

A Profitable Activity: The Jurisdiction over the Cameral Obligation of the Auditor Camerae, the Court of the Capitoline, the Tribunal of the Vicar General, and Others

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A Profitable Activity: The Jurisdiction over the Cameral Obligation of the *Auditor Camerae*, the Court of the Capitoline, the Tribunal of the Vicar General, and Others

Antonia Fiori

The executive procedure initiated by contracts containing the cameral formula was reserved—at least in theory—to the jurisdiction of a judicial department originally part of the Camera Apostolica, which eventually became independent: the tribunal of the *Auditor Camerae* (henceforth A.C.).²⁰ It was an ordinary court with immense powers, which enabled it to exercise both the secular and spiritual *gladius*. Its prerogatives were first defined in 1485 by Innocent VIII, with the bull *Apprime ad devotionis*.²¹

Its office was composed of a certain number of judges, civil and military lieutenants, and a well-organized notarial structure that eventually comprised up to ten offices. At the end of the 17th century, after Innocent XII's creation of the so-called *Curia Innocentiana*, its seat was the Palazzo di Montecitorio.

The offices of the A.C. were always overloaded with work and their most profitable activity, on which they in fact depended economically, was the writing of contracts *in forma Camerae* and in their forced execution. Because it was such a profitable activity, various tribunals competed with the A.C. for this privilege.

In 1513, in order to protect its prerogatives, Leo X indicated the cameral obligations as the exclusive jurisdiction of the A.C. In the motu proprio *Iniunctum*, he cautioned all other judges against having anything to do with them, under pain of excommunication or monetary penalties.²² There was to be only one exception. If questions inherent to a cameral obligation arose in the course of a different trial, then it was allowed that the contract could be executed in that same jurisdiction.

Leo X's intervention did not prove very successful. He complained just a few years later that the exclusive jurisdiction of the A.C. continued to be undermined through various pretexts.²³

Other pontifical measures were therefore necessary. Pius IV dealt with the matter in 1561 with the bull *Ad eximiae devotionis*²⁴ and in 1562 with the bull *Inter multiplices*.²⁵ For the first time, he spoke expressly of a *privativa* (exclusive jurisdiction) over cameral obligations and granted a special privilege to Roman citizens.

In general, on the basis of what Sixtus IV established in 1473, the court of the Capitoline had jurisdiction over the inhabitants

and secular citizens of Rome, and the court of the Papal Vicar over the Roman clerics.²⁶ The cases of cameral obligation were nevertheless reserved for the A.C.

Pius IV instead gave Romans the possibility of asking for the execution of obligations *in forma Camerae* at the Capitoline court. The privilege, already granted with the *motu proprio Dilectos filios senatorem*²⁷ and confirmed with *Ad eximiae devotionis*,²⁸ was initially appended to the 1567 edition of the Roman statute and, then, beginning with the Gregorian statute of 1580, its regulations were merged in chapter 41 (*De foro competenti*) of Book I.

The privilege of Pius IV was a clear sign of respect for Rome and was confirmed by successive pontiffs. All the same, according to Giovanni Battista De Luca, Romans continued to prefer the highly specialized A.C. for the cameral obligations.²⁹

Pius V instead extended jurisdiction over cameral obligations to the tribunal of the Vicar. Initially it was done with the *motu proprio Considerantes* of 1566, with regard to the clergy and to *loca pia*.³⁰

He returned to it at the time of the reform of the tribunal of the A.C., introduced on November 20, 1570, with the *motu proprio Inter illa*.³¹ While recognizing the exclusive competence of the A.C. regarding the *cognitio* and *executio* of the cameral obligations, it established that debtors who were secular Roman citizens could appear before the Capitoline court, whereas the principle of *praeventio* between A.C. and office of the Vicar would be applied to clergy, whether Roman through birth or benefice: in other words, the first assigned judge would have been able to proceed with the case.

Paul V confirmed this regulation with the constitution *Universi agri dominici* (1612).³² According to common opinion, the regulation represented the definitive codification of the material. All the same, after 60 years, the jurisdiction of the Vicar on the cameral obligations started to become the subject of shifting reforms. This situation persisted until 1742, when Benedict XIV, with the constitution *Quantum ad procurandam*, returned the jurisdiction of the Vicar within the limits fixed by the reform of Paul V.³³

Therefore, as far as the cameral obligations contracted by Roman citizens were concerned, the tribunal of the Vicar was

the relevant one for the clergy, and the tribunal of the Senator (the Capitoline court) for the secular *cives* (citizens).

The orientation of the jurisprudence of the Roman Rota is to be added to the papal measures regarding jurisdiction over cameral obligations. Over the course of the 17th century, the Roman Rota further limited the exclusive jurisdiction of the A.C. within the Curia, substantially preventing the A.C. from reinstating cases of cameral obligation that had been brought before other tribunals *extra Romanam Curiam*.

The exclusive jurisdiction, ultimately, was little respected: it was violated by the tribunal of the Camerlengo and the Camera Apostolica, "prorectors and judges of the basilicas, hospitals, churches, congregations, and pious places," the magistrates of the guilds and merchants without having any right. And the cameral obligations entered into by prisoners were dealt with by the President of Prisons also after their release.

Even the *Reggente* of the Cancelleria considered himself as an ordinary judge in the cases of cameral obligation. Furthermore, the jurisdiction of the A.C., undercut by other Roman judges, was contested also by the Congregazione del Buon Governo, which ended up taking care of the cameral obligations in cases involving debts contracted by the municipalities.³⁴ In conclusion, it seems that both within and outside the city of Rome, the cameral obligation could be handled by any judge.³⁵

Among the great number of acts collected on the site *The History of the Accademia di San Luca, c. 1590–1635* are numerous *instrumenta* with the formula of cameral obligation rogated (written to be legally binding) by Capitoline notaries.³⁶ As we saw, Roman citizens could request the execution of cameral obligations from either the A.C. or the Capitoline Curia. We cannot, however, exclude that part of the Accademia's cameral obligations were handled by the Vicariate given that, as a congregation and in accordance with the Tridentine regulations, it was entrusted by Gregory XIII to the jurisdiction of the Vicar from the start.³⁷ We also know that in 1606 the Cardinal Vicar Girolamo Pamphili had nominated the jurist Guazzino Guazzini as judge in cases involving members of the Accademia, without however referring expressly to cameral obligations.³⁸