The Notaries

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IV

The Notaries

Antonia Fiori

The broad diffusion of the cameral formula in contracts and the speed of the procedure created an enormous amount of work that, in effect, fell almost entirely on the shoulders of the notaries.[50] They often carried out the work of the judges, who in some cases did no more than sign their names on a blank sheet, which the notaries then transformed into judicial decisions. Sallustio Tiberi said, with reference to these judgments in particular, "notarii debent esse oculi Iudicis" (notaries should be the eyes of the judge).[51]

The procedure *in forma Camerae* started in the presence of a notary. In rogating a contract of a mortgage, a lease, a census, or in any case relating to a monetary obligation, the notary inserted the typical clauses, which allowed the *executio parata*. His work accompanied every step of the executive procedure.

Unlike instruments with a clause of *guarentigia*, which already contained the act of precept, in the case of cameral obligations no jurisdiction was formally delegated to the notary.[52] The executive mandates were under the jurisdiction of the judge and papal legislation did not foresee exceptions to this principle. The intense and repetitive routine of the execution of obligations *in forma Camerae*, however, made it impossible that every judicial decision necessary to complete the various phases of the procedure could be effectively carried out by the judge according to the required formalities.

Therefore, the majority of the acts were in fact completed by the notaries of the tribunal.[53] Only in special cases, in which the intervention of judicial authority was absolutely indispensable—for example, when issuing definitive decrees—was the requirement of the written form *ad nullitatem* (i.e., without which the act is null and void) fulfilled by the signature of the judge below the annotation which the notary had made in his *broliardo*, the *Liber actorum notariorum*.

Over time, the *stylus* of the tribunal regarding the execution of the cameral obligations underwent substantial modification. The most significant changes resulted in an increased autonomy for the actuary notaries (that is, the notaries of the tribunal), which meant that the auditor, for his part, had to place an increased trust in them.[54]

Indicative of this great trust was the fact that the A.C. and his civil lieutenants regularly signed documents that only subsequently were transformed by notaries into judicial decisions. In practice, therefore, it was the notarial offices that issued—depending on the requirements—warnings or executive mandates, even ecclesiastical censures, without having to turn to the judge again.

Where possible, the notary guided the procedure, integrating the missing elements. In time, the integrations became permanent and conformed to a style.

For example, the imposition of censures initially occurred by means of a formula, written by one of the judges of the tribunal in his own hand below the obligation or added to the notary's annotation in his *broliardo*. With the passing of time, however, it became established for judges, during any audience, to limit themselves to signing what the notary had written in his *brogliardo*.[55]

Similarly, the notary would (falsely) indicate the procurator's confession of debt—which was supposed to have taken place before a judge of the A.C.—together with the procurator's presence at the time the contract was concluded, as having

occurred, when in fact these requirements were evaded in order to avoid a chaotic situation in the already crowded offices.[56]

It was, in the final analysis, the practical needs that actually determined the proceedings, and it was up to the notaries to address them accordingly. The judicial functions of the tribunal were in fact shared with its actuary notaries, although not assigned to them formally.