

Origin of the Cameral Obligation

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Origin of the Cameral Obligation

Antonia Fiori

The cameral obligation (*obligatio cameralis* or *in forma Camerae*) takes its name from the Camera Apostolica, the ministry in charge of the finances and economy of the Holy See. It was created initially to guarantee the cameral credits, which consisted mainly of annates, that is taxes on ecclesiastical benefices from around the world. The payment of these credits, fiscal in nature, was complicated for two reasons. Firstly, for the actual difficulty of obtaining a forced execution in distant regions governed by different laws. Secondly, because many debtors were not prompt in paying, preferring to wait to be condemned by three consistent judgments: after which, according to common law, appeals could no longer be presented and the decision became legally binding.¹⁶

The remedy adopted, to which Guglielmo Durante already alluded in his *Speculum Iudiciale* (c. 1290), was highly effective in solving both problems: the debtor was required to swear to fulfill within a certain period, or otherwise renounce any exception or appeal; the debtor was then warned that in case of failure to fulfill, he would automatically be excommunicated.¹⁷ Through his bishop, therefore, the debtor

could be sentenced to excommunication wherever he happened to be.

During the Council of Constance at the beginning of the 15th century, this procedure was heavily criticized for its oppressive nature, given the irrefutable disparity of power between the person imposing it and the one enduring it. It was defined as violent, against the law, even simoniacal.¹⁸ After the Council, the payment of taxes on benefices was regulated by the church on the basis of concordats with the individual states. This led to more limited use of the cameral obligations. From the 16th century on, they appeared mainly in contracts between private individuals.

The life of the cameral obligation was long. It lasted until the beginning of the 19th century, when Pius VII's Code of Civil Procedure of 1817 abolished the effects of the clause for the future. This provision, although confirmed by Leo XII (1824) and Gregory XVI (1831), was not included in the *Regolamento di procedura nei giudizi civili* of 1834, which specifically abolished the earlier codes: for this reason, still for some time after its promulgation, cases deriving from contracts stipulated with the cameral formula continued to be processed, until 1843 when it was declared definitively terminated.¹⁹