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I think that no one today will doubt the importance of parliamentary assemblies within our political culture. Yet little historical enquiry has been made in recent decades in regards to its political nature and institutional origins. To define a modern parliament might not be a very difficult task but if there were parliaments in the Middle Ages, these were nothing like the institution we know today. What defines a parliamentary assembly then? And what innovation or innovations brought about its appearance in the political scene of medieval Europe? In trying to prevent this analysis from becoming a very convoluted and boring treatise of political theory, and put you asleep as a consequence, I will set these questions in the context of the historiography.

Institutional studies seem to have declined in popularity among research students in the last two decades. The reasons are evident. It is too abstract, too complex and it requires considerable additional knowledge in areas such as law, administration and political theory, all of which amount to a discouraging panorama. The task becomes even less attractive if we consider that much has been written about it, and little contribution –if anything- remains to be added to such a daunting historical contest.

The recent Ford lectures at Oxford University, however, seem to indicate a revival of the subject.¹ I was very pleased to realize that I was not the only one who had embarked on a historical task which has proved to be as difficult as trying to nail jelly to a wall. In a series of weekly papers, Dr John Maddicott –who, besides being an excellent historian, endures also the painful task of supervising my doctoral thesis- provided a very sophisticated approach to the study of the origins of the English Parliament, which stressed on the idea of a gradual evolution of assemblies from the late Anglo-Saxon period. Certainly a refreshing perspective on the subject, the Ford lectures concluded nevertheless, agreeing with much of the traditional historiography. Dr Maddicott suggested that the evolution of institutional structures during the eleventh and twelfth centuries had an important part to play in the emergence of parliament. But only with the constitutional restrictions to kingship established by *Magna Carta* and the baronial revolt in the thirteenth century, was the parliamentary phenomenon most clearly

¹ The Ford lectures were delivered by Dr John Maddicott at Oxford University during Hilary Term 2004. The subject treated was the origins of the English Parliament.

manifested in England. In other words, the existence of parliament is most evident from the moment we see legislative acts which curbed monarchical power.

The lectures concluded by presenting the English parliamentary experience as unique and exceptional. While this is a very persuasive view, we ought to remark that English historians have almost invariably looked at France as a point of comparison. Then such interpretation comes as no surprise, for the kingdom of France did not develop parliamentary assemblies until a later period and even then they were mostly concerned with judicial business. If we look at the Spanish kingdoms, however, our views on the nature and the genesis of the English Parliament may vary quite substantially.

When addressing this very intricate phenomenon, most scholarly studies are unavoidably guilty of ambiguity and generalization, and so its mine I guess. Perhaps we can only be assertive as far as suggesting that sometime in the second half of the twelfth century some occasional meetings of the royal court in the Spanish kingdoms and England gradually began to acquire what seem to be parliamentary attributes. The task posed for the scholar was then to evaluate the specific institutional significance of these symptoms in their proper medieval context, and the extent to which they made the parliamentary occasions separate and distinctive instances from the regular or ordinary meetings of the council. We ask then, what innovations have attracted historians to the conviction that a new institution had been born? And were these not simply the political adaptations of an evolving institution?

If indeed parliamentary assemblies were born out of the extraordinary or general meetings of the royal court, then analysing the changing composition of this institution may reveal that characteristic feature which separated parliamentary assemblies from other political structures. According to the nineteenth-century constitutional historian, William Stubbs, one of the essential ingredients which differentiated parliament from other institutions was: "...the representation in that assembly of all classes of people, regularly summoned..."²

This view has since gained scholarly recognition almost beyond dispute. Soon after the work of Stubbs in England and Francisco Martínez Marina in Spain, it became an undisputed general principle that the essential institutional transformation occurred when the ordinary feudal courts or councils, exclusively attended by the magnates and nobles of the realm, began to summon representatives of the towns, boroughs and villages of the kingdom, as well as the knights of the shire. In simple words, parliament was born when the king's court was attended for the first time by people other than the important nobles.

Having established the inclusion of this type of representation as the demarcating line between 'pre' and 'true' parliamentary assemblies, the task of giving parliament a date of birth became relatively unproblematic. The historians of the early parliaments then seem to have rushed to the sources to find accounts which reveal the occasional but very significant presence of urban representatives and knights of the shire in royal

² Stubbs, *The Constitutional History*, p.17.

assemblies. The records of a court celebrated in the Spanish city of Leon in 1188 under king Alfonso IX satisfied the quest. It declares, and I translate:

I, the lord Alfonso –says the introductory paragraph- king of Leon and of Galicia, when I celebrated court at Leon with the archbishop and bishops and magnates of my kingdom and with the citizens elected by each city...³

The significance of this fragment cannot be overestimated because it seems to reveal the presence of urban representatives to a plenary session of a medieval council for the first time in the Iberian Peninsula, and indeed anywhere in Europe. The recent works of Donald Kagay and Thomas Bisson have disputed the primacy of the event and instead granted the first meeting of the *cortes* to the Crown of Aragon, whose parliamentary records reveal the presence of town representatives in a meeting in Saragossa as early as 1169.⁴

So widespread was the thesis which gave an essential character to the inclusion of urban representation to the meeting of the king's council, that a precise date was also determined for the origins of the English parliament. We are also aware of the participation of towns people⁵ in what is generally accepted as the first English parliament. The meeting convened by Simon De Montfort, the earl of Leicester, required in 1265 that the boroughs of England “shall send two or more discreet, lawful, and upright citizens or burgesses”⁶ to the meeting of parliament. In addition, the presence of knights of the shire at the meeting of the king's court had ceased to become a rare event by this date.

In this way, the years 1188 and 1265 have been engraved in the early history of constitutionalism. When I first approached this subject, I could not come to terms with the idea that parliament –an institution which had changed so much since the medieval period- could have a precise date of birth. Then I ask myself is this Stubbsian framework beyond dispute? Was the inclusion of the urban element and the knights of the shire so essential as to give birth to a new type of assembly altogether?

³ Manuel Colmeiro (ed), *Cortes de los Antiguos Reinos de Leon y Castilla*, Real Academia de la Historia, Madrid, 1861, p.39. Author's translation from the Latin: “*Decreta que Dominus Aldephonsus Rex Legionis et Galletie constituit in curia apud Legionem cum archiepiscopo compostelano, et cum omnibus episcopis, magnatibus et cum electis civibus regni sui.*”

⁴ Kagay, ‘The Emergence of Parliament’, and Thomas Bisson, *The Medieval Crown of Aragon: a Short History*, Clarendon Press, Oxford, 1986. Martínez Diez on the contrary claims the first meeting of the *cortes* for Castile by quoting the *Crónica General de Espana* in reference to assembly summoned to the Castilian city of Burgos in 1169: “*e los condes e los ricos omes e los perlados e los caualleros e los cibdadanos e muchas gentes de otras tierras fueron.*” Translation by the author from medieval Spanish: “...and the counts, and the magnates and the prelates and the knights and the citizens and many people of other lands went (to the meeting)” (*Crónica General de Espana*, f387v-388r, quoted in G. Martínez Diez, ‘Curia y Cortes en el Reino de Castilla,’ p.134)

⁵ The procurators of the towns were representatives to the *cortes* or parliament with full powers to bind their communities by the decisions of the assembly.

⁶ *Reports touching the dignity of a peer from the Lord's Committees*, 5 vols., London, 1820-29, III, 33f. De Montfort convocation was in 1264 but his Parliament took place in January 1265.

Almost a century went past before such views encounter significant criticism, mainly from the works of the historians Richardson and Sayles. However, their views appeared too legalistic and rigid to convince, and came to replace one set of parliamentary legends by another. What is then the problem with such approaches? Why do we still know so little about the origins of such an important institution?

Firstly, the terminology of the writs of summons or letters of convocation is so complex, that it is rather difficult for the historian to determine what exactly an urban representative was. The Leonese curia of 1188, for example, refers to them as the '*cives electi*' or the 'elected citizens', but the *Cortes* of Benavente held only fourteen years after, describes the urban representation as 'many from each city.'⁷ The *Cortes* of Leon of 1208 speak of a 'multitude of citizens sent by the cities,'⁸ while the assemblies of Seville, 1252, Valladolid, 1258 and Toledo, 1260, simply refer to them as 'good men.'⁹ In this way, the certainty of several constitutional studies on the origins of parliament seems to defy the ambiguity of its early records. And even if an agreement in regards to the parliamentary terminology is reached, we are obliged to admit that some parliamentary assemblies, regarded by the royal clerks as such, had no urban representation and that meetings which were attended by urban representatives are not described in the records as parliaments. Sayles affirms that the "evidence indisputably showed that most parliaments, so termed by contemporaries, had no popular representatives in them."¹⁰ We are obliged now to deconstruct the ideological principles behind this approach to the history of parliament for, as we shall see, the constitutional thesis falters far beyond the technicality of the records.

In essence, this paradigm is constructed within a constitutional framework, and as such the representation of the three estates of medieval society in a monarchical institution becomes accordingly an especially significant event. The inclusion of urban representation is interpreted as the result of political pressure from underprivileged groups, and their participation in parliamentary assemblies as active and influential. The medieval political and social reality, however, provides an entirely different panorama and contrary to what constitutionally driven studies have insisted for decades, the accounts overwhelmingly suggest that town representatives were both relatively uninterested in attending the assemblies and comparatively powerless once assembled with the landed nobility. The French historian Pasquet rightly asserts that

⁷ From the medieval Spanish: '*muchos de cada cibdad.*'

⁸ From the medieval Spanish '*multitud de cibdadanos enviados por las cibdades*'

⁹ From the medieval Spanish: '*buennos omnes*' Martínez Díez indicates that this title was specifically given to the members of the king's council who were did not have the title of counts. Thus, nothing allow us to believe that the '*omnes buenos*' or good men were the representatives of the town, as it is usually suggested by constitutional historians.

¹⁰ Sayles, *King's Parliament*, p.12. Bertie Wilkinson also agrees that "several undoubted parliaments do not seem to have included representatives of the boroughs and shires." (*Studies in Constitutional History of the Thirteenth and Fourteenth Centuries*, Manchester, 1952, p.50) Furthermore, the studies of Richardson and Sayles on thirteenth century parliaments have shown that "over a period little short of seventy years, parliaments to which representatives of shires or towns were summoned, for one purpose or another, alternated with parliaments to which there was no such summons." (*Parliaments and Great Councils*, p.38).

We never find the counties and towns claiming to be summoned to parliament as of right. The knights and burgesses were by no means anxious to repair to London, York or Shrewsbury in order to waste valuable time over the king's business and to play a part of but small importance in the king's assembly.¹¹

Interestingly, this point is also demonstrated by J.G. Edwards, who has shown how a considerable number of constituencies eluded representation by persistently omitting the election of representatives for parliament.¹²

The constitutional approaches to the field have also intermingled the history of parliamentary institutions with the history of political freedom and the struggle for representative rights. This is, of course, a methodological error which has not been pointed out strongly enough by recent studies. Allen Bass and Ronald Butt have directed our attention to neglected records which suggest the existence of representative structures during Anglo-Saxon times.¹³ We know that political representation was not an unprecedented phenomenon to feudal society and thus the origins of parliamentary assemblies should not be identified with the origins of representation.

Furthermore, if parliamentary assemblies ever met in the twelfth and thirteenth centuries they did not epitomise in any way the triumph of an emerging medieval bourgeoisie over the feudal nobility but, instead, they embodied the king's awareness of the increasing wealth and influence that urban centres were acquiring. Thus, it seems quite possible that urban representatives were not summoned to alleviate any form of political pressure, but rather as a way of obtaining more revenues from taxation. Accordingly, their occasional presence in the king's court appears to be considerably less significant than what constitutional studies thought.

In trying to understand the constitutional paradigm we discover that its most misleading principle is the anachronistic perception that views the emergence of parliamentary assemblies as antagonistic towards the power of the monarchy. It is not surprising then that such view was coined by historians in the course of the nineteenth century, when most European monarchies finally lost their political power and were constrained to a set of constitutional laws. But the Spanish legal historian Torres López, writing in the 1940s, is very assertive in suggesting that and I translate and quote "to investigate the juridical and political nature of the Castilian *cortes* in the light of the ideas of popular and national representation, of the delimitation of royal power, of the

¹¹ Pasquet, *Essays on the Origins of the House of Commons*, Cambridge, 1925, p.28.

¹² See Edwards, *History and the Historians*. This is also indicated by May McKisack's exhaustive study of the representation of English boroughs in the thirteenth and fourteenth centuries. The records in fact reveal that in 1275 the towns sent a total of 114 representatives while this number declined radically to 78 in 1295 and 73 in 1301. (McKisack, *Parliamentary Representation*, Oxford, 1932) 'The Provisions of Oxford,' for example, are seemingly the result of the unity of the three estates against the king but the evidence overwhelmingly indicates that "the nation did not demand representation in the king's parliament. It was the king who imposed on his subjects the duty of sending him their representatives." (Pasquet, *Essays*, p.28).

¹³ Allen Bass, 'Early Germanic experience and the Origins of Representation,' *PER* xv, 1995, pp.1-11. I extend my gratitude to Prof. Thomas Bisson whose writings directed me to this work. See also Ronald Butt, *A History of Parliament*, London, 1989, pp.1-64.

division of powers, and of the popular voting of the state's budget, is notoriously absurd.”¹⁴

Thus the emergence of parliamentary assemblies in this period does not constitute a chapter in the story of constitutionalism and the struggle for political representation. It is instead an important episode in the history of the evolution of monarchical government and conciliar activity in the Middle Ages.

Incredible as it may seem, the scholarship of the early parliaments has been affected by constitutionalism for the past two hundred years. New methods of historical enquiry have appeared in recent times but they have not as yet been employed to review this very important topic. Very little has been written on the origins of parliament in the past two decades, and we can hardly find studies which offer comparative insights. It is not surprising then that the subject remains a very hostile journey for the scholar.

In conclusion, and after considering all the complexities involved in this subject, we can find ourselves back at our point of departure. Is the question of parliamentary origins one that actually *has* a historical answer? Did parliaments originate suddenly in the medieval period, or are they instead the product of centuries of evolution? Indeed, how significant were the institutional innovations described in this paper? Can we not say that the original structures and components of our parliaments have been shaped by the very ancient tradition of our political culture? Or perhaps that the genesis of parliamentary assemblies has much to do with the imitation of ecclesiastical conciliarism in the medieval period? While wrestling with these questions, it is perhaps more adequate to approach the question as ‘the emergence of parliamentary assemblies’, rather than ‘the origins of parliament’. In the first place, ‘origin’ is a concept which suggests absolute novelty. Secondly, ‘parliament’ is too definite a word to describe these assemblies. This is not nit-picking: the purpose of these distinctions is not to add to the ambiguity of our conclusions but to deal more effectively with the complexities of our subject. If this study has not reached a final destination, we have at least learned something about the dynamics of institutional change in the medieval period. Let the historians’ obsession with origins and beginnings continue.

¹⁴ J. Torres López, ‘Las Cortes Castellanas durante el Imperio,’ *Revista Si*, March, 1944, quoted in Valdeón Baroque, ‘Las Cortes castellano-leonesas,’ p.xi, Author’s translation from the Spanish: “*investigar la naturaleza jurídico-política de las Cortes castellanas a la luz de las ideas de representación popular y nacional, delimitación del poder real, de división de poderes, de votación popular del presupuesto del Estado, es notoriamente absurdo.*” It is important to note that although these may have been in some way characteristic features of the early parliaments, none of them can really be considered to be an essential element.