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# RECHT UND KONSENS IM FRÜHEN MITTELALTER

Herausgegeben von  
Verena Epp und Christoph H. F. Meyer

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# Consensus and Assemblies in the Romano-Germanic Kingdoms: a Comparative Approach

Chris Wickham (Oxford)

One of our best sources for the construction of consensus in the early middle ages is Nithard's ›Historiarum libri‹, which is mostly an eye-witness account of his cousin Charles the Bald's preparations and politics in the Frankish civil war period of 840–3. A notable feature of that politics is the degree to which Charles took advice from assemblies, called variously *conventus*, *concilium* and *placitum*, as well as small groups of *participes secretorum*, confidential advisors. It is in fact striking, and an intrinsic part of Nithard's construction of Charles as the good king as opposed to his treacherous brother Lothar, that Charles seeks advice constantly, whereas Lothar is never depicted as doing so. (The third brother, Louis the German, seeks advice when he is with Charles.) In May 841, in particular, Charles

»initiated a concilium, so as to decide how he might be seen to act more thoughtfully (*consultius*) towards [Lothar] henceforth. Some said that, since his mother [Judith] was coming with the Aquitainians, he should go to meet her; but the majority (*maxima pars*) argued that he should rapidly march against Lothar, or anyway, they said, he should await his arrival wherever he chose – above all because, if he began to change his route in any way, everyone would conclude that he had taken flight; this would make Lothar and his men bolder, and those who up till now had joined neither side because of fear would expect to flow to him everywhere, which indeed happened. For, although with difficulty (*difficile*), the opinion of the former prevailed, so Charles went to the city of Châlons, and met his mother and the Aquitainians there [...].«<sup>1)</sup>

It is fairly rare in our early medieval sources to hear of formal disagreements in public meetings, which in this case were only decided *difficile*; and it is also striking here that Charles heard both sides and went with the minority, even though Nithard thought he

1) Nithard, *Historiarum libri* IV, ed. Ernest MÜLLER (MGH SS rer. Germ. 44), Hannover 1907, II. 9; for other assemblies, I. 3, 7, II. 2, 4, 5, III. 1, 3, 5, IV. 1, 3, 4. See in general for Nithard: Janet L. NELSON, *Politics and Ritual in Early Medieval Europe*, London 1986, p. 195–237; EADEM, *The Frankish World 750–900*, London 1996, p. 75–87; Adelheid KRAH, *Die Entstehung der »potestas regia« im Westfrankenreich während der ersten Regierungsjahre Kaiser Karls II. (840–877)*, Berlin 2000, p. 29–186. I am very grateful to Jinty NELSON and George MOLYNEAUX for critiques of this text.

made the wrong choice. The king chose, then, but he also sought *consensus*; and *consensus* here went with public debate. Sometimes that consensus was indeed a strong one; a similar *concilium* at the end of the previous year, held because many men had already defected from Charles' side, ended up with his men reaching the »very easy« conclusion that their most noble choice was to die defending their king<sup>2</sup>). Nithard was covering up a lot in his account, and I would be happy to imagine that he made up some of it too, but the imagery of assemblies and collective decision-making is structural to his narrative – in Philippe Buc's words, »whether it occurred or not, it was expected to occur<sup>3</sup>« – and this indeed marks out all our Carolingian sources in this respect, although they are generally rather less detailed about decision-making than Nithard is.

The problems which these narratives pose go to the heart of some of the issues I wish to confront in this paper. The assemblies which Nithard describes are not all the same. Some were large-scale and prepared-for events; but some were called rather more quickly by Charles at moments of uncertainty, as in 840–1. These must have been larger than the groups of confidential advisors, for they are distinguished from them, but they were likely to have been rather more ad hoc than the most formal events. This in turn may mean that people could speak more freely at them – and, as we shall see, the issue of how free speech was at such assemblies is a matter of some debate, although it is of great importance if we wish to study the construction of consensus<sup>4</sup>). They were also, the more ad hoc they were, all the more likely to have only been composed of the members of Charles' immediate following and relatively few other people, which is also implied by their conclusion in 840 that they would die for him. This certainly distinguishes them from the *placita generalia* of the Carolingian period, which were regular assemblies, held in theory twice a year, as Hincmar of Reims characterised it in 882 in his »De ordine palatii«. (Hincmar was in large part following the much earlier text of the same name by Adalard of Corbie from c. 812, so we cannot be fully sure whether this characterisation belongs to the early or the very late Carolingian period, or indeed a bit of both; but given that it is a heavily idealised image it is of less importance which.) Hincmar/Adalard said that both of the annual *placita* expected the attendance of »all the important men (*generalitas universorum maiorum*), both clerics and laymen«; in addition, one of them included not only *seniores* but *minores*. *Minores* were doubtless still aristocrats, but they formed part of a wide *generalitas*; we are here some distance from the relatively tight group which was with Charles the Bald in the early 840s<sup>5</sup>). All the same, we are in both

2) Nithard, *Historiarum libri* (as n. 1), II. 4.

3) Philippe Buc, *The Dangers of Ritual*, Princeton 2001, p. 76.

4) The classic point of reference for all this is Gerd ALTHOFF, *Spielregeln der Politik im Mittelalter*, Darmstadt 1997, p. 157–184, focussed on the period immediately after the one discussed here.

5) Hincmar, *De ordine palatii*, ed. Thomas GROSS and Rudolf SCHIEFFER (MGH *Fontes iuris*), Hannover 1980, p. 82–84; for the dating of Adalard, see Janet L. NELSON, *Aachen as a Place of Power*, in: *Topogra-*

cases looking at political action which was focused on, and legitimated by, substantial gatherings of people. Both show ›assembly politics‹ in action. In what sorts of ways, however?

A politics based on assemblies underpins many of the monographic studies in this conference, and it is anyway an extremely well-known element of early medieval political action in western Europe. It determined a particularly early medieval habitus, Pierre BOURDIEU's useful term for the collection of practices and (usually unspoken) assumptions which characterise the field of social play in every society and micro-society: people knew that assemblies formed a very large, if intermittent, proportion of the arena of public action, and organised their lives accordingly<sup>6</sup>). I wish to begin here by outlining its basic elements, as they are currently accepted by historians; I will then discuss some of the implications of these elements, for our understanding of the period 500–900 as a whole (this will be my rough date range in this paper, although I will go later when I look at Anglo-Saxon England and Scandinavia, whose early documentation is so poor). I will then take different regions of western Europe in turn, looking at Visigothic Spain, Italy, Francia, England and Scandinavia, and at the role of assemblies in each (some of these regions have more detailed studies in this volume, but not all of them). This comparison will, finally, offer a basis on which some of the problems of how assemblies and *consensus* worked can be understood, as it happened in practice.

Assemblies, and group decision-making, exist in nearly all societies in one form or another. The Roman empire had city councils, headed by the most powerful of all, the Senate at Rome, and emperors first, kings later, had collectivities of councillors, sometimes in large numbers, whose views were regarded as important. In the central medieval period, kings' *curiae* steadily made way for parliaments and their equivalents, and the latter continue to this day. The organic relationship between emperor and Senate barely outlasted the second century, however, and imperial power had no other structural relationship with the civic tradition. City councils were also weakening in the late Roman empire, and disappeared altogether after the mid-sixth century in the West except for a vestigial and apparently ceremonial survival in the Loire valley; the importance even of the Roman Senate was greatly diminished by now, and it too cannot be tracked into the age of Gregory the Great at the end of the sixth<sup>7</sup>). Early medieval assemblies were different, and represent in almost all respects a break with the Roman past. The practice of expecting the whole political community to group together regularly, and the essential role of that grouping for the legitimation of rulers and of public decision-making (espe-

phies of Power in the Early Middle Ages, ed. Mayke DE JONG and Frans THEUWS, Leiden 2001, p. 217–241, at p. 227.

6) Pierre BOURDIEU, *The Logic of Practice*, Engl. trans., Cambridge 1990, p. 52–65.

7) See for the high empire Fergus MILLAR, *The Emperor in the Roman World*, London 1977, p. 341–355. For the end of city councils see J.H.W.G. LIEBESCHUETZ, *The Decline and Fall of the Roman City*, Oxford 2001, p. 104–202; Chris WICKHAM, *Framing the Early Middle Ages*, Oxford 2005, p. 68–70, 596–602.

cially in judicial affairs), was an importation from the North associated with the new ›Romano-Germanic‹ kingdoms, one of the very few post-Roman political practices which can be clearly said to be so. The Germanic peoples brought with them assemblies, that is to say, called with whichever name developed locally; and such practices existed way beyond the more organised political systems which developed in the post-Roman provinces, for the Anglo-Saxon and Scandinavian *thing* has more in common with the Frankish *placitum generale* than the latter has with anything in the Roman world. (The link between them is in fact explicit in the Strasbourg oaths of 842, in which the Old French word *plaid* < *placitum* is exactly matched by the Old High German word *thing*.)<sup>8)</sup>

It is important to stress that assemblies were not specifically ›Germanic‹. Another example was Irish *óenaige*; and the Slav Liutizi had *placita* too, according to Thietmar of Merseburg, where decision-making had to be unanimous<sup>9)</sup>. This is a relief, for it frees us from worrying about whether we are falling into the old trap of determining what was ›urgermanisch‹ about post-Roman political society. What does, however, seem to be the case is that Germanic peoples brought into the Roman empire the assumption, standard in the smaller-scale societies of the North, that political practice was at its base collective. Each king was the ruler of a community of free males, who met together and made decisions as a group, at least sometimes, or in theory: at major ceremonial points of the year, or to choose a king, or at the beginning of the campaigning season, or when legislation was made, or when justice was done, or when crises hit. There is a continuity in this respect which stretched from the small, face-to-face, polities of the North right up to very large, hierarchical and potentially anonymous ones such as Carolingian Francia. It also marks a presupposition that the process of political legitimation depended, at least in part, on the involvement of larger groups of people than those in the hand-picked entourage of rulers; once collectivities turned into nothing other than a ruler's *fideles*, or the invitees to Christmas and Easter courts, then their power to legitimate the actions of the ruler from the outside, so to speak, became much weaker<sup>10)</sup>.

8) Nithard, *Historiarum libri* (as n. 1), III. 5. (The context in which the Strasbourg oaths used the words was not actually to mean ›assembly‹ – both words have wider semantic ranges – but the equivalence is still significant.) Old English used among other words *mædel* (cf. the Frankish *mallus*) and *thing*, and above all, and especially later, *gemot*: see e. g. Æthelbert, c. 7, Hlothhere and Eadric, c. 6, and Wihtried, Preface (all ed. in Lisi OLIVER, *The Beginnings of English Law*, Toronto 2002, p. 60, 130, 152), and in general Alikí PANTOS, ›*In medle oððe an þinge*‹, in: *Assembly Places and Practices in Medieval Europe*, ed. EADEM and Sarah SEMPLE, Dublin 2004, p. 180–201; for *gemot* see below. For assemblies in our period (up to c. 700) see, as an essential comparative starting-point, Paul S. BARNWELL, *Kings, Nobles, and Assemblies in the Barbarian Kingdoms*, in: *Political Assemblies in the Earlier Middle Ages*, ed. IDEM and Marco MOSTERT, Turnhout 2003, p. 11–28.

9) Thomas M. CHARLES-EDWARDS, *Early Christian Ireland*, Cambridge 2000, p. 556–559; Thietmar, *Chronicon*, ed. Robert HOLTSMANN (MGH SS rer. Germ., nova series 9), Berlin 1935, VI. 24–25.

10) This marks my only difference from the fundamental article of Timothy REUTER, *Assembly Politics in Western Europe from the Eighth Century to the Twelfth*, in: *The Medieval World*, ed. Peter LINEHAN and



A picture such as this goes back to the *Gemeinfreie* theory of the late nineteenth century and early twentieth, and in the middle third of the last century it was criticised for paying too little attention to royal power, hierarchy and *Personenverband*, which were an inescapable part of the assumptions and practices of the early middle ages (as of most periods)<sup>11</sup>). I have myself argued elsewhere for a modified and updated version of *Gemeinfreie* theory, so this does not seem in itself problematic, at least to me; strong aristocracies and hierarchical relations, and the structuring role of royal and aristocratic clien-*tèles* in collective activity, could easily be, and were, a normal part of assembly practice everywhere<sup>12</sup>). It also has to be recognised that who actually was present at such assemblies was carefully controlled in many early medieval societies, and that only men<sup>13</sup>) recognised as political players in the area from which the assembly was drawn normally at-

Janet L. NELSON, London 2001, p. 432–450, who assumes a greater continuity here – as, more implicitly, does Susan REYNOLDS, *Kingdoms and Communities in Western Europe, 900–1300*, Oxford 1984, focussed on a later period. And there is indeed a certain continuum between the *placitum generale* of the Carolingians, which indeed consisted of people who had sworn fidelity to the king because every free male had to in Carolingian society, and the large groupings of political dependants called together, for example, by Louis VI of France in 1124 (Suger, *Vie de Louis VI Le Gros*, ed. Henri WAQUET, Paris 1929, c. 28), which could be seen rhetorically in contemporary French epics as including 30,000 (Raoul de Cambrai, ed. Sarah KAY, Oxford 1992, line 4614) or even 100,000 men (La Chanson de Roland, ed. Frederick WHITEHEAD, Oxford 1946, line 3870). But there are differences too – which I will defend elsewhere, for the debate postdates 900.

11) E.g. (but the historiography here is large) Theodor MAYER, *Die Ausbildung der Grundlagen des modernen deutschen Staates im hohen Mittelalter*, in: HZ 159 (1939), p. 457–487; emblematic is Walter SCHLESINGER insisting that *Herrschaft* and king-centredness were the only guiding structures of the ›Germanic-German‹ state in our period: *Die Entstehung der Landesherrschaft*, Darmstadt <sup>2</sup>1964, p. 109–114. Against, e. g., Heinrich BRUNNER, *Deutsche Rechtsgeschichte*, 2 vols., Leipzig <sup>2</sup>1906–1928, I, p. 175–180.

12) Chris WICKHAM, *Land and Power: Studies in Italian and European Social History 400–1200*, London 1994, p. 203–204, 212–213. For the nature of the consensus of clients in a hierarchical context, in the Frankish kingdom, see Jürgen HANNIG, *Consensus fidelium*, Stuttgart 1982; p. 26–41 for the problematic. I have also myself argued for a very strong role for, in particular, judicial assemblies, which I see as having had such importance that their decreased relevance for the legitimisation of local political action in the eleventh century can be said to mark in some countries, most notably France and Italy, major social and political change: *Justice in the kingdom of Italy in the eleventh century*, in: *Settimane di studio del Centro italiano di studi sull'alto medioevo* 44 (1997), p. 179–255; Chris WICKHAM, *Public Court Practice: The Eighth and Twelfth Centuries compared*, in: *Rechtsverständnis und Konfliktbewältigung*, ed. Stefan ES-*TERS*, Köln 2007, p. 17–30. That is not our concern here, however, and will not be further developed in this article.

13) Assembly attendance was normally highly gendered, too; only major female political actors such as queens-regent normally attended (see e. g. NELSON, *The Frankish World* (as n. 1), p. 202–203, commenting on *Sacrorum conciliorum nova et amplissima collectio* 18, ed. Giovanni Domenico MANSI, Venezia 1773, cols. 171–172, for the sparse and difficult evidence for women at late Carolingian assemblies, here *placita generalia et publicos conventus*). But there are some Anglo-Saxon legal assemblies in the years around 1000 in which female participants are documented: Anglo-Saxon Charters, ed. Agnes Jane ROBERTSON, Cambridge 1939, nn. 66, 78; and, for the 950 s, see the will of Æthelgifu, cited below, n. 80.

tended. Furthermore, assemblies varied very greatly in their protagonism: in some societies, even kings could not always sway the opinions of assemblies, whereas in others there was no significant debate in them at all, and they existed as little more than a means of giving the decisions of kings and lords a veneer of collective legitimacy. But they were still needed; and that need for assemblies as part of legitimisation is what marks the early medieval period out in the history of western Europe.

All this obviously means that not all assemblies were alike. It is also necessary to stress that most societies had several different types of assembly, with different functions, operating at either the local, regional or ›national‹ level. The personnel of each varied considerably; so did the sort of discussion which went on in them, as already indicated in my Nithard examples. How consensus was constructed in assemblies thus varied accordingly – even in theory, never mind in ever-changing daily practice, for there was nothing more changeable than the need to construct *consensus*. We cannot be quick to generalise, given these differences; and we risk the danger that our information might seem to be merely anecdotal. But if we approach our scarce sources with these dangers in mind, we can at least get some indicators of difference; and when we compare them there are some general trends which can genuinely, if cautiously, be drawn. It is best to see such dangers simply as questions: in any given society, how many types of assembly do there seem to have been in our period, and with what functions? How did local assemblies link with assemblies at the ›national‹ level? What social groups made each of them up? How regular were they, and who called them? Who led them, and what sort of authority did leaders have in each case? How much discussion was there in them, and how much was it stage-managed? What sort of decision-making processes can be said to have been used in each – who got their way, and how easily? We usually do not have the evidence to give us more than sketchy answers to these questions, and not all of them can be dealt with systematically here; all the same, the questions, if they structure our analyses, can act as the underpinnings for understanding, not only the way in which each type of assembly generated consensus, but, through that, how social action in the widest sense worked in each society of the early middle ages.

The issue underlying all this is how political legitimacy and the public sphere were constructed. Medieval historians have not stopped being fruitfully irritated at Jürgen HABERMAS' exclusion of the middle ages from the world of *Öffentlichkeit*, the ›public sphere‹ in English<sup>14</sup>). The early middle ages, in particular, was very far from the closed

14) Jürgen HABERMAS, *The Structural Transformation of the Public Sphere*, Engl. trans., Cambridge MA 1989, esp. p. 1–26. For fruitful irritation, see e. g. REUTER, *Assembly Politics* (as n. 10), p. 442; ALTHOFF, *Spielregeln* (as n. 4), p. 229–233; Christina PÖSSEL, *Symbolic Communication and the Negotiation of Power at Carolingian Regnal Assemblies, 814–840*, University of Cambridge, PhD thesis, 2003, p. 49–54. As is increasingly often accepted, ›public sphere‹ is also a misleadingly concrete translation of *Öffentlichkeit*. It is, all the same, a useful error; anyway, there is a tinge of spatial concreteness to the German term which ›publicness‹ (its most direct translation, and a clumsy word in English) does not well represent, as Aloys

world of pre-modern rulers and their clientèles hypothesised by HABERMAS. A quick run through the thousands of citations of the word *publicus* and its derivatives in e-MGH makes the point clear even to the most suspicious academic; the commonest usage (*publice, in publico*) is simply represented by modern English ›in public‹ – activity in the sight of all; the otherwise standard meaning is ›belonging to the public (or royal) power‹ – as with *villa publica, via publica, publica functio, persona publica* (i. e. any public official)<sup>15</sup>, *publicum tributum*, and, of course, *concilium* or *placitum publicum*<sup>16</sup>. That is to say, the terminological range of *publicus* matches pretty much exactly that of ›public‹, in English at least, even taking into account the inevitable differences resulting from the different nature of public cultures in different periods; and the idea of a public sphere is clearly delineated by this dense network of usages. This also, I would add, gives force to the argument that early medieval political systems, at least in the ›Romano-Germanic‹ kingdoms and their successors, can be usefully described as states. I have sustained this elsewhere on the basis of essentially economic and institutional criteria; but the meaning and the importance of the imagery of ›the public‹ in our texts gives further weight to that argument, from a different direction. This fits the way Hans-Werner GOETZ has argued for the *Staatlichkeit* of the early middle ages as part of his *vorstellungsgeschichtlich* approach; to the best of my knowledge he has not focussed on the word *publicus* (others have, though with different aims), but it would certainly add force to his arguments here<sup>17</sup>.

This does not mean, however, that the public sphere was necessarily constructed in the informal, discursive and (ideally) bottom-up way that it was supposed to be in the coffee-

WINTERLING, *Politics and Society in Imperial Rome*, Oxford 2009, p. 61–62, observes; see in general *ibid.*, p. 60–68, and also LUCIAN HÖLSCHER, *Öffentlichkeit*, in: *Geschichtliche Grundbegriffe*, 4, ed. Otto BRUNNER et al., Stuttgart 1978, p. 413–467.

15) E.g. Chlotharii II. edictum, c. 5, in: *Capitularia regum Francorum* 1–2, ed. Alfred BORETIUS and Victor KRAUSE (MGH Capit. 1–2), Hannover 1883–1897 [henceforth Cap. 1, 2], 1, n. 9; but examples are very many.

16) See also Léopold GÉNICOT, *Sur la survivance de la notion d'État dans l'Europe du Nord au haut moyen âge*, in: *Institutionen, Kultur und Gesellschaft*, ed. Lutz FENSKE et al., Sigmaringen 1984, p. 147–164, for a Low Countries case study, more cautious in its conclusions than the evidence implies to me; and n. 17 below. The connection between *publicus* and ›royal‹ was stressed by Walter SCHLESINGER, *Herrschaft und Gefolgschaft in der germanisch-deutschen Verfassungsgeschichte*, in: *HZ* 176 (1953), p. 225–275, at p. 227, 229, 271, but not all its usages can be so translated.

17) WICKHAM, *Framing* (as n. 7), p. 56–62; Hans-Werner GOETZ, *Vorstellungsgeschichte*, Bochum 2007, p. 219–272 (p. 261 for *res publica*); *idem*, *Die Wahrnehmung von ‚Staat‘ und ‚Herrschaft‘ im frühen Mittelalter*, in: *Staat im frühen Mittelalter*, ed. Stuart ARLIE et al., Wien 2006, p. 39–58. Yves SASSIER, *L'utilisation d'un concept romain aux temps carolingiens*, in: *Médiévales* 15 (1988), p. 17–29, discusses the early medieval usage of *res publica*; Peter VON MOOS, in: ›Öffentlich‹ und ›privat‹ im Mittelalter, Heidelberg 2004, and, particularly fruitfully, *idem*, *Das Öffentliche und das Private im Mittelalter. Für einen kontrollierten Anachronismus*, in: Gert MELVILLE and Peter VON MOOS, *Das Öffentliche und Private in der Vormoderne*, Köln 1998, p. 3–83, analyses the vocabulary across the medieval period.

houses and newspapers of Modernity. Precisely because we can use the imagery of ›the public‹ to analyse the early middle ages, we can also see – we have to see – that the way it was constructed was usually very different from that in the Habermasian model. It tended to be formalised, and often directed; legitimising moments tended to be highly choreographed, or (to use the Althoffian term) *inszeniert*; public discussion was often carefully constructed, stage-managed, as well<sup>18</sup>. And nor was this simply the work of kings and lords, determined not to lose face, and thus honour and status, because of public disagreement; when the evidence is good enough for us to be able to find out about non-aristocratic society, which is not until the twelfth century at the earliest in most cases, we find that public speech at the most local level was effortfully constructed as well – ›existential‹, as Eva ÖSTERBERG has called it in the Icelandic context – to create the (male) world of collectively-agreed knowledge which was called in Italy, and soon in wider canon law, *publica fama*. It would not be right to say that all speech was formalised in this manner; people have always spoken in unguarded and free-flowing ways too, and the more they drank (a pretty common scenario in our period) the more likely this was to be the case. But speech which was regarded as having public validity was as far as we can see more formalised, and certainly more charged, everywhere. If and when we find it, this does not mean that it all has to have been *inszeniert*<sup>19</sup>.

Conversely, however, the formalisation and choreography of speech also does not mean that the early middle ages was irretrievably ›other‹ for this reason. Public speech must have been constructed on a regular basis with much the same degree of formalisation as the speeches in a parliament or an academic senate today, or indeed the questions and answers in an academic conference. Consider the high level of ritualised behaviour which is considered appropriate at the Reichenau, or at Spoleto, and one may get a sense of what was probably considered normal in any early medieval public context too. We ourselves can in these environments tolerate disagreement with greater ease than could some early medieval public fora, but the same games of honour and status apply. The level of permitted explicit disagreement, as also permitted anger, also varies today, quite substantially, from forum to forum (there is much less permitted anger, and even sometimes

18) ALTHOFF, *Spielregeln* (as n. 4), p. 229–257, critiqued in PÖSSEL, *Symbolic Communication* (as n. 14), p. 26–33.

19) Eva ÖSTERBERG, *Mentalities and Other Realities*, Lund 1991, p. 9–30; cf. for the twelfth century Chris WICKHAM, *Fama and the Law in Twelfth-Century Tuscany*, in: *Fama*, ed. Thelma FENSTER and Daniel L. SMAIL, Ithaca, NY 2003, p. 15–26; Julien THÉRY, *Fama: l'opinion publique comme preuve judiciaire*, in: *La preuve en justice de l'Antiquité à nos jours*, ed. Bruno LEMESLE, Rennes 2003, p. 119–147. It is worth noting that a high proportion of the extensive *oratio recta* in, for example, Notker, *Gesta Karoli Magni imperatoris*, ed. Hans F. HAEFELE (MGH SS rer. Germ., nova series 12), Berlin 1959, is ›existential‹ speech of this type.

less explicit disagreement, in academic conferences than in parliaments) and, not least, from country to country; so may they have done then<sup>20</sup>).

One thing is at least clear about the early middle ages, however: it is venue. Who speaks for ›the public‹ now, and where? It is often contested. The people of Cairo in spring 2011 contested the restriction of the Egyptian political sphere to a managed autocracy by assembling in public in Tahrir Square, and the perceived legitimacy of that assembly helped them to overthrow their ruler; when many of them concluded in the autumn that the Egyptian army had conceded little power in practice they returned there, but this time were less successful in pulling the public sphere back into an assembly format, and the concurrent parliamentary elections, which presumed a very different notion of ›the public‹, continued with high turnouts. (I leave out the complex subsequent iterations of the same conflicts up to now, June 2014, which, however they turn out in the end, have shown similar ambiguities.) In the early middle ages, however, the overwhelmingly dominant location for ›the public‹ was in the assembly. Even peasants, when they sought to resist royal and aristocratic power, did so by invoking an assembly, as with the *conventicula* of the eastern Norman *rustici* in the 990s, and, more implicitly in our sources, in the [assembly-based] *antiquiorum Saxonum consuetudo* sought by the Stellinga rebels in Saxony in 841<sup>21</sup>). It is precisely because assemblies were so important in our period for consensus, legitimation of political acts, and a wider political legitimacy, that kings and lords sought so often to stage-manage them – usually with success, but not always with ease. That is, then, the context for an empirical study of differences, which will be the focus of the rest of this paper.

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Let us start with Visigothic Spain; by far the most Roman of the ›Romano-Germanic‹ kingdoms, it is also, probably for that reason, by far the hardest to characterise in assembly terms, and gives us the least data to work with. The Visigoths certainly had assemblies at one point, as is shown by two well-known texts. One is Jordanes' account of the election of King Thorismund in 451 in Gaul by the Goths acting together, *armis in-*

20) For the range of micropolitical activity in assembly contexts across the world in the mid-twentieth century, see e. g. *Councils in action*, ed. Audrey RICHARDS and Adam KUPER, Cambridge 1971.

21) For Normandy, *The Gesta Normannorum Ducum* of William of Jumièges, Orderic Vitalis and Robert of Torigni 2, ed. Elisabeth M. C. VAN HOUTS, Oxford 1995, V. 2 (p. 8), with Bernard GOWERS, *The Norman Peasants' Revolt of 996 Revisited*, in: *Early Medieval Europe* 20 (2012); for Saxony, *Annales Bertiniani*, ed. Georg WAITZ (MGH SS rer. Germ. 5), Hannover 1883, s.a. 841 (p. 26), with Eric GOLDBERG, *Popular Revolt, Dynastic Politics and Aristocratic Factionalism in the Early Middle Ages: the Saxon Stellinga Reconsidered*, in: *Speculum* 70 (1995), p. 467–501. For Saxon assemblies, see Cap. 1, n. 26, c. 34, and *Vita Lebuini antiqua*, ed. A. HOFMEISTER (MGH SS 30/2), Leipzig 1934, p. 791–795, cc. 4–6 (treating the latter with some caution).

*sonantibus*, one of the *loci classici* for the traditional image of ›Germanic‹ military-political organisation. This might be set aside as part of a traditional Roman construction of the ›barbaric‹ practices of the Goths, written a century later; but it is paralleled by a reference in Hydatius' ›Chronica‹, finished in the late 460s, which is an anecdote about what happened when the Goths were *congregatis quodam die concilii sui*, again somewhere in Gaul, in 466–7, when it was noticed that the weapons which the Goths had in their hands had suddenly become multicoloured. (Isidore of Seville in his ›Historia Gothorum‹, written in the 630s, copied this, calling it a *conloquium*.) Whatever this odd event is meant to symbolise, which Hydatius evidently did not know (he says it is a ›portent‹, as well he might, but not of what), the backdrop is clearly a lay and militarised gathering, and the information in this case highly contemporary<sup>22</sup>).

Isidore's repetition of this story may possibly indicate that the concept of such assemblies still existed in Spain in 630. They are not otherwise attested, however; in the Romanised kingdom which developed in the sixth and seventh centuries in Spain, they seem to have fallen into desuetude. The most we can say is that King Wamba, when he organised his show-trial of the rebel and failed king Paul in 673, did it not only in front of the *seniores* of the *palatium*, the officials of the king's palace, and his personal dependants or *gardingi*, but also *adstante exercitu universo*, in the presence of the whole army. Like other ›Romano-Germanic‹ kingdoms, Visigothic Spain assumed that all free men would serve in the army, and even (in Spain but not elsewhere) a substantial tranche of the unfree, so this was a potentially wide assembly<sup>23</sup>). But it is also a unique citation. Perhaps Wamba used a very traditional format for this trial to make a specific point, that he was publicly victorious in the most substantial civil war of the later seventh century; doubtless, too, the army was simply still with him at the conclusion of the war. We cannot generalise here; and all the other evidence we have is negative. Laws were not promulgated before assemblies in Spain, as far as we can tell, but only by the *artifex legum*, i. e. the king, as the ›Lex Visigothorum‹ (LV) put it; and, far from justice being assembly-based, Chindaswinth in the 640s enacted that ›only those should enter into the tribunal (*in iudicio*) who are seen to have an interest‹, so that ›the *audientia* is not disturbed by tumult or clamour‹. When the kings added themselves and a lay gathering to the ecclesi-

22) Jordanes, *Getica*, ed. Theodor MOMMSEN (MGH Auct. Ant. 5/1), Berlin 1882, pp. 53–138, c. 41; Hydatius, *Chronica*, ed. in Richard W. BURGESS, *The Chronicle of Hydatius and the Consularia Constantinopolitana*, Oxford 1993, p. 70–122, at p. 120; Isidore of Seville, *Historia Gothorum*, ed. Theodor MOMMSEN, *Chronica Minora* 2 (MGH Auct. Ant. 11), Berlin 1894, p. 267–295, c. 35; see Jacek BANASZKIEWICZ, *Les hastes colorées des Wisigoths d'Euric* (Idace c. 243), in: *Revue belge de philologie et d'histoire* 72 (1994), p. 225–240, for a fanciful Indo-European context.

23) Julian of Toledo, *Historia Wambae*, ed. Wilhelm LEVISON (MGH SS rer. Merov. 5), Hannover 1910, p. 500–535, *Iudicium*, c. 5; for the army, see in general DIONISIO PÉREZ SANCHEZ, *El ejército en la sociedad visigoda*, Salamanca 1989, p. 129–174. Claudio SÁNCHEZ-ALBORNOZ, *Estudios visigodos*, Rome 1971, p. 149–164, cf. 249–254, gives a sensible analysis of this and the previous texts.

astical councils of Toledo, which they often did from 589 onwards, given the importance of these councils for political decision-making in Spain, the lay group was restricted to the *seniores* of the royal palace, even if membership of that group was certainly substantial<sup>24</sup>). There is no other hint in Spain of the sort of regular collective political practice, centred on the *placitum generale*, which was normal in Carolingian Francia. At most we find processional rituals, of victory and the humiliation of losers, which had Roman roots and parallels in contemporary Byzantium: public ceremonies, certainly, but of a different type<sup>25</sup>).

This does not sound promising. But the Visigothic kings were concerned with consent as well, as indeed was only sensible given the large and geographically diverse territory they ruled, and the kingdom's long history of coups. LV may have stressed the king as legislator, but it also assumed that legislation was *consilio probis et parvis, adsensu civibus populusque communis*, and, in general, *ex universali consensu* (I. 1. 5), even if it did not spell out how (or if) that consent was actually to be obtained. At royal accessions, however, public assent was widely sought, both at Toledo and in the localities, and oaths were administered<sup>26</sup>). The church councils, too, were major moments of aggregation for the political community of Spain, even if they were relatively infrequent, and even if the lay aristocratic presence there was more restricted than that of the ecclesiastical leadership (though this was, of course, aristocratic as well). III Toledo in 589, in particular, was carefully framed by the written agenda or *tomus* of King Reccared, so as to get the Catholic bishops who made the council up to be rather more fraternal to their defeated Arian colleagues than they wished to be, with the result that a real consensus around the abandonment of Arianism could be established, as Rachel STOCKING has shown: this is indeed the clearest example we have for Spain of the deliberate construction of consensus in an assembly context<sup>27</sup>). Many of the later councils, from 653 onwards, were also structured by a previously-written royal *tomus*, which the bishops ratified, filled out, and gave a wider consent to. Kings could be supplicants, as well: VIII Toledo in 653, as also XV

24) *Artifex legum*: Leges Visigothorum, ed. Karl ZEUMER (MGH LL nat. Germ. 1), Hannover / Leipzig 1902 (henceforth LV), I. 1; Chindaswinth: *ibid.*, II. 2. 2. Our very rare documents for courts also show *iudices* and *vicarii* apparently acting on their own: Documentos de época visigoda escritos en pizarra (siglos VI-VIII), ed. Isabel VELÁZQUEZ SORIANO, 2 vols., Turnhout 2000, n. 39; *Formulae Visigothicae*, in: *Miscellanea visigothica*, ed. J. GIL, Sevilla 1972, pp. 70–112, n. 40. Councils of Toledo: see in particular III (589), VIII (653), XII (681), XIII (683), XVI (693), in: *Concilios visigóticos e hispano-romanos*, ed. J. VIVES, Barcelona 1963 (a poor edition, and partially superseded, but still the only one which goes to the end).

25) Michael McCORMICK, *Eternal Victory*, Cambridge 1986, p. 297–327.

26) BARNWELL, *Kings, Nobles and Assemblies* (as n. 8), p. 17n, collects the evidence: see esp. LV, II. 1. 7, for oaths.

27) Rachel STOCKING, *Bishops, Councils, and Consensus in the Visigothic Kingdom, 589–633*, *Ann Arbor*, MI 2000, p. 59–77, 85–88.



Toledo in 688, had kings coming before the council who sought to be freed from unbreakable oaths for political convenience, and the bishops found reasons, with some difficulty, for allowing them<sup>28</sup>). Spain was not one of the early medieval states where it was easy to defy kings in public, so the fact that bishops did this is not in itself surprising; but it is important for our understanding of the construction of political consensus in Spain that kings felt that they needed such publicly-agreed legal justifications and framings for making convenient political choices of a type which other kings (in sixth-century Francia, say) would have made routinely and without qualm.

At the local level, too, we have hints of public groupings. Although *iudices* judged on their own, LV stresses that punishments by beating were to take place in public, *in conventu, publice* (once *in conventu mercantium, publice*, i. e. at a market); as one law put it, judges were required to »exercise discipline, not in secret or hidden places, but *in conventu, publice*«. Twice, late seventh-century laws even put an institutional stamp on this: wandering animals should be denounced to a priest, count or *iudex*, or to the *seniores loci*, or *in conventu publico vicinorum*; and the *iudex* had to present fugitives *ubi cunctorum constat esse conventum*, »where the *conventus* of everyone is known to be«<sup>29</sup>). This looks like a formal village-based collectivity. We do not have to be legalistic about our interpretation of these laws to be able to recognise that such collectivities must have existed, in some areas at least; it is also certainly worth remembering that the best evidence in Latin Europe for village decision-making bodies in the tenth century (called *concilia* by then) is from northern Spain. This probably simply marked Spain out as particular, at the local level, in some parts of the peninsula at least; it has even been argued that such collectivities were in some areas pre-Roman, and there is certainly no need to see them as having anything to do with the Visigoths as an ethnic group<sup>30</sup>). They do, however, show that there were versions of local assemblies in existence in Spain, for whatever reason, and it is clear that *iudices* were expected to take them into account. It may well be these village-level assemblies which subsequently became the basis for the judicial assemblies which did appear in a later period, in the kingdom of León by the end of the tenth century; these

28) Concilios visigóticos (as n. 24), p. 267–277, 450–471; for 653 see STOCKING, Bishops, Councils (as n. 27), p. 1–2. See also Concilios visigóticos, p. 380–389 (a. 681) for some very suspicious work around the »resignation« of King Wamba, again wrapped around with a careful legalism.

29) LV, III. 4. 17, VI. 2. 3, VII. 2. 6, VIII. 1. 3, IX. 2. 2, IX. 2. 4 (*mercantium*), IX. 3. 3, XII. 2. 14 for beating; VII. 4. 7 for »discipline«; VIII. 5. 6 for animals; IX. 1. 9 for fugitives. I have added a comma before *publice* in the quoted texts, as it seems called for by the context.

30) SÁNCHEZ-ALBORNOZ, Estudios visigodos (as n. 23), p. 99–100, 145; for the tenth century see e. g. Reyna PASTOR, Resistencias y luchas campesinas en la época del crecimiento y consolidación de la formación feudal Castilla y León, siglos X–XIII, Madrid 1980, p. 20–73; Wendy DAVIES, Acts of Giving, Oxford 2007, p. 202–207. The unusually collective nature of the society of northern Spain is stressed by, in particular, Santiago CASTELLANOS and Iñaki MARTÍN VISO, The Local Articulation of Central Political Power in the North of the Iberian Peninsula (500–1000), in: Early Medieval Europe 13 (2005), p. 1–42.



were a new development in Spain, a sign of a developing, not a retreating, assembly practice. It is however one which goes well beyond our period<sup>31)</sup>.

Visigothic Spain thus mostly gives us negative evidence for assemblies. The evidence for local assemblies in the late Roman world is very similar (indeed, at the level of cities much better, and at the village level in some regions, notably Egypt, rather better as well<sup>32)</sup>), without Rome giving us any real insight into ›assembly politics‹; and the same is true for Spain up to 711 – although it is important to repeat that this is much less true two to three centuries later. But at least, in our time-period, we have here an exemplification of some observations made earlier: every polity needs to have techniques for creating public consensus, both in local society and around the affairs of rulers; if rulers do not establish such consensus, they fail in the end, and indeed if local judicial figures do not take the views of their neighbours into account they will fail in the end as well. Assemblies are not an essential part of societies, even early medieval societies; but consensus is, however it is obtained. And in Visigothic Spain, in the councils of Toledo, ecclesiastical though they largely were, we also see signs that the methods of obtaining secular political consensus in the peninsula were often structured by an unusually explicit legal framing.

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We are on firmer ground with Lombard-Carolingian Italy. Here, as also later with Francia, it will not be necessary to seek out every fragmentary reference to an assembly in order to create an argument, as I have just done for Spain; there is more evidence at every level except for villages, where collective activity is ill-documented until the eleventh or twelfth century in most parts of the peninsula<sup>33)</sup>. Here we find assemblies of at least two types. Lombard kings certainly legislated in an assembly context. Rothari enacted his *Edictus* in November 643 *pari consilio parique consensum cum primatos indices cunctosque felicissimum exercitum nostrum*, »both by advice and consent with all senior judges and our most happy army«<sup>34)</sup>. In the eighth century, Liutprand, Ratchis and Aistulf legislated

31) DAVIES, Acts of Giving (as n. 30), p. 203; EADEM, Summary Justice and Seigneurial Justice in Northern Iberia on the Eve of the Millennium, in: Haskins Society Journal 22 (2010), p. 43–58, which shows that not all disputes were held before assemblies in that period.

32) See for villages the data in WICKHAM, Framing (as n. 7), p. 411–428, 443–465; and Cam GREY, Constructing Communities in the Late Roman Countryside, Cambridge 2011; for cities see n. 7 above.

33) Chris WICKHAM, Community and Clientele in Twelfth-century Tuscany, Oxford 1998, p. 54–62, 185–189, 209–231; one exception is the *plebs* of Musciano near Pisa which collectively consents to the ordination of a priest in 746: Codice diplomatico longobardo, ed. Luigi SCHIAPARELLI et al., 5 vols., Roma 1929–2003 [henceforth CDL], I, n. 86.

34) *Edictus Rothari*, c. 386, in: *Leges Langobardorum 643–866*, ed. Franz BEYERLE, Witzzenhausen 1962. Ennio CORTESE, *Thinx, garethinx, thingatio, thingare in gaida et gisil*, in: *Rivista di storia del diritto italiano* 61 (1988), p. 33–64, disposes of the »fragrant« (p. 38) traditional reading of the nation in arms of 643, ratifying royal law in an assembly brandishing spears, but he cannot argue away the *exercitus*.

(regularly on 1 March) on over fifteen occasions with specified groups of people around them: always their *iudices*; usually their *obtimates* or *fideles Langobardi*, their aristocratic entourage (often identified as being from the three main parts of the kingdom, *Austria*, *Neustria* and *Tuscia*, and therefore specifically called to the capital at Pavia, perhaps annually); but also sometimes wider groups, *cuncto populo adsistente* (713, at the start of Liutprand's legislative career and in the most important text for setting the tone of the next forty years), *ceteris nostris Langobardis* (717), *Langobardis adstantibus* (746), and so on<sup>35</sup>.

We need not be naïve about the degree of real advice such wider groups offered; the kings, when they mention people actually discussing new laws (*haec omnia inter se conlocuti sunt*, 726)<sup>36</sup>, refer only to their *iudices* and sometimes their *fideles*, a restricted and largely professional group, although at least one which kings needed to get the agreement of. The *cunctus populus*, itself inevitably a restricted group (peasants, obviously, could hardly get to Pavia every year), doubtless simply affirmed such decisions. But it was important to register their presence and their approval. There is also a continuum between the *exercitus* of Rothari, the *populus* of Liutprand, and the more local *exercitus Senensium civitatis* whose name is invoked by the gastald Warnefred of Siena in 730 as a metonym for the whole public sphere when he founded his family monastery of S. Eugenio in the city<sup>37</sup>. The people, whether armed or not (*exercitalis* was a synonym for 'free man' in Lombard legislation), whether centrally gathered or local, and whether or not socially restricted (which must have varied from locality to locality), was a body whose views, or at least legitimating presence, it was necessary to invoke. Paul the Deacon at the end of the same century, when he wrote his *Historia Langobardorum*, similarly assumed that wide groups of *Langobardi* chose or ratified kings, from the sixth century onwards, *congregatis in unum* as he said about the royal election of 590. In his most dramatic account, he described the exiled King Perctarit, returning to Italy in 672 when he heard that his supplanter King Grimoald had died, being awaited at the frontier by *omnia obsequia palatina* [the men of the palace, doubtless the equivalent of Liutprand's *iudices et fideles*], *omnemque regiam dignitatem* [»the whole royal regalia« seems to me less likely than »the aristocracy, taken as a whole«], *cum magna Langobardorum multitudine praeparatam*, a large legitimating assembly which supposedly had actually come to meet him – even be-

35) Liutprandi leges, praef. to cc. 1 (713), 7 (717), 15, 19, 30, 54, 65, 70, 84, 96, 104, 117, 143; Ratchis leges, praef. to cc. 1, 5 (746); Ahistulfi leges, praef. to cc. 1, 10; all in *Leges Langobardorum* (as n. 34). The standard traditional accounts of this are Carlo MOROSI, *L'assemblea nazionale del regno longobardo-italico*, in: *Rivista di storia del diritto italiano* 9 (1936), p. 248–290, 434–475 (very detailed and continuing into the thirteenth century), and Carlo Guido MOR, *Modificazioni strutturali dell'Assemblea nazionale langobarda nel secolo VIII*, in: *Album Helen Maud Cam*, 2, Louvain 1961, p. 3–12 (more quirky).

36) Liutprandi leges, praef. to c. 70, in *Leges Langobardorum* (as n. 34).

37) CDL (as n. 33), I, n. 50.

fore his elevation to the throne, which was ratified in Pavia by *universis Langobardis*<sup>38</sup>). In the Carolingian period, this body was renamed the *placitum generale* along Frankish lines by 781 at the latest, and is sometimes cited (although not as often as before 774) in Carolingian legislation in Italy too<sup>39</sup>).

This kingdom-level assembly was then matched by the assembly of each city, as indeed the Senese reference just cited implies. This had no visible filiation to the city councils of the Roman empire, and met, as far as we can tell, above all to resolve legal disputes. Before the Frankish conquest of 773–4, our evidence for such assemblies is mostly restricted to Rieti in the duchy of Spoleto (the nearest city to the monastery of Farfa, which kept the texts), starting in the 750s; thereafter we find them in as many cities as we have evidence for, notably Lucca and Milan in the ninth century, but plenty of others as well. These legal assemblies (they too, from 798, and very generally by the second quarter of the ninth century, were called *placita*) were indeed exceptionally well-rooted in Italy, and continue without a break and without any diminution in size into the later eleventh century and sometimes later still<sup>40</sup>). From the start to the finish, these assemblies were explicitly *propter singulorum hominum decidendas intentiones*, »in order to decide the disputes of individual men« (this being the form of the phrase in its earliest citation, in 761, but it has equivalents in hundreds of other court documents from the next three centuries and more), and they met regularly – the assembly met, that is to say, and people then brought cases to it. Carolingian laws said that such *placita* had to meet three times a year; we cannot track such a neat periodicity for them, and François BOUGARD has shown in his fundamental study of justice in the *Regnum Italiae* that every month has surviving *placita* documents (with a greater density, however, in the spring), but it is clear that they were frequent enough for people to use them, at least for major civil pleas<sup>41</sup>).

Earlier in the history of the Lombard kingdom, it is possible that legal assemblies were called to hear specific cases, at royal request. That is certainly the case for our two earliest references to such an assembly, in 715 and 716. But it is very likely that those were special occasions even then, and that the practice of regular local legal assemblies was older than

38) Paul the Deacon, *Historia Langobardorum*, ed. L. BETHMANN and Georg WAITZ (MGH SS rer. Lang.), Hannover 1878, pp. 45–187, II. 31, III. 16, 35 (a. 590), IV. 30, V. 33 (a. 672), VI. 35, 55; his assumptions about consent are also visible in his repetitiveness about *consensus militum* being part of the election of later Roman emperors in his *Historia Romana*, ed. Hermann DROYSSEN (MGH SS rer. Germ. 49), Berlin 1879 – IX. 2, 12, X. 10, 11, 15, 17, XV. 2.

39) Cap. 1, n. 90 praef. (781), cf. 102 praef. (806/10), 163 praef. (825).

40) For pre-774, see CDL (as n. 33), IV/1, nn. 12, 14, 15. After 774, see Cesare MANARESI, *I placiti del «Regnum Italiae»*, 3 vols., Roma 1955–1960, passim; n. 10 for 798. See in general François BOUGARD, *La justice dans le royaume d'Italie de la fin du VIIIe siècle au début du XIe siècle*, Roma 1995; p. 135 for the appearance of the word *placitum*; for the eleventh century, see e. g. WICKHAM, *Justice in the Kingdom of* (as n. 12).

41) CDL (as n. 33), IV/1, n. 14 (a. 761); BOUGARD, *La justice* (as n. 40), p. 207–209.

the 750s<sup>42</sup>). There was certainly in the seventh century an assumption that plenty of legal acts, notably some donations and the manumission of the unfree, had to take place in public gatherings (apparently called *thinx*, as in northern Europe)<sup>43</sup>). Either way, assembly-based local justice was established before the Frankish conquest, and it was only reinforced by Carolingian practice. Up to a hundred people might attend each *placitum*, judging by eleventh-century evidence, i. e. a group extending well outside the aristocracy of each city/county, however that social category is to be defined; in 761, the attenders listed in Rieti were the duke of Spoleto, a royal *missus*, *reliqui nostri iudices* (a bishop, two gastalds and three *sculdabes*, senior officials), and then »many other *adstantes*«, and the recognition of the existence of such *adstantes* was standard for the whole three centuries of the *placitum* tradition<sup>44</sup>).

On one level, we have to be careful about what weight we put on such assemblies. The real players in them were the *iudices*, often in the Carolingian period called *scabini*, another Frankish loan-word: semi-professional notables with practical legal experience, experience which they sometimes can be seen exercising in a sequence of cases<sup>45</sup>). The *adstantes* were there to give a public authority to legal decisions which were not taken by them. They had importance as a local political aggregation; they made things public; but it was not obviously necessary, at the local level any more than at the level of the kingdom, to put effort into establishing consensus. On the other hand, there was one important category of people who did have to be persuaded, against their will, to consent to legal decisions: they were, as always in legal contexts, the losers of disputes. Given early medieval resources, losers could not easily and regularly be forced to cede; they had to agree to give in (often for a sweetener) and stick to it. Italian records thus almost from the start, as do most judicial records from our period, put considerable stress on the formal and public cession of the case by losers. This became steadily more important, at least in the documentary record; by the tenth century, indeed, in most cases, the only part of a north Italian court-case which appeared in the document which recorded it was an increasingly

42) CDL (as n. 33), I, nn. 20, 21. Both concern diocesan boundary disputes; the second has a mixed lay and ecclesiastical assembly, the first has only clerics, plus the king's *missus*. The first, nonetheless, uses the terminology which had become standard in secular courts half a century later, clericalising it: the bishops are *residentes*, [...] *una cum presbiteros nostros* [named], *et reliqui sacerdotibus circumstantibus audientibus*. I deduce that this was already the normal format for secular court-case records in Lombard Italy, and for the assemblies they recorded, which may well therefore have been common already, although too few documents survive as early as 715 to confirm or deny it. Note that, unlike in Spain, church councils were a marginal part of Lombard political practice.

43) *Thinx*: Edictus Rothari, cc. 171, 172, 174, in *Leges Langobardorum* (as n. 34). CORTESE, *Thinx, gave-thinx* (as n. 34), esp. p. 53–61, argues that by 643 the *thinx* or *thingatio* procedure was by now only dispositive, and did not depend on any formal gathering, but the etymology of the word points to a *thing* in its meaning of a wider gathering at some point in the not-so-distant past.

44) CDL (as n. 33), IV/1, n. 14.

45) BOUGARD, *La justice* (as n. 40), p. 140–158.

elaborate ritual of concession<sup>46</sup>). This shows the importance which was put in *placitum* assemblies on the consent of such defeated parties. But it is also the case that the major context for that consent was indeed the assembly venue: if one was defeated in public, it was harder to ignore that defeat, and one's own concession and the public recognition of it, and continue as if nothing had happened. The establishment of a wider consensus may not have been a very difficult process in these fora, but their role in the reinforcement of legal decisions was crucial. The public forum gave a momentousness to the legal process; and this must be one major reason why *placitum* assemblies survived so long in Italy. By the eleventh century, indeed, when kings were so seldom in Italy, city-level judicial assemblies were the most important surviving element of the Italian state.

We do not see the process of *consensus*-building in the texts I have characterised so far; we have to assume it from the solidity of the public tradition in Italy. A slightly later text does give us some hints, the ›Miracula Sancti Columbanī‹, a text from the mid-tenth century (perhaps the 960s) which recounts the affairs of the monastery of Bobbio in 929, under King Hugh. Bobbio had suffered, the text claims, a number of recent usurpations of its land, which Hugh could not easily reverse in case his *principes* rebelled against him; so he advised the abbot of Bobbio to bring the body of St Columbanus to Pavia when Hugh *conloquium cum suis principibus ageret* [i. e. when he held a *placitum generale* there], so that the impact of the body might make them back off from their *rapacitas*. When the abbot came to Pavia with his grand relic, crossing many of the disputed estates as he did, accompanied by crowds of people and miracles, Hugh carefully stage-managed Columbanus' presence in the city too, mixing informal and secret visits by himself and his wife with formal ones with his *principes*; this allowed him to create such notoriety for Bobbio's démarche that, when his *colloquium* began in the *aula regia* of the palace, it was enough for the king to pass around the chalice of St Columbanus for the two principal villains (in Bobbio's eyes), Bishop Guido of Piacenza and his brother Ranieri, count of the same city, to refuse to drink and to flee the palace that night; two other usurpers respectively fell from a horse and temporarily went mad. Hugh then confirmed the monastery's properties<sup>47</sup>). The clear implication of the text is that Hugh could humiliate and marginalise major political players by wielding a supernatural weapon, and a peace-making collective drinking ritual, in an assembly; but that had he sought to do so without that, he would have risked dangerous opposition. To the author of the text, Columbanus was a means for the king to persuade, in a situation in which he did not have full authority, at least in the

46) WICKHAM, Justice in the Kingdom of Italy (as n. 12), p. 181–189.

47) *Miracula sancti Columbanī*, ed. Harry BRESSLAU (MGH SS 30/2), Leipzig 1934, p. 993–1015, esp. cc. 8, 17, 21, 22; see François BOUGARD, La relique au procès: autour des miracles de saint Colomban, in: *Actes des congrès de la Société des historiens médiévistes de l'enseignement supérieur public* 31 (2000), p. 35–66, who stresses the uniqueness of the text in an Italian context of usually more regular and effective secular justice; see further Faye TAYLOR, *Miracula, Saints' Cults and Socio-Political Landscapes*, University of Nottingham, PhD thesis, 2011, p. 78–90, 101–106, 113–124 (and 97 for the date).

context of a narrative which of course had to stress the superiority of spiritual power to legal regularities. This is an image of *consensus*-building not by force, or argument, but by careful strategic planning<sup>48</sup>). We are by now in the tenth century, when the hegemony of all Italian kings was weak (although one would have thought that taking out one family in Piacenza was not beyond Hugh's powers; he did it elsewhere, after all), but the image of the assembly as being the proper location of such management fits an earlier period too.

Lombard-Carolingian Italy thus shows us a paradox. Assemblies were a crucial feature of political practice at the level of both the state and the city, valued by kings as part of their public presence, and sufficiently long-lasting, especially at the local level, that they show that they were valued by their participants as well – they were evidently not a waste of time, simply a veneer. But, on the other hand, they do not show any real signs, except in this last, isolated, example, of being in any way difficult to control; they were important vehicles of a consensus which seems, however, to have been exceptionally easy to maintain. In part, this is the product of the poverty of Italian narratives in every century before the twelfth: the tensions which were inevitably there are largely hidden from us. In large part, however, I would argue that it shows us an essential solidity in Italian political practice which can be argued to derive from the very great difference in wealth between kings on the one hand and national and, still more, local aristocracies on the other – royal power could more easily be hegemonic as a result. This, plus relatively tight networks of local patronage (extending well into the ranks of the peasantry), the vivacity of city-level assemblies, and a regular practice of appealing to the court of the king in Pavia, created an unusually cohesive kingdom, one which was also, after 712, mostly free of succession disputes until the very end of the Carolingian era<sup>49</sup>). It was only thereafter that a localisation of political practice slowly began, and the hegemony of the kings weakened; but assemblies carried on even then.

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If we see assemblies in Italy at two levels, those of the kingdom and of the city, we see them in Francia at three, for here we have evidence of smaller-scale assemblies too, in the form of the local *mallus* court. The ›Pactus legis Salicae‹ assumes that one could in the early sixth century appeal to the *mallus* or *placitum* at a very localised level, well below the level of the count, although he was always available to be appealed to; a *thunginus* [once more <thing>] or *centenarius* presided over many courts, and others were run by the

48) It thus also resembles some of the more strategic of the classic examples of ›games‹ discussed by Gerd ALTHOFF, also focussed on the tenth century: see ALTHOFF, *Spielregeln* (as n. 4), p. 233–250. There are no references to such assembly strategies in the most discursive narrative from tenth-century Italy, Liutprand of Cremona's *Antapodosis*; but, as Philippe BUC has shown (*The dangers of ritual* (as n. 3), pp. 15–50; *Italian Hussies and German Matrons*, in: *Frühmittelalterliche Studien* 29 (1995), p. 207–225), Liutprand systematically downplayed the standard markers of legitimate politics in pre-Ottonian Italy.

49) See in general WICKHAM, *Framing* (as n. 7), p. 115–124.

most local figures of all, *rachineburgii* or *rachimburgii* [judgement-guarantors], whose duty was to »speak the Salic law« and who decided cases collectively; these features were developed in later sixth-century legislation, and remained in the later reissues of ›Lex Salica, which continued into the ninth century. In these local courts, although one could not say that judgements were all exactly consensual, it is still visible that wide-scale support was needed in order to establish one's case, with groups of oathhelpers (*iuratores*) who were often numerous; in the famous *de migrantibus* chapter of the ›Pactus, incomers to a village (*villa*) could be expelled, but only if an opponent could collect *testes* to support his case on four separate occasions, which presumed a considerable degree of local consensus, no matter how obtained<sup>50</sup>.

It is not my task here to summarise the huge and forbidding literature on the world of the ›Pactus; much of it is unhelpful, not just because of the legalism of many writers, but also because we do not have any examples of such courts in action. But it is worth noting that the best example of this sort of world operating in practice comes from not so far away from the geographical remit of Salic law, the border between Neustrian Francia and Brittany, in the ninth-century Redon court records; here, village communities or *plebes* routinely decided disputes, and the evidence for their collectivity is very strong. Although this was a Breton-speaking area, and there is no reason at all to think that an identifiably Frankish legal practice was followed or even known about, the picture of a small-scale community which is strong in the ›Pactus (and indeed heavily ideologically stressed – the ›Pactus's mythical legislators legislated *per tres mallos*<sup>51</sup>) appears in actual documents. There were courts (often called *placita*) in each *plebs*, usually but not necessarily with a *machtier*, a local notable, as court president; but also large groups, assemblies, of *nobiles* or *boni viri* acting as judges and impartial witnesses, who were in many cases peasants. People appeared both as litigants and as *nobiles viri* in different cases; and one needed both witnesses and sureties to get anywhere in the court – i. e. one needed local support from the same kind of people as were judging, and sureties in fact guaranteed not only victory but also the continued consent of the defeated<sup>52</sup>. These practical and coherent small-scale legal assemblies show that the kind of local operation envisaged in the ›Pactus

50) *Pactus legis salicae*, ed. Karl August ECKHARDT (MGH LL nat. Germ. 4/1), Hannover 1962, e. g. cc. 42, 45 (*de migrantibus*), 46, 50, 56, 57, and (for laws later in the century) 69, 79, 102, 113, 115. A few more or less sensible guides from very different standpoints are: BRUNNER, *Deutsche Rechtsgeschichte* (as n. 11), 2, esp. p. 217–241, 289–312, 472–478; Aleksandr I. NJEUSSYCHIN, *Die Entstehung der abhängigen Bauernschaft*, Berlin 1961, p. 118–228; Ruth SCHMIDT-WIEGAND, *Fränkische und frankolatinische Bezeichnungen für soziale Schichten und Gruppen in der Lex Salica*, Göttingen 1972; Paul S. BARNWELL, *The Early Frankish Mallus*, in: *Assembly Places and Practices* (as n. 8), p. 233–244. Hans-Achim ROLL, *Zur Geschichte der Lex Salica-Forschung*, Aalen 1972, unfortunately stops his account in 1875.

51) *Pactus* (as n. 50), *Kurzer Prolog*, c. 2 (p. 3).

52) Wendy DAVIES, *People and Places in Dispute in Ninth-Century Brittany*, in: *The Settlement of Disputes in Early Medieval Europe*, ed. EADEM and Paul FOURACRE, Cambridge 1986, p. 65–84; EADEM, *Small Worlds*, London 1988, p. 146–160.



could indeed work, as long as the hierarchies and patronage-networks of aristocratic power did not stretch too deep into the countryside, which was not a completed process until late in our period.

At the city, or county, level we see assemblies too. There are no comital court documents surviving from the Merovingian period, but the *placita* taking place in the city of Angers are well-represented in the ›Formulae Andecavenses‹, which survive in a late eighth-century manuscript and seem to represent documents from several points in the Merovingian period. Such *placita* have some analogies to the picture of disputes in the ›Pactus‹ (even *rachinburgi* are cited once).<sup>53</sup> Counts also appear as judges in (what we would call) criminal cases in saints' lives; a common Merovingian-period topos is for an episcopal saint to save a man condemned by a count to imprisonment or hanging, and in one case, in the ›Vita Amandi‹, the count in question (called Dotto; his county is said to be Tournai in some manuscripts), *congregata non minima multitudine Francorum, ... ad dirimendas resederat actiones*, i. e. he was judging in a classic *placitum* assembly. Here there was no problem about consensus; the crowd (*turba*) called for the guilty man's death and Dotto decreed hanging; Amandus however miraculously revived the dead man afterwards. It is in fact interesting that at the city level we find many more references to crowds in our sources in non-judicial contexts as well, witnessing miracles, taking part in processions, turning out for episcopal burials (the *populus* who watched the burial of Bonitus of Clermont in c. 705 was so large that it resembled an arrayed army, *exercitus coadunatus*, or the celebration of a fair), listening to the will of Bishop Nicetius of Lyon being read out in 573, acclaiming Bishop Syagrius of Autun in the 560s with such gusto that a local aristocrat had his eye put out<sup>54</sup>). Merovingian cities may not have been very large in most cases, but they were certainly the scene of a good deal of collective action, or action which gained resonance from taking place with large numbers of participants and witnesses. *Placitum* assemblies had a different basis to this form of informal gathering, but their force was all the greater because it was expected that the community would act collectively in other ways.

53) *Formulae Andecavenses*, ed. Karl ZEUMER, *Formulae Merovingici et Karolini Aevi* (MGH Legum sectio V), Hannover 1886, p. 1–25, esp. nn. 10–14, 24, 28, 47, 50a (*rachinburdi*), 53. See Alice RIO, *Legal Practice and the Written Word in the Early Middle Ages*, Cambridge 2009, p. 67–80. Centres like Angers are the only places in the West where a possible continuity can be posited from local Roman collective practices, given the late survival in the Loire valley of some collective acts traditionally associated with city councils. See citations in WICKHAM, *Framing* (as n. 7), p. 110–111. But the differences still seem to me great, and I see a functional discontinuity even here.

54) *Vita Amandi*, ed. Bruno KRUSCH (MGH SS rer. Merov. 5), Hannover 1910, c. 14; *Vita Boniti*, ed. Bruno KRUSCH (MGH SS rer. Merov. 6), Hannover, 1913, c. 40; Gregory of Tours, *Liber vitae patrum*, ed. Bruno KRUSCH (MGH SS rer. Merov. 1/2), Hannover, 1885, VIII. 5; Venantius Fortunatus, *Vita sancti Germani*, ed. Bruno KRUSCH (MGH SS rer. Merov. 7), Hannover, 1920, c. 63.



When we get into the Carolingian period, we begin to get documents for county-level *placitum* assemblies in the Frankish lands. They tend to resemble those just described for Italy. In 814, for example, Count Ostorik, *missus* of Louis the Pious, resided in the *mallus publicus* at Tournon, on the Rhône south of Vienne, with three *missi* of the archbishop of Lyon, eight other imperial *missi*, and »very many other *boni homines*, who were present with them, to hear the disputes of many men, to solve the business of their cases, and end them with just and legal judgements«; at least twelve *boni homines* signed the document together with the *missi*<sup>55</sup>). Such *boni homines* were often aristocratic, in all likelihood, but there are some interesting exceptions. In one from 857, studied by Janet NELSON – unusual in that it was from the judicial immunity of Saint-Martin of Tours, so was run by the abbey's provost Saramian, not the count – the provost prorogued a land case from the *constitutum placitum* to the *villa* in dispute, to be heard by *vicini* and other *boni homines*, later glossed as *multi nobiles viri et coloni*, i. e. on this occasion explicitly peasants<sup>56</sup>). Here a spectrum of collective judgement begins to be visible which links major aristocratic players down into all the ranks of free society, as we also found at Redon. Once we get into the immunity of Saint-Martin – or into the collectivity of any city – we are certainly getting into the arena of Frankish aristocratic power, which was extremely elaborate and generally domineering (as NELSON demonstrated in the example of the 857 case), but a wider collective decision-making is still capable of being invoked, throughout the ninth century and in some cases later, and was, as in Italy, crucial for the successful ending of disputes in public. Such collective action extended beyond the settlement of disputes, too; oaths were sworn to the Frankish king by all free adults in such assemblies from the late eighth century onwards, and one manuscript of a capitulary of 803 states that the count of Paris had it read in a *mallus publicus* there, with local leaders signing their names on it: this is directed consensus, but it shows again the very public context for local assertions of royal hegemony<sup>57</sup>).

I begin this Frankish section with local assemblies in order to make it quite clear that Francia had a very wide range of functioning assemblies, and that »assembly politics« was a normal part of daily practice, of the *habitus* of Frankish political society at all levels. This is to give a context to the *placitum generale* of the Merovingian and Carolingian kings, which is the best-documented and best-studied of all the types of assembly discussed in this article, and which is, I expect, the image which first comes to the minds of most of us when we think of assemblies in our period. The Frankish kings held assemblies from the beginning, in the *placita* of Gregory of Tours, to the end, in the *universalis populi conventus* of Widukind and the often failed or subverted West Frankish *placita* of Flo-

55) Recueil des chartes de l'abbaye de Cluny 1, ed. Auguste BERNARD and Alexandre BRUEL, Paris 1876, n. 3.

56) NELSON, The Frankish World (as n. 1), p. 62–70, and 73–74 for the text.

57) Matthias BECHER, Eid und Herrschaft, Sigmaringen 1993, p. 78–216; Cap. 1, p. 112.

doard<sup>58</sup>). They are remarkably prominent in our narrative sources, particularly in the Carolingian period. To them came all the major political players of their kingdoms, secular or ecclesiastical, willingly or not, by Charlemagne's time bearing gifts which were carefully counted; people who did not come had to have good excuses, as several letters of Einhard, among others, show. They were necessary for both king and magnates: they gave legitimacy to the former, but they confirmed the status of the latter (if it was risky for a magnate not to come to a *placitum*, it was far more disastrous not even to be invited). They were in the idealised world of Hincmar/Adalard also partially autonomous: there, the Carolingian *placitum generale* was not just a remarkably regulated and disinterested policy-making collectivity, but it largely met in the absence of the king, who supposedly spent much of his time outside, networking and glad-handing, until he returned to hear the views of his assembly, expressed through partially free opinion (*non ex potestate, sed ex proprio mentis intellectu*) which he then ratified or not as was appropriate. We cannot know how accurate this is, but it is very interesting as an image, given the long-term concern of Hincmar, in particular, for right rule and royal authority<sup>59</sup>).

The historiography of the Frankish royal *placitum* is enormous, particularly for the Carolingians and Ottonians (less so the Merovingians), and there is no need here to rehearse the developments in that historiography, from SEYFARTH and GANSHOF to the *neue Lebre* of ALTHOFF, NELSON, PÖSSEL or AIRLIE. It is enough to stress that that historiography has become progressively less institutional and more transactional, and has also abandoned the assumed opposition between king and aristocracy which was normal up to half a century ago<sup>60</sup>). Certain elements of such assemblies can be taken for granted,

58) Gregory of Tours, *Decem libri historiarum* [henceforth LH], ed. Bruno KRUSCH and Wilhelm LEVISON (MGH SS rer. Merov. 1/1), Hannover <sup>2</sup>1951, VII. 7, 14, 23, 33, VIII. 20–21, X. 28; Widukind, *Rerum gestarum saxoniarum libri tres*, ed. Paul HIRSCH (MGH SS rer. Germ. 60), Hannover, 1935, II. 10, III. 16, 32, 41, 70; *Les Annales de Flodoard*, ed. P. LAUER, Paris 1905, s.aa. 945, 961.

59) Janet L. NELSON, *The Settings of the Gift in the Reign of Charlemagne*, in: *The Languages of Gift in the Early Middle Ages*, ed. Wendy DAVIES and Paul FOURACRE, Cambridge 2010, p. 116–148, at p. 143; Einhard, *Epistolae*, ed. Karl HAMPE (MGH Epp. 5), Berlin 1898–1899, pp. 109–145, nn. 13, 14, 25, 27; Hincmar, *De ordine palatii* (as n. 5), p. 84, 92.

60) Among others, Erich SEYFARTH, *Fränkische Reichsversammlungen unter Karls dem Großen und Ludwig dem Frommen*, Leipzig 1910; Heinrich WEBER, *Die Reichsversammlungen im ostfränkischen Reich, 840–918*, Würzburg 1962; J. T. ROSENTHAL, *The Public Assembly in the Time of Louis the Pious*, in: *Traditio* 20 (1964), p. 25–40; François Louis GANSHOF, *Frankish Institutions under Charlemagne*, Providence 1968, p. 21–23, 116–119; Gerd TELLENBACH, *Die geistigen und politischen Grundlagen der karolingischen Thronfolge*, in: *Frühmittelalterliche Studien* 13 (1979), p. 184–302, esp. p. 249–253 (notably more sophisticated than the foregoing); HANNIG, *Consensus fidelium* (as n. 12); Janet L. NELSON (her work here is summed up in her recent article, *How the Carolingians Created Consensus*, in: *Le monde carolingien*, ed. Wojciech FAŁKOWSKI and Yves SASSIER, Turnhout 2009, p. 67–81); ALTHOFF, *Spielregeln* (as n. 4); IDEM, *Die Macht der Rituale*, Darmstadt 2003, p. 28–67; Philippe DEPREUX, *Lieux de rencontre, temps de négociation*, in: *La royauté et les élites dans l'Europe carolingienne (début IXe siècle aux environs*

and seem to be a feature of our entire period. They were sometimes the ›nation in arms‹ in the most literal way, in that they took place at the formal springtime army-muster, hence the association of, for example, the legislation of Childebert II in 596 with the same 1 March date that we later find in Lombard Italy, and the importance of a switch to May in the eighth century; although it has also to be said that May was a *placitum* month already in 642 in Frankish Burgundy, and anyway by no means every *placitum* had anything to do with the army – indeed, although some were for sure in the Carolingian period, where our evidence is densest, the majority equally clearly were not<sup>61</sup>). They were very often explicitly structured by liturgical procedures, and other, more ad hoc, religious events such as collective and individual penance, again particularly under the Carolingians, which will have added to a sense of collective political and moral enterprise<sup>62</sup>). They were also based on an explicitly-stated and ever-repeated need for consent, often characterised explicitly as *consensus*. Collective agreement was a key image all through, from the assembly of *priores regni sui*, including 300 *virī optimi*, called by Queen Fredegundis in 585 to swear to the legitimacy of her son Chlotar II, to the set-piece penance of Louis the Pious at Attigny in 822 and the much more suspect unanimities of the assemblies of 833–4. Indeed, when the *obtimates* of Neustria were not invited by the *maior* Ebroin to the enthronement of Theuderic III in 673, but instead were told not to come, they concluded (probably rightly) that Ebroin was planning to rule without their involvement, and they switched their support to Theuderic's brother Childeric II<sup>63</sup>).

Assemblies were always called by kings or by their most immediate representatives, such as, in the Merovingian period, queens-regent or *maiores*. They were thus not by any means always regular (notwithstanding Hincmar's claims), and if the king did not call them they did not meet – even if that could itself be a bad sign, as in the menacing summer of 828<sup>64</sup>). They were called for major decision-making, to plan (or to start) campaigns, and to sort out political disputes, particularly between royal family-members; they were also called for judicial purposes, as with the royal *placitum* documents which begin to survive from the 640s and which consistently show the king with his *proceres*, an often numerous group, residing *ad universorum causas audiendum vel recto iudicio termenandum*, a

de 920), ed. Régine LE JAN, Lille 1998, p. 213–231; REUTER, Assembly Politics (as n. 10); PÖSSEL, Symbolic Communication (as n. 14); Stuart AIRLIE, Talking Heads, in: Political Assemblies (as n. 8), p. 29–46.

61) Cap. 1, n. 7; Fredegar, *Chronica*, ed. J. Michael WALLACE-HADRILL, The Fourth Book of the Chronicle of Fredegar with its Continuations, London 1960, p. 2–79, IV. 90; for recent comment on the link with armies, citing earlier work, REUTER, Assembly Politics (as n. 6); AIRLIE, Talking Heads (as n. 60), p. 34–36.

62) See in general Mayke DE JONG, The Penitential State, Cambridge 2009.

63) Gregory of Tours, LH, VIII. 9; for Attigny and the 830s, see DE JONG, The Penitential State (as n. 62), p. 122–131, 224–259, and PÖSSEL, Symbolic Communication (as n. 14), p. 148–207, 226–232 (and 233–248 for the general issue of consensus); Passio Leudegarii I, ed. Bruno KRUSCH (MGH SS rer. Merov. 5), Hannover 1910, c. 5.

64) DE JONG, The Penitential State (as n. 62), p. 157–158.

phrase which first appears in the 660s and is also preserved in Marculf's formulary, dating to slightly later<sup>65</sup>). Although we very seldom know more than small numbers of the names of participants at *placita*<sup>66</sup>), they were certainly overwhelmingly aristocratic in composition (that term, here as elsewhere, including ecclesiastical leaders). The participation of the wider free was restricted for the most part to local assemblies, of types we have already seen, and reference to non-aristocratic participation in royal assemblies was a delegitimizing tactic by authors – as when Munderic's attempt at kingship in, probably, the early 530s was supported only by the oath-swearing of a *rustica multitudo* according to Gregory of Tours, and as when opposition to the agreement between Louis the Pious and his son Lothar at Nijmegen in 830, although doubtless above all aristocratic, was voiced, according to the Astronomer, by a *vulgus* or a *popularis tumultus* until Louis calmed the crowd<sup>67</sup>).

Consensus between the king and his aristocrats was thus of great and continuous importance in our Frankish material, as we have already seen for Italy. But the political situation was different in the Frankish lands. Kings were immensely wealthy and thus powerful in every period before 900 (and, in East Francia, later too), but so were very many of their aristocrats, and they could not be as easily dominated as in the Lombard kingdom; indeed, our abiding image of Frankish aristocrats in every century is of a boisterous protagonism, which, while by no means hostile to royal power, certainly posed potential problems of control to any king. Consensus was thus potentially much more agonistic in Merovingian and Carolingian Francia (as also later); and there are a few signs that this was indeed the case. We do have here to rely on anecdote; there are few guides to how consensus actually was constructed. But we do have enough anecdotes for us to be able to get some sense of some of the things that might go on, or go wrong, in assemblies, at least according to our authors.

One sign that there was something wrong with consensus at an assembly was people not coming. Many of the *priores* of Childebert II's kingdom considered not coming to his *placitum* in 585, for fear that they would be accused of supporting the upstart king Gundovald, although they did do so on that occasion; Hincmar and his fellow bishops refused flatly to come to their opponent Louis the German's first *placitum* in West Francia after his bloodless defeat of Charles the Bald in November 858 with the comically phony ex-

65) Die Urkunden der Merowinger, ed. Theo KÖLZER (MGH DD Merov.), Hannover 2001, nn. 79, 88 (the first *placita*), 95, 136, 141 (the first and some other examples of the cited formula), with Marculfi formulae, ed. ZEUMER, Formulae (as n. 53), p. 32–106, I. 25 (for dating see R10, Legal Practice (as n. 52), p. 81–92).

66) DEPREUX, Lieux de rencontre, temps de négociation (as n. 60), p. 218–226.

67) Gregory of Tours, LH, III. 14; Astronomus, Vita Hludovici, ed. Ernst TREMP (MGH SS rer. Germ. 64), Hannover 1995, c. 45; at the Field of Lies, too, the disloyal followers of Louis immediately become a *plebs*, *ibid.*, c. 48. DE JONG, The Penitential State (as n. 62), p. 201, notes that these people could have been retainers of lower status; but the argument holds either way.

cuse »because of the inconvenient and short notice and the inconvenience of the place«, and, later, »the inclemency of the air and the inconvenience of the weather and the imminence of the day [a month later!] of the birth of Our Lord«<sup>68</sup>). A second sign was people leaving. Sometimes this was the flight of losers, as with the *patricius* Hector fleeing from the court of Childeric II in 675; the fear of this was what kept Lothar at Nijmegen in 830 to negotiate with his father. But there was always a risk that such moves would cut away at a king's support more widely, as when the *primores regni* of Lotharingia reached an *inexpiabilis dissensio* with King Zwentibald in 900 and collectively joined his half-brother Louis the Child.<sup>69</sup> The archetype of that was of course the Field of Lies in 833, when Louis the Pious's assembly/army melted away, whether quickly (Thegan, Paschasius Radbert) or slowly (the Astronomer), to join Lothar on the other side of the field, where they newly appeared as *unus populus*. Both of these choices, not coming and leaving, derived from the simple fact that discussion and dissent were not all that easy, even in Frankish *placita*, so voting with one's feet was often the only option; as the Astronomer put it when seeking to explain away the assent of respectable players to the assembly at Compiègne, later in 833, where the temporarily-deposed Louis the Pious performed his forced penance: »a few disputed (*contradixere*) the judgement, many offered their assent, but the majority, as usual in such situations, agreed verbally so as not to offend the *primores*«<sup>70</sup>).

All the same, the fact that a few disputed the judgement even at Compiègne, Louis' absolute low point, also shows that dissent could exist at these events. Consensus did sometimes have to be quite carefully constructed. This was often done in private, before an agreed front was presented to the *placitum* as a whole; this was indeed what happened at Nijmegen in 830, and as we have seen it was met with open hostility by some. A more successful example was the careful dealing between Louis the Stammerer and the West Frankish *primores* at his accession in 877, when they were angered by the fact that he had granted away *honores* to others without their consent, as described by Hincmar in the ›Annales Bertiniani‹: Louis sat at Compiègne while the *primores* gathered as a *conventus* at Mont-Aimé some 100 km away, and both sides sent messengers to each other, before they all agreed to meet in another *conventus* outside Compiègne, in which, as had by now been agreed, they too would receive *honores*, and the coronation of the king at Com-

68) Gregory of Tours, LH, VII. 33; Cap. 2, n. 297, cc. 1, 15.

69) Passio Praeiectionis, ed. Bruno KRUSCH (MGH SS rer. Merov. 5), Hannover 1910, p. 212–248, cc. 25–26; for Nijmegen, see above, n. 65; Regino of Prüm, Chronicon, ed. Friedrich KURZE (MGH SS rer. Germ. 50), Hannover 1890, s.a. 900 (p. 148).

70) Astronomus, Vita Hludowici (as n. 67), cc. 48, 49 (Compiègne); Paschasius Radbert, Epitaphium Arsenii, ed. Ernst DÜMMLER, in: Abhandlungen, Berlin 1900, p. 18–98, II. 18 (*unus populus* quote); Thegan, Gesta Hludowici, ed. Ernst TREMP (MGH SS rer. Germ. 64), Hannover 1995, c. 42. For the general issue of managed consensus in the Carolingian period as being in the context of a recognition of aristocratic protagonism, see esp. HANNIG, Consensus fidelium (as n. 12), p. 152–301.

piègne could then take place with formal promises of all kinds. This is a type-example of Gerd ALTHOFF's *Inszenierung*, indeed: the private negotiation which resulted in a set of planned symbolic acts representing agreement and amity, in a public arena where the need for such agreement was paramount, and disagreement risked both the loss of honour and possibly even the need for subsequent revenge<sup>71</sup>.

Disagreement could nonetheless take place in public as well; and it did not have to be seen as random disturbance, as was the reaction to the Nijmegen deal. It could well be dealt with in public too. In 642, Queen-regent Nantechildis with her young son King Clovis II called all the *seniores* of Burgundy together at Orléans; she had to »win them all over individually« (*cumtus ... sigillatam adtragens* [sic]) to elect her chosen *maior*, the disastrous and ill-fated Flaochad. Similarly, when in 889 Arnulf called a *generale conventum* at Forchheim to get his *primores* to agree to the succession of his illegitimate sons, »some of the Franks refused for a time«, before relenting and giving their right hands to the king, with conditions. Hincmar himself publicly contested some of the decisions of the Ponthion assembly in 876, as we shall see later. These were by no means people who feared public disagreement, that is to say. Nor, perhaps most dramatically, were the Rhineland Franks who met King Chlotar I when he succeeded to their kingdom in 556 and sought to have him wage war on the Saxons; when he refused, with good reasons (Gregory says), they rose up against him, tore his tent to pieces, assaulted him and threatened him with death, before he agreed to go to war, of course unsuccessfully. Chlotar was no weakling in Gregory's text, but all the same he could be claimed to have faced dissent of an extreme and unusual kind, and, once again, in public<sup>72</sup>.

The concept of *Inszenierung* has had criticism by now, some of it well-aimed. It is by now clearer, for example, that everything that happened at such public assemblies is mediated for us through the textual strategies of authors who were very concerned indeed to create their own versions of events; Gregory of Tours or the Astronomer or Hincmar were highly *parti pris*, and they were far from the only ones. It is also clearer that the process of symbolic communication, as Christina PÖSSEL calls it, was a complex, constantly contested, and transactional business; it had fewer formal rules than ALTHOFF proposed. These are developments of ALTHOFF's thesis, however, not negations of it<sup>73</sup>. The discovery, too, that disagreement could be open, and not hidden and covered over by ritual, does not mean that events like those of 556 or even 889 were that common. More often people kept quiet, and then the formalised public acts, which they could doubtless

71) Annales Bertiniani (as n. 21), s.a. 877 (p. 137–138); cf. ALTHOFF, Spielregeln (as n. 4), e. g. p. 245–246, and 229–257 passim.

72) Fredegar, Chronica (as n. 61), IV. 89; Annales Fuldenses, ed. Friedrich KURZE (MGH SS rer. Germ. 7), Hannover 1891, s.a. 889 – see AIRLIE, Talking Heads (as n. 60), p. 40–41; below, n. 94, for Ponthion; Gregory of Tours, LH, IV. 14.

73) BUC, The Dangers of Ritual (as n. 3), p. 8–11 and passim; PÖSSEL, Symbolic Communication (as n. 14); AIRLIE, Talking Heads (as n. 60).

see through at the time even more easily than we can, had their effect nonetheless, and became what people remembered.

For this is the eventual conclusion which anecdotes of this kind, and the many others in our dense narratives, bring us to: that consensus was indeed the norm at Frankish *placita generalia*. It had to be worked for, for sure, and there were lots of ways to do that; but the norm was to agree, and to be seen to agree. Royal *placita* worked, that is to say, most of the time. The slight danger that they might not work indeed made the success of each that much more important and resonant in the minds and memories of participants. Essentially, *placita generalia* were defined as royal occasions, and were thus ready for royal stage-management. If you had come there at all, you had to be very strong-willed, and/or have a large amount of support, to withstand that, and in the latter case you might well simply prefer not to take part: the very act of taking part meant signing up to the stage-management process, to a large extent. The habitus of ›assembly politics‹ was thus one in which the rules of the game could look overwhelmingly royal. Only if there was more than one king in play was there any realistic prospect of trouble, and even then the tendency was for trouble to be overcome, one way or another. But, conversely, if Frankish kings had not, often desperately, needed that managed consensus, from a wide aristocratic (and, in the localities, often non-aristocratic) public, they would not have had to call assemblies at all.

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The evidence for England is in many respects simply a less well-documented version of that for Francia, even if the relative intensity of the documentation of assemblies is, by Anglo-Saxon standards, quite high in all periods. I will therefore discuss it more rapidly. Legislation was almost invariably the work of the king and his assembly, from the seventh up to the eleventh century<sup>74</sup>. The variety of terminology in the seventh-century laws was regularised by the ninth century, by which time the king's counsellors are called *witan*, »wise men«, or *sapientes* in Latin, and the assembly in which they meet is called a *gemot*. (This is a usage going back at least to Bede in the 720s-30s, who says, for example, that Edwin with the advice of his *sapientes* – here a synonym of other words too, *principes*, *consilarii*, or *optimates* – decided to convert to Christianity in Northumbria in 627.) One example is the late ninth-century will of the West Saxon king Alfred, listing four separate assemblies which ratified the distribution of the private lands of himself and his deceased brother Æthelred I, including one *on ure gemôt æt Langandene*, in which the will was read before *eallum Westseaxena witum*; another is Æthelred II of Mercia's Gloucester assembly in 896 in which he called *alle Mercna weotan tosomne* [together], [...] *biscopas*

74) See above, n. 8; for Alfred onwards see Levi N. ROACH, Meetings of the *witan* in Anglo-Saxon England, 871–978, University of Cambridge, PhD thesis, 2011, p. 97–111; this whole text is now the basic study of assemblies in England.



and aldermen and alle his *duguðe* [aristocrats], to deliberate how they might govern justly and do justice, and then determined a dispute brought by the bishop of Worcester in which the bishop won »as the Mercian *witan* declared in this assembly« (*swa hit Mercna weotan on tham gemote gerahtan*)<sup>75</sup>. These kingdom-level secular assemblies (with clerics attending as well) are matched by the church councils (with secular lords attending as well) which are so much a feature of, in particular, the period 670–850, culminating in the Mercian councils of Clofesho and Chelsea (among other places), which were called throughout the century of the Mercian supremacy<sup>76</sup>.

By the tenth century, in what can now be called the kingdom of England, these assemblies were so frequent that one of their most recent analysts, John MADDICOTT, is happy to see them largely as a Carolingian import, probably by Æthelstan in the 920s. So much of tenth-century English political practice had direct Carolingian antecedents that the argument has a certain plausibility. But the previous paragraph casts considerable doubt on their novelty; if there was a tenth-century change, it was only in the formalisation and regularisation of procedures which were old in the various English kingdoms, and which are well-documented in Wessex and Mercia alike, and even Northumbria, whose evidence is normally so poor. As in Francia, the core make-up of assemblies of this kind was aristocratic; but the scale of some of them was sufficiently great – up to 100 men are listed as witnesses in Æthelstan's charters in the 930s – that it is likely that the *thegnas* (in Latin, *milites*) who participated were not just from the leading strata; thegns could be very rich, but could also be lesser aristocrats who might hold only one estate each. England, even after the conquests of the West Saxon kings in the early tenth century, was very small by Frankish standards, so such socially wide assemblies were certainly practicable; they were also, as sometimes in Francia, associated with army muster, which always involved wider social groups<sup>77</sup>.

The process of gaining consensus at the level of the kingdom was analogous to everything we have seen hitherto. Liturgical acts (assemblies often met at Easter, Whitsun and Christmas) and land-granting took place there, as in the assemblies of Charlemagne. But

75) Bede, *Historia ecclesiastica*, ed. Charles PLUMMER, Oxford 1896, II. 13 (II. 5 has Æthelberht legislating *cum consilio sapientium* too); for Alfred and Æthelred see *Select English Documents of the Ninth and Tenth Centuries*, ed. Florence E. HARMER, Cambridge 1914, nn. 11 (S 1507), 14 (S 1441) [S numbers are from the 'Electronic Sawyer' hand-list of all Anglo-Saxon charters, to be found at [www.esawyer.org.uk](http://www.esawyer.org.uk)]. For other examples of kingdom-level *witan* in the ninth century, *Select English documents*, nn. 12, 13, 15, 16. For *sapientes* and *witan*, Felix LIEBERMANN, *The National Assembly in the Anglo-Saxon Period*, Halle 1913, p. 6–8, although he supposes that the meaning of 'wise' was soon lost, which I do not accept.

76) Catherine CUBITT, *Anglo-Saxon Church Councils c.650–c.850*, Leicester 1995.

77) John R. MADDICOTT, *The Origins of the English Parliament, 924–1327*, Oxford 2010, p. 31–32 for Carolingians; his important chapter on secular assemblies before 1066, p. 1–56, should now be read together with ROACH, *Meetings of the witan* (as n. 74; p. 15–34 for assembly attendance). The only earlier study of any weight, LIEBERMANN, *The National Assembly* (as n. 75), although written with a very traditional problematic, still repays reading.



the emphasis on the decision of the »king and his *witan*« is even more insistent than in Francia. The decision-making body of the kingdom was king-dominated, of course, but typically collective. Dunstan was made bishop of Worcester in (probably) 957 in a *mag-nus sapientium conventus*, ... *omnium ex electione*, »a great assembly of the wise, ... by the choice of all«; Æthelred I of Wessex gave land to a layman around 870 *mid leve and etheafungbe* [consent] *mine ðare seleste* [most distinguished] *wiotene*, and such advice or consent (*consensus* is a common word in the Latin charters) is repeated many times in the next century<sup>78</sup>. This also meant that in extreme circumstances an assembly could act independently, as when, to cite a late example, »all the *witan* in England, church and lay« agreed to recall the deposed King Æthelred II in 1014, »if he would rule more rightly (*rihtlicor*) than before«; and we have instances of assemblies giving apparently unsought advice to more popular kings, too, as when in one of Æthelstan's law-codes he says that his previous laws have been »worse kept than I should like, ... and my *witan* say that I have borne it too long«<sup>79</sup>. The political community of England was indeed sufficiently tight and cohesive that it survived a constant succession of royal minorities across the mid- and late tenth century (and constant dynastic changes, including two violent conquests, in the eleventh) without more than occasional problems, and the link between the king and his major aristocrats in these assemblies was one of the major means of maintaining that cohesion.

Here again, this kingdom-wide collectivity was matched at the level of every county (or shire) by similar assemblies, and indeed, by 1000, assemblies existed at a more local level still, that of the hundreds into which every county by 1000 was divided. These *gemotas* are not documented before 850 or so (with the exception of one reference to *popularia concilia* in a Mercian charter of c. 800), and were not necessarily fully incorporated into a royal power-structure until the mid-tenth, but by the later tenth century they could be very large groupings indeed, as with the thousand-plus participants in a Kentish judicial assembly at Erith, which included »everybody« (*ealra*) from East and West Kent – not all of whom can have been aristocrats; or the Berkshire *scirgemot* of 990–2 whose *witan* included »all the shire« (*eal sio scir*); or the two thousand leading (*yldestan*) men and women from Bedford and Hertford who witnessed the oath of Æthelgifu in the 950s, recorded later in her will. Similarly, the »assembly of king's thegns«

78) »B«, Vita Dunstani, in: The Early Lives of St Dunstan, ed. Michael WINTERBOTTOM and Michael LAPIDGE, Oxford 2012, c. 25 (for the date 957 see p. xxxvi); Anglo-Saxon Charters (as n. 13), n. 12 (S 342); cf. ibid., nn. 11, 23, 38, 44, 45, etc.; for references to *consensus* see LIEBERMANN, The National Assembly (as n. 75), pp. 24–26.

79) The Anglo-Saxon Chronicle. A Collaborative Edition 5, Ms. C, ed. Katherine O'BRIEN O'KEEFE, Cambridge 2001, s.a. 1014; V Æthelstan, pref., ed. Felix LIEBERMANN, Die Gesetze der Angelsachsen 1, Halle 1903, p. 166. For equivalents to Althoffian *Inszenierung* in English assemblies, see ROACH, Meetings of the *witan* (as n. 74), p. 153–205, and Julia BARROW, Demonstrative Behaviour and Political Communication in Later Anglo-Saxon England, in: Anglo-Saxon England 36 (2007), p. 127–150.

(*cinges ðeningmanna gemot*) which decided another Kentish case in c. 980 is defined as that, before the text also says that the king himself was present at it with his bishops and many of his *witan*. These judicial assemblies are depicted as deciding more collectively than in Italy or Francia. It was the *witan* in the Berkshire case – here »the wise« of the county, not of the king – who directed events in the court-case document that records them, for example, not any leading ealdorman or judges, even though one party to the dispute (with a huge set of supporters) was the queen-mother Ælfthryth herself; and when the future queen Eadgifu fought an earlier case, around 909, at the Aylesford assembly in Kent, it was again the *witan* who told her how many oath-helpers she would need to win it, in an oath which she performed »before the whole assembly« (*on ealre theode gewitnesse*)<sup>80</sup>. Here, as in Italy, the size of such gatherings also helped to achieve the consent of the defeated.

The English evidence does not offer the sort of discursive density which we have just seen for Francia, but it is overall considerably more collective in character, both at the level of the kingdom and at that of the county alike, than in either Francia or Italy. Most of our evidence is late, and after 900 or so any documented assembly practice in England could well draw from Frankish example, given the considerable Carolingian influence on the post-Alfredian kingdom, although, if so, they went further in their collective protagonism than most assemblies apparently went south of the Channel. But we have seen earlier examples in this brief selection too, and it would be wrong to exclude that this protagonism could equally have gone back to the early period of the Anglo-Saxon settlement, when royal power was considerably simpler in structure, and northern European assumptions about the collective nature of political practice may well have been stronger. We cannot document such a period in England, but, for signs of how such collectivities might have worked, it is worth moving to the far north of Europe, where our evidence, although problematic and often even later, converges to give us some ideas.

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Our earliest useful evidence for Scandinavian assemblies comes from the late 860s, in the form of Rimbert's »Vita Anskarii«. According to Rimbert, Anskar at one point, in the 840s quite plausibly, went to try to convert the Swedes and was met by King Olef at Birka, after the king had already heard opposition in a *conventus deorum*, i. e. an assembly held with pagan rituals. The king told him that he could not accept his mission without casting

80) Respectively Cartularium Saxonicum, ed. Walter de Gray BIRCH, 3 vols., London 1885–1893, n. 201 (S 106); Anglo-Saxon Charters (as n. 13), nn. 41 (S 1458), 66 (S 1454); Dorothy WHITELOCK et al., *The Will of Æthelgifu*, Oxford 1968 (S 1497) = *Charters of St Albans*, ed. Julia CRICK (Anglo-Saxon Charters 12), Oxford 2007, n. 7; Anglo-Saxon Charters, n. 59 (S 1457); *Select English documents* (as n. 75), n. 23 (S 1211). For other examples of judicial decision-making by a local group of *witan* see Anglo-Saxon Charters, nn. 44, 69. See in general ROACH, *Meetings of the witan* (as n. 74), p. 112–126.

lots and asking the *populus*, »for it is the custom for them that any public affair (*negotium publicum*) is more in the will of the *populus unanimes* than in [the remit of] royal power«. The lots did not favour Anskar when the king and his *principes* discussed the matter, but when it came to the *placitum*, an old man got up *in medio plebis* and told both *rex* and *populus* that having an extra god might help against dangers at sea, so they agreed to accept the mission. Olef also agreed to ask another *placitum* in another part of his kingdom, and the same occurred. Now: this was eventually a failed mission, and it took place a long way away from Rimbert in Hamburg. It is also interesting that he says nothing about similar assemblies in Denmark, which was closer, and where Anskar spent more time. But here we have a classic image of an assembly which cannot be controlled by a king, and which the king does not even try to control, although he has a hierarchical group around him as well; and Rimbert does not exoticise the events in any way that would make us suspicious. The *placitum* is thus unproblematically posed as autonomous here<sup>81</sup>). The picture of the assembly (outside Latin texts, it was universally in Scandinavia called a *thing*) as being a place where ordinary people need to – but also are able to – impress and persuade also appears, quite casually, in one of the earliest vernacular texts from Norway, the ›*Hávamál*‹, which is largely a collection of maxims for daily life, which have a probable tenth-century basis: the foolish man will find that when he reaches the *thing* he has no support; if you go to the *thing*, wear clean clothes, even if poor ones<sup>82</sup>).

This is important; for Scandinavian evidence is otherwise much later than this. The earliest Norwegian laws are twelfth-century; the earliest narratives for Norway are from the late twelfth and thirteenth; those for Iceland, the other region where *thingar* are extremely well-attested before 1300, begin only slightly earlier and are mostly thirteenth-century as well. All the same, in all of them assemblies are very prominent as points of reference, and the first Norwegian code is not the law of kings (though it includes royal enactments from the eleventh and twelfth century) but the laws of a *thing*, the *Gulathing* of the western fjords<sup>83</sup>). Iceland had no kings, so all its *thingar* were autonomous, with an annual island-wide assembly, the *Althing*, acting as a supreme legislative and deliberative body as well as a primary court and court of appeal. We know a good deal about the usually contested, often cunning, and sometimes violent construction of consensus in

81) Rimbert, *Vita Anskarii*, ed. Georg WAITZ (MGH SS rer. Germ. 55), Hannover 1884, cc. 26, 27. For a contextualisation, Ian WOOD, *The Missionary Life*, Harlow 2001, p. 125–134.

82) *Hávamál*, ed. David A. H. EVANS, London 1986, cc. 25, 61; see *ibid.*, p. 13–14 for the date of this part of the text.

83) *Norges gamle love indtil 1387*, 1, ed. R. KEYSER and P. A. MUNCH, Christiania 1846, p. 3 (c. 1 of the *Gulathingslov*) – immediately following, cc. 2–12, contain eleventh- and twelfth-century royal laws; the second code, of the Frostathing of the Trondelag in the North, has an introduction by the thirteenth-century king Hákon IV (*ibid.*, p. 121), although here too most of the text makes little reference to kings and is explicitly earlier.

Icelandic assemblies (at least as written up in highly-structured narratives)<sup>84)</sup>, but they are too different from the monarchical worlds of the Continent to be close parallels to the foregoing; what follows will therefore concentrate on Norway alone. Our Norwegian narratives are structured by the reigns of kings, and are in general very sympathetic to royal power, especially at the crucial moment of the Christianisation of Norway, which the narratives depict as very much the work of two powerful and ruthless kings, Óláfr Tryggvason (d. 1005) and Óláfr Haraldsson (d. 1030); but the texts show that at every stage they had to confront the resistance of both aristocrats and free peasants, assembled in *thingar*, district by district.

The patterning of these conversion narratives in fact matches the »Vita Anskarii«, but it is much more detailed – as well as more artificial, but also quite diverse. So the *bændr* (free men, of a variety of economic statuses from aristocrats to cultivators) of the Rogaland *thing* elect their three most eloquent men to counter the »fine words« of Óláfr Tryggvason, but different speech defects prevent them from saying a word on the day, so they all are baptised; at the *Gulathing* the king buys off an influential local aristocrat, Ölmóðr the Old, by marrying his sister to a member of the family, the future regional leader Erlingr Skjálgsson, and then at the *thing* both local leaders push for Christianity and »no-one dared oppose it«. At the *Frostathing* the *bændr* – forewarned, one would suppose, by these events – arrive fully armed, as if for a campaigning *thing*, and King Óláfr therefore does not use threats as at other *thingar*, but instead accedes to their demands that he make sacrifice at their festival at midsummer; when he comes there, the king says he will indeed make a sacrifice, but it will be of the (named) leading men of the community, and faced with this coup de théâtre the *bændr* back down. At nearby Trondheim, where as many armed *bændr* are present, led by Járnskeggi, who says that the king should not break their laws, Óláfr again agrees to sacrifice but goes into the temple and destroys the idols of the gods, killing Járnskeggi as well, so that the now-leaderless *bændr* give in. Later, in a set of parallel accounts, Óláfr Haraldsson faces off the same *thingar* and others; when he comes to the Trondheim district, for example, he confronts a large number of hostile and armed *bændr* who had not chosen a leader, so his envoy picks twelve able men from them to meet the king; the latter explains to them that they can accept his rule or fight him, and they go back and all the *bændr* discuss it »back and forward«, eventually agreeing to submit. Kings get their way in these narratives, but there are accounts where they do not, as in earlier the confrontation between Hákon I (d. 961) and, once again, the *Frostathing*, in which the king already wishes to convert them to Christianity but they flatly refuse; Ásbjörn of Meðalhús in an eloquent speech, met with applause, invokes their ancient faith and their loyalty, asking for »moderation« and toleration in return, and politely threatening rebellion otherwise. This time, Hákon not only agrees but is depicted as being wise to agree, and when he does the sacrifice they demand

84) E.g. Jesse L. BYOCK, *Viking Age Iceland*, London 2001, p. 120–126, 170–187.

he contents himself with neutralising it by making the sign of the cross. (Greater tension nonetheless arises over the ritual eating of horse-meat, and war is in the end only averted because of the threat of external invasion.)<sup>85)</sup>

I cite Snorri Sturluson's ›Heimskringla‹ here, the longest but also by far the most constructed history of the Norwegian kings, dating to c. 1230. There is no point in giving more detail here of his accounts of assemblies, however interesting they are; it would be out of place in a volume which is by no means devoted to thirteenth-century narrative strategies<sup>86)</sup>. But I would suggest that these accounts, although obviously no guide to what actually happened in Norway around 1000, are nonetheless very valuable as a characterisation of the sort of thing which needs to happen if you wish to construct consensus in an assembly which does not automatically, unlike those we have looked at hitherto, regard the wishes of kings as its starting-point and essential terms of reference. Snorri thought that kings were right and that their opponents were wrong; that *bændr* were inept and often ridiculous except when they were led by kings or at least aristocrats; that all sorts of violence was justified if it was for a higher goal (he is more critical of royal high-handedness when it is not to save souls, but the context remains similar); that the autonomy of *thingar* was usually easy to counter. But he took for granted that *thingar*, and the *bændr* in them, had to be persuaded, whether by words or cunning or threats; that they would be the loci of considerable debate before they agreed; and that if they did agree, they tended to stick to such agreements until circumstances changed. When they changed, conversely, serious trouble could ensue. Óláfr Haraldsson was not just a Christian king, but a seriously high-handed one, and a combined peasant and aristocratic uprising (together with Danish support) destroyed him in the end in 1030. Their fighting force was called the *lið bónda* and other synonyms, the ›*bóndi* army‹, in ›Heimskringla‹ and the slightly earlier ›Fagrskinna‹<sup>87)</sup>. It was led by aristocrats, but was essentially associated with the *bændr* as a whole: both *ríkir* (›powerful‹) and *thorparar ok verkmennt* (›cottagers and labourers‹)<sup>88)</sup>. Here, too, Snorri saw *bændr* as leaderless unless aristocrats were available, but their political protagonism is, conversely, not in doubt. Nor is there a hint that fighting the king was an inappropriate thing for *bændr* to be doing, even though

85) Heimskringla, ed. BJARNI AÐALBJARNARSON, 3 vols. (Íslenzk fornrit 26–28), Reykjavík 1941–1951. The royal lives used here are Hákona saga goða, Óláfs saga Tryggvasonar (vol. 1, p. 150–197, 225–372, henceforth HH, OT), and Óláfs saga ins Helga (vol. 2, henceforth OH). For citations, see respectively OT, cc. 55, 56–58, 65–67, 68–69; OH, c. 40; HH, cc. 15–19.

86) See in general Sverre BAGGE, *Society and Politics in Snorri Sturluson's Heimskringla*, Berkeley 1991. See Chris WICKHAM, *Passages to Feudalism in Medieval Scandinavia*, in press, for a longer defence of this method of using these texts.

87) See in general in most detail OH, cc. 215–235. For the *bóndi* army, e. g. OH, c. 226; Fagrskinna, ed. BJARNI EINARSSON (Íslenzk fornrit 29), Reykjavík 1985, c. 34; cf. OH, c. 235, for one of the poems, contemporary to the death of Óláfr, by Sighvatr *skáld*.

88) OH, c. 216.

Snorri and our other prose authors wrote after Óláfr Haraldsson was recognised as a saint<sup>89)</sup>.

Even as aristocratic and royal-minded a writer as Snorri Sturluson, that is to say, knew that *boendr* and their *thingar* had a partial autonomy in their own territories, which had to be negotiated with, by whatever means. It was the result of that negotiation which produced consensus here, not any predetermined royal decision. These were also assemblies in which speech, however formalised, was allowed to express considerable disagreement – the recipients of hostile words might well be angry and seek vengeance subsequently, and people might be cowed as a result, but this did not mean that a façade of agreement ever had to be maintained during debate<sup>90)</sup>. And, although hierarchy mattered very greatly in these assemblies – something which Snorri can be expected to have stressed, but which it would be naïve to think was not normal – it was also important to get the spoken consent of all, and the views of less powerful people were often heard as well.

We cannot make any useful hypotheses as to what actually went on in Norwegian assemblies in our own period. I would defend the view that the basic elements of these practices went back at least to 900, for Iceland was settled from Norway in the generation either side of that date, and its assembly habitus was very similar indeed by the time we see it in the twelfth and thirteenth centuries, indicating that the two had a common root; anyway, the ›Vita Anskarii‹ shows such processes in operation in the previous century not so far away, in central Sweden. I would not regard it as excessively romantic to imagine that the main lines of this habitus were rather older, too, although the details of local practices are highly likely to have changed, for it would only be common sense to imagine that *thingar* worked differently before Christianity and before the (slow and difficult) unification of Norway. The point of using Snorri's accounts for us is, however, a different one. These narratives may be highly-coloured and late, but they invoke a dense and sometimes naturalistic account of what was necessary to win over an assembly full of potentially violent men, not preordained to agree with their ruler, who often seems indeed not to have been the man who summoned it. This is one version of the process of gaining consensus: harder than many, but not impossible. It can be set, as an example, against those which our period does document: an Italy where assembly leaders are not documented as having much trouble with agreement, an England where assemblies, however they worked, had very regularly to be consulted, and a Francia where kings had the strategic upper hand all the time beyond any doubt, but not an automatic agreement on every occasion. All these are different versions of the process of gaining consensus, in

89) OH, c. 181, contrast c. 205.

90) This was not functionally related to a relative absence of hierarchy, however; the even more aggressively egalitarian Liutizi banned disagreement in assemblies altogether, in Thietmar's account – above, n. 9.

political and social systems which all invoked the format of the public assembly as the major venue for gaining not only consensus but political legitimacy in the widest sense.

\* \* \*

In the Latin of our period, ›*consensus*‹ simply means ›consent‹, or ›agreement‹<sup>91</sup>). We use it in this sense too, but our usage is also wider, extending to mean ›common accord‹, or ›consent to a political system or régime‹. Local and ›national‹ rulers in our period, throughout western and northern Europe (except to an extent in Visigothic Spain), used assemblies to gain consensus in both these senses. They did so because assembling large groups of male political players together was seen as the most effective and most direct – often, indeed, the most legitimate – way of reaching and affecting their loyalties, which also shows that such wide loyalties mattered to rulers. Assemblies did not, furthermore, necessarily start large or important and get smaller or more marginal as polities got further from their simpler roots; in all of Spain, Italy, Francia and England there is actually better evidence for assemblies in the ninth or (in England, and especially Spain) tenth centuries than earlier. They doubtless existed throughout, but the regularisation of assemblies was a standard part of strong and ambitious kingship. This underlines still further that assemblies were fully accepted as legitimising venues, not seen as inconveniences to be sidestepped and marginalised. It was, that is to say, taken for granted that the process of making decisions *publice* or *in publico*, with lots of people physically present to agree to them, made such decisions stronger, more likely to be accepted and maybe even obeyed. Laws did not *have* to be made *in placito*, but most were, all the same, and so were major political decisions, as also major collective penances. The networks of private power and loyalty, with *seniores* or *sapientes* (lay or ecclesiastical) and their *fideles* jockeying for power and influence in permanent rivalry, also existed; but they existed in apposition to the public *placitum*. Conflict could be appealed to the *placitum* if either party desired; and victory was stronger if it took place in the *placitum* too. This went for both kingdom-level and local assemblies; and, by and large, the two (or more) levels legitimised each other – the more people were used to decision-making in public in one venue, the more they were likely to expect it and value it in another. What this tells us about (most) early medieval European political systems is that they were not exclusively top-down in their legitimising processes. We do not need to fight again the battles of the 1940s-1970s for and against *Gemeinfreie* theory to recognise that early medieval kings, however devoted (as they all were) to an uncompromising dominance, recognised that the opinion of a very wide spectrum of male society was necessary to manage, and sometimes even to

91) See <http://clt.brepolis.net/emgh>, s.v. *consensu*, -us, -um. See in general, especially for Francia, HANNIG, *Consensus fidelium* (as n. 12).



listen to; that the ›public sphere‹ was, in other words, both legitimate and potentially autonomous.

If assemblies were a standard, normative, part of the establishment of consensus, however, it also means that we ought to be able to identify difference in their practices, and to ascribe considerable importance to such differences. And here, I think, we can indeed see such differences, as summarised at the end of the previous section. Those distinctions are indeed guides to differences in expectations concerning the nature of political action in the different kingdoms we have looked at. Visigothic kings of Spain, Roman-style, were relatively indifferent to a physically-present legitimising consensus except insofar as they valued correct legal procedure, big ceremonial events and the approval, even if coerced, of senior clergy; Italian kings were concerned for public agreement but usually highly confident that they would obtain it; English kings were so concerned for such agreement that they can rarely be seen acting without it; Frankish kings more often had to stage-manage or negotiate to achieve such agreement, but almost always successfully; and Norwegian and Swedish kings were by no means sure that they would ever get such agreement. The assembly as a concept here acts as a *spia*, as Carlo GINZBURG calls it, to allow comparisons to be usefully made and developed<sup>92</sup>. This is my main argument in this article.

But how was such consensus actually achieved? Kings made presentations to assemblies, from the *tomi* of Visigothic kings to the more fragmentary records of Carolingian royal speeches<sup>93</sup>, but how did they persuade? When it was through the catharsis of public argument, as sometimes in Francia (as with the Nithard example I started with, or the 889 Forchheim assembly debate) and often in Norway, we can see it in action; but where disagreement was less visible – especially where it may not have taken place, as in Italy, and also more often than not in Francia – we can say much less about how the process worked. Here the usual rules of early medieval evidence, limited and external as it generally is, have to be recognised. We only have the occasional clue; and I will end with one such. Hincmar of Reims, Charles the Bald's most powerful bishop and major intellectual, was quite alienated from Charles' policies in the latter's final years, 875–7, particularly his Italian adventures, and also some of his ecclesiastical policies, which were marginalising Hincmar himself. This was not made better by the Ponthion assembly in June and July 876, which made a number of decisions and appointments against Hincmar's publicly expressed opposition, as the ›Annales Bertiniani‹ – written by Hincmar himself – make clear in unusual detail. It would therefore have been easy for that account to delegitimise the assembly's proceedings by the sort of narrative tropes which Philippe BUC has ana-

92) Carlo GINZBURG, *Spie*, in: idem, *Miti emblematici spie*, Torino 1986, p. 158–209.

93) NELSON, *How the Carolingians Created Consensus* (as n. 60), p. 72–75; cf. EADEM, *Politics and Ritual* (as n. 1), p. 91–116.



lysed for us, which indeed Hincmar was capable of using in other contexts<sup>94</sup>). But the interesting thing is that it is the ›Annales Bertiniani‹ which are our source for the impressive ceremonial structuring which Charles used to open and close the assembly: at the start Charles appeared in Frankish costume (*habitu Francico*) with gilded cloth, surrounded by his bishops, to hear the elaborate liturgical beginning of the proceedings; at the end he reappeared dressed *Grecisco more paratus et coronatus*, to reflect his recently-acquired imperial title, and a similar liturgical conclusion ensued, with antiphons and prayers, after which Charles' wife Queen (now Empress) Richildis was brought in, also crowned, and everyone stood up, arrayed according to rank (*in gradu suo*). Charles had been king, and now was emperor; he wished to make that point very firmly to his wider entourage; and Hincmar recognised it. But this sort of framing was also the ›right way‹ to run an assembly, a proper legitimising way, and it evidently had its effect on the author of the text which records it, even though he was a major loser in its deliberations. The archbishop of Reims was thus the witness, precisely, to the capacity of that assembly and its rituals to achieve consensus. Hincmar of course knew how rituals worked (he had written *ordines* himself<sup>95</sup>), and how they worked to make an effect, none better; however reluctant he was, they worked on him too. Getting this sort of ritual right was clearly one key element of getting consensus right. There were others; but here, at least, we can see how the effect was created and received, by both the willing and the unwilling. Assemblies as examples of effective pieces of social drama operated, perhaps much like this, elsewhere too<sup>96</sup>). They did so from the beginning of our period to the end; and in some places well afterwards as well.

SUMMARY: CONSENSUS AND ASSEMBLIES IN THE ROMANO-GERMANIC KINGDOMS:  
A COMPARATIVE APPROACH

How consensus was constructed in early medieval assemblies varied very greatly. We cannot be quick to generalise, given this variation; and we risk the danger that our information might seem to be merely anecdotal. But if we approach our scarce sources with these dangers in mind, we can at least get some indicators of difference; and when we compare them there are some general trends which can genuinely, if cautiously, be drawn. It is best to see such dangers simply as questions: in any given society, how many types of assembly do there seem to have been in our period, and with what functions? How did local assemblies link with assemblies at the ›national‹ level? What social groups made each

94) BUC, *The Dangers of Ritual* (as n. 3), p. 55–87; for Hincmar's alienation, see most recently Janet L. NELSON, *Charles the Bald*, London 1992, p. 239–243. For Ponthion, see *Annales Bertiniani* (as n. 21), s.a. 876 (p. 128–131).

95) NELSON, *Politics and Ritual* (as n. 1), p. 149–152, 294–295, 351–352.

96) See esp. Victor TURNER, *Dramas, Fields and Metaphors*, Ithaca, NY 1974.

of them up? How regular were they, and who called them? Who led them, and what sort of authority did leaders have in each case? How much discussion was there in them, and how much was it stage-managed? What sort of decision-making processes can be said to have been used in each – who got their way, and how easily? We usually do not have the evidence to give us more than sketchy answers to these questions, and not all of them can be dealt with systematically; all the same, the questions, if they structure our analyses, can act as the underpinnings for understanding, not only the way in which each type of assembly generated consensus, but, through that, how social action in the widest sense worked in each society of the early middle ages.

In the light of this, the article discusses the evidence we have for assemblies and the *habitus* of consensus in Visigothic Spain, Lombard Italy, Merovingian and Carolingian Francia, Anglo-Saxon England, and Scandinavia: up to 900, except in the latter two, where early evidence is poor. In the light of this, we can see at least regionally-defined differences. Visigothic kings of Spain, Roman-style, were relatively indifferent to a physically-present legitimising consensus except insofar as they valued correct legal procedure, big ceremonial events and the approval, even if coerced, of senior clergy; Italian kings were concerned for public agreement but usually highly confident that they would obtain it; English kings were so concerned for such agreement they can rarely be seen acting without it; Frankish kings more often had to stage-manage or negotiate to achieve such agreement, but almost always successfully; and Norwegian and Swedish kings were by no means sure that they would ever get such agreement. The assembly as a concept here acts as a guide, to allow comparisons to be usefully made and developed.