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## 'The *curias plenas* in the Spanish kingdoms and the vanishing footprints of the *cortes* in the twelfth century'

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### *Introduction*

Changes in terminology, temporality, geography, business and functions of assemblies from the 1160s to the 1180s are all indicative of the parliamentary phenomenon in the Spanish kingdoms but today I will only refer to the composition of the plenary courts or *curias plenas*, because more has been written about this than any other aspect on the subject of parliamentary origins.

When walking to the Colegiata of San Isidoro we entered a square and we notice a plaque nailed to one of the walls solemnly proclaiming and I translate:

'Here in 1188 Alfonso IX summoned *cortes* that with the participation of popular representatives alongside the nobility and the church, became the first democratic assembly of Europe'.<sup>1</sup>

The underlying assumption is simple, robust and appears reluctant to scrutiny: the original parliamentary assembly in the Spanish kingdoms -and for that matter in the whole of Europe- was that assembly which first incorporated citizens representing "the people," namely the royal *curia* of Leon in July 1188. The Leonese claim, first proclaimed in the early decades of the nineteenth century, has sparked a number of scholarly disputes charged with a regionalism so characteristic of Spanish historiography, but rests nevertheless on a premise widely accepted in the field of parliamentary studies across Europe, which unmistakably identifies the citizens as the final element that completed the social composition of royal courts and thus turned them into the parliamentary *cortes*.

### *The constitutional historiography*

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<sup>1</sup> This is my translation of the Spanish original in capitals as shown in the plaque: 'EN 1188 ALFONSO IX CONVOCA AQUÍ CORTES CON LA PARTICIPACIÓN DE REPRESENTANTES DEL PUEBLO QUE, JUNTO A LA NOBLEZA Y LA IGLESIA, SE CONVIERTEN EN LA PRIMERA ASAMBLEA DEMOCRÁTICA DE EUROPA.'

The approach thus found documentary evidence among the records of the 1188 meeting, which were compiled and edited by Manuel Colmeiro and published by the Royal Academy of History in 1861. The first paragraph of the text reports as follows:

‘I, the lord Alfonso king of Leon and of Galicia, when I celebrated court [curia] at Leon with the archbishop and bishops and magnates of my kingdom and with the citizens elected by each city...’<sup>2</sup>

In the midst of the constitutional reforms prompted by the meeting of the Cortes of Cadiz in 1812 and in view of determining the original parliamentary essence of the Spanish *cortes*, Francisco Martínez Marina singled out the royal court of Burgos in 1169 which according to the chronicles was attended ‘not only by the counts, magnates, prelates and knights, but also by the citizens and all the urban councils of Castile.’<sup>3</sup> In 1897, the Russian Wladimir Piskorski must have surprised the Spanish historical establishment with his work on the Castilian and Leonese *cortes* in the Middle Ages, translated into Spanish by Claudio Sánchez Albornoz in 1930 and according to Evelyn Procter becoming ‘the standard work on the subject’ ever since.<sup>4</sup> Not surprisingly, however, Piskorski’s

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<sup>2</sup> Manuel Colmeiro was born in 1818 and died in 1894. His compilation and edition of the ordinances of the medieval councils and *cortes* has been an essential source for the historian of parliament since 1861. The compilation was published under the name *Cortes de los Antiguos Reinos de Leon y Castilla*, *Real Academia de la Historia*, Madrid, 1861. Author’s translation from Latin: “Court held in Leon under Alfonso IX.” This text is taken from 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.*”

<sup>3</sup> In his *Ensayo* Martínez Marina pointed out that ‘*se sabe que a las Cortes que tuvo don Alfonso VIII en Burgos en el año 1169 concurrieron a ellas no solamente los condes, ricos-hombres, prelados y caballeros, sino también los ciudadanos y todos los concejos del reino de Castilla, como asegura el autor de la Crónica General.*’ (*Ensayo*, p.64)

<sup>4</sup> This work was done by Claudio Sanchez-Albornoz, who, more than forty years after the original Russian publication, found some value in Piskorski’s claims. The new 1977 edition includes a very useful historiographical introduction by Julio Valdeon Baroque, ‘Las Cortes Medievales castellano-leonesas en la Historiografía Reciente,’ in Wladimir Piskorski, *Las Cortes de Castilla*, 1898, Spanish edition (Barcelona, 1977). Evelyn Procter, *Curia and Cortes in Leon and Castile 1072-1295* (Cambridge, 1980), p.4. Peter Linehan ‘appearing just as the monarchy was replaced by the Second Republic, not only was Piskorski’s democratic reading of the Spanish past timely, it also accorded with Sánchez-Albornoz’s interpretation of the Spanish Middle Ages.’ (Linehan, *Historians*, p.529) Furthermore, it also clear that the resurrection of this view by Sánchez-Albornoz<sup>4</sup> in the 1930s and 1940s was perhaps an historical response to the political agitation that sent Spain into the Civil War of 1936. Written on the eve of the Russian Revolution of 1917, Wladimir Piskorski’s book on the *cortes*, became the institutional darling of Marxist historians throughout the twentieth century. His views were accepted by Marxist historians because they could be fully incorporated into their paradigm, which saw the emergence of parliament in the Middle Ages as the result of the antagonism between the monarchy and the subjects, with special reference to the lesser subjects. Piskorski’s reading of twelfth-century parliamentary history is socially driven and so is the basis of most Marxist historiography. Other Marxist historians have stressed the economic aspects of the medieval period. Like the Marxist, the Liberal approaches to the history of parliament also underlined the idea of inherent antagonism between the king and his subjects, but unlike the Marxist interpretation, most Liberal historians would focus on the constitutional developments and not on the social struggle of the third estate. Other historiographical streams have recently stressed the idea of cooperation between the king and his subjects in the running of medieval government rather than opposition.<sup>4</sup> This interpretation perceives the *cortes* as the first institution which signified a limitation of royal power, and as the embodiment of the political struggle for freedom and equality. In this regard, the Marxist interpretation of medieval parliaments is not much different from the constitutional or Liberal.

conclusions resembled much of the earlier work of Martínez Marina and Colmeiro for his study begins with the events of 1188 and focuses on the incorporation of the third estate as a constitutional innovation which transformed the feudal meetings of the royal court into parliamentary sessions of the realm.<sup>5</sup>

The meeting of the three estates as a constitutive element of parliament was originally fleshed out by early modern chroniclers, perhaps as a literary reaction against the rise of absolutism in Europe, but it was only in the midst of the constitutional climate of the nineteenth century that such definition was employed by scholars to establish a specific demarcation between 'true' and 'pre' parliamentary meetings, between those councils and courts, exclusively attended by the magnates and nobles of the realm, and those meetings which witnessed the presence and participation of the representatives of the towns, boroughs and villages of the Spanish kingdoms and knights of the shires in England.

Joseph O'Callaghan's recent work on the *cortes* of Castile and Leon is initiated with the events of 1188 and for Julio Valdeón Baroque 'the transcendental step in the transformation of the plenary or extraordinary *curia* into an innovative institution, the *Cortes*, came with the presence of the representatives of the cities and the villages of the kingdom.'<sup>6</sup>

Donald Kagay and Thomas Bisson have instead attributed the first *cortes* to the kingdom of Aragon, where parliamentary records reveal the presence of the cities at the court of Zaragoza in 1169, but while this challenges the primacy of Leon and gives an alternative date to the origins of the *cortes* in Spain, the presence of citizens remains the unquestionable essence of parliament.<sup>7</sup> Additionally, not only has the history of the medieval *cortes* been obscured by the theory of the estates but it has also suffered from the patriotism of regional studies, blind to the general institutional context and the importance of comparative perspectives. Jesús Lalinde has warned that 'the nationalistic passions were, and are still, another element of distortion in the study of the old

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<sup>5</sup> Peter Linehan writes that according to Martínez Marina and Piskorski, 'the medieval *cortes* were the 'natural continuation' of the Visigothic councils, and the Visigothic councils were the ancestors of the Cortes of Cádiz; indeed the Visigothic councils were *cortes* and were entitled to be described as such.' (*Historians*, p.529)

<sup>6</sup> Joseph O'Callaghan's book is entitled *The Cortes of Castile-Leon, 1188-1350*, thus identifying this period as the initial steps of Spanish parliaments. Julio Valdeón Baroque, *Feudalismo y Consolidación de los Pueblos Hispanos* (Barcelona, 1980), p.73 Translated by the author from the Spanish: 'el paso trascendental en la transformación de la *curia regia plena o extraordinaria* en una institución innovadora, las *Cortes*, vino dada por la presencia de los representantes de las ciudades y villas del reino.' This idea is also voiced by Marongiu's *Medieval Parliaments* (1968), which argues that 'a partir de la reunión de la Curia plena en León en 1188 tuvo lugar una transformación radical, al establecerse una limitación jurídica al poder real', that is 'from the meeting of 1188 in Leon a radical transformation took place, when a juridical limitation was established to the monarchical power.' p.xxi

<sup>7</sup> Kagay, 'The Emergence of Parliament', and Thomas Bisson, *The Medieval Crown of Aragon: a Short History*, Clarendon Press, Oxford, 1986. Martínez Díez on the contrary claims the first meeting of the *cortes* for Castile by quoting the *Crónica General de España* 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 España*, f387v-388r, quoted in G. Martínez Díez, 'Curia y Cortes en el Reino de Castilla,' p.134)

parliamentary history. In each country, the supposed novelties and excellence of their medieval constitutions are singled out.<sup>8</sup>

Most recently, an international congress took place in the city of Benavente in October 2002, to commemorate the eighth centenary of the first *cortes* to meet in that city in 1202. It is generally considered to be the second parliamentary meeting in the Spanish kingdoms, which assembled to discuss financial issues concerning the minting and devaluation of coinage. For Eduardo Fuentes Ganzo, one of the essential ingredients in the constitution of the new parliamentary assemblies was 'the widening of the participative base in the *cortes*, which transforms the traditional *curia* composed by the magnates of the kingdom (ecclesiastics and the nobles), incorporating the cities of the kingdom, represented by the urban patrician class, expressed clearly in the ordinance: (1188) '*cum civibus electis ex singulis civitatis*'...' J.L. Martin's contribution to the congress in Benavente, also finds in the representative character of the citizens an important institutional novelty which prompted significant changes in the meeting of territorial assemblies.<sup>9</sup> No different to these views were the ideas suggested earlier by Procter in 1980 and O'Callaghan in 1989, works that have remained standard texts ever since.<sup>10</sup>

These approaches have dominated the subject of parliamentary origins not only in Spain but they have become the accepted premises in European historiography. They pose, however, a number of problems, none of which has so far been properly treated.

### *The presence of the citizens at courts and the third estate*

Parliamentary studies have traditionally assumed that the prelates and magnates could not have possibly embodied the community of the realm, which was only constituted in the thirteenth century with the incorporation of the third estate into the political life of the kingdom. But the nobles were summoned to assemblies in the twelfth century not because they "represented" the community of the realm, but because they "were" the political community. This body was certainly not static and as the sources implied, it was altered with the incorporation of new social groups, who eventually came to speak on behalf of the community. However, the presence of *cives* has been identified by

<sup>8</sup> Lalinde, *Las Cortes de Aragón*, p.18 Author's translation from the Spanish: '*Las pasiones nacionalistas fueron, y son todavía, otro elemento de distorsión en los estudios sobre el parlamentarismo antiguo. En cada país se ponían de relieve unas supuestas originalidades y excelencias de su constitución medieval.*'

<sup>9</sup> Eduardo Fuentes Ganzo, *Las Cortes de Benavente*, Benavente, 2002. (Author's translation from Spanish: "1. Se produce la ampliación de la base participativa de las mismas, que transforma la curia tradicional que contaba con la participación de los magnates del reino (eclesiásticos y nobiliarios), introduciendo en la misma las ciudades del reino, representadas por su patriciado urbano, expresándose palmariamente en su ordenamiento (1188): '*cum civibus electis ex singulis civitatis*',...", p. 83. See also Fernando De Arvizu y Galárraga, *Regnum: Corona y Cortes en Benavente, 1202-2002*. The Leonese meeting of the curia was the first cortes, 'understood as the meeting of the estates...to treat matters of general interest...', p.37 (Author's translation from Spanish: entendidas como la reunión conjunta de los estados...para tratar asuntos de interés general...") E. Fuentes and J.L. Martin (eds), *De las cortes históricas a los parlamentos democráticos*, p.32. See also José Luis Martín, *Las Cortes Medievales* (Madrid, 2<sup>nd</sup> edition, 1999).

<sup>10</sup> Joseph O'Callaghan for instance, agrees with the general trend of compositional historians, which suggests that the first *cortes* took place in Leon in 1188 (*The Cortes of Castile-Leon 1188-1300*, Philadelphia, 1989). Fuentes says that 'the doctrine unanimously identifies the inaugural event of the *cortes* with the *plena corte* or plenary court of Leon in 1188.' Fuentes, *Las Cortes de Benavente*, p.83

constitutional historians as properly parliamentary only since they began to be summoned as elected representatives with some form of procuratorial powers. In other words, the presence of the kingdom's political community was not enough for the constitution of parliaments, which required that community to be representative in nature, and since this is characteristic from the thirteenth century, all royal assemblies prior to this period are arbitrarily branded as pre-parliaments.

Secondly, if the cities embodied the third estate, then the lay and ecclesiastical nobles embodied the first and the second, and while it is clear that they thought of themselves as distinctive "orders," there is no evidence to suggest that they constituted separate social classes.<sup>11</sup> Often have the social studies of parliaments forgotten that most of the *adelantados* present at Spanish courts would have been chosen from the new urban militia, a group that emerged in the cities as a part of the reconquest strategy, and that also belonged to the nobility.

In addition, while the citizens formed the basis of what was to become the chamber of commons, there is no evidence before the late medieval period to suggest that they were regarded by their contemporaries as a distinctive class participating in the meeting of parliaments as a crystallised social estate. According to Donald Queller, the *cives electi* were 'not representatives of a third estate, they were the ordinary magistrates of the towns in their capacity as heads of administrative subdivisions of the realm.'<sup>12</sup> Similarly, a study of the Castilian Cortes in the medieval period conducted by J.M. Pérez-Prendes in the 1970s, emphatically refutes 'that the attendants to these meetings were authentic representatives of their respective estates.'<sup>13</sup>

Furthermore, ambiguous references in the chronicles to the presence of citizens can hardly be an indication of the social distinction characteristic of a recognisable estate. The documents associated to the Leonese *curia* of 1188, for example, refer to them as the '*cives electi*' or the 'elected citizens', but at the *cortes* of Benavente held only fourteen years after, they are described as 'many from each city.' At the *cortes* of Leon in 1208 they are identified as 'multitude of citizens sent by the cities,' while their presence at the *cortes* of Seville in 1252, Valladolid in 1258 and Toledo in 1260, is vaguely acknowledged in the use of 'good men.'<sup>14</sup> Moreover, it is difficult to know from these denominations whether the representation of cities was territorial or whether the convocation to assemblies privileged only a few settlements.<sup>15</sup> Thus, if citizens formed a distinctive social class in the

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<sup>11</sup> The three medieval orders were the *oratores* (*those who pray*) or religious, the *bellatores* (*those who fight*) or the nobility, and the *laboratores* (*those who work*) or the lesser subjects.

<sup>12</sup> Queller, 'Political Institutions,' p.149

<sup>13</sup> J.M. Perez-Prendes, *Las Cortes de Castilla*, mentioned by Valdeon Baroque, in *Feudalism y Consolidación*, p.72. Translated from Spanish by the author: '*Niega que los asistentes a sus reuniones fueran auténticos representantes de sus respectivos estamentos.*'

<sup>14</sup> From the medieval Spanish: '*muchos de cada cibdad*' From the medieval Spanish '*multitud de cibdadanos enviados por las cibdades*' From the medieval Spanish: '*buennos ommes*' 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 '*ommes buenos*' or good men were the representatives of the town, as it is usually assumed by compositional historians.

<sup>15</sup> In this regard, the work of Alfonso García-Gallo has brought to our attention a number of crucial questions. Was the inclusion of citizens at the court of Leon in 1188 a territorial phenomenon or was the urban element only represented by the important cities of the kingdom? García Gallo challenges the

thirteenth century and attended parliaments as a separate estate, the records provide no explicit acknowledgement of such separation to the disappointment of one of the most basic assumptions of the constitutional paradigm. More fundamentally, the social simplifications proposed by constitutional historians have collapsed because as Georges Duby has argued the “social revolution” of late twelfth and early thirteenth century makes ‘the simple and reassuring image of the tripartite division of society no longer valid.’<sup>16</sup>

Had the presence of this so-called third estate been an essential requirement in the constitution of parliaments then we must assume that the composition of all assemblies identified in the sources as *cortes* must have included citizens. The presence of citizens at thirteenth century *cortes* was to say the least irregular and with the exception of the *cortes* of Benavente of 1202, no other trace of *cives electi* is revealed in the sources for the plenary courts that assembled in the kingdoms of Castile and Leon between 1188 and 1214.<sup>17</sup> What is more, even the purity of the texts associated to the famous *curia* of Leon of 1188 has now been questioned by historians, some of whom believe the undated *decreta* supposedly promulgated at the meeting to have been drafted later, among several reasons because it is unlikely that urban elections for parliamentary representation actually took place before the thirteenth century.<sup>18</sup> Furthermore, if the meeting of the three estates was at the heart of each parliamentary session, why were the Spanish *cortes* later organised as bicameral houses? Why was the Aragonese *cortes* the only parliamentary institution to have evolved into three chambers? If according to the original structure of parliaments the lay and ecclesiastical nobles participated as two separate estates, why were they bundled together in the composition of the modern upper house? Moreover, if the absence of an estate deprived a royal assembly from its most essential parliamentary

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historiography in saying that ‘*comúnmente se habla de la entrada de los representantes de las ciudades en la Curia plena, aunque las fuentes no precisan si el hecho es general o sólo afecta a algunas. En las presuntas de León de 1188 se alude a los ‘electis civibus ex singulis civitatibus’; en las de Benavente de 1202 a ‘multis de qualibet villa regni mei’ (en la versión romance ‘muchos de cada villa’); en la de León de 1208 de ‘civium multitudine destinatorum a singulis civitatibus considerente’ (versión romance: ‘la muchedumbre de las cibdades e enbiados de cada cibdar por escote’). Nadie se ha planteado si la entrada de las ciudades se inició con carácter particular o meramente territorial, antes de que la misma se generalizase, y cuáles pudieron en su caso las razones concretas que movieron a ello...es muy probable que la entrada de ciudades en la Curia alcanzara inicialmente sólo a aquellas que de un modo u otro resultaban afectadas por sus acuerdos. Acuerdos que en cada caso podían ser de una u otra naturaleza.’ (‘La historiografía sobre las Cortes de Castilla y León’, *Las Cortes de Castilla*, p.137).*

<sup>16</sup> *France in the Middle Ages, 987-1460*, Blackwell, Oxford, 1987, p.162.

<sup>17</sup> See GMD, pp.145-8

<sup>18</sup> So much importance has been given to the Leonese *decreta* of 1188 and yet the text which has been preserved is not dated. Estepa and Arvizu in fact believe that the text could not have been drafted in 1188 and that it probably belongs to a later period. Estepa Díez, Carlos, ‘La Curia de León en 1188 y los orígenes de las Cortes’, in *Las Cortes de Castilla*, Actas de la Tercera Etapa del Congreso Científico sobre la Historia de las Cortes de Castilla y León, León, del 26 al 30 de Septiembre de 1988. Vol.1, p.21-25. Estepa suggests that the phrase *electis civibus* is characteristic of the thirteenth century when we have more evidence of the election of citizens: ‘*es posible incluso considerar la expresión electis civibus como más bien propia de tiempos algo posteriores, por ejemplo finales del reinado de Alfonso IX o comienzos del reinado leonés de Fernando III, existiendo ya una auténtica representación corporativa...en un lugar aparecen como cives, termino por lo demás sumamente ambiguo y con diversas acepciones en el latín de la época.*’ p.26. See also Alfonso Prieto Prieto, ‘La autenticidad de los Decreta de la Curia Leonesa de 1188’, in *Las Cortes de Castilla*, p.53 and Estepa y Arvizu, ‘Notas a la bibliografía sobre las Cortes de León de 1188.’, in *Las Cortes de Castilla*, pp.67-72. This study provides a more legalistic analysis of the chronology of the *decreta*. Fernández Catón, José María, ‘Supuestos para una edición crítica de las fuentes’, in *Las Cortes de Castilla*, pp.106-116.

component, how were many Spanish *cortes* in the sixteenth century constituted without the presence of the bishops?<sup>19</sup>

Our revision of the traditional assumptions about the social composition of early parliaments are succinctly summarised by Antonio Marongiu, who observed in the 1940s that ‘the presence of estates –differentiated elements, true social bodies which developed common personalities and public functions of great importance from the 14th century onwards –seems neither original nor general (and consequently not essential) to parliaments.’<sup>20</sup>

Finally, the constitutional understanding of the parliamentary phenomenon in Europe has associated the inclusion of urban representatives to a proto-democratic movement and just as baronial consultation was misunderstood as a restriction to monarchical power, the convocation of citizens to royal assemblies was seen as resulting from popular pressure and securing general consent for extraordinary taxation. In the early 1940s, José López observed that the constitutional view ‘sees no efficacy in the assemblies until the intervention of the third estate, thus assuming that the people were conquering the liberties and were elevating themselves as the directors of the political life.’<sup>21</sup>

It is true that the incorporation of urban representatives to royal assemblies coincided with the revival of the classical maxim *quod omnes tangit, ab omnibus approbetur*, or “what concerns all, should be approved by all” and that the request for extraordinary levies required general assent, but it is difficult to know much influence did such theoretical principles exercised in the changing composition of assemblies, much of which appears to have been dictated by the contingency of circumstances rather than by the application of political theories.<sup>22</sup> Carlos Estepa warns that if the *curia* of Leon in 1188 may be treated as an important event in the study of parliamentary origins, it is by no means indicative of a democratic movement.<sup>23</sup> In our previous section we discussed the relationship between the financial business of courts and councils and the politics of baronial consultation as well as the historiographical currents that have identified the origins of parliament and the *cortes* as tributary phenomenon.<sup>24</sup> If general “consultation” for extraordinary taxation

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<sup>20</sup> Marongiu, *Medieval Parliaments*, p.106.

<sup>21</sup> Jose López Ortiz, ‘Las Cortes del Antiguo Regimen,’ *Anuario de Historia del Derecho Espanol*, XIV, 1942, p.737 quoted by Valdeon Baroque in Piskorski’s, p.x Translated by the author from Spanish: ‘no ve eficacia en las asambleas hasta que en ellas interviene el tercer estado, suponiendo que con ello el pueblo conquistaba libertades y se erigia como director de la vida politica.’

<sup>22</sup> It is quoted by Gaines Post as ‘*quod omnes similiter tangit, ab omnibus comprobetur.*’ (‘A Romano-Canonical Maxim, ‘Quod Omnes Tangit’, in Bracton, *Traditio* 4, 197-215, 1946). The phrase was extracted by medieval theorists from a legal code of the Emperor Justinian of the year A.D. 531. It is mentioned in Matthew Paris’ *Chronica Majora*, in Henry de Bracton’s *De Legibus et Consuetudinibus Angliae*, and in Bernard of Pavia’s *Summa Decretalium* (1198), among many others, and it was confirmed by Pope Innocent III at the Third Lateran Council of 1179. The legal and practical implications of this Roman legal principle will be discussed later on chapter two.

<sup>23</sup> Estepa Diez, Carlos, ‘La Curia de León en 1188 y los orígenes de las Cortes’, in *Las Cortes de Castilla*, p.37: ‘La Curia de 1188 sirve para estudiar los inicios de las Cortes medievales. Pero eso no significa calificar el hecho como democrático. En la Curia, o incluso si se quiere Cortes, de 1188, no había democracia.’

<sup>24</sup> The later part of the twelfth century witnessed the revival of some aspects of the Roman legal tradition. The legal contribution of the Roman codes to medieval political theory and Canon law with regards to representative institutions, was contained in the famous maxim According to Gaines Post, this legal maxim

became general “consent” in the thirteenth century, enough evidence has been presented in this study to suggest that twelfth-century monarchs could not impose extraordinary dues on their subjects before considering the matter with the nobles in the kingdom assembled. Moreover, general consent for extraordinary taxation established in the thirteenth century a regular mechanism that allowed monarchs to raise funds to finance larger military operations and to maintain a more centralised and efficient system of administration.

Consequently, it appears that the incorporation of citizens did more to enhance the financial capabilities of the monarchy than to restrict it in allowing the rulers of Spain to recruit larger armies of mercenaries while loosening their dependence on feudal or tenurial conscription. Alec Myers’ comparative study of medieval parliaments across Europe suggests that the new assemblies were ‘necessary to the ruler, both positively to enable him to achieve financial or administrative aims that would otherwise have been impossible, and negatively to avert social explosions in the form of revolts or other forms of defiance.’<sup>25</sup> Similarly, Brian Tierney has indicated that these institutional changes were ‘a natural response to the practical needs of the age; medieval kings summoned representative assemblies simply because they found it administratively convenient to do so.’<sup>26</sup> It is possible to contradict the constitutional interpretations in suggesting that the emergence of parliamentary assemblies thus served the growing administrative and military needs of the monarchy rather than coming to alleviate an organised political pressure from knights and townspeople. Nevertheless, these were by no means the only monarchical aims served with the inclusion of the towns and the counties.

At the *cortes* of Barcelona in 1228, King Jaime I encountered the enthusiastic support of the citizens of Barcelona for the Mediterranean expansion of the Crown of Aragon, and was granted a special subsidy for the conquest of the island of Mallorca. It is thus not surprising that King Pedro II of Aragon had earlier ‘found natural allies in his townspeople, granting them specific protections in the statutes of 1198.’<sup>27</sup> The presence of wealthy and influential citizens in the meeting of the *cortes* not only secured military subsidies, but the monarchs of Spain often spared patronage and concessions to obtain their political support when encountering the opposition of the magnates.

Furthermore, before the conscription of territorial armies, the urban militia of frontier towns carried most of the weight of the Christian reconquest in the Spanish kingdoms. As part of a royal strategy to colonise and protect those territories conquered from the Moors, special privileges, concessions and land were granted to the inhabitants of the north to occupy and defend the southern fringe and thus facilitate the progress of the reconquest. Most if not all of the *adelantados* summoned to royal courts in the twelfth century would have belonged to this group of migrants, who by means of special royal

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gave a new course to the political theorists of the Middle Ages and influenced the appearance of constitutional clauses within religious and secular codes.

See Gaines Post, ‘A Romano-Canonical Principle.’

<sup>25</sup> Alec Myers, *Estates and Parliaments in Europe*, London, 1975, p.145

<sup>26</sup> Brian Tierney, ‘Freedom and the Medieval Church,’ in R.W. Davies (ed) *The Origins of Modern Freedom in the West*, Stanford, 1995, p.84

<sup>27</sup> Bisson, ‘Prelude to Kingship,’ p.31 Bisson further indicates that there is no doubt that the initiative remained with the king, who summoned the *cortes* whenever he desired.

privileges or *fueros*, constituted themselves as an urban patriciate, controlling the adjacent towns and villages, gaining control of the new municipal offices and becoming a military force that often defied the king's armies.<sup>28</sup> In 1162, the citizens of Salamanca revolted against the territorial limitations imposed by Fernando II, and with the assistance of the Castilian city of Avila faced the royal armies at Valmuza.<sup>29</sup> The urban militia was defeated by Fernando II and the confrontation shows that the monarchy and the cities were sometimes at odds, but it also reveals that far from being the leaders of a proto-democratic movement or the representatives of a third estate, these citizens were summoned to assemblies as authentic *potentiores* or powerful men, just as the rest of the kingdom's nobility.

In sum, the historiography of parliament has been slow to recognise the blatant teleology of the constitutional approaches first proposed by nineteenth-century politicians and historians, more concerned with the justification of political views than with the nature of medieval institutions. Thus, citizens were not originally summoned to courts as members of a distinctive social class or as the missing estate in the social composition of parliamentary assemblies. Nor did they attend the first *cortes* as elected representatives of their cities, but in their own right as wealthy and influential members inhabitants of the kingdom, gradually incorporated to the political community of the realm.

Most importantly, while the presence of citizens is an important social change in the composition of assemblies, it was not a constitutive factor in the meeting of medieval parliaments and thus their incorporation can hardly determine the birth of a new institution. Carlos Estepa admitted at a congress held in Leon in 1988 to celebrate the eighth hundredth anniversary of the *cortes* of 1188, that had the clause *electis civibus* been omitted of the texts associated to this meeting, hardly would such assembly deserve any commemoration or the celebration of anniversary congresses.<sup>30</sup> The assembly at Leon in 1188, however, has filled and continues to fill many pages of parliamentary studies, most of which have uncritically assumed the teleological premises of nineteenth-century constitutionalism.

The dominant views and themes that animated the historical congress held at Benavente in October 2002 are indeed symptomatic of the current state of the field of parliamentary origins. The proceedings of this academic gathering were collected and published under the title *De las Cortes Históricas a los Parlamentos Democráticos* (From the Historical Cortes to the Democratic Parliaments), and although this clearly enunciates an important institutional transformation, the chapters devoted to the initial steps of the *cortes* hardly depart from the traditional interpretations in assimilating the original parliaments to our

<sup>28</sup> Control of vast territories, explain municipalities, comunidades de tierra y villa and historiography.

<sup>29</sup> See HHE, xx.289-90, *Chronicon Mundi*, p.106 and Martínez, *Alfonso VIII*, p.28. Fernando II had colonised Ciudad Rodrigo, Ledesma, Benavente, Cozanza, Villalpando, Mansilla y Mayorga and Castroborja while restricting the territorial expansion of Salamanca.

<sup>30</sup> Estepa, 'La Curia de León en 1188 y los orígenes de las Cortes', *Las Cortes de Castilla*, pp.22, 25: 'Si no viesen en él estas dos palabras difícilmente estaríamos ahora celebrando el VIII Centenario de las Cortes de León.' He further suggested that the study of the origins of the cortes should never be circumscribed to the analysis of particular events, documents or dates: 'Desde que empecé a estudiar el texto de los Decretos y los textos procedentes de otras Curias, como la de Benavente en 1202 y de León en 1208, me pareció que el estudio del tema no podía quedar limitado a este texto y dentro de él a la frase *cum electis civibus ex singulis civitatibus*. El significado de esta frase sólo es posible entenderlo en un contexto más amplio.'

modern institutions.<sup>31</sup> In another publication associated to the celebration of the congress, Fernando de Arvizu begins an article asking why was the assembly of 1188 the first meeting of *cortes*. His response epitomises the attitudes adopted by parliamentary historians since the days of Martínez Marina: the royal gathering at Leon was the first parliament to meet in medieval Europe 'simply because it was,' '*pues simplemente, porque lo fueron.*'<sup>32</sup> But what kind explanation is that?

*The community of the realm at assemblies and their institutional importance*

If we are forced to accept that the assembly of 1188 "simply was" the first Spanish parliament, a study of the scanty sources of the twelfth century -free of the constitutional fallacies we have just pointed out- leads to the conclusion that the composition of plenary courts before 1188 was just as general or territorial if not parliamentary.

In the absence of chronicle accounts for this period, a large witness list is perhaps the best trace left by the meeting of an assembly, and particularly important is the presence of the bishops. All the episcopate of the kingdom of Leon and several lay nobles are registered as witnesses to diplomas granted by Fernando II at Leon in 1158, Benavente and Salamanca in 1172, Ciudad Rodrigo and Salamanca in 1176, Leon and Salamanca in 1177, Mayorga, Coyanza, Benavente, Toro and Ciudad Rodrigo in 1180, Mansilla, Castrotoraf, Salamanca and Benavente in 1181, Leon in 1183, Ciudad Rodrigo in 1184 and Leon 1187.<sup>33</sup> The signature of the entire Leonese episcopate is persuasive enough an indication of the meeting of plenary courts in these locations on those years. Similarly, several diplomas granted by Alfonso VIII were granted by all Castilian prelates at Atienza, Maqueda and Toledo in 1166, Zorita and Burgos in 1169, Burgos in 1170, Muñó in 1173, Burgos in 1177, Carrión de los Condes and Burgos in 1178 and Nájera in 1184.<sup>34</sup> These witness lists are general enough to suggest the meeting of Castilian plenary courts in this period. In the kingdom of Aragon, royal diplomas which included the confirmation of the entire episcopate were granted by the authority of Alfonso II at Zaragoza in 1162, Barcelona in 1163, Gerona in 1166, Zaragoza and Jaca in 1169, Zaragoza in 1172, Jaca in 1174 and Huesca in 1182.<sup>35</sup>

<sup>31</sup> J.L.Martin and Eduardo Fuentes Ganzo, *De las Cortes Históricas a los Parlamentos Democráticos*,

<sup>32</sup> Fernando de Arvizu, *Regnum: Corona y Cortes*, (Author's translation from Spanish: '*Pues simplemente, porque lo fueron, Y conviene, desde las primeras líneas, dejar este extremo meridianamente claro. Antes de las Cortes de León de 1188, no había Cortes, ni en los reinos españoles ni en ninguna otra parte de la Europa cristiana, que -en el siglo XII- es tanto como decir Europa civilizada.*' p.37 Note that the autor uses the plural *fueron* for the term *cortes* is also plural. It has been changed in our text to accord with the rest of the phrase and to indicate that although the plural is used, the term *cortes* implies one meeting. Then he suggests the meeting of the three estates as the demarcation criterion. Similar are the views expressed by Gonzalo Martínez Díez, who gave a paper at the first scientific congress on the history of the *cortes* of Castile and Leon (Burgos, September, 1986). Martínez concludes by saying that "in the Asturian-Leonese kingdom...authentic *cortes* were never celebrated before 1157, that is *cortes* which included the participation of representatives from the city councils." Translated by the author from Spanish: "*en el reino asturleonés...no se celebraron nunca auténticas Cortes, esto es curia plena con asistencia de representantes concejiles.*" ('Curia y Cortes en el Reino de Castilla,' *Actas del Primer Congreso Científico sobre la Historia de las Cortes de Castilla y León en la Edad Media*, Burgos, 1986, p.147)

<sup>33</sup> 10-11 bishops (including Coria)

<sup>34</sup> 7 bishops.

<sup>35</sup> 4 bishops.

Perhaps with their eyes fixed on the social changes experienced by assemblies from the 1180s, institutional historians have tended to ignore a number of very significant alterations in the composition of assemblies throughout the twelfth century. On average, the courts of Queen Urraca and her son Alfonso VII gathered as many bishops as the assemblies of Fernando II but the united kingdom of Castile-Leon had almost twice as many bishoprics as Fernando's realm. Only the legatine councils at Carrión de los Condes in 1130, Salamanca in 1154 and Valladolid in 1155 came close to assembling all the prelates of Castile-Leon during the reign of Alfonso VII, while as we have shown, more than nineteen courts brought entire episcopate of Leon together during Fernando II's governance and ten gathered all the bishops of Castile during Alfonso VIII's reign. In suggesting an important transformation in the attendance to Spanish courts in this period we only need the figures do the talking. It is equally striking to find that while the separation of the kingdoms of Leon and Castile in 1157 had obviously halved the body of counts and barons that could be summoned to assemblies thereafter, the courts of Fernando II and Alfonso VIII were better attended by lay magnates than ever before, with the remarkable examples of the Leonese courts at Castrotaf and Salamanca in 1181, both attended by twenty nobles and officials, and the Castilian courts at Toledo in 1166, Burgos in 1169 and 1170, and Belorado in 1175, gathering between twenty-two and twenty-seven. Similar crowds of magnates were seen at the Aragonese assemblies which gathered at Zaragoza in 1164 and 1169, Jaca in 1169, and Huesca in 1170 and 1182.<sup>36</sup> Conversely, such multitudes would have been rather extraordinary for the standards of Spanish assemblies before the 1150s, perhaps with the exception of the court celebrated at Leon in 1135 and Palencia in 1129 and 1143 -albeit the council of Palencia in 1129 was a legatine assembly presided by Raimundo, the archbishop of Toledo.<sup>37</sup> Plenary courts were also attended by lay nobles, such as the *comites* or counts and the barons, but the episcopal presence is particularly significant in determining the meeting of a territorial assemblies.

If these witness lists fail to persuade the parliamentary historian of the institutional and political importance of assemblies before the thirteenth century, some Spanish diplomas provide an evaluation of their significance, difficult for the modern scholar to ignore or undermine. Besides the occasional reference to baronial consultation and the social information contained in the witness lists, royal diplomas are hardly the sources of colourful political data, an aspect which normally concerns the chronicles. But when in 1135, Alfonso VII was proclaimed emperor of all Spain and crowned at a royal court celebrated in Leon, the event was unusually commemorated by the diplomas granted on the occasion, as a final clause proclaims, 'the day of Pentecost on which aforementioned king wore his crown in Leon.'<sup>38</sup> Such significance was attributed at the time to this event that the following month and subsequently thereafter in several diplomas with similar clauses. A property exchange between Fernando II of Leon and the Monastery of Osera took place at a *colloquium* or diplomatic conference with the king of Portugal celebrated

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<sup>36</sup> *FII*, ns.41-2, pp.475-6, *CD Pontificia*, n.124, *AVIII*, ns.84-90, 124-6, 133-6, 229, *AII*, ns.23, 65-6, 72, 74, 86, 339, *AC Huesca*, n.364, *Anales*, I, II, xxiv.247-8.

<sup>37</sup> Palencia 1129 was a legatine council.

<sup>38</sup> This was a donation granted to the Monastery of San Pedro of Arlanza at the celebration of the imperial court at Leon. Rassow, 10, p.424: '*die pentecostes quo rex supradictus Legionem coronam sumpsit,*'

at Cabrera in 1158, as the diploma remembers, 'the second year after which the lord emperor Alfonso died.'<sup>39</sup>

One of the first events to be commemorated in the diplomatic records during the reign of Alfonso VIII of Castile was the siege and conquest of Cuenca in 1177, referred to in one of the royal donations granted at the plenary court of Burgos in February 1178.<sup>40</sup> The epic defeat of the Moorish stronghold of Cuenca in 1177 had united the Christian rulers of Iberia under one banner, an unprecedented event that like the imperial coronation in 1135 and the death of Alfonso VII in 1157, deserved the attention of the diplomatic records. But interestingly, not only were the glorious deeds of the siege commemorated by the diplomas, but also the celebration of a royal court in Burgos the following year, perhaps attributing similar importance to such a gathering. In addition to the royal authorisation cited, the king granted special privileges to the city council of Burgos as one of the diplomas proclaims 'that time when the aforementioned king celebrated court in Burgos'<sup>41</sup>

Besides the imperial court of Leon in 1135, no other Spanish assembly was commemorated by diplomas, but during the reign of Alfonso VIII, the court of Burgos assembled in 1178 was not the only gathering to receive such treatment by the diplomatic records. Alfonso's coming of age was officially proclaimed at the court of Burgos which assembled in November 1169 and two other royal diplomas signed at Burgos the following week contained similarly commemorative clauses as well as a judicial dispute resolved at the Christmas court of Medina de Rioseco in 1182.<sup>42</sup> If a text cited by Professor Julio González in 1977 is not a forgery or has not been severely manipulated, similar diplomatic recognition was granted to the court of Nájera in 1184 when royal donations were discussed and conceded<sup>43</sup> and two years later, another important court was gathering at San Esteban de Gormáz to arrange the marriage between the son of the Holy Roman Emperor and Alfonso VIII's daughter, Berenguela. A royal diploma granted to the bishop of Sigüenza bears witness to the significance of this assembly stating that it was 'made at

<sup>39</sup> *FII*, 353: '*anno secundo quo obiit imperator dominus Anfonfus*,'

<sup>40</sup> The king authorises the dispossession of houses or *heredades emplazadas* near the Monastery of San Juan of Burgos, saving the rights of the monastery. *AVIII*, ii.486-8, n.297.

<sup>41</sup> *AVIII*, ii.485-6, n.296: '*tunc temporis uidelicet quando serenissimus rex predictus Burgis curiam celebrauit*'. Alfonso VIII granted the city council of Burgos a *fuero* concerning deaths by accident on 30 January. Additionally, Countess Elvira, the sister of the defunct Alfonso VII, and gave to the monasteries of Sahagún and San Salvador de Nogal, two parts of the village Nogal and Olmillos, at the court of Burgos '*tunc temporis quando serenissimus rex predictus Adefonsus, Burgis curiam celebravit*.' *AVIII*, ii.484-5, n.295.

<sup>42</sup> *AVIII*, II, 211-3: '*tunc temporis quo serenissimus rex Aldefonsus inibi primum curiam tenuit*' Gives the monastery of San Zoilo of Carrión a market in the village. *AVIII*, II, 213-6, ns.125-6. At the same court the king gave the right of inheritance over Estevilla, close to Medinaceli, to the monastery of Huerta, which was later confirmed in 1176, '*facta carta apud Burgis era MCCVII, XIV kalendarum decembris tunc temporis quando serenissimus rex Alfonsus inibi curias tenuit*'. A diploma witnessed the following day gave the bishop and cathedral of Burgos the monastery of San Miguel de Cijancas, in the *alfoz* of Bricia, as it was held by Martin Peláez. This grant was drafted '*apud Burgis era M CC VII, XIII kalendarum Decembris tunc temporis quo serenissimus rex Aldephonsus ibi primum curiam celebravit*.' The judicial case resolved at Medina de Rioseco involved a noble called Pedro Gutiérrez. *AVIII*, ii.686-8, n.398: '*eo anno quo rex ibidem curiam celebrauit*'

<sup>43</sup> This text was possibly drafted on 10 March 1185 and it is cited in Julio Gonzalez, *CHE*, 61-2 (1977), pp.357-361. It was aroused, however, a great deal of debate among Spanish historians, some of whom believe the text to be too fragile a reference to the court of 1184-5: '*in anno illo in quo rex Aldefonsus in Nazarensi urbe curiam suam congregavit*'

San Esteban [date], in the year which a court was celebrated in the said village of San Esteban...'<sup>44</sup>

The marriage took place and was celebrated at the court of Carrión de los Condes in July 1188, a very significant political occasion, which saw the knighting of Conrad, Alfonso VIII's son-in-law, and Alfonso IX, the new king of Leon. Just as the courts of Burgos in 1169 and 1178, Medina de Rioseco in 1182 and San Esteban de Gormáz in 1187, this meeting was also given its due importance in a royal document which notifies an exchange between the king and the Monastery of Sahagún.<sup>45</sup>

Were all these Castilian assemblies as significant as the imperial coronation of Alfonso VII and the conquest of Cuenca? The clauses appear to suggest so, but why have other important courts of Alfonso VIII been deprived of such recognition and why are Aragonese and Leonese diplomas oblivious to the territorial gatherings of nobles? The absence of chronicle sources for this period impedes further conclusions but it is clear that these courts are given by their contemporaries a political and institutional importance that parliamentary historians have chosen to ignore or undermine.

### Conclusion

The *curias plenas* of the twelfth century and especially those that gathered between 1160 and 1188 formed as much part of the parliamentary history of the Spanish kingdoms as the Leonese court of 1188. Indeed, these territorial assemblies –for so long condemned to the obscurity of a pre-parliamentary subject, almost entirely deprived of scholarly treatment- are the vanishing footprints of the medieval *cortes*.

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<sup>44</sup> AVIII, ii.807-8. This text is dated 21 May 1187 and provided the bishop of Sigüenza with the rights over the services of a Jew from Medinaceli. '*Facta carta apud Sanctum Stephanum, XII kalendas Iunii, era M CC XXV, anno quo in prefata uilla Sancti Stephani celebrata fuit curia et ibidem cum nuncio domini imperatoris ad matrimonium contrahendum inter illustrem [filium Romani] imperatoris et illustrem filiam regis Castelle tractauerunt*'.

<sup>45</sup> AVIII, ii.868-70, n.505: '*facta carta apud Carrionem, era MCC XX VI, IIII nonas Iulii, eo anno quo serenissimus rex prefatus Castelle A. regem legionensem A. cingulo milicie curia sua in Carrionem accinxit*'. This diploma was drafted on 4 July 1188 and gave the monastery of Sahagún some lands in Nogal and Olmillos in exchange of a sum of money and Villaesper. Another document by which the abbot of Sahagún recovers some land given to the monastery by Cit Jiménez in Valladolid. The document makes reference to the curia in Carrión and is published in José A. Fernández Flores, *Colección Diplomática del Monasterio de Sahagún*, iv.438, n.1443[26 August 1188]: '*Facta carta inquisitionis et restitutionis era M CC XX VI, septimo kalendas septembris. Eo anno quo serenissimus rex prefatus Adefonsus Castelle, Adefonsus rex Legionensem, apud Carrionem, cingulo milicie accinxit; et ipse Adefonsus rex Legionensis deosculatus fuit manum dicti Adefonsi regis Castelle et Toleti. Eo, eciam, anno et his diebus quibus sepedictus Adefonsus, illustris rex Castelle et Toleti, Romani imperatoris filium, Conraddum nomine, accinxit in nouum militem, et ei filiam suam Berengariam tradidit in uxorem...*'

<i>Leonese and Castilian assemblies attended by all or most bishops</i>			
<i>Fernando II</i>	<i>n/total</i>	<i>Alfonso VIII</i>	<i>n/total</i>
Leon 1158	10/10	Segovia 1161	6/7
San Cebrián 1159	9/10	Atienza 1166	7/7
Leon 1159	9/10	Maqueda 1166	7/7
Leon 1168	8/10	Toledo 1166	7/7
Benavente 1172	11/11	Zorita 1169	7/7
Salamanca 1172	10/11	Burgos 1169	7/7
Ciudad Rodrigo 1176	10/11	Burgos 1170	7/7
Salamanca 1176	10/11	Muñó	7/7
Leon 1177	10/11	Belorado 1175	6/7
Salamanca 1177	10/11	Burgos 1177	7/7
Villalpando 1179	9/11	Burgos 1178	6/7
Mayorga	10/10	Carrión de los Condes 1178	8/8
Coyanza 1180	10/10	Burgos 1178	7/8
Benavente 1180	10/10	Nájera 1185	7/8
Toro 1180	10/10	San Esteban de Gormaz 1187	7/8
Ciudad Rodrigo 1180	10/10	Carrión de los Condes 1188	7/8
Salamanca 1180	9/10		
Mansilla 1181	10/10		
Castrotoraf 1181	10/10		
Salamanca 1181	10/10		
Benavente 1181	11/11		
Leon 1183	11/11		
Ciudad Rodrigo 1184	11/11		
Leon 1187	11/11		