

'Cum consilio et deliberatione episcoporum, comitum, et baronum nostrorum':
institutional consultation and cooperative governance in the Spanish
kingdoms and England (1100-1188)¹ *Separation of Powers and*
Parliamentarism: The Past and the Present, 56^a Conference of the
International Commission for the History of Representative and
Parliamentary Institutions, Cracow, 2005 (Warsaw, 2007), pp. 264-276.

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If future generations of historians were to rely exclusively on the printed media to paint a sociological picture of the world, they would most certainly conclude that daily violence, endemic conflict and corruption gave shape to the early years of the twenty-first century. Would that be a fair portrayal of our civilisation, or are these reports simply confined to the themes selected by media? How are historians expected to deal with the continuous reports of violence, murder, anarchy and conflict that stain the pages of medieval chronicles? Was medieval society as violent as it is portrayed in the narrative sources that have survived?

It is in the nature of the modern media to focus on violence and conflict and it seems that not a great deal has changed since the time of medieval chroniclers. If there is anything that all these accounts share in common is that they are most naturally concerned with the extraordinary. Should medieval historians then re-create the social and institutional scenery of twelfth-century Europe on the basis of extraordinary events? For if violence and conflict were prominent features of medieval society, were these as endemic and constant as accounted in most chronicles?

The medieval accounts have always suited the constitutional approaches to the origins of parliamentary assemblies in Europe, and the glorification of "extraordinary" events has shaped the historiography almost as much as it has nurtured the popular imagination of constitutional milestones. If the relationship between twelfth-century monarchs and their powerful subjects was invariably dictated by violence and antagonism, then the dynamics of institutional change must have always been determined by conflict-resolution. In other words, if the parliamentary phenomenon is identified with an unprecedented

¹ This clause is taken from *Regesta de Fernando II*, ed. Julio González (Madrid, 1943), p. 395 [FII], and is associated to a Leonese court celebrated at Zamora in 1167. It translates into English as 'with the counsel and deliberation of our bishops, counts, and barons'.

concentration of constitutional developments, then parliaments in Europe could have only originated as a result of the confrontations between tyrannical and arbitrary monarchs and politically progressive nobles, always hungry for constitutional concessions.

Thus, if the evidence for royal consultation at assemblies is too recurrent to be ignored, such process is considered to be pre-political and purely ceremonial, for royal desires were very rarely contradicted by those who provided counsel.² According to those studies, which have intermingled the history of parliament and the history of constitutionalism, an organised challenge to the almighty and all-comprehensive power of twelfth-century monarchs was the only possible catalyst for the transformation of royal councils and courts into parliamentary assemblies.

Accordingly, the scarcity of constitutional landmarks before the thirteenth century has turned twelfth-century monarchs into almighty and arbitrary rulers, and their general assemblies into pre-political sessions entirely devoted to the ceremonial display of royal power and engineered to obtain the submissive approval of royal policies. J.E.A. Joliffe's criticism of Angevin kingship, for example, fell prey to such misconceptions. He amalgamated the political behaviour of Henry II, Richard I and John and described as 'a perversion of Christian monarchy',³ an autocratic lordship primarily and ultimately reliant on familiar and private counsel, and entirely independent of wider institutionalised consultation, occasionally used as an instance for political bullying, judicial intimidation and legislative coercion.

Tyrannical or benevolent, the debate on Henry II's rule will continue for as long as historians accept "Angevin kingship" as an explanatory concept, and persist in the anachronistic conviction that twelfth-century monarchies can be appropriately described as absolutistic or constitutional. These terms, however, reveal not the political realities of monarchical government in the twelfth century, but the frustration of modern scholarship in the hopeless attempt to turn the study of the past into a familiar experience. Kings in this period were neither absolute rulers nor constitutional champions for no principles of political theory could have given shape to such regimes and no institutional structure could have effected their application.

Furthermore, the fragile political context which surrounded Spanish and English monarchs in the second half of the twelfth century was far from the ideal setting for exercising autocratic kingship. As the Christian frontier advanced southwards, Spanish kings were forced to seek the cooperation of colonizers, settlers and warriors in exchange for unprecedented concessions, mostly in the form of urban *fueros*. In trying to maintain the fragile structure of the Angevin Empire intact, English kings also sought to gain the collaboration of nobles by means of land grants and privileges. These royal policies had reached such unprecedented magnitude that kings could hardly ignore the opportune advice of the important men of the land and alienate and risk losing their loyalty. There was no place for monarchical absolutism in this context. 'Know that I do not wish -said Henry II according to Gervase of Canterbury- nor do I have the power to withdraw from

² Thomas N. Bisson, 'Celebration and Persuasion: Reflections on the Cultural Evolution of Medieval Consultation', *Legislative Studies Quarterly*, VII (1982), and J.E.A. Joliffe, *Angevin Kingship* (London, 1955), pp. 171-3.

³ Joliffe, *Angevin Kingship*, p. 13.

the counsel of my kingdom, lest I be seen to nourish schism and discord in the kingdom'.⁴ Bearing in mind the fragility of this account, these could not be the words of an autocrat.

No absolute ruler, for example, would have consulted the nobles as much as twelfth-century kings are reported to have done. Custom dictated that kings were to consult with their powerful subjects on matters of general policy and obtain from them some form of assent.⁵ Indeed, 'successful medieval kings acted on the general assumption that to take counsel was a source of strength and not of weakness.'⁶ When the history of parliament and the history of constitutionalism are melted into one single analysis, the institutional historian is forced to conclude that if constitutionalism restricted the monarchical power and general consultation enhanced it, then the latter can only be pre-parliamentary in nature.

Now if consultation was a customary expectation of the rightful exercise of kingship, it was not necessarily feudal for the giving and taking of counsel was a political practice that certainly preceded the feudal centuries. Intentionally or not, parliamentary historians have effectively undermined the institutional importance of royal consultation before the thirteenth century by identifying the practice as both a duty and a right which emanated from the feudal ties between kings and nobles.

Feudal or constitutional, duty or right, all these concepts are formalistic attempts to oversimplify the medieval past and its institutions. Royal consultation at twelfth-century courts and councils has thus remained a subject deprived of appropriate treatment simply for failing to satisfy constitutional stereotypes. In that sense, consultation can hardly be anything more than the gossip at court or the private counsel of the king's *familiares* and officials, but never the established function of twelfth-century assemblies. Gavin Langmuir's denunciation of French institutional historiography is perhaps also applicable to the parliamentary studies of England and Spain which neglect 'one of the most obvious yet least examined characteristics of royal assemblies, that they were, for contemporaries, primarily occasions on which counsel was given and taken'.⁷ And so did those assembled proceed at English councils and Spanish courts.

Towards the end of the year 1169 King Alfonso VIII granted the Monastery of San Zoilo a market in the village of Carrión de los Condes '*pro salute anime mee et omnium parentum*

⁴ Gervase of Canterbury, *Gervasii Monachi Cantuariensis Opera Historica*, ed. W. Stubbs, 2 vols., RS, 73 (London, 1879-80), i, 319 [Gervase]. Translated in Gavin Langmuir, 'Counsel and Capetian Assemblies', *Studies presented to the ICHRPI*, 24 (Paris, 1961), p. 32.

⁵ See David Nicholas, *The Evolution of the Medieval World* (New York, 1992), p. 461; D.R. Clementi, 'A twelfth-century account of the parliaments of the Norman kingdom of Sicily in the *Liber de regno Sicilie*, 1154-1169', *Parliaments, Estates and Representation*, 19 (1999), p. 27; Mark Bloch, *Feudal Society*, II (London, 1961); A.J. Carlyle, *A History of Mediaeval Political Theory in the West* (London, 1950); F. Kern, *Kingship and Law in the Middle Ages* (Oxford, 1939).

⁶ Ronald Butt, *A History of Parliament: The Middle Ages* (London, 1989), p. 28.

⁷ Langmuir, 'Counsel and Capetian Assemblies', p. 21. Langmuir makes specific reference to the following works: A. Luchaire, *Histoire des institutions monarchiques* (Paris, 1891); J. Declareuil, *Histoire general du droit français* (Paris, 1925); E. Chenon, *Histoire generale du droit francais* (Paris, 1926-9); F. Olivier-Martin, *Le droit français des origins a la Revolution* (Paris, 1948). On private counsel, see also Timothy Reuter, 'Assembly politics in Western Europe from the eight century to the twelfth', in *The Medieval World*, eds. Peter Linehan and Janet Nelson (London, 2001), p. 440.

meorum consilio prelatorum sancta ecclesie et principum regni nostri,⁸ that is, for the salvation of his soul and his ancestors' and by the counsel of the prelates of the holy church and the princes of our kingdom. This royal grant as well as other contemporary donations resulted not from the private counsel of the king's entourage or court but from the general consultation and discussion at the Curia of Burgos, attended by no less than seven bishops and more than twenty nobles and officials of Castile.⁹ In June of the same year, more than twenty-five Aragonese nobles gathered in Zaragoza summoned by King Alfonso II, who by judgement of his plenary court and '*cum consilio et laudamento nobilium curie mee*' and the counsel and pledge of the nobles of his court, ordered the Zamoran provinces sold to the Moors to maintain the payment of the *diezmo*, or the "tenth" to the cathedral of Zamora.¹⁰ The assemblies at Burgos and Zaragoza were two of the most prominent gatherings in this period, and yet as extraordinary as this type of consultation may seem for the twelfth century, these royal donations and sentences sample only two among many other grants with significant consultative clauses drafted at English and Spanish assemblies.

Royal charters granted at English councils on the contrary, tend to be rather modest when describing the approval of these grants, which is nevertheless reported in the chronicles. Interestingly, even when Henry II appears to act coercively, for example, when removing some custodians from their castles in 1177. We are told by the *Gesta Regis Henrici Secundi* that the king proceeded to maintain the peace and stability of the kingdom and enacted such measures by the counsel of his nobles, '*de pace et stabilitate regni tractassent, per consilium episcoporum et comitum et baronum suorum removit custodes castellorum Angliae...*'¹¹ We are not surprised, however, to find that such a decision was discussed and adopted at the Council of Windsor in May of 1177.¹²

With surprising consistency, reports of aristocratic consultation in the diplomas are almost invariably accompanied by long witness lists, a combination which persuasively indicates the meeting of a royal assembly of some importance. In conjunction with his nephew Alfonso of Castile, King Fernando II of León granted half of some minting tariffs to the cathedral of Palencia '*comunicato prius consilio, cum archiepiscopis, episcopis et comitibus et principibus utriusque regni nostri...*' in the presence of the archbishops of Toledo and Compostela, and no less than fifteen Leonese and Castilian bishops.¹³

The following year, King Alfonso expelled those who refused to release custody over royal castles, installed *alcaides* or mayors at several frontier settlements, and established

⁸ *El Reino de Castilla durante el reinado de Alfonso VIII*, ed. Julio González, 3 vols (Madrid, 1960), ii.211-3 [AVIII].

⁹ AVIII, ii.211-3. See also ii. nos. 124-6.

¹⁰ *Alfonso II Rey de Aragón, Conde de Barcelona y Marqués de Provenza. Documentos (1162-1196)*, ed. Ana Sánchez Casabón (Zaragoza, 1995), pp. 108, no. 65 [AII].

¹¹ *Gesta Regis Henrici Secundi Benedicti Abbati*, ed. W. Stubbs, 2 vols., RS (London, 1867) [Howden, *Gesta*], i.160-1.

¹² See also Roger of Howden, *Chronica Rogeri de Hovedene*, ed. W. Stubbs, 4 vols., RS, 51 (London, 1868-71). English translation: Henry T. Riley, *The Annals of Roger de Hoveden*, 3 vols (Felinfach, 1996), ii.133 [Howden, *Chronica*].

¹³ *Documentación de la Catedral de Palencia (1035-1247)*, ed. Teresa Abajo Martín (Burgos, 1986) no. 62, pp. 132-4 [DC Palencia] Not included in *FII*.

order and peace over his lands at an assembly celebrated in Zaragoza.¹⁴ The removal of defiant *castellans* was indeed an assertive move, normally associated with the ruthless exercise of royal lordship and very similar to Henry II's measures at the Council of London in 1155. Alfonso's decision was nevertheless sanctioned not only by his nobles but also by the assent of fifty-eight citizens or *adelantados* from Zaragoza, Huesca, Jaca, Tarazona, Calatayud and Daroca, '*...consilio baronum meorum regni mei Aragonis, et consilio civitatum videlicet, Cesarauguste, et de Darocha, et de Calataiub, et de Oscha, et de Iacha*'.¹⁵ The very same year and before the meeting at Zaragoza, the king of Aragón had already granted land and privileges to the abbot of La Oliva and the Templar Order, with the counsel of his nobles at the courts of Zaragoza in January and Jaca in September.¹⁶ Furthermore, royal diplomas were given to the nobles of Lérida in 1168, to the bishop of Huesca in 1174 and to the Monastery of Santes Creus in 1181, and territorial ordinances of peace and truce were enacted in 1173 and 1188 with the general counsel and assent of the bishops, counts and barons of the realm.¹⁷ This impressive record of institutional consultation in the Crown of Aragón speaks for itself and so does the conciliatory relationship between kings and nobles of León and Castile.

Five months prior to the Curia of Burgos in November 1169, Alfonso VIII granted privileges to the Monastery of Santa María of Montsalud '*consilio et voluntate varonum meorum*',¹⁸ not only with the counsel of his men but also by their own will. Although the reference to royal consultation is explicit it is difficult to determine how general and institutional it was for the diploma was drafted on 7 May at Zorita, but bears no witness list. The meeting of a general court can be established, however, on the basis of another diploma which was written a week later also at Zorita, granting privileges to the Order of Calatrava.¹⁹ This document has no consultative clauses but its witness list includes seven bishops and fifteen nobles and officials, an unmistakable trace of a curia. Another Castilian diploma which bears no witness list but reveals royal consultation was drafted at Soria in September 1170. Alfonso VIII confirmed some lands of the Cathedral of Osma '*...consilio*

¹⁴ Refer to *AII*, no. 23; Jerónimo Zurita, *Anales de la Corona de Aragón*, 4 vols (Zaragoza, 1967) I, II, xxiv, pp. 247-8 [*Anales*]; Jaime Caruana, 'Itinerario de Alfonso II de Aragón', *Estudios de Edad Media de la Corona de Aragón*, VII (1962), p. 85; Luis García de Valdeavellano, *Curso de Historia de las Instituciones Españolas*, (Madrid, 1977), p. 472; Thomas N. Bisson, *Medieval Crown of Aragon: A short history* (Oxford: Clarendon Press, 1986), pp. 49, 56-7.

¹⁵ *AII*, p. 58, no. 23. See also *Anales*, I, II, xxiv, pp. 247-8.

¹⁶ See *AII*, nos. 17, 22.

¹⁷ See *AII*, nos. 55, 59, 149, 315, 472; *Colección diplomática de la Catedral de Huesca*, ed. A. Durán Gudiol, 2 vols (Zaragoza, 1965-69), no. 302; *Textos Jurídics Catalans, Lleis i costums*, II/3 'Les Constitucions de Pau i Treva a Catalunya' (segles XI-XIII), pp. 68-82, 92-8; *Monumenta Hispanie Vaticana*, Registros, vol. I: *Documentación Pontificia hasta Inocencio III 965-1216*, ed. Demetrio Mansilla no. 108, p. 125; *Patrimonio Cultural de San Isidoro de León, Documentos, s.X-XIII*, ed. M. Encarnación Martín López (León, 1995), no. 75 [CD San Isidoro]; Bisson, *Medieval Crown of Aragon*, pp. 49-50, 54; Thomas N. Bisson, *Medieval France and her Pyrenean Neighbours, Studies in Early Institutional History* (London, 1989), p. 149 (1997), p. 38; Angus Mackay, *Spain in the Middle Ages* (London, 1977), p. 113; S. Karen Kennelly, 'Catalan Peace and Truce assemblies,' *Studies in Medieval Culture*, 5 (1975), pp. 49-50; Gener Gonzalvo i Bou, 'Les assemblees de Pau i Treva i l'origen de la Cort General de Catalunya', *Les Corts a Catalunya, Actes del Congrés d'Historia Institucional*, 28-30 d'abril de 1988 (Barcelona, 1991), pp. 72-3; Caruana, 'Itinerario', p. 244; Paulino Iradiel, Salustiano Moreta, Esteban Sarasa, *Historia Medieval de la España Cristiana* (Madrid, 1995), p. 373; Alfonso García Gallo, *Manual de Historia del Derecho Español* (Madrid, 1959), p. 181.

¹⁸ *AVIII*, ii.200, no. 117.

¹⁹ *AVIII*, ii.201-2, no. 118. Alfonso VIII gives to the Order of Calatrava a vineyard in the territory of Toledo [Zorita, 14.5.1169].

*cum baronibus meis et nobilibus curie mee...*²⁰ a clause which suggests a form of consultation wider than the private advice of the royal entourage or the regular counsel of the king's private court. The following year, a royal donation to the Order of Santiago was approved by the counsel of three bishops, fourteen nobles and officials at Montealegre, and during the siege of Cuenca in 1177, the king confirmed the privileges of the clergy of Valladolid after consulting a similar number of men.²¹ In August the following year, a group of eight bishops and eighteen nobles and officials assented to a royal confirmation to the church of Santa María of Husillos at the meeting of a plenary court at Carrión. '*Eapropter ego Aldefonsus, Dei gratia rex Castelle, una cum uxore mea Alienor regina, libenti animo et uoluntate spontanea, pro animabus parentum meorum et salute propria, consilio et auctoritate comitum et principum regni mei, presenti scripto roboro et confirmo totos illos cautos pater meus rex Sanctius dedit ecclesie Sancte Marie de Fusellis...*'²² Two weeks later, another important curia assembled in Burgos possibly to discuss a treaty with Aragón and to concede, among other royal donations, a royal diploma to the Monastery of San Juan '*consilio pariter et uoluntate principum...*' legitimised by the authority of the king's nobles.²³ If royal consultation at Aragonese assemblies seems an extraordinary institutional feature, the Castilian record is by no means less impressive, nor are the Leonese and English records.

The Leonese Curia of Salamanca, for example, assembled in October 1176 to discuss donations to the cathedrals of Santiago and Salamanca and to the monasteries of Sobrado and Santa María de Melón '*cum consilio maiorum curie nostre*'.²⁴ The meeting was attended by ten bishops and ten nobles and officials, thus signaling the gathering of an important court. The same consultative clause gives account of institutional consultation or general counsel provided at assemblies for the granting of land and privileges to the Monastery of San Julián del Pereiro in 1176, the Monastery of Carracedo in 1178, the Colegiata of San Isidoro in 1181, the Monastery of Ribas de Silos in 1183 and the monasteries of Samos and San Felices in 1184 and 1185 respectively. It was also with the counsel of the curia that the cathedrals of Oviedo, Santiago and Orense receive royal grants in 1177, 1180 and 1181.²⁵

In spite of adverse historiography, the policies of Henry II were often subject to baronial consultation, which is most evident from the narrative and official sources. Like his grandfather Henry I, the English king was crowned at Westminster with the counsel of the nobles. Perhaps a rhetorical phrase or a custom of chancery practice, the counsel of archbishops, bishops, earls and barons will subsequently legitimise most royal policies and business of general concern, particularly from the 1160s. The opening lines of the Assize of Clarendon of 1166 proclaim: '*Haec est Assisa, quam dominus rex Henricus consilio archiepiscoporum, et episcoporum et abbatum caeterorumque baronum suorum statuit pro pace servanda et iustitia tenenda*'.²⁶ Two years earlier, the bishops and nobles of England

²⁰ *AVIII*, ii.253-4, no. 148.

²¹ *Anales*, I, II, xxxii, pp. 268, xxxv, pp. 275-6; *AVIII*, ii.453-5, 473-4, nos. 275, 288.

²² *AVIII*, ii.501.

²³ *AVIII*, ii.503.

²⁴ *FII*, pp. 449-450.

²⁵ *FII*, pp. 444, 450-1, 456, 468, and nos. 41, 43, 44, 49, 55; *CD San Isidoro*, nos. 125, 127.

²⁶ *Howden, Chronica*, ii.248; William Stubbs, *Select Charters and other Illustrations of English Constitutional History* (Oxford, 1913), pp. 170-3. For an English translation see *English Historical Documents*, II, 1042-1189, ed. David Douglas and George Greenaway, second edition (London, 1981), pp. 440-3 [EHD].

with the notable exception of the archbishop of Canterbury had attached their seals of approval to the controversial Constitutions of Clarendon.²⁷ In 1176, Henry II introduced administrative and judicial reforms which divided England into six parts, a policy which according to the testimony of Gervase of Canterbury was also legitimised '*communi omnium concilio*', by the common counsel of all.²⁸ Four months later, the king's daughter Joanna was betrothed to the king of Sicily *consilio universorum*, and the following year a judicial dispute between the kingdoms of Navarre and Castile was resolved at an English council *cum deliberatione consilio*.²⁹ At the Council of Windsor in 1179 it was also '*communi consilio*' that Henry appointed and assigned judges one to each of the newly-created judicial regions. Similar consultative phrases adorned the lines of chronicle accounts in reference to financial aids to the Holy Land at the Council of Waltham in 1182, Clerkenwell in 1185 and Geddington in 1188.³⁰ We know that such consultation involved the bishops and nobles of the realm, and that it took place within the conciliar discussions simply because it is almost invariably preceded or followed by explicit references to councils.

The consultative clauses we have taken from charters, diplomas and chronicles illustrate an unexplored conciliatory dimension that often governed the discussions at assemblies. In an age when kings lack the governmental means to enforce royal policies effectively and efficiently, it is difficult to conceive the legitimisation and application of such measures without the assent and cooperation of the nobles.

This is not to say that an assembly was always a peaceful gathering, where animosities were put aside and understanding among foes suddenly flourished. Nor were they occasions when opposing views were invariably reconciled. Violence and conflict at assemblies are prominent subjects we have previously considered, but the enmity reported by the chronicles and letters and implied in charters and diplomas, did not always emanate from the king towards the nobles or vice versa. It is only within the constitutional paradigm that nobles are seen in this period as a cohesive group -perhaps even as a political party- sharing the same views, most of which are politically progressive and opposed to the unrestricted exercise of royal prerogatives, seen as the coercive tools of arbitrary lordship. Thomas Bisson, in his study on the origins of the Catalonian *corts*, argues that towards the end of the twelfth century the discussions at assemblies became truly political because 'men confronted each other committed associatively to opposed positions bearing deeply on their interests'.³¹ If these confrontations were motivated by constitutional issues, as Bisson suggests, they were not always directed against the monarchs. Lest we forget that when the discussions over the royal constitutions broke out at the councils of Clarendon and Northampton in 1164, Becket was not only antagonised

²⁷ *Materials for the History of Thomas Becket*, ed. James C. Robertson, 7 vols., RS (London, 1875-85), iii.46, pp. 278-9 [MTB]; *Gervase*, i.176-180; Guernes de Pont-Sainte-Maxence, *La Vie de Saint Thomas de Canterbury*, I, ed. and trans. Jacques T.E. Thomas (Louvain, 2002), i.80-84 [Guernes]. See also M.T. Clanchy, *England and its rulers* (London, 1998), p. 106.

²⁸ *Gervase*, i.254-5.

²⁹ *Howden, Chronica*, ii.94; *Diceto*, i.419.

³⁰ *Howden, Chronica*, ii.190, 301-2, 335-8; *Howden, Gesta*, i.238, 336, ii.33, *Gervase*, i.297, 325, 409; *Radulfi de Diceto Ymagines Historiarum*, ed. W. Stubbs, 2 vols., RS (London, 1876), ii.21, 33, 51 [Diceto].

³¹ Thomas N. Bisson, 'The Origins of the Corts of Catalonia', *Parliaments, Estates and Representation*, 17 (1997), p. 39. See also Bisson, *Medieval France*, pp. 223-4 and 227-9.

by the king but most noticeably, the primate of England was unable to find support among his own bishops.

But if we have established that custom dictated that kings were to consult their powerful subjects on general matters, what is then so extraordinary about the evidence we have presented? In order to understand the significance of those consultative phrases in chronicles and official documents, we ought to establish a distinction between the different forms of royal consultation. General consultations, on the other hand, became more regular in the twelfth century but did not develop into an institution, thus retaining their occasional character. It was only from the 1150s in England and the 1160s in Spanish kingdoms, that general consultations appear to take the shape of regular assemblies, known as plenary courts and general councils. Bisson has rightly pointed out that 'while plenary courts were extraordinary by definition, some of them were recorded from the later twelfth century in forms that point already to customary procedure'.³² Arguably, the second half of the twelfth century is a crucial period in that regard. During those decades, Spanish and English royal assemblies turned into important means for the governance of the realm, thus staging important political discussions and witnessing the resolution of significant conflicts and disputes, while bringing the powerful and influential men of the land together gathered in one place. Again, such meetings are by no means unprecedented, but the evidence overwhelmingly suggests that before the 1150s general consultations were no match to private counsel in the shaping of royal policies and decisions. Kings before this period were also expected to consult their subjects on important issues, and so they did, but the advice more often came from the royal entourage, the king's courtiers, his private counselors and the close *familiares*.

The surviving diplomatic records of Queen Urraca (1109-1126) have been recently compiled and edited by Irene Ruiz Albi, and of a total of 149 documents, not a single is explicitly legitimised by general baronial consultation. Similarly, the royal donations and sentences of Urraca's contemporary and sometime husband, Alfonso I of Aragón (1104-1134), are deprived of general consultative clauses.

It is true that Henry I 'must also have consulted concerning important grants to the lay aristocracy, but this is very rarely mentioned', and that 'mention of barons' consent was not a standard feature of English charters in writ or letter form'.³³ It is equally true, however, that while such documents ignored royal consultation during the years of Henry II as well, the chronicle accounts from the 1150s reported with frequency what is only accounted occasionally by the narratives prior to this period.

From the 1130s we begin to perceive some changes, which are nevertheless not as important as those that were to follow two decades later. General consultations clearly increased from the accession of Alfonso VII of Castile-León in 1126 and Ramiro II of Aragón in 1134, but remained steady in England during the reign of Stephen (1135-1154) at least during those years free of civil war and general turmoil.

³² Bisson, 'Celebration and Persuasion', p. 188.

³³ John Hudson, 'Henry I and Counsel', *The Medieval State. Essays presented to James Campbell*, eds J.R. Maddicott and D.M. Palliser (London, 2000), p. 118.

Alfonso VII of León-Castile was crowned in the royal city of León, where the new emperor took counsel with his nobles. This event commemorated by the *Historia Compostellana* unmistakably recognises a political cooperation for the administration and appeasement of the kingdom and for the benefit of the church at Alfonso's first plenary court.³⁴ It is, however, a rather extraordinary description not only because of the institutional and political significance of its content but also because, contrary to reasonable expectations, such consultative phrases were very rarely used by chronicles between 1135 and 1157.

Having looked at a substantial number of Alfonso VII's diplomas, only a handful employ consultative phrases that can match the importance of later royal documents. On the contrary, phrases which implied exclusively the king's will in the granting of privileges, goods and lands were the consuming feature of these royal documents. Indeed, this sample amounts to a small proportion of the total number of records produced by Alfonso's chancery, but even a cursory look through Bernard Reilly's diplomatic register, shows that the diplomas are unlikely to reveal much where the chronicles are absolutely silent. How important and general can the meeting of a royal court be if it fails to attract the attention of chroniclers? More importantly, how much was general consultation employed by a king who is reported to have granted *fueros* to important cities, privileges to important men and institutions without the assistance of his nobles? Alfonso's Aragonese contemporary, King Ramiro II (1134-1137), is reported to have consulted his nobles at assemblies with surprising consistency during his very short reign.

Unlike the reigns of Alfonso I, Urraca, Ramiro II and Alfonso VII, the deeds of the count of Barcelona are badly served by the narrative sources recounted insignificantly by two or three paragraphs of the *Gesta Comitum Barchionensis*. It is more than likely, however, that the count summoned several courts to discuss matters of general importance and seek wider consultation from his Aragonese and Catalan subjects. This must have been the case at his final accession at Bearn in the year 1154, and at his *plena et generalis curia* in 1159 or at Huesca in October 1162 just before his death. In any case, the frequency and importance of his territorial courts will be no match to the general consultations at the assemblies of his son and successor, Alfonso II.

England in the meantime was enduring difficult times under the weak government of Stephen (1135-1154). But unlike the courts of the count of Barcelona and prince of Aragón, however, his general consultations are favoured by the abundance of sources.

With the accession of Henry II, Fernando II, Alfonso VIII and Alfonso II to the thrones of England, León, Castile, and Aragón respectively, general consultations at assemblies increased substantially, a pattern clearly identified by the sources which contain consultative clauses that most clearly reveal the counsel of archbishops, bishops, earls, counts and barons. A variety of vernacular sources also account for the unprecedented importance of regularity of general consultations at courts and councils in the second half of the twelfth century. French references to *conseil* and Castilian mentions of *consejo* are too numerous to be listed here, but they are testimonies to the widespread perception of

³⁴ *Historia Compostellana*, ed. Emma Falque Rey, CCCM, LXX (Turnhout, 1988) [HC]. In Spanish: *Historia Compostelana*, trans. Emma Falque Rey (Madrid, 1994), II, lxxx, p. 383.

the significance of royal consultation at assemblies.³⁵ As we have shown, general counsel was also taken by monarchs before this period, but important decisions often resulted from private consultation and whenever policies were shaped by general counsel, the sources do not always associate such process to the meeting of particular assemblies.

If I am right in suggesting that sources tended to report the extraordinary, they were equally concerned with the routinely important or significant. Thus, general consultation was regularly accounted by chronicles and diplomas, not because it was extraordinary but because contemporaries thought of general assemblies where monarchs consulted all their princes and prelates as very important political and ceremonial occasions. In the words of Bisson, 'while plenary courts were extraordinary by definition, some of them were recorded from the later twelfth century in forms that point already to customary procedure'.³⁶

Finally, the evidence we have selected for the present study stands in defiance of those constitutional studies which have for so long concentrated on conflict-resolution as the most important catalyst in the dynamics of institutional change and the genesis of parliamentary assemblies. Only by ignoring these accounts is the historian justified in suggesting that the political relationship between nobles and monarchs was endemically antagonistic. What were the regular meetings of general councils and plenary courts if not occasions where the important men of the land came together to reconcile views and differences, and most importantly, to cooperate in the governance of the realm. Not without substance is the semantic link between conciliatory, reconciliation and council. Robin Frame has rightly emphasised that 'the growth of government was closely connected with the spread of the aristocracy - a point that would hardly need to be made were it not for the enduring historiographical tradition that has presented kings and magnates as mutually hostile forces'.³⁷ This is not to suggest for a moment that violence, conflict and dispute rarely disrupted the harmony of assemblies in this period. Confrontations were often unleashed on the public stage of gatherings, but to argue that they were equally prominent in the emergence of parliament is an entirely different proposal.

If not totally ignored or neglected, royal consultation before the thirteenth century has been generally identified by historians as ceremonial procedure devoid of any political significance. Such approach is perhaps best represented by Joliffe, who argued that 'in the

³⁵ For consultation (*conseil*) at English assemblies, see Benoit de Saint Maure, *Chroniques de Ducs de Normandie*, ed. Carin Fahlin, 2 vols (Lund, 1951), 1939-1940, I, p. 57; 1269-1271, I, p. 37; 7040-7054, I, pp. 206-7; 9257-9265, I, p. 270; 24138, II, p. 64; 38924-38928, II, p. 483; Wace, *The Roman de Rou*, trans. and eds. Glyn Burgess *et al.* (Jersey, 2002), 6025-6038, p. 230; *The History of William Marshal, L'Histoire de Guillaume le Maréchal*, ed. A.J. Holden, trans. S. Gregory, vol.I (London, 2002), 1908-1928, i.98-99; 2366-2368, i.118-121; *Guernes*, 201-4: 1001-1017, pp. 84, 86 [Clarendon 1164]. For consultation (*consejo*, *conssejo*) at Spanish assemblies see *Poema de Mio Cid*, eds. José Manuel Ruiz Asencio and César Hernández Alonso (Burgos, 1982), First *Cantar*, 632, p. 54; Second *Cantar*, 1930, p. 122; 1940, p. 124; Third *Cantar*, 2557, p. 156; 2987, p. 176; 2996, p. 178; 2999, p. 178; 3218, p. 188; 3220, p. 188.

³⁶ Bisson, 'Celebration and Persuasion', p. 188.

³⁷ Robin Frame, *The Political Development of the British Isles, 1100-1400* (Oxford, 1995), p. 72. See also Reuter, 'Assembly Politics', p. 432; W.L. Warren, *The Governance of Norman and Angevin England, 1086-1272* (London, 1987), pp. 120, 157; J.C. Holt, *The Northerners* (Oxford, 1961), pp. 191-2; Roger Mortimer, *Angevin England, 1154-1258* (Oxford, 1994), p. 83.

common run of speech *consilium* was far less exclusively political than it is for us' and furthermore, that 'counsel and council, except as incidents of tenure, are not yet true political terms and concepts at all'.³⁸ But when King John consulted his nobles in 1213 concerning a peace with the Poitevins, Joliffe enthusiastically writes 'such a use of counsel is nearer to our own'.³⁹ But can medieval consultation be classified according to modern standards of parliamentary discussion? Was baronial counsel more political and less ceremonial simply because it appears to be similar to our own?

In sum, the power of twelfth-century monarchs was not absolute, nor were the nobles of England and Spain the guardians of political liberties or the instigators of a proto-democratic program, prompting the emergence of parliamentary institutions in the thirteenth century, and establishing precedents for the constitutional reforms of the nineteenth century. Furthermore, the evidence of consultation and collaboration at assemblies strongly suggest that contrary to the premises found in constitutional studies of the first parliaments, the political relationship between kings and nobles was not always, nor even primarily, dictated by antagonism and contradiction. This ongoing cooperation between monarchs and their powerful men is often missing from chronicles and official records not because it was deemed unimportant, but simply because there was hardly anything extraordinary about it. How could peoples be governed successfully and lands administer effectively if ceaseless conflict abounded among those in power?

In the second half of the twelfth century, councils and courts acquired an unprecedented political and institutional importance, primarily by ceasing to be occasional meetings of nobles to become the ordinary channel and the most efficient means of resolving matters of general concern and generating royal policies of territorial application. This is what the parliamentary phenomenon and the genesis of parliamentary assemblies in the Spanish kingdoms and England are mostly about.

Two episodes recorded in the Chronicle of Battle Abbey and Herbert of Bosham's biography of Thomas Becket make a fitting conclusion to this study. The abbot of Battle urged King Henry II to renew a charter given to the monastery by King William I, thus he 'showed it to the king, who said, "This could do with renewing." To this the abbot replied, "And we pray that, if it please you, you will renew it and confirm it by your royal authority." The king said "I will not do it except by a judgement of my court"...' The abbot then 'waited a bit for a place and time when the king would shortly be sitting in the midst of his barons. Then he advanced and in view of all presented his charter, decayed with age, and requested that it be renewed by royal authority. The king asked a judgement of the barons about it, whether it should be done or not.'⁴⁰ According to Herbert of Bosham, the bishops of England were ready to attach their seals to the Constitutions of Clarendon in 1164, but 'even if they were prepared to do so...a short delay was fitting on account of the gravity of the business, since according to the Book of Wisdom no weighty matter should be decided without counsel.'⁴¹

³⁸ Joliffe, *Angevin Kingship*, pp. 171, 173.

³⁹ Joliffe, *Angevin Kingship*, p. 173. The evidence for this consultation is in *Letters Close*, 14 John, p. 117.

⁴⁰ *Chronicon Monasterii de Bello. The Chronicle of Battle Abbey*, ed. and trans. Eleanor Searle (Oxford, 1980), p. 311.

⁴¹ *MTB*, iv.305. An English translation can be found in *EHD*, II, pp. 770-1.