

URBAN CHARITY IN POST-REFORMATION FRANCE

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The contribution of the English concept of charity to the development of English law and the fabric of society cannot be under-estimated either in England or in other countries which share the heritage of the common law. In according English charity law the credit which it undoubtedly deserves, however, it is easy to overlook comparable developments of equal importance which occurred in other countries which do not share the influence of the common law and in which the use of the trust as a vehicle for social provision is unknown.

One such area of interest is provided by the example of urban charity in Post-Reformation France and in particular by the structure and purposes of the "welfare" organisations operation in the City of Lyon during this period, for which substantive records still survive and to which considerable academic attention has been directed.

For a variety of reasons which are outside the scope of this article the impact of the Reformation was less important in France than in England, Germany and the Low Countries. One of the consequences of this was to maintain and strengthen the link between the Roman Catholic Church and the provision of alms and to reinforce the restricted meaning which the word "charity" retains in France even today. Thus "charity" was and is essentially regarded as eleemosynary or compassionate and:

"still has the restricted meaning of work carried out by a church or church-related organisations mainly, and especially for providing aid and comfort to the poor and needy."²

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² Fearn and Hondius, *Interphil's Glossary of Terminology in the Field of Charities, Foundations and other Non-Profit Organisations* (1977) 9.

Historical Background

In Sixteenth and Seventeenth Century Lyon there was a predominantly Roman Catholic population but with a small and influential Protestant (*Religion Prétendue Réformée*) minority. By 1570 it was estimated that there were 45,000 people resident in Lyon and during the Sixteenth and Seventeenth Centuries the City suffered from cycles of economic depression and the resultant grinding poverty which stemmed, not least, from its dependence on the fluctuating fortunes of the silk weaving trade.

In Lyon and its surrounding areas frequent outbreaks of plague and famine drove many from the countryside to swell the numbers of Lyonnais who were already suffering from the food shortages exacerbated by the hoarding of grain by speculators and led one contemporary commentator, Jean Luis Vives, to express his horror at the sight of the starving common people who had the appearance of newly disinterred corpses.³

Rioting, which was serious on at least one occasion, together with the commonly held belief that the influx of beggars and vagrants spread the plague led to mounting anger towards the mendicants. It also led to many citizens, both Catholic and Protestant, questioning whether the traditional pattern of individual almsgiving to the needy was any longer sufficient to deal with the pressing social problem of urban poverty.

Hospitals in Lyon

There was already a medieval *Hôtel-Dieu* or foundling hospital in existence. This operated to provide care for the sick and for infant foundlings. In 1534, however, the *Aumône-Générale* (the *Aumône*) or central food distribution centre was established with a view to providing relief of a different nature in an attempt to tackle the problems which then confronted the urban poor. This was created by the City Consuls following various experiments of a temporary nature particularly during the appalling spring famine of 1531.

The Regulations of the *Aumône*, published in 1539, bore the emblem of the pelican - a token of the early Church which symbolised both Christ and Charity. Begging was prohibited and the officers of the *Aumône* visited the poor in their homes on a regular rota basis, referring the sick for free medical treatment to the *Hôtel-Dieu* and distributing relief tokens redeemable for bread and money to both the impotent and those in work who were unable to support their families.

There was thus a clear distinction in the treatment of the idle beggar as opposed to the impotent and those who had merely fallen on hard times. Between 1534 and 1561 it is thought that approximately 5% of the poor were receiving bread and money at any one time from the *Aumône*. Able bodied beggars were put to work on menial tasks and in the period after 1613 any who were resident for less than seven years in the City were expelled. Subsequently any able bodied persons found begging were interned in the *Hopital de la Charité* (also run under the authority of the *Aumône*)

³ See N Z Davis "Poor Relief, Humanism and Heresy: The Case of Lyon" (1968) *Studies in Medieval and Renaissance History* Vol V 177-64 and W.J. Pugh "Social Welfare and the Edict of Nantes" (1974) *French Historical Studies* Vol VIII 349-3776.

which was completed between 1617 and 1622. This was essentially part prison for able bodied beggars and part workhouse housing the aged and the *filles repenties*⁴ (rescued prostitutes) and bore many of the hallmarks of the English Bridewell which was established as a house of correction in 1557.⁵

Hospital Structure

The Lyonnais Hospitals were successors to the *Piae Causae* (charitable purposes) of the Justinianic period.⁶ By medieval times although the authority of the local bishop would have been required to authorise the building and consecration of the hospital chapels the hospitals had come to be recognised as independent legal entities having a separate and identifiable existence with an independent *Patrimoine* (patrimony).⁷ They also bore some of the hallmarks of certain bodies corporate in English law, such as the exercise of their powers under individual common seals.

⁴ It also formed the model for the nationwide establishment of *Hopitaux Généraux* after 1662. See D Roche "A Pauper Capital: Some Reflections on the Parisian Poor in the 17th and 18th Century" (1987) *French History* Vol I, No.2: 182-209.

⁵ See M. Chesterman *Charities, Trusts and Social Welfare* (1979) 18.

⁶ See H Picarda "Charity in Roman Law: Roots and Parallels" CL & PR, Vol I, 1992/93 Issue 1, at 10 et seq.

⁷ *Patrimoine* refers to the total sum of all assets and liabilities which are attributable to either an individual or any body having a recognised independent legal existence. An incorporeal body such as a hospital foundation would nowadays be referred to as the possessor of *Une Personnalité Morale* which is generally translated somewhat clumsily as "a moral personality".

Both the *Hôtel-Dieu* and the *Aumône* (and the hospitals under its control) were governed by autonomous boards of Rectors chose by co-option. Accordingly in practice by the mid-Seventeenth Century one Rector of the *Aumône* was chosen from among the Canons of Lyon Cathedral and one from among the former City Consuls thus ensuring both religious and municipal oversight of its operations. There was accordingly some similarity between the Rectors and an English body of charity trustees, even in the absence of any trust, since they managed the *Aumône* as a legally independent and separate body for the benefit of others and without any financial gain for themselves (this is the apparent origin of the term *gestion desinteressé*).

Hospital Funding

Funding for the *Aumône* and *Hôtel-Dieu* was provided from a number of different sources. These included both lifetime gifts and legacies and in this respect a prudent choice of wealthy Rectors was clearly desirable! There were also house-to-house collections, alms boxes and the diversion and utilisation of the property of older hospitals which were no longer in operation. Weekly or monthly contributions were also pledged, probably by the wealthy merchant classes who formed the *nouveau riche* of the City at this time. In addition it appears that funds came from court fines and lotteries and from the periodical imposition of a tax on wine.⁸

Other "Charitable" Purposes

In addition to the provision of poor and sick relief the Rectors of the *Aumône* pursued other purposes which bore an uncanny resemblance to those listed in the Preamble to the Statute of Charitable Uses.⁹ They established an ambitious programme of education, opening two hospitals to receive orphans and foundlings when they left the *Hôtel-Dieu* at the age of seven. All the boys and some of the girls were taught to read and write and the Rectors funded the education of the brightest boys at the School of the Confraternity of the Trinity which was in essence a grammar school.

⁸ This makes an interesting comparison with the introduction in England of the Poor Relief Act of 1572.

⁹ 43 Eliz C IV.

The Rectors adopted all the children under their care save for those bearing the stigma of illegitimacy. In addition they saw to it that most orphans were apprenticed to artisans in important and skilled trades such as painting and embroidery at the expense of the *Aumône*. They provided dowries for the "poor maids" under their care upon marriage, and training and employment in the silk weaving industry for the orphan girls in their hospitals.

The Rectors were not, however, alone in pursuing purposes which would have been recognisably charitable in Tudor England. The Company of the Holy Sacrament, under the influence of Charles Démi, was a potent force of the Catholic Counter Reformation. The Company built a *Maison de Filles Penitentes* in 1661 to keep young girls from prostitution and attempted the reform of *Filles Publiques* to which extent it bore some similarity to *Hopital de la Charité*. This was granted *lettres patentes* in 1665 and was thus recognised as an independent foundation similar to the *Aumône*.¹⁰

In addition to the establishment of independent foundations a number of religious orders were engaged in carrying out purposes which were not limited to the relief of individual poverty and sickness. The *Pénitents Noirs* provided help for *Les Pauvres Honteux* (distressed gentlefolk) and it is probable that a *Bureau du Pret Charitable* (pawn shops charging a lower than market interest rate) and *Bureau de Conseil Charitable* (which was essentially a Seventeenth Century law centre for the poor) were established to keep the poor from clutches of uses and to assist their law suits. The *Pénitentes de la Miséricorde* was an order founded in 1636 to provide relief for prisoners and to help repay the debts of those imprisoned in debtors' prisons. A series of *petites écoles* were established by the Company of the Holy Sacrament to provide training in manual skills and morality for poor children. The apparent success of these schools can be measured by the fact that there were sixteen in operation by 1689.

Conclusion

It is clear that much of the known welfare provision in Lyon during the Sixteenth and Seventeenth Centuries bears a more than passing resemblance to Tudor England. Whilst this represents in both countries a response to the common problems faced by society at that time in England the developments formed the basis for a discrete

¹⁰ By Orders of 1659 and 1666 the King had decreed that no *personne morale* could be created "without our permission by *lettres patentes* well and duly registered", i.e., under the King's Hand. This established the principle of the preliminary requirement for the Royal authorisation of foundations although it was not until the June 1739 Declaration concerning the serfs subject to the jurisdiction of the Parliament of Metz that the principle of approving only those foundations which could be shown to be really useful gave rise to the concept of recognition of being of public utility (*reconnu d'utilité publique*) which is a requirement even today for the establishment of a French foundation. See M Pomey *Traité Des Foundations D'Utilité Publique* (1980) 34.

system of charity law applicable today. In France, however, despite the imposition of restrictions on the establishment of hospital and other foundations in the Eighteenth Century a number of such institutions continued to be founded until the overthrow of the *Ancien Régime* by the 1789 Revolution. A series of Acts, culminating in a decree of the 19th March 1793, which ordered the sale of the goods of hospitals, foundations and endowments for the benefit of the poor, meant the total abolition of all foundations. This was coupled with the confiscation of the property of the Church, including that of the religious orders, which resulted ultimately in the public offer for sale on 2nd November 1789 of the lands of the Church valued at 400 million livres. Thus the Revolution brought a complete break with the charitable and philanthropic work both of the independent foundations and the religious orders. The post-Revolutionary period from the Consulate onwards was to witness many novel developments in the field of charitable and philanthropic endeavour, but that is another story.¹¹

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