.<sup>37</sup> The numbers may not be exact, and some allowance should be made for mistakes in the transcription of the names of the officeholders or pro-

<sup>36</sup> Almanaque da cidade do Rio de Janeiro para o ano de 1811, Op.cit, p.197.

<sup>37</sup> High-ranking administrative officials: president, *tesoureiro-mor* and four *contadores gerais*. Middle-ranking: *porteiro*, *escrivão do tesoureiro*, *escrivão da pagadoria*, 1st, 2nd and 3rd *escriturários*. Subordinate: *contínuos*, *amanuenses*, *praticantes* and *fiéis pagadores*. Ibid, p.174-175. The categories, as well as the attribution of offices to each one, are my own.

prietors, but there is nothing to contradict this general conclusion in other sources: the number of middling offices was substantial. Even so, following the trail of their owners can be an arduous task, as well as determining the criteria and mechanisms that led to their appointment. With regard to the latter, there is no serial documentary evidence that would permit any definitive conclusions as to the recurrence of the different types of grants. Nevertheless, our objective may be attained through the synthesis of diverse sources, such as those belonging to the Arquivo Histórico Ultramarino, which provide information about different administrative practices, including appointments to office, which is our main concern here.

With the death of the holder of the office of notary (*escrivão da correição*) of the district of Pernambuco in 1806, the local bishop-elect, José Maria de Araújo, petitioned the king to grant the office with life tenure (*serventia vitalícia*), to his brother Alexandre Luís de Araújo, “who has been educated in the affairs of commerce here in Lisbon, and in London” although “the needs and fortune of his family over there had compelled him to withdraw”.<sup>38</sup> The supplicant seemed certain that his episcopal authority and above all the “charity and piety” of the king were enough to justify the request for the royal favour that, if granted, would permit Alexandre Luís to enjoy “a decent sustenance”. In line with the high esteem in which merchants were held, especially due to their aptitude for writing and accounts-keeping,<sup>39</sup> the bishop emphasized his brother’s professional background. Nevertheless, being familiar with the laws, and especially the *Regimento* of 23 November 1770, he checked himself, and noted that the death of the previous holder of

<sup>38</sup> The bishop refers to the post as *propriedade vitalícia*, a rarely used term in contemporary documents. In this case it must have been a mistake, because in the other documents that make up this “processo” the office of *escrivão da correição* is mentioned only as a *serventia vitalícia*, that is, tenable until the death of the incumbent. Pernambuco, prior to 1804. AHU\_CU\_015, Cx.252, D. 16896.

<sup>39</sup> In 1817, it was decreed obligatory for officials of the *Erário Régio* to be inscribed in the Schools of Commerce (*Aulas de comércio*). Coleção Leis do Império do Brasil (1817), Op.cit, p.7.



the office had also meant “the passing of grace and mercy from his family”.<sup>40</sup> A few months later, his request was granted by the crown.

This case is worthy of attention because it involved a range of authorities at different levels and jurisdictions who all expressed different views on the rights of subjects with regard to appointment to offices. Unaware of the royal decision, or the petition of the ecclesiastical authority, the governor of the captaincy of Pernambuco, Caetano Pinto de Miranda Montenegro, granted same office with life tenure (*serventia vitalicia*) to the son of the late incumbent, Manoel Atanásio da Silva Cuxarra, who had formerly served as his father’s assistant. Two appointments to the same office and one quandary to resolve. The *Conselho Ultramarino* in Portugal, although it offered arguments in favour of Cuxarra, noting “family need, the ability and suitability of the person, [and] in consideration of his father’s service”, nevertheless resolved to strip him of the office, as he had been the later appointment. Cuxarra, by way of compensation, was appointed instead to the office of *corretor de folhas*,<sup>41</sup> also with life tenure, as requested by the governor. Still, the captain-general in question reacted with a furious invective against the bishop:

“did he not know that he was depriving a whole family of the only bread they had to eat, or that Manuel Atanásio [Cuxarra] bore on his shoulders a widowed mother, an aunt, and four unmarried sisters [...] who with that loss of office, given to his father as reward for his services, were reduced to begging for alms ...”<sup>42</sup>

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<sup>40</sup> Ibid.

<sup>41</sup> Its function was mainly to add marginal notes to the books of convictions following the fulfilment of the sentences. Lisbon, 25 September 1807. AHU\_ACL\_CU\_015, Cx.270, D.17962.

<sup>42</sup> Recife, 12 June 1807. AHU\_ACL\_CU\_015, Cx. 267, D. 17861. Alexandre Luís de Araújo, however, scarcely discharged the office, requesting permission to nominate a *serventário* with the following argument: “Noting that in the exercise of it [*serventia vitalicia*] there may be difficulties with the ecclesiastical jurisdiction, or suspicions, because the supplicant is the brother of the current bishop of that diocese: especially with the time required and the involvement of the office of

There are several points worth emphasizing in this story, beginning with the arguments invoked to justify the grant of the office: the economic difficulties of the two nominees; the relative importance of the skills acquired as a merchant, on the one hand, and the relevant officeholder's assistant, on the other; the consideration given to the services rendered by the previous holder of the office, and, finally, the decisive importance given to the order in which the appointments had been made. At the same time, we should not rule out the possibility that the authority of the bishop of the captaincy of Pernambuco had been decisive in the selection of his brother, inciting, or perhaps continuing, a rivalry with the governor who saw his authority diminished, his successful career in Portuguese America notwithstanding.<sup>43</sup>

The most important aspect, however, in the case of an office left vacant by the death of the incumbent, was the adherence of all parties to the *Regimento* promulgated on 23 November 1770, which had abolished customary rights. In the aforementioned case, the appointment of Cuxarra was at no time justified on the basis of heritability. Having been his father's assistant was considered an important factor, but his status as the rightful heir was never invoked. On the contrary, the only one to raise this issue explicitly, the bishop of Pernambuco, did so merely to emphasize that this right was no longer valid—and this shortly before 1808. It was an implied reference to the 1770 *Regimento*, which had a major effect on the practice of patrimonialization of the middling public offices, as was evident in the arguments for the abolition of appointments to offices in property (*em propriedade*) thenceforth referred to as *serventia vitalícia*.

We will go back a few years to remember the implicit purpose of that *Regimento*, that of making the offices transferrable, so that once the limited term of service was over they could be reclaimed by the Crown-

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*correição*: and moreover, the supplicant suffers the effects of ill health, which impedes him or delays him in making the said journeys. Ibid.

<sup>43</sup> FERREIRA, Maria Delfina do Rio. Caetano Pinto de Miranda Montenegro. A consolidação da Capitania do Mato Grosso. Porto: Editora da Universidade do Porto, 2004.

—a policy that had been advocated in the Pombaline period since at least 1761, the year in which the Tribunal of the Royal Treasury (*Tribunal do Erário Régio*) was created, and the Lisbon *Casa de Contos Reino e Casa* was abolished, along with its offices and tenures. The text of its founding charter (*Carta de Lei*), along with that of the General Treasury, announced the prohibition of

“The employments, places, and tenures of the aforesaid Treasury may [be] considered in some sense as offices subject to customary rights, [and so] I order that they should all be of the nature of mere triennial *serventias vitalícias* ... and will always remain revocable at my Royal Discretion ...”<sup>44</sup>

The ‘Lei da Boa Razão’ (The Law of Good Reason), of 18 August 1769,<sup>45</sup> further intensified the hostility that first emerged under Pombal towards any laws rooted in custom, granting total primacy to positive law.<sup>46</sup> However, the convocation of the *Junta das Confirmações Gerais* (General Confirmation Board), in the same year of 1769, was the decisive factor. Its task was to confirm the favours granted in the time of João IV (the first monarch of the Brigantine dynasty, following the 1640 Restoration) which were considered incomplete. After recei-

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<sup>44</sup> Carta de Lei de 22 de Dezembro de 1761, §1 do Título IX. Apud SILVA, António Delgado da, Sousa, *Collecção da Legislação Portuguesa desde a última Compilação das Ordenações*, Lisboa: Typografia Maignrense, 1830, p.816. The term *serventia trienal vitalícia*, used infrequently, seems to refer to an even more insecure form of tenure of office, given that in the case of the death of the incumbent before the end of the three years, there was no possibility of a relative petitioning to assume the *serventia*. In any case, it seems redundant to us.

<sup>45</sup> Lei de 18 de Agosto de 1769. Declara a Autoridade do Direito Romano, Canónico, Assentos, Estilos e Costumes. Apud ALMEIDA, Cândido Mendes de, ed. *Código Philippino ou Ordenações e Leis do Reino de Portugal*. Livro III, 14ª edição, Rio de Janeiro: Tipografia do Instituto Filomático, 1870, p.725-730. Accessed: 09 August 2015.

<sup>46</sup> On the limited application of Enlightened reformism in the sphere of justice see: SLEMIAN, Andréa. A primeira das virtudes. Justiça e reformismo ilustrado na América portuguesa face à espanhola. *Revista Complutense de História de America*. Madrid, Volume 40, p.69-92, 2014. Available at: <https://revistas.ucm.es/index.php/RCHA/issue/view/2610/showToc> Accessed: 9 December 2014.

ving numerous requests for the confirmation of offices, specifically “on the basis of customary law”, the deputies of the Junta noted that the “this law was in direct contradiction with the Laws and Customs of all polished Nations of Europe”. Thus, it was necessary to disavow this custom, invalidating its antiquity and delegitimizing these practices, erroneously invoked as “law”.<sup>47</sup>

The analysis of the context and the underlying reasons behind the publication of this decree of 1770, which had articulated the Pombaline approach to the recruitment of officials, may help to determine to what extent this document should be thought of as ‘modern’ in its nature, as if it constituted a defence of professional merits, as well as to understand how these guidelines were understood by the authorities in charge of making appointments, and how they balanced the various benefits that the monarchy could derive from their application, as it shall be explained below.

It is important to emphasize that the core of the criticism of the legal sources mentioned above was not the paramountcy of blood and lineage in the choice of office-holders, but rather the validity of a custom, conceived as a right that somehow obliged the monarch to respect the primacy of heredity. This criticism, and its disavowal of custom, was also expressed in changing nomenclature, as we have said. This at any rate is the conclusion to be drawn from the content of the *Regimento*, since in practice, in deeds and letters of favours, for example, the modalities of the provision of offices continued to be represented in a variety of ways, and even in terms of lifetime proprietorship<sup>48</sup> (*propriedade vitalícia*, albeit infrequently).

<sup>47</sup> Regimento com forma de lei de 23 de Novembro de 1770. Op.cit.

<sup>48</sup> In 1752, D. José granted, by the same decree, eight offices in *propriedade vitalícia* in the recently created Tribunal da Relação (Tribunal of the High Court) of Rio de Janeiro. Lisbon, 8 April 1752. AHU\_ACL\_CU\_017, Cx. 45, D. 4587. This type of appointment, like that the *serventia vitalícia*, restricted hereditary transmission. However, being the proprietor of the office or *serventuario* implied different obligations and rights.

Also contained in this statute, sometimes seen as a watershed, is an exaltation of meritocracy (with respect to professional training) that reveals a new conception of competence, closer to administrative rationality. However, the gap between norms and reality immediately becomes evident when we observe that the nominees for the *serventias vitalícias* of middle-ranking offices did not invariably refer to their “personal industry”,<sup>49</sup> even though this was more frequently demanded in the Pombaline period:<sup>50</sup> a trend that would gradually gather pace in the first decades of the nineteenth century.

However, the growing appreciation of the individual qualities required for the discharge of specific functions of a given public office continued to coexist with practices that we associate with the political culture of the Ancien Régime. The novelties contained in the statutes needed time to produce the desired results, assuming they were actually implemented. The principle of the irrevocability of inherited rights, and the failure to consistently apply legal instruments for the expropriation of offices, allowed those who had already been granted with favours in perpetuity to hold onto their posts, but now as holders of lifetime *serventias vitalícias*.<sup>51</sup> Only following the incumbent’s death and the consequent vacancy of the office could the monarch appoint a new officeholder as a reward for his services, or offer the office to the highest bidder in a public auction held especially for that purpose, to cite the most common practices. The monarch could also appoint the presumed heir, but if he did so he would be obeying the dictates of royal largesse rather than respecting the force of custom. The 1770 *Regimento*, by postulating the “emancipation” of public offices, depriving

<sup>49</sup> Regimento com forma de lei de 23 de Novembro de 1770. Op.cit.

<sup>50</sup> See for instance: Decree of 3 August 1753. “Offices that require personal industry are considered vacant upon the death of the holder”, in this case, the “pilots (*pilotos dos altos e das barras*), captains, sailors, architects, master craftsmen and others of this sort”. Apud SILVA, António Delgado da, Sousa, Op.cit, p.158.

<sup>51</sup> On this topic see: STUMPF, Roberta. Os provimentos de ofícios: a questão da propriedade no Antigo Regime português. Topoi. Revista de História. Rio de Janeiro, Volume 15, nº19, p. 612-634, jul./dez de 2014. Available at: <http://www.revistatopoi.org>. Accessed: 11 November 2014.

those to whom they had customarily belonged, reinforced and injected dynamism into a system crucial to royal government: the economy of favours and grace.

As we have already shown elsewhere, the Pombaline decree brought yet another advantage from the perspective of the interests of the monarchy. By imposing the gradual disappearance of proprietary and heritable office holding, it contributed to the increase in royal revenues obtained through the auctions and the collection of usual payments, such as one-third of the annual income of those offices whose allotment was more than 200,000 *reis*,<sup>52</sup> legally instituted, in both cases, during the reign of King João V, but only for the offices granted in *serventia* (although for life). However, although the granting of middling offices in exchange for payments was legally encouraged by the Decree of 18 February 1741,<sup>53</sup> on account of the revenues it would bring, it troubled those who extolled merit (in the broad sense) over “the clinking of coins”.<sup>54</sup> This was a longstanding tension, which was heightened in the first decades of the nineteenth century, as the monarchy’s expenditures grew, as well as the belief that the efficacy of government also depended on the professional skills of its servants.

In well-known comments made in 1804 by the Viceroy of Brazil, D. Fernando José de Portugal [Marquis de Aguiar], on the Decree issued to his predecessor in that post, Roque da Costa Barreto, in 1677, this conflict was latent. Referring to the royal letter dated 11 December

<sup>52</sup> Decree of 18 May 1722. Idem, p.626.

<sup>53</sup> Decreto para se proverem as serventias dos officios do Brasil, que não tiverem proprietários, por donativos à Fazenda Real. In: RIBEIRO, João Pedro. Índice Chronologico Remissivo da Legislação Portuguesa Posterior à Publicação do Código Filippino com hum Apêndice, Parte III. Continuação de Additamentos desde a Acclamação do Senhor D. João IV até o Anno de 1807. Lisboa, Typografia da Academia Real das Sciencias de Lisboa, 1805, p.162. Available at [http://www.governodosoutros.ics.ul.pt/?menu=consulta&id\\_partes=48&id\\_normas=2854&accao=ver](http://www.governodosoutros.ics.ul.pt/?menu=consulta&id_partes=48&id_normas=2854&accao=ver). Accessed: 11 December 2009.

<sup>54</sup> As argued by Andújar in his book on the venality of military commissions in eighteenth-century Castile. ANDÚJAR CASTILLO, Francisco. El sonido del dinero. Monarquía, ejército y venalidad en la España del siglo XVIII. Madrid: Marcial Pons, 2004.

1799, ordering that “all offices [of justice], whose lifetime tenures were uncertain” [...] should be sold on a triennial basis, “in exchange for payments and the third part of their value,” he recalled once again:

“The inconveniences that result from such auctions, which experience has shown that at times the offices were given to individuals who out of spite and hatred of others offered larger donatives, which was prejudicial to the public, excluding the more deserving and experienced servants, because they are unable to offer equally bloated sums.”<sup>55</sup>

Two years later, in 1806, it was precisely this kind of situation that was decried by Antônio Gonçalves Gomide, the second notary of Vila Nova da Rainha do Caeté, in the district of Sabará, Minas Gerais. According to him, it would not be possible to renew the three-year lease of this office when it was put up for auction, as he did not have the means to match the exorbitant sums that were being offered.<sup>56</sup> However, he noted that in the Minas Gerais captaincy the *Junta da Fazenda* (Treasury Board) allowed the *serventuários* (office holders) like him to pay only a third of the total in advance, being exempt from the full payment when applying to serve a second term.<sup>57</sup> After brief negotiations with the *Conselho Ultramarino*, Gomide was granted life tenure of the post, relieving him from having to compete with other bidders, but “with the obligation to satisfy all the rights and donatives which this office pays annually into My Royal Treasury”.<sup>58</sup>

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<sup>55</sup> Observações do vice-rei D. Fernando José de Portugal ao Regimento de Roque da Costa Barreto de 23 de janeiro de 1677. Apud AVELLAR, Hélio de Alcântara. História administrativa do Brasil. A administração pombalina. Brasília: FUNCEP/UnB, 1983, p. 294.

<sup>56</sup> The same complaint was voiced by João Pereira Duarte, who explained that he no longer had the means to see off other bidders, after several times purchasing the triennial *serventia* of the office of notary to the *provedor dos defuntos* (*escrivão da provedoria dos defuntos*) of São João Del Rei, Minas Gerais. In his case, the petition was rejected. Minas Gerais, 29 August, prior to 1805. AHU\_MG Cx: 177 D.25.

<sup>57</sup> Minas Gerais, 26 July, prior to 1806. AHU\_MG Cx: 181 D.26.

<sup>58</sup> Vila Viçosa, 31 January 1806. AHU\_MG Cx: 179 D.27.

It seems evident that the Portuguese crown was reluctant to lose the experience acquired by its servants, although it was also not in a position to forsake the revenues earned from its offices. The exemption from these fees was a privilege granted to few and only by the royal government. As early as 1799, the governor of Minas Gerais, and president of the *Junta da Fazenda*, Bernardo José Maria Lorena and Silveira [future Conde de Sarzedas] was informed that it was not His Royal Majesty's intention:

“to exempt the said office holders and royal servants appointed by Me from the obligation of paying the said charges, and that in no case should they be exempt from that burden (donative), except in cases where I expressly and by special grace release them from this obligation”.<sup>59</sup>

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## Appointments to Office and Royal Revenues

Shortly before the arrival of the Portuguese court in America, the Marquês de Belas [D. José Luís de Vasconcelos e Sousa], a judge and councillor of state, suggested to prince regent D. João that in Brazil his administration should prioritize royal revenues. He was in favour of reducing expenses and limiting the number of new offices, which should preferably be granted on a provisional basis (*serventia*),<sup>60</sup> guidelines that reflected the Pombaline policy on appointments to office, as

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<sup>59</sup> Minas Gerais, 30 October 1799. AHU\_MG Cx.: 150, Doc.: 83. The favour of exemption from the duties associated with the lifetime tenure in property (*propriedade vitalícia*) of the office of *escrivão dos Órfãos* of the town of Sabará was granted by prince regent D. João to Francisco José Maria de Brito, in view of his services in diplomatic commissions. Minas Gerais, 07 de Agosto de 1802. AHU\_MG Cx.: 164, Doc.: 55.

<sup>60</sup> CARVALHO, Marieta Pinheiro de. Estado e Administração no Rio de Janeiro joanino: a Secretaria de Estado dos Negócios do Brasil (1808-1821). Tese de doutorado apresentada à Universidade Estadual do Rio de Janeiro: Rio de Janeiro, 2010, p.63.



already mentioned.<sup>61</sup> The context seemed to be particularly propitious for the application of these measures because, even if the same groups and men were to be maintained in high-ranking positions, so as not to “interrupt the existing administrative rhythm”,<sup>62</sup> many other, petty and middle-ranking offices in the high imperial institutions in Rio de Janeiro, and many more in the Captaincies, had to be filled.

The advice of the Marquês de Belas was therefore hardly original and may be read as a recommendation to continue in the New World that which had already been resolved, not without strife, back in Portugal. If it is possible to speak of administrative habits, even without providing quantitative data attesting to a greater or lesser frequency of each of the modalities of appointments to office, in the Joanine reign the predominant tendency among the authorities was to favour provisional appointments (*serventias*).

The founding charter of the Court of the Royal Treasury (*Tribunal do Erário Régio*) in Rio de Janeiro, dated 28 June 1808, is one of many examples. Its title VIII (Of the nature of the employments and posts in the Royal Treasury) repeated verbatim what had been promulgated in 1761 when the Court was established in Portugal. That is, the “employments” were to be granted on a “provisional triennial lifetime basis (*serventias trienais vitalícias*), [...] always being revocable” at the pleasure of the crown.<sup>63</sup> There was, however, one small yet highly significant difference in the wording: if previously the posts mentioned in the *Regimento* were those of the Treasury, now the charter included all the positions of the Royal Treasury.

Alongside provisional appointments (*serventia*) the advantages

<sup>61</sup> Although, within a short space of time, 1758-1767, there was an attempt to sell the proprietorship of the offices of justice and the treasury in Brazil, without any success. STUMPF, Roberta. Os provimentos de ofícios: a questão da propriedade no Antigo Regime português. Op.cit., p.627.

<sup>62</sup> BELLOTO, Heloísa. O Estado português no Brasil: sistema administrativo e fiscal. In: SILVA, Maria Beatriz Nizza da (coord), O Império luso-brasileiro, 1750-1822. Lisboa: Estampa, 1986, p. 293.

<sup>63</sup> Coleção Leis do Império do Brasil (1808), Op.cit, p.88 e Apud VINHOSA, Francisco Luiz Teixeira. Brasil sede da monarquia Brasil Reino (2ª parte). Coleção História Administrativa, Brasília: Editora da UNB, 1984, p. 236.

of which from the crown's perspective will be explored below, practices based on patronage and clientelism were by no means wholly abandoned. Still legal and perfectly acceptable in the eyes of contemporaries, they continued to serve the interests of the monarchy, the town and city councils, and American captaincies (and all those who depended on their patronage). Although the topic of patronage cannot be dealt with in more detail here, it is important to note the extent to which servants who accompanied their masters to Rio de Janeiro, *fidalgos* or functionaries of lesser social standing, were habitually preferred in appointments by the higher authorities to facilitate their entry into the administrative structure of the state or provide access to other privileges, often at the expense of third parties.

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The decree promulgated on 16 November 1808 is emblematic of such tendencies, in this case, the granting of “offices of justice as property to the servants of the Royal Household.” There was, however, one aspect that required some adjustment to achieve the desired ends. Offices had previously been sold by the Treasury Boards of the Captaincies on a triennial basis, which would only expire in years to come (1809 or 1810), blocking the way of the newly appointed officers who would in the interim be “deprived of the income of their office”—which was, after all, what really mattered. Thus, by royal decree, it was determined that as soon as the instalments for the purchase of office were paid to the Royal Treasury they should be transferred to the beneficiaries in question.<sup>64</sup>

Given the multitude of newcomers to Rio de Janeiro, it is not unreasonable to suppose that grants of offices were used to help them

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<sup>64</sup> “The *Real Erário* is to pay to the appointees the same income that would have accrued to my Royal Treasury from the sale of the aforementioned offices, their salary being counted from the date of the Decrees of this *mercê* until the end of the said auctions.” *Coleção Leis do Império do Brasil* (1808). Op.cit, p 162. There is no suggestion here of offices being held in property.

adapt to a new and unfamiliar reality, even if the Crown had to forego the income from previous or pending sales. For the office holders, as we have seen, this procedure represented a guarantee of greater stability as well as pecuniary benefits. In addition to being exempt from paying a third of their annual income to the monarchy, they could obtain royal permission to appoint a *serventudário* who would discharge the duties of office, paying what was due to them in *réis*. It had always been the prerogative of the Crown and central administration to appoint office holders throughout the Empire, and to control the transmission of offices by the incumbents. Even after the transfer of the court to Rio de Janeiro, the state continued to exercise this function, requiring, however, that the petitions should be made in person. In view of the difficulty of fulfilling this requirement, Manoel Cavalcanti de Melo, who was already in possession of the office of court notary (*tabelião do judicial e notas, almotaçaria e órfãos*) of the town of Sirinhaém, in Pernambuco, requested in 1809 the right to transact the formalities in that captaincy.<sup>65</sup>

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In the towns and newly founded cities, where an entirely new local administrative structure was being created, some offices were also granted in property. On 1 October 1819, Francisco José Bandeira became the proprietor of the office of *avalidor e partidor* of the town of Porto Alegre, having vacated the same office granted to him a month before in Vila Nova do S. João da Cachoeira. Both municipalities were located in the captaincy of Rio Grande of S. Pedro do Sul,<sup>66</sup> and were elevated to the status of town in 1803 (with charters dated 1808 and 1819 respectively).<sup>67</sup>

Following the establishment of the Board of the High Court (*Mesa do Desembargo do Paço*), by a charter of 1 August 1808, various offices were created within it whose salaries were strictly regulated, as occurred in 1754 when, for the first time, legislation was introduced with a view to regulating the incomes (ordinary and extraordinary) of royal

<sup>65</sup> Pernambuco, 15 December, prior to 1809. AHU\_ACL\_CU\_015, Cx. 272, D. 18158.

<sup>66</sup> Coleção Leis do Império do Brasil (1819). Op.cit, p.13.

<sup>67</sup> <http://www.ibge.gov.br/home/>

officials, both in Portugal and in the empire. The stipulated value of emoluments is of less importance here than the description of the services to be performed by the *oficial-menor*, the two *papelista* officials, and the *praticante*, through whose hands passed the “*alvarás de mercê* for any appointment made (all of which offices are now newly granted, since customary rights have been legally abrogated)” and “letters of ownership of these offices, which must include the said *alvarás de mercê* and any other privileges issued by the Board.”<sup>68</sup> It should be noted that the continued appointment to offices in property did not imply the conservation of the rights of inheritance.

A study of the State Department of Commerce of Brazil (*Secretaria de Estado dos Negócios*)<sup>69</sup> between 1808 and 1811 found that the most common subjects in correspondence exchanged mainly between institutions and higher administrative authorities were the benefits granted to the English, the grants of *sesmarias*, and of honorific *mercês*. A very significant portion of this epistolary documentation was also dedicated to the issue of lifetime appointments to offices, including both provisional (*serventias*) and those granted in property.<sup>70</sup> In the case of the latter, they were granted, for example, by royal appointment throughout the Joanine period to officials of the Department itself to serve in other captaincies.<sup>71</sup> Other active officials encouraged their heirs, usually their children, to apply for posts, even as supernumeraries, that would enable them to serve as assistants and perhaps even to succeed their fathers when they passed away—arguing that a family tradition thus

<sup>68</sup> Coleção das leis do Império (1808). Op.cit, p.96-98.

<sup>69</sup> From 1815, Secretaria de Estado do Reino Unido de Portugal, Brasil e Algarves.

<sup>70</sup> CARVALHO, Marieta Pinheiro de, Op.cit. p.166-167. See also: \_\_\_\_\_, Administração e ação política na corte do Rio de Janeiro. A Secretaria de Estado dos negócios do Brasil. Revista acervo, Rio de Janeiro, v. 25, n. 2, jul-dez 2013, p.55.

<sup>71</sup> CARVALHO, Marieta Pinheiro de. Estado e Administração no Rio de Janeiro joanino. Op.cit, p.131-133. Among the many responsibilities of this *Secretaria* was the issuing of the *mercês* granted by the king, “by grace, or in payment for services”, the appointment of a series of high-ranking administrative officials, both civil and ecclesiastical, and “the appointments to any other offices and posts in the same kingdom, that I have the power to name”, as stipulated in the 1736 *Regimento* of its Lisbon counterpart. Ibid, p. 87.

preserved was beneficial to the monarchy! Although the principle of heredity was not invoked, the petitioners resorted to arguments that properly belong to the Ancien Régime. It was no different when the children asked to be granted their fathers' offices. Respecting the 1770 *Regimento*, they did not invoke "customary rights", but rather claimed that the services rendered by their forebears qualified them for the same favours. However, these petitions were not always granted. The supplicants' pretensions were sometimes thwarted as it became more common from the second half of the eighteenth century for the authorities to insist on (professional) or administrative experience.<sup>72</sup>

### Venality of Office in the Brigantine Monarchy in Brazil

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The emphasis on effectiveness, on the functional ability to discharge the duties of one's office, although far from being unchallenged, can be given as one of the reasons why *serventias* became the most frequent form of appointment to office in the Portuguese monarchy from the second half of the eighteenth century. Being temporary, they better suited the need to exercise control over royal officials. In case of alleged abuses of power it was always easier to remove non-hereditary incumbents. However, as has also been mentioned, the provisional grants of offices, especially the triennial ones, stimulated the economy of favour because the posts were no longer in the possession of the same family and could thus be awarded to someone else whenever they became vacant. However, we wish to highlight another aspect that has been ignored by historiography. The privileging of this type of appointments to office, the *serventias*, also better served the ends invoked by the Marquês de Belas in his recommendations to prince regent D. João, just prior to his arrival in Brazil: the increase of royal revenues. Although this objective had been pursued since the time of Pombal, it became con-

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<sup>72</sup> Ibid, p.104-112.

siderably more urgent after 1796 when “the symptoms of crisis were starting to become clear”.<sup>73</sup> The venality of office, in this sense, came to satisfy very concrete needs.

It is difficult to say how much money was raised in the auctions administered by the Captaincies’ *Juntas das Fazendas* (Treasury Boards),<sup>74</sup> or what proportion of total royal revenues they represented in the second half of the eighteenth century (when sales were becoming more frequent) and in the first two decades of the nineteenth (when they continued apace). Criticism of this practice, as we have pointed out, never died away. However, in context of economic difficulty, higher principles often had to fall by the wayside. The sale of offices, or resorting to other forms of venality in order to meet the crown’s expenses, was legitimate, and ultimately advisable when alternatives to offsetting the progressive misappropriation of funds from the royal coffers were scarce.

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During the reign of the prince regent and later king João VI, raising existing tributes or the creation of new taxes was scrupulously avoided. There were only a few exceptions, such as the *décima* (tenth) tax on the urban buildings of the most important cities and towns, and the *sisá* on sales of real estate. The stamp duty was also raised slightly.<sup>75</sup> However, in the words of Luís Gonçalves dos Santos (Father Perereca) in order to “sustain the dignity and the majesty of the throne, the splendour of the new Court, and many public establishments

<sup>73</sup> SILVEIRA, Luís Espinha da Silveira. Aspectos da evolução das finanças públicas portuguesas nas primeiras décadas do século XIX (1800-27). *Análise Social*, vol. XXIII (97), 1987-3.º, p. 512. From 1796 onwards, according to Silveira, high on the agenda as a means of dealing with the growing crisis was the “reform of administration”, which consisted in “improving revenue collection and reducing expenses, transforming the public service and suppressing abuses”, p.519.

<sup>74</sup> “The *juntas* should administer the royal revenues and boost their collection through the sale and oversight of contracts, and the auctioning of magistracies”. CHAVES, Cláudia. A administração fazendária na América portuguesa: a Junta da Real Fazenda e a política fiscal ultramarina nas Minas Gerais. *Almanack* [online], v.5, 2013, p.82. Available at: <http://www.almanack.unifesp.br/index.php/almanack/article/viewFile/918/pdf>. Accessed: 14 June 2014.

<sup>75</sup> PEDREIRA, Jorge; COSTA, Fernando Dores. D. João VI. Lisboa: Circulo dos Leitores, 2006, p.210.

indispensable for the national good and prosperity”,<sup>76</sup> it was necessary to raise much more money than was being collected.

Some historians have analysed the means by which this shortfall was made up to cover these and other expenses, such as “conservation of the navy, soldier’s pay, the salaries of civil servants ...”, according to the same source, written a few years later in 1825. Malerba refers to voluntary subscriptions, which were open for cash donations at four different times (1808, 1810, and twice in 1817), with the list of donors subsequently published by the Brazilian Department of Commerce (*Secretaria dos Negócios do Brasil*),<sup>77</sup> or in the *Gazeta*. The number of subscribers was quite considerable on all four occasions, as were the amounts collected,<sup>78</sup> although it does not appear that the donors were compensated by the king for this loan.

Manifestations of “patriotism,” understood here as a feeling of affection for the monarchy, were not limited to these cash donations. Manoel dos Santos Portugal, as reward for offering to raise at his expense an Infantry Company of the Royal Guard of the Police, which would have required him to arm, dress, and feed all the soldiers, was granted a captain’s commission on 23 December 1810:

“as well as the grace of being able to appoint, on this one occasion only, to rank of Lieutenant in the said Company his brother Brás Antônio dos Santos, and to that of Ensign (Alferes) his other brother Florêncio Antônio dos Santos, both ensigns of the 2nd Militia Regiment of this Court”.

João Egídio de Siqueira also benefited from the decree of 31 August 1809, which granted the rank of captain (and with it, ennoblement) to those who organized military companies.<sup>79</sup> In his case, for rai-

<sup>76</sup> Ibid.

<sup>77</sup> Later, *Secretaria dos Negócios do Brasil e do Reino*.

<sup>78</sup> MALERBA, Jurandir. *A Corte no exílio. Civilização e poder no Brasil às vésperas da independência (1808-1821)*. São Paulo: Companhia das Letras, 2000, p. 246-253.

<sup>79</sup> MACEDO, Roberto. *Brasil sede da monarquia. Brasil Reino (1º parte)*. Coleção História Administrativa, Brasília: Editora da UNB, 1983, p. 168.

sing at his expense a Company of Cavalry as part of the same Corps of the Royal Guard of the Police,<sup>80</sup> he was granted the rank of captain and the right to appoint lieutenants and ensigns at his discretion, under nine strictly defined conditions—a longstanding practice in the Iberian monarchies.<sup>81</sup> As other scholars have shown, in some cases a further incentive was the possibility of the sale of military commissions between individuals.<sup>82</sup>

Luiz Moutinho Lima Alves e Silva manifested his “patriotism” through a “free gift”, donating lands to the Crown in Cosme Velho, in the city of Rio de Janeiro, which earned him a habit of the Order of Christ in 1818.<sup>83</sup> Luis da Silva, who undertook to found a town in the Captaincy of Maranhão in 1817, was granted the *mercê* of the title of *alcaide-mor* (governor) of the said municipality, on the condition that:

“[he would] clear land for white settlers in the number of thirty married couples, and build at his own expense a Town Hall, Prison, and undertake expenses necessary for the establishment of the said town [...] and, the residents in any case not being sufficient for erecting the buildings necessary for creation of a town, which I had undertaken to do, in order to avoid the inconveniences and serious vexations that they suffer in their judicial dependencies, [...] buying for that purpose the necessary lands, offering them to the inhabitants of that place.”<sup>84</sup>

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The monarchy no longer had to expend scarce resources to promote ventures that were essential to the “public utility”, instead dispensing favours (*mercês*) that were not a burden on the royal coffers. The recipients offered funds in exchange for commissions and offices which they would certainly not have been able to obtain by other me-

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<sup>80</sup> Coleção Leis do Império do Brasil (1813), Op.cit, p.34.

<sup>81</sup> COSTA, Fernando Dores, Insubmissão. Aversão ao serviço militar no Portugal do século XVIII. Lisboa: Imprensa de Ciências Sociais, 2010, p.203-206.

<sup>82</sup> ANDÚJAR CASTILLO, Francisco. El sonido del dinero...Op.cit.

<sup>83</sup> Coleção Leis do Império do Brasil (1818), Op.cit, p. 11.

<sup>84</sup> Coleção Leis do Império do Brasil (1817), Op.cit, p.28.



ans. These *mercês* elevated them into petty nobility, whose ranks were further swelled as a result of the Portuguese crown's policy of granting honorific titles in the first decades of the nineteenth century.<sup>85</sup> In the absence of further studies on this matter, it is not possible to say categorically which posts were sold or acquired in exchange for indirect monetary investments or donations, although we may suppose that given the economic conjuncture at least some of the royal favours were obtained in this way. As for titles of nobility, these were also granted in greater numbers in the period 1808-1820 than in the previous thirty years. But this increase was due to the creation of titles below the rank of Grandee that were in some cases granted to natives of America.<sup>86</sup> Considering the social profile of the holders of titles such as those of viscount and baron, we may speculate that some were acquired in exchange for financial contributions of various kinds, and, in some instances at least, purchased. The evidence however does not support the claim that "in Portugal it took 500 years to become a count, in Brazil, 500 *contos*," made long ago by Pedro Calmon.<sup>87</sup>

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The reduction of the number of officials in the Lisbon *Casa de Suplicação* (Court of Appeals) and the *Relação* (High Court) in Oporto, "so that they are neither too few for the dispatch of the daily business [of those tribunals], nor by their excessive number prejudicially burden my Royal Exchequer with the payment of superfluous salaries," was one of the measures taken in 1813 to balance the accounts of the Royal Treasury, "now in need of the most careful economy, as a means of safeguarding the State."<sup>88</sup>

<sup>85</sup> MALERBA, Jurandir. *Op.cit.*, p. 216.

<sup>86</sup> MONTEIRO, Nuno Gonçalves. Nobreza titulada e elites na monarquia portuguesa, antes e depois de 1808. In: CARDOSO, José Luis; MONTEIRO, Nuno Gonçalves; SERRÃO, José Vicente (orgs). Portugal, Brasil e a Europa napoleónica. Lisboa: ICS, Imprensa de ciências sociais, 2010, p. 349-365.

<sup>87</sup> CALMON, Pedro. *O rei do Brasil*, Rio de Janeiro: Olympio, 1935. Apud WILKEN, Patrick. Império à deriva. A corte portuguesa no Rio de Janeiro. (1808-1821). Available at: [www.leya.pt](http://www.leya.pt). Accessed: 25 April 2017.

<sup>88</sup> Coleção Leis do Império do Brasil (1813), *Op.cit.*, p.14.

More common seems to have been the sale of offices granted as triennial *serventias* (more than one lifetime) as we have tried to demonstrate here. They were undertaken by the *Juntas das Fazendas* of the American captaincies, institutions created in the Pombaline period that steadily continued to gain the trust of the central administration in the subsequent decades.<sup>89</sup> In 1818, for example, the deputy clerk (*escrivão deputado*) of the *Junta de Fazenda* of the Mato Grosso captaincy, Domingues Mendes Miranda, by order of the governor (who in all the captaincies presided over these institutions) organized a public auction of the offices of justice that happened to fall vacant at the time. In the three days during which the auction was open, there was only one bidder for the office of *juiz dos órfãos*, and none for “the offices of court clerk, notary, and the judgeship” (probably the judge’s clerk or notary). Faced with this embarrassment, Miranda was concerned because:

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“The donatives of the offices of justice of this captaincy of Mato Grosso being one of the principal sources of Your Majesty’s revenue, if they are not auctioned off, this is the only circumstance in which Your Majesty may transfer all the profits of any branch of the royal revenue to a third party, though they must follow the procedures of all other contracted royal revenues.”<sup>90</sup>

The deputy clerk clearly signalled the importance of donatives to the captaincy’s finances. However, since in this case they would not yield their profits due to the lack of interest in the purchase of the offices, the obligation of the holders to pay a third part of their annual income offered some reassurance that royal revenues “would not fall behind.” In more prosperous provinces, such as Minas Gerais, whose economic diversity considerably reduced the impact of the decline in

<sup>89</sup> Criação das novas Juntas da Administração e Arrecadação da Real Fazenda, como naquela criada em 19 de Abril de 1817 na Ilha de Santa Catarina. Coleção Leis do Império do Brasil (1817), *Op.cit.*, p.20.

<sup>90</sup> Arquivo Nacional do Rio de Janeiro. Série Fazenda. Fundo 99, IF<sup>2</sup>14. Thanks to Cláudia Chaves for her generosity in making this document available, which is being used here for the first time.

gold production, the auctions of public offices were more successful, as can be gleaned from the “ledger of income from the donatives of the offices of Justice of the Province”, listing the grants of triennial *serventias* at the local and district level in the period from 1813 to 1821.<sup>91</sup>

## Final Considerations

During the regency and later reign of D. João VI in Brazil, appointments to public offices were made using the full range of available mechanisms. Although it is not possible to provide exact figures for each one of these, or the frequency with which certain criteria were taken into account in the selection of officials, based on a variety of different types of sources what stands out is the primacy of offices that were granted in *serventia*, or provisionally (lifetime and above all triennial), which is evident in the writings of the councillors and government officials, in the legal decrees and documents, in the *alvâras* or letters of appointment, and in the petitions of the American subjects.

From the study of the provision of public service in a very specific political context, and when the finances of the Portuguese monarchy were undergoing a major upheaval, we have demonstrated the adoption of an administrative policy that was built on the premises laid down in the late Ancien Régime, beginning as early as the 1740s and more unequivocally and wholeheartedly during the Pombaline period. If, on the one hand, growing criticism of the principle of heritability and the patrimonialization of offices had since that time pointed towards the strengthening of the system of rewards for services (the economy

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<sup>91</sup> Arquivo Nacional do Rio de Janeiro. Série Fazenda. Fundo 99, IF<sup>2</sup>12. As Alberto Gallo has shown, the sale of middle-ranking offices in the eighteenth century, mainly after 1741, was especially common in the captaincy of Minas Gerais, GALLO, A. La venalidad de oficios publicos durante el siglo XVIII. In: BELLINGERI, M. (coord). Dinamicas de Antiguo Regimen y orden constitucional. Representación, justicia y administración. Siglos XVIII-XIX. Torino, 2000, p. 97-175.

of favour), essential to the consolidation of the idea of the monarch as the fount of distributive justice, on the other hand, the continued encouragement of venality with respect to the middle-ranking offices contradicts the notion, still widely current in Luso-Brazilian historiography, that a modernizing trend characterized by the acceptance of meritocratic principles (in the Weberian sense) was already discernible in this period.

The reasons for the persistence of venality are certainly more numerous than those outlined here, which essentially boil down to concerns over the state of royal finances, and their recovery. The availability of an increasing number of vacant offices and their subsequent sale through public auction also resulted in the Portuguese crown finding itself with a far broader and more heterogeneous range of subjects who were granted the privilege of beginning the ascent through the ranks of the state bureaucracy. On this particular point, only a study of the social backgrounds of public officials can reveal the percentage of Americans in this new configuration. Nevertheless, it is safe to say that this period marked the beginning of the process of the expansion of a government bureaucracy that would in due course serve the new Brazilian national state. Yet the fact remains, as we have tried to show, that a very large number of offices were granted on a provisional basis, in triennial *serventia*, and through sale, above all to raise funds for the support of the monarchy, and it is impossible to ignore this “conservative” (because traditional) tendency in the Portuguese administration in the first decades of the nineteenth century. As stated at the outset, the postulated dichotomy between the Ancien Régime and liberalism does not reflect the reality of a period marked by extreme ambivalence, as this study has demonstrated.

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