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## **Representation**

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## REPRESENTATION (SINCE THE THIRTEENTH CENTURY)

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*Wim Blockmans*

POLITICAL representation, based on the mandate bestowed on elected and responsible delegates, and applied at regional and national levels, can be considered as one of the major contributions of the western Middle Ages to world history. Some representative institutions, such as the English parliament, which developed from the thirteenth century onwards have functioned without interruption until the present day. The names given to others, such as the Spanish *cortes*, the Polish *sejm*, the German *Reichstag*, the Norwegian *stendermote* or the Dutch *staten generaal*, were applied to modern reformed institutions, obviously with the intention of justifying their new legitimacy. The connection of parliamentary with national history has therefore always been a very strong one, and has hampered attempts to explain the phenomenon on a general European basis. Where such endeavours have been undertaken, generally one national example, usually the English parliament, or a concept based on a more or less stabilised situation in the early modern period, has been too easily considered as the 'normal' pattern. Comparative history has largely remained a mere juxtaposing of national developments, with a strong emphasis on the large western states.

Very few attempts have been made to offer overall interpretations of the origins of representative phenomena. The most comprehensive and influential theory was formulated as long ago as 1931 by the German historian Otto Hintze. He identified the conditions necessary for the unique emergence of representative government in western Europe. In his view, political and social life in the west was moulded by the twin systems of feudalism and the Christian Church. The high clergy, the only intellectuals controlling the chanceries of the emerging states, could oppose limitations to lay authority by referring to general rules of Christian ethic. Germanic law, especially as it was formalised in feudalism, offered a second limitation to rule in its concept of reciprocal power relations. A ruler was always bound by mutual obligations and could be held to respect certain moral and legal standards. In particular, the immunity of eccle-

erastical institutions, clergy and the inhabitants of lordships and cities formed the basis of the subjective public rights of privileged groups. Western states did not grow into a unified *imperium* but constituted weakly integrated parts of a loose global system which shared Christian values, represented by a universal and independent Church. The constant competition between states led to an intensification and a rationalisation of state systems, rulers referred to the tradition of Roman law and sought the active support of their citizens in the mobilisation of resources needed in the growing competition. The ecclesiastical model of conciliar representation was easily transferred to secular circumstances. Hintze saw the extension of monarchical authority over the representative institutions as a necessary condition for the development of representation: in his view 'municipal structures everywhere excluded representation by estates'. On the other hand, unlimited feudalism tended to dissolve the emerging states. Representative institutions could only develop and last within centralising states.<sup>1</sup>

Hintze's thought provoking insights carry conviction, even if his widely shared vision of the necessity of monarchical centralisation for the proper development of representation is open to serious challenge. In our view, communes could very well create stable representative systems which dealt with a good deal of public administration. Another element in his theory, concerning the typology of the constitutions of estates, has now been refuted on both theoretical and empirical grounds.<sup>2</sup> In 1962 Antonio Marongiu published an extensive description of the Italian parliamentary system, which was reworked in its 1968 translation into 'a comparative study'. Besides a juxtaposing of the factual evolution in some major western countries, it offered penetrating insights into their general characteristics and ideology. However, the debate on the typology, the evolution of structures and functions of representation is still very much alive today.<sup>3</sup>

#### THE PROBLEM

##### *Concepts and terminology*

No existing study offers a comprehensive interpretation of the representative institutions of medieval Europe. Authors of earlier generations focused on particular types of institutions, excluding other forms of representation. They tended to consider these as 'ideal types' or true models with which all other

<sup>1</sup> Hintze (1931) pp. 4, 14, 40, 2.

<sup>2</sup> Hintze (1930) Moraw (1992) pp. 5, 6. Blockmans (1978b) and (1992).

<sup>3</sup> Blockmans (1978b) and (1992), Topfer (1980b), pp. 10, 11. Kruger (1983), Blicke (1986) Moraw (1992).

instances had to be contrasted, such were the English parliament, the Iberian *cortes*, the French estates general and provincial three estates, the German *Stände*. This limitation imposed sharp classifications on the sources which, on the contrary, reveal a wide variety of representative activities in many countries, including France, the Iberian lands and the Empire. In England, Edward III for twenty years after 1336 discussed taxes on exported wool with merchants' assemblies, only some of their members were elected locally, others summoned in person.<sup>4</sup> In France, regional assemblies of towns, of notables, of the clergy co-existed with regional assemblies of three estates. Peasants were represented as a fourth estate in Scandinavia as well as in Russia and the southern imperial and Swiss territories, such as Tirol, Vorarlberg, Stion and Chur. On the other hand, in the ecclesiastical territories such as Württemberg, where there existed few important monasteries, and where the chivalry considered itself dependent directly upon the king, they left the *Lehnbarkeit*, the honourable men, consisting of patricians and local officials, as the sole estate facing the bishop. We will see that various types of representative institutions co-existed in the same time and space, that the same problems were dealt with by all these assemblies, and that one type of assembly could be substituted for another in the course of a single decision-making process. Therefore, it is necessary to have an open attitude towards all forms of representation without preconceived classification.<sup>5</sup>

Further, we still need to have at our disposal more elementary data than we have about the actual activities of assemblies. Indeed, many more sources have to be published and analysed before we can assess the role of representative institutions generally. Thanks to the early bureaucratic organisation of the English monarchy and the exceptional continuity of its archives, the parliamentary rolls have long been published and studied, much, too, is known regarding the careers of members of parliament. The voluminous and ongoing publication on the German *Reichstag*, on the other hand, offers important information about the Empire, yet the concept of the representative institution itself remains unclear.<sup>6</sup> Most recent scholarship has shown that only from 1470 onwards did there really exist such a representative institution. The very extensive source publication which began in 1867 under the title *Deutsche Reichstagsakten* collected numerous sources from which were reconstructed assemblies which were in fact more or less extended court meetings, not representative assemblies as such. The ambition of nineteenth-century historians to reveal medieval precedents for the presumed democratic institutions of their time misled their reconstruction.<sup>7</sup> The problem was experienced more widely

<sup>4</sup> Roskill *et al.* (1992) I p. 119.

<sup>5</sup> Criticism in this sense Dhondt (1950) pp. 295–306 and (1966) pp. 345–7; Bisson (1964) pp. 1–11; O'Callaghan (1989); Moraw (1992) pp. 10–19; Heimig (1990); Hülck (1980) pp. 15–17.

<sup>7</sup> Moraw (1980) and (1992) pp. 15–24; Boockmann (1988) pp. 298–307.

later developments too often wrongly influenced the interpretation of medieval representative institutions<sup>8</sup>

Marongiu correctly refuted the term *estates* (*Stände, états*) as an overall concept too specific for the great variety of representative phenomena under consideration. However, his alternative, parliaments, raises similar problems unless it is understood in its original meaning of a convention for discussion. Even then, confusion remains with the French institution, the *parlement* (which was a royal court of law), and with modern parliaments. Moreover, it would be a mistake to attach too much importance to the appearance in our sources of a particular name in relation to the origins and composition of that institution: estates general, *cortes*, *Reichstag* and many other forms of consultative representation had been functioning for a long time before people, who developed the practice because it was convenient, noticed that it was lasting. Only at that stage were names thought of. This chapter, however, deals with the wider concept of representation, which includes forms not covered by the above-mentioned terms. The wider definition of the subject will help us to understand differences and to detect similarities in time and space. It is for that reason that the more widely encompassing scholarly term, that of 'representative institutions', has been chosen. Since it is independent of specific historical features and their designation in contemporary sources, and does not refer to a specific modern concept, it will allow for a neutral description, not suggestive from the outset of any analogy with other times or places.

We should try now to go further in explaining (a) the reasons for chronological variations in the appearance, decline or disappearance of assemblies, and (b) their typological variation. We will have to identify the conditions under which the phenomenon of political representation functioned on a supra-local level in specific ways. Indeed, while representative institutions appeared in nearly every European region at some time or other, there were striking differences in chronology, duration and impact which considerably reduce the alleged generality of the phenomenon. Neither can one ignore the disappearance of regional representative institutions in northern Italy, the most advanced area of the time, or in central France, and their only very limited impact upon central and eastern Europe. Before it is possible to discuss these matters some further preliminary points have to be clarified.

#### *Representatives and constituencies*

Who was represented by whom? Representation means literally to make present an absent. This can occur in a private relationship on a one-to-one basis

<sup>8</sup> Blockmann (1992a) p. 39

A great feudal lord was summoned in person, in the context of his personal feudal contract with his suzerain, which obliged him to counsel and help. Only in case of inability to travel was he represented by a proctor. Thus he had to attend when summoned by his lord, refusal signified an open conflict between them. He was invited since he was an important vassal, which implied that he was a great landowner and thus in a position of power. The people living on his domain were not represented by him since they were dependent and therefore unable to express a political will. Thus, there was no representation in meetings of feudal lords only, even if they upheld the fiction of representing the 'whole people', as did the English nobility and the Hungarian and Polish magnates in the thirteenth century. The same applied to prelates insofar as they were summoned as vassals. In England and Wales, twenty-one diocesan bishops were summoned in person, as were twenty-five French archbishops and bishops until the estates general of 1468. They fiercely protested when, in 1483-4, a new electoral system eliminated personal summonses and only twenty-four of them were elected as representatives of the clergy in their particular *bailliage* or *sénéchaussée*.<sup>9</sup>

However, representation by clergy who held an office to which they had been elected and appointed was true representation. Sometimes, a chapter or monastery convened to decide who would represent the community in a political assembly. The practice of representation of a community formed by people in an identical juridical position applied further to privileged communes of an urban or rural character. As soon as corporate bodies enjoying formal rights through custom and privilege were recognised within a hierarchical society, they created the basis for the representation of their common interests vis-à-vis other bodies or *estates*. The word *estate*, derived from the Latin *status*, originally meant nothing more than a social and juridical position. In the *ancien régime*, the hierarchy of particularly privileged individuals, institutions and communes was considered as the main characteristic of society. Collectivities, rather than individuals, enjoyed liberties and rights. Towns and rural communes acquired customary rights or were granted privileges in different forms at different times. The plurality of such legal positions demanded agreements and working arrangements between each of them. One way of achieving these formally was negotiation in assemblies of estates in which corporate bodies were personified by proctors.<sup>10</sup>

The summons by King John of England in 1213 of 'four discreet knights' from the counties of England clearly referred to the representation of districts by elected representatives. In England, the courts of hundreds and counties naturally developed out of the Anglo-Saxon period into constituencies for

<sup>9</sup> Bulst (1992), p. 340.

<sup>10</sup> Monahan (1987) pp. 111-21.

political representatives, as is clearly seen in the first appearance of the knights of the shire in parliament in 1254. It was the early and systematic organisation of rural communities on a national scale, a consequence of the exceptional administrative centralisation achieved by the Norman kings, which made this advance possible. In Sweden, the hundred districts likewise formed the basis for national representation. Yet, in the English counties, the constituencies were not free to elect representatives of their own social status, as occurred in religious, urban or rural communes.

Representation is often seen as the consequence of action by a monarch. This was not necessarily always the case. In southern France, assemblies of urban representatives were regularly summoned or convened in their own right. In 1252, Dublin and Drogheda agreed on a confederation 'on common counsel among representatives of the towns'. In 1285, the confederation was extended with Cork, Limerick and Waterford, prescribing the biennial meeting of two or three burghers of each on the morrow of Trinity.<sup>11</sup> Elsewhere, as in Holland, Friesland, southern Germany and the Alpine regions, emancipated communes of free peasants gradually developed representative systems from the bottom up. Representation required a constituency, a corporate privileged community itself able to designate those mandated by it. The feeling of community, resting on common rights and interests, did not necessarily require a prince to provoke representative actions.

### *The political system*

It is generally assumed that states or, before their stabilisation, counties or territories formed the system in which representative institutions operated. Hintze regarded the nature of a monarchical state, competitive, centralising and rationalising, as a necessary condition for the full development of a *Ständestaat*. This concept, difficult to translate into English, refers to a state in which the estates have a constitutional political role. In this perspective German historiography adopted the view of a dualistic system of the (territorial) prince and the estates. Even the most recent opinion holds that 'the prince and his court were not only the point of departure and antagonist of the system of estates, but the nodal point from which the fundamental development of the territories has to be understood'.<sup>12</sup> Although this viewpoint may be adequate for large parts of continental Europe, it certainly does not fit urbanised coastal areas, where territorial and monarchical states had much less influence. It can certainly not be considered a general rule that the monarch was the initiator and sole focus of representative activities, not even in the

<sup>11</sup> Monahan (1987) pp. 124-5.

<sup>12</sup> Moraw (1992), p. 9.

Empire. In some urban areas, other types of representation developed into regional urban leagues, in some of these associations of cities (*Einungen* or *bermandades*) or *Landfrieden* (territorial peace treaties) princes and nobles were included as well. Such systems could develop only thanks to negotiations and some form of representation. Regional urban leagues found unity in the German Hanse, which German historiography, in my view incorrectly, does not consider as another type of representative system. The Hanse cities had their own representative assemblies on different levels and acted towards the outside world in the name of their member towns. In a similar way, groups of coastal towns created regular contacts with other authorities in support of their citizens' trade. From the *consulado del mar* of Barcelona, dating from 1258, to the more conventional participation in the sealing of commercial treaties struck between princes, such as that called out by Flemish cities during the thirteenth century, we can observe many examples of urban representatives operating in networks very different from those of the territorial state and its monarch. Apart from the networks of commercial cities, communities of free peasants, in particular of cattle breeders, proved able to represent their interests on their own initiative before trading partners or political competitors.

In contrast to prevailing German interpretation, and particularly that of Hintze, representation did not always develop within the framework of one particular territory, state or monarchy. Conversely, too, not all monarchical states developed representative institutions: the silver mines of Thuringia and Meissen allowed their princes a sufficient income not to have to appeal to their subjects until the fourteenth century, as did its grain revenues for the Teutonic Order in Prussia.<sup>13</sup> Moreover, monarchs were often reluctant to summon existing representative institutions. Thus the view that representative institutions had to be focused on the monarchical state and limited to its borders is too narrow for our purpose. In broadening our scope and including the wide variety of types of representative activities developed in different regions, we may be in a better position to understand their evolution and functions. Moreover, few states were stable entities during the later Middle Ages. Dynastic strategies and accidents often united or separated territories, thus changing the political system in which representative institutions had to operate. A dynastic union, such as that between the kingdoms of León and Castile in 1230, could lead to the unification of both incipient *cortes*, while in the neighbouring kingdom of Aragon, the constituent territories kept their individual assemblies. Only on some occasions did the kings of Aragon in the fifteenth century summon combined assemblies of the *cortes* of Aragon, Catalonia and Valencia. The dynastic union of Castile and Aragon, however,

<sup>13</sup> Holz (1965), p. 182, Boockmann (1992b).

never led to common meetings of their representative institutions. Both cases show the importance of the sense of community, as contrasting to the unifying action of the princes. In the fifteenth century, the king of France ruled over territories some of which had representative assemblies, others not. His integrative action explains this co-existence but the different institutional traditions had been ruled out by him. The state is therefore not the only suitable unit of analysis: it was not always the exclusive focus of political representation, constituting in itself a variable unity which did not necessarily produce representative institutions. This is why we should opt for an analytical framework of political systems, starting from the various representative activities themselves, rather than from the territories.

### *The analytical framework*

If the state is thus rejected as the unit of our analysis, we have to turn to less stable and more varied political systems as these really functioned and were felt as communities by the people. Besides the large monarchical states, the later Middle Ages saw the continued existence of regional or territorial states ruled by a lay or clerical prince, independent cities with a more or less extended territory, and virtually autonomous rural territories. The last two categories, when located in close proximity to one another, often united in federations of which some lasted for years, decades and even centuries, just as monarchies did. Representative institutions evidently were expressions of the most powerful segments of those societies from which they emanated. They should therefore be considered in their wider social and political context.

The first factor to take into account is the strength of the ruling dynasty, a result of the continuity of undisputed and capable heirs. Furthermore, a dynasty's strength depended on its success in pursuing a matrimonial policy aimed at acquiring as many inheritances, rights or claims as possible. Its position, too, was determined by the availability of independent resources which enabled it to indulge in political action.

The second factor is the sheer physical scale of the political system. Representation is a matter of communication in which facilities for travel play an important role. Some systems simply proved too large to be really functional. Strong dynasties often crumbled under their own over-expansion. The Empire, even without Italy, Bohemia and other peripheral regions, was so extensive that it took up to one month to cross; a factor which delayed the dissemination of information and increased the costs of transport. In France, while regional assemblies were regularly held, they showed very little ambition to have the estates general summoned more frequently. In 1468, the representatives in Tours, having agreed in nine days to the king's wishes, observed

'qu'ils ne se peuvent pas si souvent rassembler' and acquiesced in all his further decisions on those matters – and many others as well.<sup>14</sup> Distances and scattered settlement prevented a real sense of community from arising at the level of the kingdom. For the same reasons, the general assembly of the German Hanse (*Hanse tag*) was mostly poorly attended and thus ineffectual, even if connections by ship were easier than over land, the distance between London and Novgorod created too many obstacles. Representative institutions thus reached their highest intensity in relatively small areas, with a diameter of, say 250 to 300 kilometres, mostly along an important river or a stretch of coast with good harbours, thus enabling major cities, and commercial activities between them, to develop. Their advanced social integration maximised both the need and the material possibilities for frequent interaction. Thus a political system was not necessarily based on contiguous territory: it could also consist of a network of cities.

The third factor in our analytical framework, containing a whole set of variables, has to be the social and economic structure in the political system. Power, as the ultimate aim of all representation, depended on the numbers of people in each occupational category and on their share in the wealth they controlled, including the measure of personal freedom which they enjoyed. It is essential for our purpose to be aware of the nature and size of the resources which each contending group in a political system could mobilise. In the last instance, these material factors determined the opportunities of which the contenders could make a more or less efficacious use. In the field of common place political ideas, however, the vision of society as a body, a metaphor derived from Aristotle, helped to legitimise social inequalities. In the terminology of the Catalonian *braços* (arms) of the *cortes*, the Italian *braccia*, *bracci* or *bras*, and the Flemish *leden*, *membres*, we find echoes of this anthropomorphic thinking.

The fourth factor concerns the position of the political system in its wider context. Vulnerability to external challenges, for instance, strongly influenced internal relations. Geographical location, such as exposure to external pressures or isolation and lack of opportunity to develop relations with others, played its role. Expansion on a commercial or military basis, or the need to mobilise defensive forces, were among the most frequent items on the political agenda of representative institutions.

The fifth, and last, factor we will have to consider can be labelled the weight of institutional traditions. In each situation of relatively open power relations, contenders seek legitimation for their actions, which helps them gain acceptance. The existence of a tradition of problem solving by negotiation helped

<sup>14</sup> Bulst (1992) p. 49

to channel conflicts into peaceful solutions and to prevent their escalation. New situations could be settled by stretching the existing rules. For example, the incapacity and abuse of power by the duke of Brabant John IV in 1420 furthered the elaboration of the century old constitutional tradition, this helped to limit the bloodshed. The absence of a tradition of active representative institutions eased the shift of power towards the monarch or the nobility. In any event, the solution of problems was normally sought along the lines of existing procedures and institutions such as, for example, the German regional peace treaties (*Einungen, Landfrieden*) or similar types of negotiated agreements (and the application of the feudal notions of loyalty, counsel and help to communities of citizens and free peasants). Particular problematic situations often triggered off solutions which in the long run proved to be real innovations. A typical example is the new procedure to summon the French estates general by districts. The Beaujeu party in the royal council designed it in 1483 in order to strengthen its own position during the regency. The system eliminated the traditional personal summonses, and required instead pre elections of three representatives, one from each estate, in the administrative districts. It was to last until 1789.<sup>15</sup>

#### MONARCHICAL CHALLENGES

The development of particular forms of representation depended on conditions which now require investigation. Once a practice had grown into a tradition which was regarded as a customary right, it could not easily be discarded and thus it influenced its further evolution. Essentially there were only two ways of launching the process of the institutionalisation of popular representation: either the prince or some groups from the people had to take the initiative. From the side of the subjects only the communes should interest us now, the (high) nobility would not create a real representative political system, nor would the clergy other than in ecclesiastical principalities, where they must be considered as rulers. To get an innovation going, some problems had to trigger off solutions. We shall distinguish between the prince's problems and those of the communes.

#### *The problems of princes' recognition*

In 1230 and 1231 the Emperor Frederick II was obliged to grant rights to the German princes and cities in order to keep the country quiet before his return to his beloved Sicily. Without the active support of the magnates, no ruler

<sup>15</sup> Bulst (1992) pp 356-62.

could carry out all his essential functions. The first concern of every feudal lord was to ensure the loyalty of his vassals, even if he had to pay a price for it. The moment of accession to the throne, therefore, was always a crucial one for a prince, especially since many successions were disputed by rivals whose rights were often no less convincing than his own. In the case when several contenders had comparable rights, effective power usually proved decisive, while the securing of support from as many elements in the population as possible was of vital importance. Many successions caused problems because of the uncertainty regarding the rules of succession. Such rules might be different in other countries, which had its consequences, given the nobility's pan-European matrimonial relations. Many marriages were rendered invalid by the rules of canon law on kinship. So, not infrequently, succession fell upon children or women, whose position was generally vulnerable. Add to these situations involving physically or mentally weak heirs, and one has a catalogue of possibilities for intervention by hostile powers, who in their search for support often encouraged participation in political strife by wider segments of society.

A well-known case in which the disputed succession to the throne gave rise to broad consultation with powerful groups of society is that of King Alfonso IX in Leon in 1188, who summoned the 'archbishops, bishops, the religious orders, the counts and other nobles of his realm, together with the elected burghers from the different cities'. Before them, he swore to respect the *mores bonos*, the good customs and not 'to wage war, make peace or hold a solemn court without the counsel of the bishops, nobles and good men with whose counsel I have to reign'. In their turn, they all 'swore fealty in my council, to keep justice and to bring peace in my whole realm'.<sup>16</sup> Scholarship and national pride have hailed this assembly as the first ever in which elected representatives of cities participated actively. We should not, however, overestimate even exceptional events like this coronation ceremony. That of Alfonso VII as emperor of Spain in 1135 was embedded in a solemn assembly of dignitaries among whom a chronicle mentions the presence, as the last in the enumeration, of 'judges' who may well have been the same elected members of the town councils as in 1188. The haphazard survival of documents, as well as the terminology used by those who wrote them, present today's historians with difficulties. It has been argued recently that the famous act of 1188 must have been formulated at least in part during a court meeting in 1194 for which the participation of citizens cannot be proved.<sup>17</sup> Moreover, in 1187 in neighbouring Castile, a meeting of the king's court (*curia*) had been summoned to recognise Berenguela's right of succession. The *maiores* of fifty towns promised to guarantee the observance of her marriage contract with Conrad of

<sup>16</sup> Procter (1980), pp. 51-2, 138-43, 176-85; O'Callaghan (1989), pp. 79-93; I steph Dicr (1990), pp. 21-39.

<sup>17</sup> I steph Dicr (1990), pp. 23-7.

Hohenstaufen. So it is likely that the leaders of these towns had been summoned to the same *circa* in 1187 where the contract had been prepared<sup>18</sup>. Rather than highlighting one date, it should be noted that participation of representatives of the cities gradually assumed an increasingly significant role in the political life of Castile and Leon: in the latter kingdom they certainly participated in *cortes* (a term occurring only by 1250) in 1202 and 1208, in the former also in 1222. Meetings remained rare, and it was only after 1250 that assemblies reached an average frequency of one in two years.

Castile-Leon shows a long tradition of interference by the representative institutions in the recognition of the heir. They did not formally elect the king, but influenced the determination of the succession. However, their intervention was not always necessary: the succession of 1284 and 1332 occurred without them. In 1202, 'the whole Leonese kingdom' swore allegiance to Berenguela's recently born son, Fernando. In 1254, King Alfonso X summoned the archbishops, bishops, magnates and representatives of cities, fortresses and towns to pledge homage to his eldest daughter Berenguela, it was clearly stated then that the kingdom of Castile-León had to be kept undivided. During the conflict about primogeniture which arose from 1275 until 1282, the support of the *hermandades*, autonomous associations led by the cities and including bishops and abbots, proved to be essential. The *cortes* curtailed King Alfonso X's competence in favour of his son, Sancho, and formulated conditions and the right of resistance in the case of violation. 'The power of the *cortes* was demonstrated by their direct refusal of Pope Martin IV's interdict and excommunication of Sancho in 1283. During the successive minority crises in 1295-1301 and 1312-25 rival candidates had to concede far-reaching powers to the *cortes* or *hermandades*. Their claims were formulated in *cuadernos*, which provided effective control of the government. Violation of the agreement would lead to the choice of another regent. The *cortes* of Castile-Leon did not interfere with the recognition of the king in 1284 and 1332, but repeated minorities and rivalries gave them many opportunities to influence the making of decisions and obtain increasing privileges for themselves'<sup>19</sup>.

In the neighbouring kingdom of Aragon a 'general court' was held in Lerida in 1214 to swear fidelity to the child king Jaume. Among them were 'barons, knights, citizens and the men [vassals] of the castles and villages'. On this occasion Catalonia got its Statutes of the Peace revised in favour of the cities and some dissident nobility, the abolition of tolls was confirmed, and no taxes were to be levied on the cities during Jaume's minority<sup>20</sup>. In 1228 during a difficult period after a revolt and just before his divorce, King Jaume summoned another 'general court' in Daroca. The names of three bishops, dozens of

<sup>18</sup> O'Callaghan (1989) p. 82.

<sup>19</sup> O'Callaghan (1989), pp. 79-93.

<sup>20</sup> Bisson (1986), p. 59.

nobles, the 'citizens, burghers and wise men', more than 180 in all, are listed in a charter drawn up during this meeting. Homage and fealty to the king's young son was given by the delegates of the thirty cities and towns both personally and in the name of their communes.<sup>21</sup> 'General courts' with more than 100 participants, at which not only dynastic affairs but also matters of internal peace, law, politics, taxation and coinage were discussed, had been a tradition in Aragon at least since 1154. The participation of the cities and towns, which, during the twelfth century, had been dominated by the members of the *concejos*, now achieved a broader representative basis since the communes, cities, towns and villages were represented by two to fourteen deputies of varied status, craftsmen and herdsman as well as the local notables. When the dynasty of Aragon became extinct in 1412, it was the *corts* of Aragon, Catalonia and Valencia-Majorca which, together, took the decision in favour of one of the claimants, Fernando, son of King Juan I of Castile.<sup>22</sup>

Recognition of the kings of Castile, Leon and Aragon by the representatives of their subjects – the magnates, high office holders, noblemen and representatives of the *corporata*, political bodies – was far from formal ceremony. Recognition was conditional: the representatives were invited to swear an oath of loyalty as vassals or pseudo vassals (the cities). This implied that the assent could be withheld or revoked, just as in a feudal contract. An early example of this action is described in contemporary chronicles in Flanders in 1128. Count William had been inaugurated in 1127 under condition that he showed respect for the privileges of the land and particularly for those of the fast growing cities. Within a year he had violated so many stipulations that citizens rebelled in Saint Omer and Lille and a broad movement of opposition arose. In Ghent, the citizens had the following request addressed to the court in their name by a sympathetic nobleman:

Lord count, if you had wished to deal justly with our citizens, your burghers, and with us as their friends, you would not have imposed evil exactions upon us and acted with hostility toward us but, on the contrary, you would have defended us from our enemies and treated us honourably. But now you have acted contrary to law and in your own person you have broken the oaths that we swore in your name concerning the remission of the toll, the maintenance of peace and the other rights which the men of this land obtained from the counts of the land, your good predecessors – and from your self, you have violated your faith and done injury to ours since we took the oath to this effect together with you. I et your court, if you please, be summoned at Ypres, which is located in the middle of your land, and let the barons from both sides, and our peers and all the responsible (*sapientiores*) men among the clergy and people come together in peace and without arms, and let them judge, quietly and after due consideration,

<sup>21</sup> Bisson (1977) p. 118. Just one example from Utrecht: *Isti sunt probi homines Ykerdensis qui iuraverunt pro se et pro tota universitate Ykerde. I. 60. Raimundus Petri iuro et hominum fuito*

<sup>22</sup> Bisson (1986) pp. 134–6.

without guile or evil intent. If in their opinion you can keep the countship in the future without violating the honour of the land, I agree that you should keep it. But if, in fact, you are unworthy of keeping it, that is, lawless and faithless, a deceiver and perjurer, give up the countship, relinquish it to us so that we can entrust it to someone suitable and with rightful claims to it. For we are the mediators between the king of France and you to guarantee that you undertake nothing important in the county without regard for the honour of the land and our counsel.<sup>23</sup>

This remarkably clear and early pronouncement of the principles of constitutional government under the control of the representatives of the three estates emanates from the feudal notions of contract: a vassal had the right of resistance if he was wrongly treated. The argument introduced the widening of this concept to all citizens, it was grounded on their mutually sworn fealty on the basis of law. The count, however, refused the proposal, rejected the homage previously done to him by the spokesman and challenged him to combat. His reaction refuted the notion of the countship as a public office subject to judgement by the 'wisest' representatives from the three estates, united in his council. The proposed meeting of the broad *curia*, the count's court, was never held, and arms finally decided in favour of the citizens. During the remainder of the twelfth century, successive counts did not repeat the same mistakes but granted new privileges to the cities, no mention is to be found of any effective assembly of the kind announced in 1128.<sup>24</sup>

The formal and conditional recognition of the ruler by the representatives of the three estates, not only the feudal vassals but also those of cities and often villages, can be found in several other regions. In the states of the Church, several assemblies were summoned from 1200 onwards in different provinces. In that year 'qualified representatives' of the communes of the Marches were invited to swear an oath of fealty to Innocent III, and to contribute to the settlement of peace and the defence of the land. On other occasions, the three estates were summoned for similar motives. This frequent interaction gave the opportunity of presenting grievances and petitions, but remained limited to the provincial level, which hampered a further concentration of power. Indeed, no pope ever summoned assemblies in Campania or in the city of Rome.

In Sicily, where the Emperor Frederick II had initiated the representation of cities, these played an active role in the transfer of allegiance to the house of Aragon. The 'better men' of cities and villages convened to swear an oath of fealty to King Peter I in 1282, and to hear him confirm the laws and customs of the time before the Angevin kings. In 1286, the coronation of King Jaume was the occasion to hold another assembly at which twenty three *capitoli*, or constitutions, limiting arbitrary government were issued. In 1296, it was the

<sup>23</sup> Gilbert of Bruges, *De muliro*, p. 95

<sup>24</sup> Dhondt (1950)

'counts, barons and *syndics*' (envoys of the cities) who transferred the kingdom to Frederic of Aragon of whom it was hoped that he would defend Sicily better than his brother against the rival Angevin monarchy. He swore to keep the constitutions of his predecessors since Norman times, not to abandon the country, nor to make war or peace without the general consent of the kingdom. He even promised to call annually, on All Saints' day, a general *cumia* of the counts, the barons and suitable representatives of the cities. The purpose of these meetings would be the redress of grievances against royal officers, 'it being most just that the king be bound to observe his own laws'. In the fourteenth century, the disappearance of the fear of an Angevin reconquest and a series of weak kings seem to have removed the challenges to the estates which could not take advantage of their far reaching privileges.<sup>25</sup>

When King Louis VIII of France took possession of Languedoc in 1226 after the so called crusade against the heretics, he took care to receive the oaths of fealty from all the prelates, nobles and cities in the region. His commissioners travelled around to receive the oaths, sworn both privately and in public assemblies where the consuls and other townsmen represented their communes. The translation of the county of Toulouse to King Alfonso IX of Leon was formalised in 1249 in a series of assemblies in which different sectors of the territory rendered their oaths. The townsmen of Toulouse did so and heard their liberties confirmed. At least sixty six nobles and notables, together with the consuls of fourteen communes, swore their oath of fealty on the basis of the royal rights agreed earlier during a second assembly, after which followed two other similar meetings for 'many barons and other nobles and other persons, both clerical and lay' in various districts. In Agen, the assembly 'composed of barons and knights of the diocese, consuls of Agen, and councils and burghers of regional bouigs, *castles*, and villages' refused to comply with the request of the commissioners to render fealty, referring to their liberties and customs and to conflicting rights to the throne. Indeed, in 1279 an assembly of prelates, deputies of the chapters, barons, knights, nobles, deputies of towns and villages was summoned to transfer the lordship to the proctor of King Edward I of England, who secured feudal recognition in person in 1286 in a general assembly as well as in local meetings. The whole episode shows the necessity for kings to obtain the assent of their new subjects in the form of regional assemblies which had their own rights which they clearly wanted to have respected.<sup>26</sup>

In the Empire, it was only during the difficulties of Louis of Bavaria with the pope in 1338-44 that the king sought the active support of all his subjects, including dozens of cities which he summoned twice.<sup>27</sup> Most cases of

<sup>25</sup> Marongiu (1968) pp 109-19 Koenigsberger (1978) pp 22-9

<sup>26</sup> Bisson (1964), pp 143-63 234-45 <sup>27</sup> Ingel (1980) pp 38-9

participation concern peripheral territories. Ecclesiastical principalities, in particular, were liable to open disputes about succession, since each implied a totally new beginning. No wonder that in a prince bishopric such as Liège, one of those cities which had grown very early in economic importance and political autonomy, many a vacancy gave birth to an urban league, first in 1229 and again repeatedly during the next centuries. The development of representation was interwoven with particularly violent clashes between variable configurations of the bishop, the chapter, the patriciate, the nobility and the common people of the cities, often in coalitions with neighbouring princes. Unions were followed by renewed violence and peace treaties until the end of the fifteenth century.<sup>28</sup> Nobles and aldermen (*Ratsberren*) of the cities of Rostock and Wismar formed the regency councils during minorities in Mecklenburg in 1282 and 1329.<sup>29</sup> The peace treaty made on the occasion of the division of Pomerania in 1295 between two half brothers granted the vassals and cities the right of resistance against any infringement upon their corporate privileges. This treaty was called into effect in 1319 when one of the two dukes came into conflict with his subjects. When, in 1326, the other duke died leaving only young children, vassals and cities participated in the regency council. In 1338–9 the vassals and cities refused to inaugurate King Louis' son as their duke. Such instances strengthened the corporate identity of the two main estates of the territories.<sup>30</sup>

In 1315, repeated dynastic problems in Bavaria led to the formation of a union (*Einung*) of nobles and cities, and in 1324 of a deputation from these estates (*Ausschuß*) that would decide in all political matters.<sup>31</sup> After the Emperor Charles IV had usurped the Brandenburg March in 1363, the estates at first refused to inaugurate him, and only yielded under military pressure. In the fifteenth century, the estates nevertheless constituted the obvious agents, on a par with the councillors, to govern the territories during the prolonged absences and minorities of the elector.<sup>32</sup> In 1413, the estates of Prussia – thirty-two knights and esquires and sixteen citizens – collaborated with the knights of the Teutonic Order to depose the powerful Master, Heinrich von Plauen, and swore fealty to his successor. Between 1410 and 1466, the estates played a decisive role in the transition of Prussia to the king of Poland. In 1454 the deputies of the nobility and the six major cities refused obedience to the Teutonic Order and turned to the king of Poland who incorporated Prussia under the stipulation of far-reaching rights of autonomy.<sup>33</sup>

The most interesting tradition in this respect is that of the duchy of Brabant. Between 1248 and 1430, problems of succession, usually resulting from the

<sup>28</sup> Topfker (1980), pp. 114–35.

<sup>29</sup> Ingel (1980), pp. 46, 53.

<sup>30</sup> Baul (1992), pp. 123–6.

<sup>31</sup> Ingel (1980), pp. 52–3.

<sup>32</sup> Heinrich (1992), pp. 145–8.

<sup>33</sup> Biskup (1992), pp. 85–9.

minority or gender of the heir or the extinction of the ruling line, manifested themselves on eight out of nine occasions. In all these cases, the representatives of the cities, sometimes acting together with the most prominent noblemen, negotiated written guarantees with their dying or future dukes. In 1267, barons, magnates and cities agreed with the duchess to replace her incapable son, Henry, by his younger brother, John I,<sup>34</sup> while in 1312, with the prospect of yet another minority looming, a regency council was formed in which burghers assumed an important role. A solemn act recognised the right of the subjects to refuse any service to the duke if and as long as he violated the privileges granted in the constitution. From this text grew a tradition of granting, on the occasion of the taking up of power by a new duke, of an updated constitutional act growing to over 100 articles, a tradition maintained in Brabant until 1794. The three estates, formed as a regular institution in the course of the fourteenth century, decided on the acceptance of the Burgundian dynasty around 1400. Strict conditions were formulated to ensure that the successor would rule the duchy in person and according to its customs and privileges. In 1420-1 they suspended Duke John IV because of his infringements of the law, chose his brother as the regent for as long as he did not comply, and thereafter imposed an extended control on his government. This was a case in which extraordinary dynastic discontinuity led to the development of a very strong constitutional tradition.<sup>35</sup>

A comparable situation occurred in Württemberg, where, in 1498, a particularly inept duke was denied the fidelity of the *Landtag* which proclaimed a constitution and exercised the government by regents during the five years of a minority.<sup>36</sup> Recognition of the powers of regency was withheld by the estates in Flanders between 1482 and 1492. In 1483, a regency council composed of members of the count's family and representatives of the estates was recognised and ruled effectively for some years, but the position of the ruler concerned, later destined to be the Emperor Maximilian I, made him rely upon military superiority to impose his authority.<sup>37</sup>

In Bohemia, the extinction of the Přemysl dynasty in 1306 created opportunities for the estates to decide between the rival contenders, Henry of Carinthia and Rudolf of Habsburg. For the first time *barones, nobiles et cives*, magnates, lesser nobles and citizens all participated in the election and imposed their conditions, *Wahlkapitulationen*. In 1307 and 1310, this procedure was repeated. In the latter year, the unworthy Henry of Carinthia was deposed

<sup>34</sup> 'De consensu benevolenti voluntate communitatis Alcidis ducis et Brabantie Baronum Magnatum et communium oppidorum Ducatus' (Van Uytven (1966) pp. 432-3)

<sup>35</sup> Van Uytven and Blockmans (1969), Van Uytven (1966) and (1985), Griffith and Uytendroek 'Quelques documents inédits' <sup>36</sup> Folz (1965) p. 190

<sup>37</sup> Blockmans, 'Autocratie ou polyarchie'

under pressure from the estates, who negotiated with the king of the Romans to obtain his guarantee of the freedom of the Bohemian kingdom and his agreement with the succession. The newly elected King John of Luxemburg had to grant extensive privileges, especially the reservation of all royal offices to members of the native nobility. Citizens, in practice a tiny patrician elite, had participated in these events, but were still too weak to secure their political position in the long run. In a formal sense only the magnates can be considered as a politically structured estate in the fourteenth century.

The alleged incapacity of King Wenceslas, who had been deposed and captured twice during a revolt of the magnates, activated the Bohemian estates. During the protracted crisis after his death in 1411, the estates in fact were the sole institution to represent the identity of the country. The royal cities, dominated by the three cities of Prague, and the religious fraternities of the Hussite reform movement for the first time took a lasting share in political life at the side of the nobles. Magnates and the aldermen of Prague called for the denial of obedience to the king of the Romans, Sigismund, who was described as 'a terrible and cruel enemy of the kingdom of Bohemia and of the Czech language'. In 1421 the *Landtag* rejected him as unworthy of the Bohemian crown, chose an alternative government, and started negotiations with the Polish and Lithuanian courts with a view to selecting a new king. In 1432, its representatives participated in the Council of Basle, and a year later a governor was chosen in its name. Sigismund was finally inaugurated in 1436 under a *Wahlkapitulation* formulated by the three estates, magnates, knights and (royal) cities, stipulating respect for their privileges and, most remarkably for the time, for freedom of religion. From 1437 onwards, successive interregnums allowed the estates to keep up their influence. In 1440, eighteen magnates and fourteen representatives of the knights and the cities elected the king who had to promise, among other things, to appoint only native officials and accept the participation of the estates in the choice of his councillors. King Mátyás Corvinus of Hungary profited from the vacancy of the throne in 1468 to invade Bohemia, it was the estates who opted instead for a Slav king, whom they found in the person of Vladislav Jagiello. In the history of fifteenth-century Bohemia one is struck by the harmonising role played by the estates not only in social and territorial matters but even in the more delicate fields of religion and nationality.<sup>38</sup>

Royal elections also stimulated the development of representative institutions in Sweden. In 1448, sixty to seventy 'men of the realm', all lords, elected Karl Knutsson, who was then 'taken and judged' by the deputies of the provinces, representing 'the commonalty'. In 1458, King Christian had his son

<sup>38</sup> Kejr (1992), pp. 194–216; Smahel (1992), pp. 221–30; I. borchard (1987), pp. 345–8.

recognised as his successor by a 'council of the realm, lawspeakers, good men and the commonalty' In 1464, however, Christian had to withdraw to Denmark and the exiled Karl renewed his claims by summoning 'the common Swedish realm, noblemen, townsmen and commonalty' representing six provinces In the dynastic crisis which followed, popular representation was activated, not least by armed levies, whose members claimed the right to make decisions In all meetings the presence of representatives from the provinces, and especially of peasants and miners from the central district, is apparent The peasants gathered in the *barad*, the 'hundred' districts, where they elected their representatives These again formed the *thing*, from which the 'twelve good men from each province, as indicated by the law of Sweden' were delegated, together with 'noblemen, miners, the burgomaster and the councillors of the town of Stockholm, and all the other townsmen here in the Realm' to recognise Prince Christian as the future king at midsummer 1499<sup>39</sup>

Similar effects of the election and inauguration of monarchs upon the emergence of representative institutions are not found in every country Notable exceptions are England, France, the Empire, Poland and Hungary The reason is simple dynastic continuity raised fewer problems in England and France during the late twelfth and thirteenth centuries, which made it possible to keep the decisions limited to the small circle of the royal house In the Empire, the elective procedure came to be monopolised by the great princes, later the prince-electors, while in Poland and Hungary the magnates kept this prerogative within their estate, unchallenged by other important social groups While the English parliament played an active role in the deposition of Kings Edward II in 1327 and Richard II in 1399, it seems rather to have been the puppet in the hands of rival magnates The repeated use of the impeachment procedure against high officials, courtiers and royal justices in 1386, 1388, 1397 and 1399, and finally the articles *Objectus contra Regem*, summing up Richard II's alleged crimes and misdemeanours, leading to his deposition, rather reflect shifts of power originating outside parliament<sup>40</sup> In other countries, recurrent dynastic problems created the opportunity for representative institutions to build up a constitutional tradition in which they exercised effective control not only on the choice of the monarch but, more importantly, on the limitations to his power Under extreme circumstances, recognition of rulers was denied, suspended or revoked Representative institutions determined the regency councils in early fourteenth century Castile-Leon, Brabant and Pomerania, and they decided about the translation to another dynasty in Agen 1286, Sicily 1296, Prussia 1410-66 and Bohemia 1468 All this could lead to a sometimes violent redefinition of the divisions of power

<sup>39</sup> Schuck (1987), pp 27-32, *Jonnoth* (1989), p 89

<sup>40</sup> Roskell *et al* (1992) 1, pp 69-76

*The problems of princes' aid*

A monarch's need for support did not remain limited to his recognition as the suzerain of loyal vassals. In his constant competition with rivals both within and outside his territories, he had to rely on the active military and financial support of his subjects. The scale of the military operations grew from occasional feudal bands to professional standing armies. The formidable increase in military expenditure could only be supported thanks to the economic growth of the time which was mainly produced by the commercialisation concentrated in expanding cities, towns and ports. The differentiation in society accompanying this process formed the basis for the widening composition of the consultative councils which monarchs had always formed at their side. When not only personal feudal service but more regular and more general military and financial support was required, all free subjects were in a position to have a say on the matter of extra feudal demands. We can single out warfare as the determinant factor in the political process which led to the elimination of many independent territorial entities and thus to the formation of larger states. The character of warfare changed from compulsory feudal service of mainly heavily armed knights on horseback to large numbers of infantry consisting of militias from the communes and mercenaries using crossbows, pikes and, in the fifteenth century, firearms. The method of mobilisation had to turn from an appeal for loyal service owed to negotiations about the levy or payment of soldiers. In the later thirteenth century, kings legitimised their expansive claims on service and aid through the use of canonical doctrine, pretending to 'defend and preserve the kingdom in peace for the common utility of all', as did King Philip III of France.<sup>41</sup> The higher the level of commercialisation of an economy, the easier was the step towards a modern and thus potentially more effective army in which subjects themselves no longer had to serve, as long they paid for others to do so for them.

The first stage was the stretching to the limit of feudal obligation: longer service, farther from home, greater levies on fiefs. These were the abuses perpetrated in England in the reign of King John and formulated by the barons in the famous Magna Carta of 1215. Although this document certainly did not emanate from a representative assembly, since the barons could speak only in their own name as the king's vassals, many of its articles were nevertheless referred to later as a constitutional act enunciating essential principles, such as 'no taxation without consent'.

[12] No scutage or aid is to be levied in our realm except by the common counsel of our realm, unless it is for the ransom of our person, the knighting of our eldest son or

<sup>41</sup> Bisson (1964) p. 271

the first marriage of our eldest daughter, and for these only a reasonable aid is to be levied. Aids from the city of London are to be treated likewise.<sup>42</sup>

Article 14 further specified the 'common counsel of the realm' as 'the archbishops, bishops, abbots, earls and greater barons summoned individually by our letters, and we shall also have summoned generally through our sheriffs and bailiffs all those who hold of us in chief or for a fixed date'. The separate mention of the city of London can only be understood as referring to an independent feudal status on a par with the tenants in chief, not as the representation of the commune. From 1254 consultations on the scale of the kingdom in matters of grants started to include knights representing the shires. Their representative activity rested upon the tradition of their role as speakers for the counties before the itinerant royal justices. Each of the thirty-seven counties returned two knights. The first record of the appearance of representative burgesses in a parliament for the whole realm dates from 1265, but it was only in the 1320s that these would become a permanent factor. In 1295, 114 cities and boroughs were represented. Later on, their number fluctuated between eighty and ninety, each of them sent two members, London four.<sup>43</sup> Thus, the English parliament grew from the gradual extensions of the king's council under the pressure of increasing financial and military needs. The Welsh and Gascon wars in the period (1268-95) brought a shift in the notion of defence of the realm as a national concern to be borne by all subjects. The estates heard together the king's demands in the solemn opening session of parliament. Cathedral and parochial clergy (the latter disappearing from parliament in 1322), barons, knights and burgesses deliberated separately and returned different answers. Only about the middle of the fourteenth century were the Commons to form a separate house of the communes of the knights and the burgesses elected to parliament. In 1343 knights of the shires and the representatives of the communes met in the 'painted chamber of Westminster palace'. In the course of the fourteenth century the corporate identity of the Commons grew.<sup>44</sup>

In his writ of summons for the so-called 'Model Parliament' in 1295, King Edward I had recognised that 'what concerns all has to be approved by all', which implied that new customs duties needed the assent of parliament. This famous quotation was in its origin a principle of Roman private law reproduced as a general principle by the late twelfth century by the Bolognese law school. In 1222 Pope Honorius III had applied it to an invitation to Christian princes and great ecclesiastical dignitaries, and in 1244 the Emperor Frederick II had quoted it in the summons of a great assembly of ecclesiastical and lay

<sup>42</sup> Holt (1965) pp. 320-1      <sup>43</sup> Roskell *et al.* (1992) 1 p. 41; Wedgwood (1936-8) II p. vii

<sup>44</sup> Roskell *et al.* (1992) 1, pp. 46-7

princes, as Rudolf of Habsburg had to do in 1274. It had become a standard formula to legitimise inevitable political choices where broad support for difficult demands was needed. It eventually equally implied that the king was bound by law and had to recognise the interests of persons concerned.<sup>45</sup> In 1297, the barons disputed King Edward I's aggressive attack against Flanders as not being a matter of defence of the realm and opposed the notion of the 'common profit' to the king's argument of 'necessity', which implied an obligation on the commons. In practice, while the king's interpretation prevailed, at the same time it limited his right to demand his subjects' aid for defence. In the nine years of truce in the war with the Scots, between 1297 to 1306, no taxation was imposed, nor was it during the years of truce with France 1306-9. Neither was there any direct taxation in 1422-9 when the occupied territories in France were considered to have to pay for the war. Through the periods of intensive warfare in 1294-8 and the opening years of the Hundred Years War 1338-42, when taxation reached unprecedented peaks, parliament associated petitioning for the redress of grievances with the supply of money, thus considerably extending its competence in all spheres of government. Indirect taxation, especially that on exported wool, was introduced first in 1275, in 1354 the Commons granted it for the unaccustomed period of six years. The wool subsidy became a permanent crown revenue under the control of parliament which granted it only for short periods and negotiated the duration, the amount, the appropriation of supply, the nomination of special treasurers and the relative burden to be placed on native and foreign merchants.<sup>46</sup>

In the Iberian territories under the crown of Aragon, the clergy, the barons and the towns were regularly summoned from about 1280 onwards. In Aragon, the knights or *ricos hombres* were summoned separately as well, to be institutionalised as a fourth estate in 1389. The 1283 statute prescribed yearly summonses, which were reduced to a slower rhythm in the following years. Custody of privileges, preservation of justice and peace, the approval of statutes and the voting of taxes for properly justified purposes formed part of their regular activities. Extensive warfare against Castile made the Aragonese kings highly dependent on their *corts*. In 1359 Peter IV had to cede judicial supremacy to the *corts* of Catalonia in return for a subsidy. They formed what would later be labelled *diputacio del general*, the permanent administrative committee. Lack of support from the *corts* of Aragon compelled the king to give up his Castilian war in 1429. So, the constant dynastic tendency towards expansion, combined with the existing difficulties of controlling Sardinia and Sicily, created a kind of condominium in which the kings were obliged to negotiate with their influential subjects.<sup>47</sup>

<sup>45</sup> Marongiu (1968), pp. 33-7, Monahan (1987), pp. 97-111.

<sup>46</sup> Harris (1966), pp. 169-78, Forcville (1966), pp. 156-63, Ormrod (1991), pp. 182-3, Roskell *et al.* (1992), pp. 116-42.

<sup>47</sup> Bisson (1986), pp. 98-9, 118, 143.

From 1295 onwards, urgent requirements prompted King Philip IV of France to intensify his demands in the existing regional assemblies of Languedoc, using the legal argument 'right of state'.<sup>48</sup> In 1302 he extended the tradition of regional assemblies to the scale of the kingdom. The immediate problem for which he sought the support of as many groups of society as possible was his conflict with Pope Boniface VIII, again, in 1308, his action of dissolving the Order of the Templars was the occasion for consultation with the three estates of his realm, later called the estates general. The formidable influence of the Church explains the king's urgent search for support. The success of these two meetings led to a third in 1314, where a purely financial aid was demanded in order to compensate for the huge costs of the king's ongoing war against Flanders. During the first half of the fourteenth century, other assemblies were held in various forms, some regional, others meetings of particular orders.

The catastrophic losses of the first phase of the Hundred Years War provoked intensive activity among the estates general of the Pays d'Oil (northern France) from 1355 to 1359. As in England, the extraordinary demands of the monarchy provoked counter claims from representatives. In 1355, monetary stability and the consent to taxes by representatives of the king's subjects were the main issues in France, in 1356 the control of the estates general over the choice of the royal councillors came to the fore. The experience proved dangerous for the monarchy. After sessions in 1369, in which the launching of a new campaign against the English was approved, kings preferred separate negotiations with the provincial estates, usually those of the Languedoc and the Languedoil. There can be no doubt that the long distances and the different fate of the North and the Midi during the war help to explain the divergent institutional evolution. Almost every year in the phase of intensive warfare 1421-39 King Charles VII summoned an assembly of the estates general, one of the estates of the western or eastern part of Languedoil separately, to demand aids. After the introduction of the *taille* in 1439-40, however, he no longer needed these troublesome partners. In the heart of the realm representative assemblies were held only during moments of crisis, then they disappeared completely. In the peripheral principalities such as Normandy, Artois, Dauphine, Burgundy, and especially in Languedoc and Provence, the estates rested on a solid tradition preceding their incorporation into the monarchy. They continued to meet at most once a year and to defend their particular interests and privileges. When, during the minority crisis of 1484, the estates general were summoned once again, more than two thirds of the delegates for the third estate and one fifth of the nobles were royal officials, whose

<sup>48</sup> Bisson (1964) pp. 282-3.

freedom of speech for the interests of subjects must have been curtailed as a result<sup>49</sup>

Rudolf of Habsburg, king of the Romans, succeeded in strengthening his position by raising taxes agreed in assemblies of cities in 1284 and 1290<sup>50</sup> Neither the type of assembly nor the general aids became a tradition in the Empire before the sixteenth century, probably because of the weakness of the central power and the relative strength of territorial princes and barons. Before the institutionalisation of clearly defined estates, Duke John I of Brabant must have negotiated with the corporate nobility, cities and abbeys in the years 1290–3, when he granted one privilege for the nobility as a whole, analogous privileges to eight major cities, and others to a series of abbeys exactly in the period when he obtained a substantial financial aid. A notable concession granted on this occasion both to the nobility and to individual cities was the right of resistance in case of violation of their privileges<sup>51</sup> During the period of the minority of Duke John III (1312–20) when a regency council led by the cities held power, the duke's finances came fully under the control of the cities and knights. The accumulated debts of his predecessors had necessitated strong intervention by the subjects<sup>52</sup> A comparable example would be observed in Bavaria in 1356, when a committee drawn from the estates levied taxes, participated in the election of councillors and in the legislation, and heard grievances. Similar rights were claimed in the *Lüneburger Saate* of 1392, when eight burghers obtained temporary control of the ducal finances, heard grievances and even received recognition of the right, should the need occur, to confiscate the domanial income and to resist the duke in arms.

Taxation was an important factor in the development of representative institution, but not a determining one. It is well known that, helped by the tragic state of the realm, the kings of France succeeded in introducing permanent indirect taxes exempt from the assent of the estates. In 1355 the *gabelle*, a salt tax, and  $\frac{1}{20}$ th on the value of merchandise were accepted by the estates general. This system was extended to  $\frac{1}{20}$ th in 1435, and, from 1440 onwards, the annual *taille* was levied by the king's officials. These taxes made the French king fairly independent of the estates. In Burgundy during the fifteenth century, the estates controlled the levy of the *fonage* or hearth tax, and reserved a budget for their own expenses. Yet all indirect taxes, introduced earlier by the French crown, escaped the interference of the estates<sup>53</sup> In the duchy of Brittany, the estates were convoked, probably for the first time, in 1352 to agree on the extraordinary taxation to pay the ransom of Duke Charles of Blois — one of the three feudal cases mentioned in Magna Carta in which aid was due

<sup>49</sup> Bulst (1987) pp 313–16, 322–9      <sup>50</sup> Ingecl (1980) p 23

<sup>51</sup> Van Uytven (1966) pp 415–25, 432–5      <sup>52</sup> Van Uytven and Blockmans (1969) pp 404–5

<sup>53</sup> Richard (1966), pp 311–15

In 1365 the costs of war necessitated the introduction of the *foiage* into the whole duchy, the tax being granted by the estates. No document, however, reveals any concern with the port dues which the duke levied. The overall impression of the function of the estates is essentially one of acquiescence, the spirit which led to their passive recognition of the duke's two daughters as his heiresses in 1486.<sup>54</sup>

However, assemblies of estates did not always develop overarching powers thanks to their control of taxation. In some cases taxation was in the hands of representative institutions of only one estate, often the representatives of cities and rural areas. In late thirteenth century Languedoc, the increased burden of military levies and aids caused by royal wars against Foix and Gascony did not lead to the development of general assemblies of three estates. Matters were handled in local meetings and in assemblies of separate orders.<sup>55</sup> We have observed the same practice in contemporary Brabant, while in Flanders it was not until 1400 that the count, Philip the Bold, duke of Burgundy, introduced the assembly of three estates as an institution, although aids had been granted by assemblies of cities, sometimes including the rural districts, since the second half of the thirteenth century.<sup>56</sup>

One may conclude that taxes served as a trigger to fuller participation by representative institutions only if taxation came to be excessive or was mismanaged by government, particularly as a consequence of intensive and protracted warfare, and if no other means of surplus extraction were available. Under these conditions, subjects obtained control over the state's (sometimes even the ruler's) finances and secured far reaching rights for themselves. We should bear in mind, however, that even on those occasions when cities and villages were represented, we are still dealing mainly with privileged elites using representative institutions to protect and expand their collective prerogatives.

#### COMMUNAL INFIRISIS

Even if the initiatives and weaknesses of monarchs challenged the subjects to meet in representative assemblies and to respond by insisting on the rights and needs of their communities, this factor certainly does not explain all forms of representation. Not everything can be reduced to the reactions of subjects to their rulers. For their own purposes, monarchs mostly used pre-existing structures, notably their own enlarged *curia* or court, the regional judicial courts such as in the English hundreds and counties, and the assemblies of *bailliv*, bailiffs and consuls in Languedoc. Since 1152, the common council of the city of

<sup>54</sup> Kerhervé (1987) I pp. 139-41.

<sup>55</sup> Bisson (1964) pp. 271-81.

<sup>56</sup> Prevost (1965) pp. 20-1.

Toulouse had been formally recognised as the representative institution to negotiate with the count.<sup>57</sup> Many communes did not wait for the initiatives of princes to solve their problems but created their own devices on a federative and deliberative basis, often against the encroachments of lay and clerical lords. Assemblies which had grown to fulfil one particular function could take on other functions on the initiative of either the lord or the communities themselves. Equally we have to bear in mind the chronology of events, particularly the relative timing of the growth and decline of the power of monarchs, nobles and burghers.

Much depended on the social and economic structure of a region, especially its level of commercialisation and urbanisation. Large cities evidently had much wider interests and more power than the typical *Kleinstate* of central Europe. Major cities were located on coasts or great rivers, trade routes influenced their political sensitivities. In general, their common interests consisted in the safety of these routes, for travelling merchants and their goods, in the reliability of monetary exchanges and trade agreements, and in the regulation of internal markets. Cities, therefore, organised their own meetings spontaneously, just as they were convened separately on behalf of the prince. Even as members of the *corts*, Barcelona and Valencia each dominated the urban *brasa* of their region as to claim half of its votes. So it was the larger cities which took the lead, as they were the leaders in the hierarchy of market places. Even when cities participated in assemblies or estates, the domination of the major ones remained obvious. Ghent, Bruges and Ypres outweighed all the other towns of Flanders and thus took many decisions without further consultation.

In northern and central Italy, the predominance of the cities in society was most marked, with capital cities of 60,000 to 100,000 inhabitants and many large secondary towns. The monarchical power of the emperor was clearly too distant and too weak to outweigh them in the long run. The Lombard League – itself a union of cities with elected deputies – made peace with Frederick Barbarossa after a long conflict in 1183 on terms which respected the autonomy of the cities. After the military defeat of the second Lombard League in 1237, Frederick II was again unable to break the autonomy of the ever growing cities. After his death, regional states came into being in which the largest cities dominated their *contadi*, the surrounding countryside and smaller towns. The oligarchy of the capital city ruled the state in its private interest, using administrative and legal means wherever possible, and military force where necessary. The autonomy of the communes was widely respected in the fourteenth and early fifteenth centuries. Assemblies of heads of households kept their elective rights for the local councils. However, representation on a supra local level was

<sup>57</sup> Mundy (1954), pp. 32–40, 66–8.

absent in a system of local vicaries nominated by the capital city. The only forces which could threaten the ruling elite of the capital and its puppets in the dependent towns were either popular revolts or the rival regional states, with which bitter wars were fought without requiring representation to legitimise and facilitate extra taxation. More modern means of exploitation were available here.<sup>58</sup> Northern and central Italy constituted the most extreme case of excessive power held by one social category, namely the oligarchy of the major cities, effectively eliminating as political contenders the monarchical power as well as that of other social orders and classes. This opened the way for party strife to determine local political life. Parties were not based on the representation of communities enjoying the same rights, but on quasi-feudal vertical ties of protection and dependence. Elsewhere in Europe, however, some plurality of powers remained the rule, allowing many varieties of representation to flourish.

The towns of Castile from 1282 onwards regularly formed *hermandades*, autonomous associations, independent from the king's summons, for preservation of their privileges, if necessary against him. Their movement went far beyond taking positions during the disputes for royal power. The towns' associations in fact formed the vanguard in the *cortes* which, during the new minority from 1295 to 1301, claimed a place in the royal household and chancery, as well as a role in the collection of taxes and the custody of royal castles. In 1312, a *hermandad* of some towns in Leon claimed the education of the young king to be laid in the hands of good citizens, objected to unlawful taxation and the alienation of royal castles and cities, if violations of the *fueros*, the customary rights, were not redressed, the towns would elect another regent. Even if these claims overplayed the towns' unity, a broader *hermandad* was formed in 1315, including 180 towns from Castile (seventy-eight), Leon (forty-five), Estremadura, Toledo, Murcia and Andalusia. They would meet every year and control the royal revenue, which they effectively did for some years. This episode shows the towns' capacities to organise themselves on a federal basis for the preservation of their common interests during periods of dynastic crisis. It equally shows, however, that the lack of unity made these associations short-lived, since most minorities at some time came to an end.<sup>59</sup> More was required to make communal representative institutions last.

In thirteenth-century Flanders, five major cities, each with more than 30,000 inhabitants, and the largest one, Ghent, with probably over 60,000, played a role as a collective body. They are mentioned as early as 1209 as the (then still) 'six cities' in an act of King John of England concerning La Rochelle, in 1213 as

<sup>58</sup> Fasoli (1965) pp. 71–86; Koenigsberger (1978) pp. 22–4; Compagno (1980) pp. 149–85; Chittolini (1986), I, pp. 94–9. <sup>59</sup> O'Callaghan (1989) pp. 53–5, 85–93.

a league, they sealed a treaty with the king, which showed their ability to act autonomously with a foreign country with which they had close commercial ties. From 1241, documents call them the *scabini Flandriae*, an acknowledgement of the collective action of the administrators either in relation to judicial conflicts between themselves or disputes in which only one was involved, and over matters such as trade fairs and the control of the currency, including the assay of the intrinsic value of coins. In all these matters, the countess acted only 'with the assent of the aldermen of [the major cities of] Flanders'<sup>60</sup> Even when, in the fourteenth and fifteenth centuries, the county had lost two of its major cities, the system of intensive deliberations between the 'Three (or Four) Members of Flanders' continued to develop. And in 1384 the richest and largest of the rural districts, that around Bruges, became the fourth 'Member' on a quasi definitive basis. The rural district of Bruges (*Brugse Vijve*) was administered by nobles and rich peasants, which permanently widened the social classes represented. This helped to stabilise the predominance of the system which lasted until the end of the *ancien régime*. During the most active period, in the first half of the fifteenth century, meetings of the 'Four Members' took between 350 and 450 meeting days per year, often in parallel sessions, sometimes at different places and with missions abroad. Within the county, their meetings lasted normally four to six days. They were largely informal, normally involved ten to fifteen participants and took place mostly on their own initiative. Long tradition and the continuously strong demographic and economic position of the 'Four Members' led to their domination of the representative system being accepted, both by the smaller communes and by the courts of Flanders. In practice, however, the most important matters, in particular fiscal ones, were often discussed in larger assemblies at the level of the county generally or in the four quarters separately, each headed by one of the 'Members'. Moreover, smaller cities and rural districts quite frequently appealed to the 'Four Members' for judicial or diplomatic support. In the cities, meetings of large councils including deputies of the crafts, and, in the rural districts, assemblies of freeholders had the last word on taxation. Participation by guilds in the administration was nowhere as advanced as in Ghent between 1370 and 1540, when twenty out of twenty six aldermen were elected annually by and from the crafts. Until the middle of the fifteenth century the main concerns of the 'Four Members' were trade regulations, commercial litigation, coinage, fiscal policy and foreign relations. Later, taxation and defence were to become the major interests. Assemblies of three estates were created by the count in 1400, but these met less frequently than did the 'Four Members' who dominated them. Towards the end of the fifteenth century, however, the meet-

<sup>60</sup> Dhondt (1977) pp 73-8, Wjffels (1967), pp 1131-6

ings of estates and of the estates general become more influential, as the government preferred collaboration with these more conservative bodies

A not dissimilar pattern, with informal and autonomous meetings between representatives of the major cities, in this case dealing mainly with economic affairs, has also been observed in the neighbouring principalities of Brabant, Liege, Holland and Utrecht.<sup>61</sup> Their commercial orientation brought them into close contact with partners from as far as Spain and Prussia. The unification of the Low Countries under the dukes of Burgundy between 1427 and 1433 facilitated and encouraged regular meetings of representatives from the different principalities. The estates general are the best known type of overall representation, but commercial towns, or those situated on the coast, had their special border crossing meetings as well. The role which cities could play in determining the political agenda varied. Rural communes were not always politically passive. In Flanders, those belonging to the countryside around Bruges were permanently represented in the College of the 'Four Members' while the other districts equally participated in various types of assemblies, sometimes including those of the estates general. In the Low Countries, the prince always remained a real factor, even if, in fourteenth century Flanders, the count had to be rescued three times by his suzerain, the king of France, from the might of the cities acting together. Similarly, the nobility was less integrated in the urban elites than in Italy, and thus continued to act more independently as an estate. Acting primarily on their own behalf the communes of free peasants in the Low Countries organised regional boards to protect the land against floods. They supervised the construction of dykes, canals and sluices, levied taxes for this purpose, and, for their maintenance, promulgated regulations enforceable at law. The whole system rested on the participation of the landholders who had a full say in all decisions and in the election of board members. Meetings of villages grouped together sent deputies to regional assemblies from which representatives could be mandated to negotiate with the government or with neighbouring cities.

Cities and towns in the regions of Languedoc met on the initiative of royal officers as well as on their own to legislate on the export of grain (1269-75) and on coinage (1212 with the nobility, in 1292 alone), to collect petitions, to regulate trade routes, to press a suit against the English 'great custom' on the Garonne (1285) and against the bishop of Cahors in relation to usury.<sup>62</sup> Analogous matters were raised by the Prussian cities and rural districts along the Vistula, the deputies of which regularly petitioned the Master of the Teutonic Order 'umbe meynes nutcz', for the common weal. Territorial ordi-

<sup>61</sup> Uytendaele (1975) 1, pp. 429-69; Dhondt (1966) pp. 357-8; Kokken (1991) pp. 126, 18, 216-76; Van den Hooven van Goudereen (1987) pp. 60-145.

<sup>62</sup> Bisson (1964), pp. 127-30, 218-28, 242-3, 260-5, 281-8.

nances dealt with problems such as shipping rights on the Vistula (1375 and later), craft regulations in the cities (1408), weights and measures, coinage, prices, wages and interest rates after debasement (1420). The evidence of 1427 issued rulings not only on beer prices and on pre-emption in the countryside, but also on a series of matters clearly inspired by the Order concerning religious observance, the limitations of ecclesiastical and sumptuary laws. These concerns announced increasing tensions which led to the rejection by the Master in 1434 of the cities' petitions on the abolition of licences for grain export and of the toll called *Pfundzoll*. The conflicts of interest appeared, too, in 1433 when the Knights and the cities criticised the war which the Order had launched against Poland. The tight organisation of the two Prussian estates, both as social and political entities, explains how they could challenge the Order, turn to the king of Poland and yet keep most of their liberties, including control of taxation. Between 1466 and 1519 they held, on average, four meetings a year and dispatched several diplomatic missions, mostly on their own initiative. The city councils remained sovereign in judicial matters, while the *Landesrat*, or territorial council, in which the three major cities (Danzig, Elbing, Toruń) each had two representatives, was the highest court for the rural areas.<sup>63</sup>

The preservation of peace, law and order was a general concern of burghers. In Quercy, the bishop had levied a peace tax, or *commune*, with the consent of the nobility and the great towns from the very beginning of the thirteenth century onwards.<sup>64</sup> In the Empire, cities clustered in regional associations to secure peace, especially as a protection against particular feudal lords and knights. Representatives of all the cities of the league on the Rhine below Basel were summoned by King William in 1255 to deal with judicial matters concerning coinage and lost merchandise.<sup>65</sup> King Rudolf of Habsburg extended the peace policy to *Landfrieden*, territorial peace treaties he had negotiated in regional assemblies of cities alone or with the nobility. In 1278 seventeen cities were convened by a royal official to agree on the abolition of new tolls on the Rhine, measures for the security of navigation and the prosecution of breakers of the peace. Other regions followed suit.<sup>66</sup>

The German Hanse emanated from some of these regional associations. During the thirteenth and early fourteenth centuries, these were formally associations of merchants aimed at securing protection on long journeys, in the same vein as the contemporary English Hanse of London and the union of the 'Seventeen Towns' trading at the fairs of Champagne. In this period, the distinction between city magistrates and the members of local merchants' guilds was still minimal.<sup>67</sup> In Flanders, the craft revolution of 1302 and the fol-

<sup>63</sup> Neuman (1992), pp. 60–76, Biskup (1992), pp. 89–94. <sup>64</sup> Bisson (1964), pp. 124–6.

<sup>65</sup> *Sollemnibus nuntis omnium civitatum pacis fidei et coniuncturarum de Basilea inferius* (1 Aug. (1980), p. 15). <sup>66</sup> 1 Aug. (1980), pp. 24–33, Blockmann (1992b), p. 123. <sup>67</sup> Van Weerbeke (1958).

lowing years radically changed this situation and the magistracies took over the functions of the external representation of the community which the merchants' guilds had fulfilled earlier. In northern Germany, the transition to a league of cities occurred in 1356, when the regional hanses united to defend their common interests. The functional analogy between urban leagues, which allowed for the representation of cities in one territory, and the German Hanse has been neglected or refuted by historians<sup>68</sup> who have focused on territories and monarchies more than on representative functions. Yet, given the weakness or remoteness of monarchical powers, the Hanse cities felt more closely united by their links along trade routes, mainly those overseas. Their common interests in the protection and regulation of trade formed the most prominent item on the agenda of the frequent assemblies on a regional or general (*Hansetag*) level. Moreover, they conducted diplomatic missions and negotiations with all types of German and foreign authorities, including other representative institutions such as the 'Four Members' of Flanders. In this way, as in that of the other city leagues, their activities inevitably touched on matters of national and foreign policy up to the point of waging war and levying taxes. However, their seaward orientation and very extensive sphere of interest did not provoke them to build city states, which made them vulnerable to the increasing encroachment by territorial states in the late fifteenth century.<sup>69</sup>

The Swiss Confederation shows the case of the formation of autonomous *Landschafte* or territories based on the autonomy of their constituent communes. In the fourteenth and fifteenth centuries, many rural communes were able to buy off seigniorial rights, the emancipated peasants forming strong communes guaranteeing their collective rights. The major cities tended to expand their domination into the countryside, but had to leave intact forms of communal participation in decision making, especially in the political field. As rural communities often lived on cattle raising, they entertained close commercial contacts with the outside world. Conflicts were traditionally solved by arbitration on the basis of the stipulations in the *Eimungen* (associations). Occasionally during the fourteenth century, and regularly later on, the *Tagsatzung*, the general assembly of the deputies from all full members of the *Idgenossenschaft* or sworn union, became the political platform to mediate conflicts. It was evidently not always possible to reach agreements, but an attempt of the major cities to constitute a separate coordinative committee was outlawed in 1481. The relatively small size of the Swiss cities explains their inability to dominate their countryside as did the Italian ones, while their vulnerability to foreign aggression obliged them to keep some kind of unity. However, an agreement made in 1503 to submit all foreign treaties, personal indentures and contracts

<sup>68</sup> Moraw (1992), p. 6.

<sup>69</sup> Wernicke (1986), p. 190, Blockmans (1986) pp. 183–9 and (1992) Moraw (1994) pp. 119–21.

for military service to the approval of a majority of the *Fürsatzung* was never fully implemented<sup>70</sup>

Among the points most frequently raised by cities in their petitions and grievances was the care for a stable currency. Even in Poland, where cities had effectively lost the right of giving assent to the aid, Cracow had a say in monetary affairs during the fifteenth century<sup>71</sup>. In some cases, the ruler's seignorage (or tax) on coinage was bought off by the representative institutions in order to avoid further debasements. The duke of Lüneburg sold his right in 1293 to the three estates whose deputies would further implement it. In 1307 the dukes of Bavaria sold their mints for a subsidy<sup>72</sup>. In 1345 the three estates of Brandenburg refused the monetary reform projected by the margrave<sup>73</sup>. The 'Members' of Flanders and the cities of Brabant and Holland repeatedly granted aids in return for monetary stability. In nearly half the assemblies of the estates general of the Low Countries monetary problems featured on the agenda. In the first decades of the fifteenth century the 'Four Members' of Flanders were to be actively engaged in decisions regarding the physical aspects of the coinage, its value, and in aspects of the assaying of the metal used to make it<sup>74</sup>.

Another grievance raised by representatives, especially those of the cities, was the appointment of foreigners as government officials. A non exhaustive list might include the following examples: Bohemia, 1310 and again 1437, Brandenburg and Prussia, 1345, Brabant, 1356, Utrecht, 1375, Normandy, 1381, Hungary, 1387, England, 1406, Pomerania, 1459<sup>75</sup>. It makes no sense trying to enumerate all the powers which representative institutions claimed with more or less lasting success. What matters is that, under their overall responsibility for the common weal, as well as the defence of privileges and customs, they could raise any kind of problem of internal and foreign policy since the latter always produced repercussions in the spheres of defence and taxation, and often that of trade as well. As an example, the Castilian *cortes*, and especially the cities, had a strong influence on legislation since many of the lists of grievances, submitted as petitions by one or another of the estates in the form of *cuadernos*, formed the basis of ordinances issued in the *cortes*. In 1261, they required redress of grievances before granting a tax. In 1268, the detailed list of prices and wages clearly reflected the concerns and competences of an urban committee<sup>76</sup>. It will be clear that large urban communes dealt primarily with

<sup>70</sup> Holenstein (1990), pp. 23–6; Bierbrauer (1991), pp. 99–102; Bunkofer (1991), pp. 104–6, 113–15.

<sup>71</sup> Russocki (1992), p. 173. <sup>72</sup> Ingel (1980), pp. 47–52. <sup>73</sup> Heinrich (1992), p. 145.

<sup>74</sup> Van Uytven and Blockmans (1969), pp. 108–9; Blockmans (1973), pp. 104–22; Bos Rops (1993), p. 89.

<sup>75</sup> Heinrich (1992), pp. 144, 146; Biskup (1992), p. 86; Soule (1990), p. 109; Bak (1973), pp. 28–9; Keij (1992), p. 214; Smahel (1992), pp. 229–30; Roskell *et al.* (1992), p. 88; Beul (1992), p. 134.

<sup>76</sup> O'Callaghan (1989), pp. 72–5, 121–2.

economic questions which were vital to them and concerned their specific interests. They were producing, buying and selling merchandise, which created types of problems very different to those familiar to noble councillors. These matters required an expedient, practical and effective response, such as only people trained in normal trade practices could give. This explains why monarchs, more interested in territory and honour than in overseas trade, were slow to get a grasp of the world of the cities which served as outlets to maritime trade.

#### PATHS OF DEVELOPMENT

Having rejected from the outset an exclusive attention to ideal types of representation, we have found in fact a great variety of institutions, of which some proved better equipped than others to survive into early modern times. This eventual survival was not the privilege of one particular type of institution until the end of the *ancien régime*, federations of towns and villages, as well as regional and general estates and parliaments, *Landtage* or *Reichstage* with two, three or four chambers continued to function. It became apparent that, fundamentally, there existed two ways by which representation was initiated on behalf of monarchies in need of political and material support, and as a spontaneous action of communities defending their collective interests.

Monarchical initiatives generally took place on a large scale which raised problems of integration and continuity, especially in large territories. Overstretched ambitions and discontinuity of dynasties offered opportunities for subjects to raise their claims. The stronger their own organisation, especially that of the large cities, the better they were equipped to obtain a lasting grasp on government. Much depended on the type of society and its level of organisation: densely populated and highly urbanised areas, as well as rural communes with assemblies of free peasants, were able to react more promptly than scattered populations of serfs. The latter, having no institutional outlets for their grievances, could only turn to revolt. However, in territories where the monarchy's problems such as repeatedly problematic successions to the throne or the Hundred Years War were recurrent or constant, such frequent challenges created opportunities for the development of effective representative institutions. Yet, even then, much depended on the capacity of the most powerful groups in the political system to organise lasting pressure in support of their concerns. This involved close communication, only achieved over limited distances and in a modern, commercialised economy. The monarchical model would reflect its origins in the extension of princely courts and the legitimisation based on Romano-canonical theories. However, it was seldom considered to be in the interest of a monarch to cede power to representatives. As soon as the

pressure on the government lessened, for example by the exploitation of independent resources or the introduction of permanent taxes, the frequency of meetings decreased, so that they might not occur at all over a period of years. The English parliament met on average more than once per year during the fourteenth and the first half of the fifteenth centuries. After 1450, however, when the Hundred Years War had come to an end, the frequency of meetings decreased drastically to only twenty sessions until 1510, and none at all during seven years in 1497–1504. Such irregularity of course had a deleterious effect on the efficacy of parliament.<sup>77</sup>

The royal privilege of summoning and dissolving representative institutions, and of stopping the payment of wages and allowances, rendered the assemblies vulnerable to tactical manoeuvring. The French estates general were thus summoned only in times of extreme crisis and dissolved as soon as solutions had been reached. The monarchy clearly feared to lose control, having in mind the Parisian revolts which originated in the sessions of the estates general in 1355 and 1413. Sessions therefore were afterwards held outside the capital.<sup>78</sup> The systematic study of the careers and social background of representatives has revealed more refined methods by which representative institutions lost a good deal of their autonomous influence. Prosopographical research of the French estates general of 1484 showed that royal officials numbered up to 84 of the 269 representatives, nearly one third. They constituted 63 per cent of all members of the third estate and nearly 22 per cent of the nobility. The latter estate was further closely linked to the monarchy by honorary titles such as that of royal councillor (which was the case of forty among the eighty three noble representatives) or by royal pensions. Only twenty one urban officials (less than 8 per cent) participated, and again three of them were afterwards honoured by a royal or seignorial office. Only 13 per cent of the latter held a university degree, most in law, while this was the case for 70 per cent of the royal officials acting as representatives and 93 per cent of the members of chapters. In this respect, the use of Latin obviously favoured the university graduates. In 1484, even more than in 1468, royal officials and clients acted as a supra-regional power elite, linking local and regional interests with the court. The autonomy of cities, and of the estates in general, clearly got lost in the extension of networks of power brokers.<sup>79</sup>

Similar observations could be made about the English parliament, for which the most extensive prosopographical research has been carried through. From 1445 onwards, it was no longer required that electors should return local representatives, which led to an invasion of borough seats by members of the gentry

<sup>77</sup> Powicke and Fryde (1961) pp. 512–34.

<sup>78</sup> Bulst (1992), p. 372.

<sup>79</sup> Bulst (1992) pp. 338–67.

and other outsiders. Members of parliament increasingly used their election to obtain positions and offices for themselves and for their clients, or to further other private interests by means of petitions. In 1420, the Commons tried in vain to prevent the king from agreeing to private petitions without their consent, which left many possibilities open to private arrangements, even against the common weal.<sup>80</sup> More than 81 per cent of the about 700 knights of the shire returned from 1439 to 1509 were county justices of the peace. Half of the sheriffs were elected to parliament at some stage of their lives, while hundreds of members of parliament have been identified as escheators (the king's agent in feudal death duties), collectors, controllers or surveyors of customs, commanders of royal castles or holders of other royal or county appointments. Many such appointments were arranged while parliament was in session, which leads to the conclusion that hope of patronage was a strong incentive to obtain election to parliament. On the other hand, this attitude undermined the autonomy of the representative institution. Prosopographical research has further shown, for France as well as for England, the absence of clear cut social divisions between the estates or houses. The share of university degrees may have been somewhat lower than in the French estates general – one out of five English members of parliament around 1420 – probably the result of the differences in the legal systems, but the tendency to erode the action of representative institutions from within by extending royal patronage helps to explain the general loss of political impact of the institutions, if not of their members.<sup>81</sup>

In the other model of representation, the communal one, representation was from the bottom up, largely on an informal basis, in most cases at least partially autonomous from monarchical power. Urban and rural communes organised the defence of their interests when these differed fundamentally from, or were opposed to, those of the great landowners. They formed associations of communes which negotiated on the basis of free participation. While external threats lasted, their collaboration became more institutionalised and gradually performed a wide range of tasks of government, especially those connected with trade, in a more efficient way than the monarch's bureaucracy might have done it. This proved most effective on a relatively small scale where frequent interaction and community of interests were widely perceived and accepted. Long distance trade was a common incentive for the formation of urban leagues and similar representative institutions. Less dependent upon monarchical initiatives, the communal forms of representation were therefore less vulnerable to patronage, and continued to function in their own way as long as

<sup>80</sup> Roskell *et al.* (1992), I, pp. 43–5, 63–7, 101–3.

<sup>81</sup> Roskell *et al.* (1992), I, p. 171; Wcdgwood (1936–8), II, pp. xvii–xlvii.

their economic basis remained firm. Yet, in confrontation with intensive external pressures, their lack of centralisation and cohesion became a disadvantage. Sometimes the leagues became incorporated as members of (eventually composite) assemblies of estates presided over by the monarch and his officials, and thus shifted in the direction of the monarchical model. In this way Hanseatic cities participated in the representative institutions of different territories. Where monarchs were distant, representation could very well develop in various, partially overlapping, forms outside monarchical territories. However, the process of state formation in the later Middle Ages made princely power more omnipresent and less dependent on the consent of subjects.

Plurality of powers in a political system, and the need for holders of opposing interests to find compromises, were necessary preconditions for the emergence and continuity of representative institutions. Regional variations in timing, types and evolution were essentially determined by the interaction between downward and upward organisational initiatives. The monarchical and communal models of representation met at some point in their evolution. Cities could only play a prominent role in areas of high urbanisation. As states grew more powerful in the later Middle Ages, they tended to incorporate hitherto independent cities, especially by integrating their ruling elites. The capital accumulation and monetarised economy of the cities offered immense competitive advantages to princes. They started with loans from individual merchants, and finally tried to impose continuous indirect taxation on trade, which ensured them a regular and easy income without having to face the unpleasant demands of subjects. None the less the communal model was to prove its strength in later centuries, even when the cities had to play their role in the framework of assemblies of estates.

Fundamental weaknesses of the medieval representative institutions were their lack of continuity in the monarchical model, and their lack of unity in both models. The sense of community in all sections of society remained far behind the means of centralisation at the disposal of princes. This enabled princes to play off estates and corporate participants one against another. As representatives realised that more could be achieved through the making of particular arrangements than through collective action, so their institutions began to lose effectiveness. Two reasons thus explain the decline of many of them in the second half of the fifteenth century: relative or even absolute loss of power, and the incorporation of local and regional elites in the state apparatus.

Conversely, a monarch was incapable of creating any enduring representative institution if this did not already rest on existing, politically well organised, local and regional communities. Not would he even try to do so if he had at his disposal sufficient means to reach his goals independently, something which each late medieval prince constantly strove to achieve.