

Lateran V and the Monti di Pietà (1515)

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The first of the three sixteenth-century codifications concerned the *Monti di Pietà*, the public pawnbanks that appeared in the Italian cities from the 1460s, after the papal governor of Perugia, Ermolao Barbaro, had devised the first of them, and that Franciscan preachers then spread to lend small sums to the poor against pledges. Their aim was to free the poor from dependence on private moneylenders, many of whom were Jews licensed by the cities to lend at interest. To cover their costs, the Monti charged a small fee on each loan. Dominican theologians, among them Cardinal Cajetan, who wrote a treatise against the Monti, attacked the fee as usury, since it was a gain demanded from a loan. The controversy lasted half a century. It was decided by the Fifth Lateran Council in its tenth session on 4 May 1515.¹

The council first restated the definition of usury in precise terms: usury exists "when, from its use, a thing which produces nothing is applied to the acquiring of gain and profit without any work, any expense or any risk".² It then declared that the Monti "do not introduce any kind of evil or provide any incentive to sin if they receive, in addition to the capital, a moderate sum for their expenses and by way of compensation, provided it is intended exclusively to defray the expenses of those employed and of other things pertaining to the upkeep of the organisations, and provided that no profit is made therefrom". Lending of this kind was "meritorious and should be praised and approved" and "certainly should not be considered as usurious".³ The decree is a legal text of some sophistication. It preserved the prohibition of profit on loans while admitting a costbased charge, locating the decisive element in the purpose and the accounting of the charge. In modern terms, the council approved a non-profit lending institution whose fees were limited to its operating costs.

1 Cum onus (1569): the annuity contract regulated

The second codification concerned the *census* (Italian *censo*), the purchase of an annuity secured on land. In its pure form, the buyer paid a capital sum to the seller and received in return the right to an annual rent charged on a specified piece of land. Since the buyer acquired a right to future income by purchase, the contract was regarded as a sale and not as a loan. Martin V had confirmed the legality of redeemable annuities in 1425, and Callixtus III renewed the confirmation, provided the rent was secured on fruitful property and redeemable by the seller.⁴ In practice the *censo* had become the most common form of credit in rural Europe. It was also exposed to abuses: annuities charged on persons without real security, annuities whose capital the buyer could demand back at any time, rates above the yield of the land and clauses that allowed the creditor to seize the land on default.

Pius V regulated the contract by the bull *Cum onus apostolicae servitutis*, promulgated in January 1569. The bull required that the *censo* be established on immovable property that was fruitful by its nature and had fixed boundaries. It could not be established on movables, merchandise, money or animals, nor on land that produced nothing, such as rocky mountains, sand, seashores, rivers and marshes. The price had to correspond to the just price as commonly established among buyers and sellers. The bull prohibited clauses obliging the debtor to cede the property on default and the charging of new annuities on unpaid instalments, since "usuries should not create new usuries". It also forbade the creditor to demand repayment of the capital at a fixed term: whoever could demand his money back after a set time had in substance made a loan.⁵ The *censo* thus remained redeemable at the will of the debtor and irredeemable at the will of the creditor. Its income was linked to the yield of a real asset.

2 Notes

1. Norman Jones, "Usury", EH.Net Encyclopedia, 10 February 2008, <https://eh.net/encyclopedia/usury/> (the papal governor of Perugia, Hermolaus Barbarus, "invented the mons pietatis" in 1461; approval by Paul II in 1467; spread by the Franciscans); "Monte di pietà", in Enciclopedia Treccani online, <https://www.treccani.it/enciclopedia/monte-di-pieta/> (Perugia, 1462); Cajetan / de Roover (below), on Cajetan's treatise on the montes pietatis, "which he bitterly opposed". Further literature: Maria Giuseppina Muzzarelli, *Il denaro e la salvezza. L'invenzione del Monte di Pietà* (Bologna 2001). ↩

2. Fifth Lateran Council, Session 10 (4 May 1515), bull *Inter multiplices*, English translation in Norman P. Tanner (ed.), *Decrees of the Ecumenical Councils*, as published by IntraText, https://www.intratext.com/IXT/ENG0067/_PE.HTM. ↩
3. Fifth Lateran Council, Session 10 (as above). ↩
4. Hans-Jörg Gilomen and Anne-Marie Dubler, "Usura", in DSS, version of 18 November 2014, <https://hls-dhs-dss.ch/it/articles/017472/> (redeemable annuities permitted by Martin V in 1425); Bolognesi (below), 284–285, on the constitutions of Martin V, Callixtus III and Pius V on censi as treated in the later literature (*Tractatus de censibus super constitutione Pii V*, Martini, Calisti et Nicolai). ↩
5. Dante Bolognesi, "Attività di prestito e congiuntura. I 'censi' in Romagna nei secoli XVII e XVIII", in *Credito e sviluppo economico in Italia dal Medio Evo all'età contemporanea. Atti del primo Convegno Nazionale* (4–6 giugno 1987) (Verona 1988), 284–305, at 284–285, https://www.sisenet.it/wp-content/uploads/2022/09/16_Bolognesi.pdf ("Nel gennaio 1569 Pio V promulgava la bolla «Cum onus Apostolicae servitutis»"). ↩

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