Introduction

"When I say 'the church,' I do not mean only a place."[1] John Chrysostom said these words in April 400.[2] Rumor had it that the bishop refused to welcome a fugitive who sought protection in his church. It was said that a certain Count John got arrested because John Chrysostom denied him asylum. John Chrysostom delivered a homily in the church that day, telling his listeners not only what happened from his perspective but also what it meant for a church to be a church. He told them that a church was not just a special shelter, a place where people could expect that they would not be assaulted no matter what their crime. He told them that the church was "faith and life" (*πίστις καὶ βίος*).[3] One should not just rest under the protective sacrality of the church. One should conform to the sacred "mindset" (*γνώμη*) of the church; one should become the church.[4]

John Chrysostom was one among many bishops who tried to define what it meant for a church to be sacred. In the homily cited above, he urges his listeners to see beyond the legal definition of a church as a *res sacra*, a "sacred thing." I will return to the story of John Chrysostom at the end of part I, but until then the topic of this book will be the very legal definition that John Chrysostom sought to transcend—the legal definition that, for John Chrysostom, governed the church as though it were a mere body without a mindset guiding it.[5] In part II, I will resume the theme of John Chrysostom's "mindset" of the church or the ritual discourse concerning "the sacred."

The making of churches into *res sacrae* occurred, legally and canonically, from Constantine to Justinian. But even though church property in many ways was already treated as a *res sacra* by Constantine and his successors, it was not until the time of Justinian that church buildings and their properties explicitly became *res sacrae*. Part I tells the story of how a definition of "the sacred" conceived for traditional Greco-Roman temples was applied to ecclesial property and expanded in scope in the process. I craft this story on the basis of two kinds of rules: the laws of emperors and the canons of bishops. A canon was an ecclesiastical statute

usually promulgated as a result of a council. I use the term "law" in the broadest and most neutral sense to refer to emperors' constitutions, rescripts, *leges*, and so on. Civil and ecclesiastical authorities in late antiquity differentiated between laws and canons, even though they were not hermetically sealed sets of rules.

Imperial chanceries and episcopal synods did not act independently of one another. Emperors convoked some episcopal synods, sent officials to oversee or even preside over proceedings, and enforced certain canons by issuing corresponding laws. Bishops petitioned emperors for legislation that supported their practices, resulting in the expansion of what the designation *res sacra* entailed. While both the imperial and episcopal bodies sought to synchronize their rules, they disagreed as to the direction in which the synchronization should occur. At times, emperors refused episcopal petitions; at other times, bishops persisted in practices that civil authorities outlawed. The discursive construction of ecclesial property as a *res sacra* took place in the midst of such cooperation and tension.

Imperial and episcopal rule-making bodies from Constantine to Justinian granted ecclesial property the same characteristics that the emperor and his civil laws had. Church property became sacred things. That meant they were inviolable: they were protected by God, and in turn provided protection and safety. Just as the emperor and his laws were inviolable, divinely protected, and ensured protection and safety, so too were churches.[6] Although emperors ceased to bear the title of *pontifex maximus* ("high priest") by the end of the fourth century,[7] they nevertheless continued to wield important control over sacred things. Such is the image of ecclesial property that laws and canons paint.

I will follow the contours of this image in part I and show that familiarity with it sheds a different light on well-known episodes of ecclesiastical history. Disputes commonly considered theological in nature had as much to do with the control and administration of ecclesial property as they did with knowledge of God. For one thing, church buildings and property played no small role in the deposition of bishops such as John Chrysostom and Ibas of Edessa, among others. For another, disputes created stigmas for centuries among Christians in North Africa on account of *res sacrae*. Rules regarding ecclesial property mattered. Rule-making bodies provided the blueprint for churches by setting conceptual parameters on what could and could not be done with sacred property.

In part I, the reader will encounter three distinct but interrelated structural components: analysis of juristic pedagogy, compilation of rules from various regions of the Roman Empire, and case study. The compilation of rules does not make for light reading. I have compiled and organized rulebooks in order to make a cumulative point. No matter where one looks—north or south, east or west, canon or law—one general principle appears again and again in the late antique Roman world: sacred things are divinely protected and protecting.

It is not because copies of rules from one region migrated to another that such a general principle can be found across the Mediterranean. Rather, it is because

of pedagogical practices. Even after the last western emperor died, legal practice in both East and West continued to rely on classical jurisprudence produced in the second and third centuries. The general principles outlined in such jurisprudence were taught all across the Mediterranean.[8] Nevertheless, every locale applied the general principles in its own way. Therefore, I have also included many of the specific details of the rules cataloged in part I so as not to level out the granular texture of regional particularity. However, I do not place or analyze each rule in its specific context. To do so would detract from the main point: that classical juristic principles taught in Roman law schools surface again and again in the rules produced by both imperial consistories and ecclesiastical councils. Instead, I include select case studies at the end of each rulebook. The case studies make the significance of some rules come alive through reports of bishops' trials and show how knowledge of the rules supplies us with a new reading lens by which to interpret well-known conciliar proceedings and other reports about the individuals at the highest level of ecclesiastical administration, the bishops.

It would require another book altogether to evaluate the enforcement (or lack thereof) of the rules amassed in part I.[9] This book is not about how or to what extent prescriptive ideologies affected the real lives of human persons. This book is about naming those prescriptive ideologies and noting how thoroughly they pervade the Roman Empire in late antiquity. The bottom line of part I is that, ideologically-speaking, the sacralization of things made them unowned and unownable. Scholars have sought in vain for individual or corporate owners of church property. In the late antique Roman juristic mindset, the concepts of "sacred" and "ownership" were mutually exclusive.

Whereas part I contributes to the legal turn in the study of the later Roman Empire,[10] offering a more or less comprehensive assessment of the legal status of church property, part II is not comprehensive in scope. Because jurisprudence specifies the ritual of consecration as the means by which "sacred things" are made, I turn in part II to the ritual context of the consecration of churches in order to evaluate what kind of relationship existed between the ritual discourse of consecration and the legal one. I examine select pieces of evidence: dedicatory images and inscriptions, homilies and hymns composed for church consecrations, and narratives composed to commemorate the anniversary of consecrations. I chose textual and material evidence pertaining to the ritual of consecration that a late antique audience could have likely interpreted with reference to juristic pedagogy.

I argue in part II that the discourse about church assets in dedicatory and consecratory ritual contexts is different from that of the legal one, yet not always mutually exclusive. To carve the contrast in high relief, I borrow language from social anthropologists. Legal protection of ecclesial property entailed limiting their exchangeability, a process anthropologists call "singularization."[11] Ritually, however, exchange of ecclesial property was the very means by which humans became living temples and were socialized into the celestial kingdom. In both legal and

ritual contexts, ecclesial property was a "gift," but the legal discourse restricted the possibilities for regifting it, whereas the ritual one celebrated such opportunities.

"Commodity," of course, is a term foreign to the historical sources analyzed here. However, it is a useful term for describing how donors reacted to the ritual discourse. To donors, regifting amounted to the recommoditization of their singularized gifts.[12] For this reason, when bishops prioritized the ritual understanding of how to use church assets over the legal one, donors could pursue them. Sometimes bishops did suffer the juridical consequences for their ritually sound but illegal repurposing of donations.

When Christian groups did not have the law on their side and were imperially repressed, they created a ritual discourse to push back against the regulatory one in another way. Such groups resorted to the composition of pseudepigraphy about consecratory rituals to claim for their churches the status of "sacred thing" that had been denied them legally. For the pseudepigraphers, the grantor of sacrality was Christ and his agents without the intermediary of the civil government.

I distinguish ritual from law in order to indicate how the former responded to the latter. In fact, however, the two are related. It is the juridical context that authorized the ritual of consecration, making the ritual a subsidiary aspect of the law. Indeed, it is this dependence that the pseudepigraphers discussed in chapter 6 sought to undo.

The purpose of part II is not to show that such ritual discourses were somehow unique. In fact, scholars of traditional Greco-Roman ritual practices, Christian monasticism, premodern gift-giving, and still other fields will notice innumerable similarities. The purpose of part II is to show how ritual practices responded to legal strictures. Imperially endorsed bishops generated a ritual discourse surrounding *res sacrae* that, when taken to its logical conclusion, turned the legal discourse on its head. Those bishops who were not imperially endorsed created a ritual discourse that pulled the rug out from under the legal framework.

This book offers an account of how ecclesial property was socially constructed as sacred in late antiquity. It evaluates the relationship between legal and ritual views of what made church property sacred. Like tectonic plates, the perspectives "fit," but events on their colliding boundary "shook" late antique societies in discernable ways.

Chapter 1 identifies the way in which a "thing" (*res*) became "sacred" (*sacra*), by whom and how such "things" were administrated, and how others' "sacred things" were delegitimized. A case study of a dispute that Synesius of Cyrene reports shows one way by which the legal making of churches could be abused for the purpose of usurping territory outside one's jurisdiction. A case study on the trial of Crispinus of Calama demonstrates how bishops in North Africa petitioned for laws against their rival bishops in order to delegitimize them and their sacred places.

Chapters 2 and 3 examine what it meant for a thing to be sacred. Chapter 2 shows that the sacred was protected by God, while chapter 3 demonstrates that

the sacred was protecting of those in need. Chapter 2 explains that ecclesial property was protected from alienation and damage. A case study on a contested early sixth-century episcopal election in Rome (the so-called "Laurentian schism") shows how the matter of churches' protection could be employed to question the validity of an election and become an opportunity for the relationship between church and state to be worked out. A case study on the problem of interests of bishops' kin demonstrates that issues of financial misconduct were as important as problems of blasphemy or heresy in trials of bishops.

Chapter 3 draws a picture of how protected places became protecting sanctuaries by analyzing three legally regulated ways in which sacred places offered protection to those in need: manumission of slaves, asylum of refugees, and ransom of captives. Although textbooks of Roman law did not teach that *res sacrae* had any protecting characteristics, bishops petitioned civil authorities for legal support of churches as places of sanctuary. The classical legal category *res sacra* was not applied inflexibly to Christian temples but rather morphed in the process of application. In particular, bishops advocated for expanding the types of sacred property exempt from the rule against alienation. Case studies on bishops accused of sacrilege for their practices of mercy bring into high relief the fine line between financial misconduct and care for the needy.

Chapter 4 examines the material remains of late antique church floors and walls, particularly images and inscriptions installed to dedicate churches to their celestial patrons. In certain ways, such material culture visually reproduced juristic rhetoric: that God and his saints protect their churches. In other ways, however, images and inscriptions invited viewers to learn that the rules governing wealth-investment strategies in the celestial realm differ from those of the terrestrial realm. Chapter 4 pairs with chapter 3 in that it resumes the topic of churches as protecting spaces.

Chapter 5 analyzes compositions produced for performance on the occasions of church consecrations. This chapter argues that orators and hymnographers ironically downplayed the significance of the church building during the festivities of its consecration. Such performers used the occasion instead to pinpoint human beings as the true temples of God and explain how humans must enter into athletic competition with church buildings and surpass their value. Chapter 5 pairs with chapter 2, showing how performances did not define ecclesial property in terms of alienability (as jurists did) but as a blueprint for the human soul's perfection.

Chapter 6 first offers a brief overview of the many ways in which consecrations were commemorated with anniversary celebrations. The chapter then focuses on one particular set of literature produced in Egypt: pseudonymous homilies for the annual anniversary of imperially repressed churches in Egypt. These homilies reframe scriptural stories to offer narratives of how the respective churches were originally built and consecrated. The chapter argues that the writers

composed such stories in order to defend the sacrality of their churches despite the government's refusal to grant them the status of *res sacrae*. Chapter 6 pairs with chapter 1, analyzing ritualized responses to the juridical question, "what makes a thing sacred?"

The term "sacred" has been a difficult one to define, with most historians resorting to modern anthropological descriptions in order to make use of it. I show that there was a juridical definition of "the sacred" in late antiquity, one originally conceived for "pagan" sacred spaces but later applied to Christian temples. This legal definition of "the sacred" has far-reaching consequences for understanding why Christians fought over ecclesial property and composed pseudepigraphy from AD 312 to AD 638. Management of church wealth was a major issue—just as important as theological questions during this period of "the early church councils"—and scholars misunderstand well-known figures and events by ignoring the legalities.