CATALAN HISTORICAL REVIEW, **18**: 41-55 (2025)
Institut d'Estudis Catalans, Barcelona
DOI: 10.2436/20.1000.01.221 · ISSN (print): 2013-407X · e-ISSN: 2013-4088
https://revistes.iec.cat/index.php/CHR

Constitutionalism and Parliamentarism in Catalonia, 1283-1714[1]

Ricard Torra-Prat[2*]
Universitat Autònoma de Barcelona

Received 17 January 2024 · Accepted 20 March 2024

Abstract

This article explores the hypothesis that during the late medieval and early modern periods, Catalan society was structured around the political practice of agreements, or 'pacts', between the monarch and the realm, formalised within the framework of the Corts Catalanes (Catalan Parliament). By critically engaging with the historiography on this topic, this study traces the evolution of legal observance in Catalonia across various stages of these periods, culminating in the abolition of Catalan public law following the War of the Spanish Succession.

Keywords: Constitutionalism, Parliamentarism, Corts Catalanes, Catalan Parliament, State-building.

> 'The fruit of the laws is to observe them, otherwise they are pointlessly enacted'[3]

Introduction

In the early 1940s, the US historian Charles H. McIlwain published a compilation of lectures that he had delivered in the previous years on the topic of constitutionalism throughout history. In McIlwain's opinion, the main feature of this political practice in the mid-twentieth century remained the same as it had been in the preceding centuries, namely the limitation on government (*gubernaculum*) via law (*jurisdictio*).[4] After McIlwain's book, different authors continued to fine-tune this idea. For example, in a synthesis published in 1991, Howard A. Lloyd defined the concept of *constitutionalism* as the word used since the mid-nineteenth century to describe political systems that provided mechanisms to serve as 'checks upon the exercise of political power'.[5] However, the relatively recent history of the concept does not imply that some political systems prior to the nineteenth-century liberal revolutions did not have mechanisms aimed at limiting the political powers' scope of action. In this sense, in 1999 Scott Gordon published a monograph that studied constitutionalist practices from ancient Greece to the contemporary world. Largely following McIlwain's postulates, Gordon stated that any regime 'that imposes constraints upon the exercise of political power' could be considered fully constitutionalist.[6] And continuing in a similar vein, more recently Maurizio Fioravanti pointed to the parliamentary assemblies in the old regime as fundamental factors in explaining why the limitation on political power was a full part of the state-building process around Europe.[7]

If we leave the general perspective to focus on the case at hand, namely the Principality of Catalonia in the late mediaeval and early modern periods, beyond the pioneering work of Jaume Vicens Vives,[8] one of the first authors who examined the course of constitutionalism in Catalonia was John H. Elliott, whose study of the 1640 Catalan Revolt noted that 'the unique feature of the Catalans was the constitutionalism of their political system'.[9] Years later, as part of his studies on the nobleman Francisco de Gilabert, Joan-Pau Rubiés remarked that the constitutionalism typical in the lands of the Crown of Aragon, and more specifically in the Principality of Catalonia, was grounded on both theoretical sources—such as abstract disquisitions on the concept of sovereignty and justice according to natural law—and more empirical models based on each historical community's political, legal and institutional practice.[10] More recently, following in the footsteps of Víctor Ferro,[11] Eva Serra stressed the empirical nature of Catalan constitutionalism,[12] while both Joaquim Albareda and Hèctor López Bofill took a perspective closer to the history of law to reveal its unique features to be its law-centredness, subordination to the rule of law and nascent individual freedom and political participation.[13] In turn, in their monograph on the Tribunal de Contrafaccions de Catalunya (a court to rule on constitutional violations), Josep Capde-

* **Contact address**: Ricard Torra-Prat, Edifici B, Carrer de la Fortuna, 08193 Bellaterra (Cerdanyola del Vallès). Tel. +34 93 581 4829. E-mail: Ricard.Torra.Prat@gmail.com.

ferro and Eva Serra pointed out the importance of the Catalan constitutional system in the early modern era as an element to articulate Catalan identity: 'the law we summarise was conceived and perceived as the law of the community, land or fatherland, as objective law—which successively, and adjacently, could generate subjective rights in favour of members of the community—bearing in mind that much of this law protected all members, while another part uniquely benefitted certain groups because of their estate, professional status, gender, etc., given that one of the unfortunate features of preliberal societies was people's radical inequality'.[14] Finally, we would not want to conclude this brief historiographic survey without mentioning the recent works by Antoni Simon and Ricard Torra, who have largely confirmed the theory-empiricism dichotomy of Catalan constitutionalism originally detected by Joan-Pau Rubiés. In this sense, while Simon's work has sought to recall the intellectual tradition of Catalan constitutionalism from the Middle Ages until modern times and its close relationship with a conception of state-building totally opposed to that of the Castilian *intelligentsia*,[15] Torra's study has shown how in the late sixteenth century, the leaders of the Diputació del General de Catalunya clearly understood the common threads guiding Catalonia's pactist tradition since the late Middle Ages.[16]

The purpose of this article is to stress the hypothesis that since the late mediaeval and early modern periods, Catalan society has been articulated around the political practice of the pact signed between king and realm within the framework of the Catalan Parliament. To do so, it is divided into four parts. The first one analyses the genesis of the constitutional system in the late Middle Ages, from the first constraint on the monarch's legislative power dovetailing with the 1283 Parliament to the instatement of the procedure of observance in the 1481 assembly. The second section studies the institutional dynamics and jurisdictional clashes between the institution in charge of guaranteeing the observance of the laws agreed to in the Parliament—the Diputació del General de Catalunya—and the one charged with judging and enforcing violations of this law—the Reial Audiència de Catalunya—clashes that were based on the inability to agree to a mixed, equal instrument between the jurisdiction of the monarch and of the estates gathered in Parliament. The disputes around observance, coupled with the monarchy's desire to exercise sovereignty according to the new postulates of reason of state, led to a rupture between king and realm, as confirmed by the War of the Reapers (1640-1652). The third section analyses what I have called the years of *granted* pactism, between 1652 and 1702. Dovetailing with the return to obedience in the monarchy of Philip IV of Castile (r. 1621-1665), the constitutional status of the Principality of Catalonia mutated away from the mutual pact between king and realm established in the Parliament to a pactism granted by the monarch. As will be seen, this shift tipped the balance of power in the relationship between the Catalan institutions and the monarchy in favour of the latter, which placed any form of contravention of the legislative framework under the protection of the mercy granted in 1653. Finally, the last section studies the resumption of Catalan constitutionalism in conjunction with the assemblies in the early eighteenth century, and the creation of the Tribunal de Contrafaccions, the body charged with ensuring the observance of the laws agreed to in the Parliament starting in 1702 thanks to its mixed, equal structure between the king's and the estates' jurisdictions.

The observance of law prior to the Constitució de l'Observança, 1283-1481

In a recent article, Tomàs de Montagut and Pere Ripoll pinpointed the feudal pacts from the high Middle Ages as the origins of Catalan constitutionalism. They claim that the negotiation and consensus found in the feudal-vassal societies, along with the importance of king-centrism and 'people's connection with the order of things', led to the creation of intersubjective agreements among the parties, who acted in good faith and pledged to 'observe the commitments reached as laws', thus obligating themselves out of 'their own free decision'. Hence, pact-based law became a reflection of individuals' particular will and could be nullified if the pact of 'reciprocal faith' was broken, such as if the political community's usages and customs were not observed.[17] In a similar sense, some years ago Jesús Villanueva noted that at least originally, pactism was actually a balance of forces located at the foundation of the jurisdictional divisions associated with natural law by means of an act of self-limitation on the part of the prince, who pledged to respect the rights acquired by the political community via a legal declaration in the guise of an oath or pact that was made inviolable by natural law itself. This self-limitation on power could be either circumstantial or serve as the foundation of a general system of protecting the rights of subjects in a given political space. This is what happened in Catalonia, where pacts extended to both the laws issued by the Parliament and society's privileges, which were protected by the oath of observance made by the monarchs when they reached the throne and renewed in each new assembly.[18]

The self-limitation that Villanueva discusses is a core element in Catalonia, ultimately a fiction compelled by the political, social and economic circumstances of the kings of Aragon in the Principality of Catalonia. The somewhat weak foundations of the monarchy, coupled with its expansionist drive in the Mediterranean, forced the Aragonese kings to seek economic and military support in the realm's assemblies, which contributed to the monarchy's cause but in exchange for an increase in the assemblies' political power. Thus, during the 1283 Parliament of Barcelona, the estates managed to enshrine both the frequency of the assembly—Constitution 23/1283—and their co-legislative capacity with the king—Constitu-

tion 14/1283.[19] It is worth noting, therefore, that counter to what Charles H. McIlwain stated, the reception of *ius commune* in Catalonia did not foster the monarchs' absolutist pretensions but the opposite, given that a few decades later, the estates managed to constrain the action of the kings of Aragon.[20] During the Parliaments immediately after the 1283 session, the limitation on the monarch's jurisdictional sphere continued via the Constitutions that reaffirmed the observance of the laws agreed upon via pact—Constitutions 37/1299, 17/1301 and 29/1321[21]—along with mechanisms like the Judici de Taula [Table Trial] and the grievance procedure within the Parliament.[22] In the case of the Table Trial, the lower-ranked royal officers' end-of-term audit, the design, frequency, crimes that could be prosecuted and punished, the form of the judiciary, and the appeals system were all established between 1283 and 1311.[23]

The existence of this eminently legal-positivist dynamic—in the sense that the political practice seemed to have predated the theorisation of the authors of the era—has traditionally been interpreted by historians as indicating that the late medieval and modern Catalan constitutional system was characterised by its juridicism while lacking major political speculation.[24] This thesis, which is quite appealing, is at the very least questionable today. On the one hand, the modern edition and study of the work by the Girona-based Franciscan Francesc Eiximenis (ca. 1330-1409) proved the importance of Catalan constitutionalist thinking in the late mediaeval and modern periods.[25] As Eduard Juncosa pointed out, in chapters CLXI and CLXII of his *Dotzè llibre del Crestià*, Eiximenis posited the theory of the original pact, in which the people transferred power to the monarch, although this power could be reclaimed at any time. Throughout this entire process, the prince was constituted by the people, and his power was defined and limited through the pacts reached by both parties, with the good of the community always prevailing over that of the monarch, who was ultimately considered more a public servant than a lord.[26] On the other hand, the studies by Jesús Villanueva and Antoni Simon have unpacked the importance of the fifteenth-century Catalan jurists—primarily Jaume Callís and Tomàs Mieres—in laying the theoretical groundwork of Catalan constitutional practice in the sixteenth and seventeenth centuries, even though these authors have—erroneously, in my opinion—disassociated early modern Catalan authors from the theoretical influence of Francesc Eiximenis.[27] In fact, Eiximenis's idea of the original pact seemed to remain standing in the text by Felip Vinyes published within the controversy over the continuity of the viceroy of the Principality of Catalonia after the death of Philip III (r. 1598-1621) in 1621.[28] In any case, the innovation of that era consisted of pinpointing the specific time of this pact at the Carolingian conquest.[29]

Parallel to the appearance and dissemination of the work of Francesc Eiximenis, in the last four decades of the fourteenth century another key event in shaping late mediaeval Catalan constitutionalism took place: the creation and subsequent institutionalisation of the Diputació del General de Catalunya, the standing committee of all three estates represented in the Catalan Parliament.[30] Even though the institution had primarily economic attributions during the first few decades—that is, it was in charge of collecting and administering the estates' donations to the monarchs—in Pere Ripoll's opinion in the 1368-1369 Parliament of Barcelona, the legislation on the Diputació del General began to recognise Catalonia as a political community represented by both the monarch and the estates gathered in Parliament.[31] Nor should we underestimate the importance of the Compromise of Caspe (1412), in which—very importantly—Ferdinand I (r. 1412-1416) was chosen by the political community of the entire Crown of Aragon, not imposed. In fact, in his *Recort*—written during the second half of the fifteenth century—Gabriel Turell, an honoured citizen of Barcelona, recalled that the fact that the first of the Trastàmaras had been a '*rey ab pactes elegit*' [elected king], which implied that he had to '*servar les llibertats, les quals primer ha jurades ans de pendre possessió*' [observe the liberties, which he already sworn before his assumption of the throne]. What is more, he believed that '*los qui principien ésser reys en les terres, fan les leys que volen e·ls plau, e ço que donen és per gràcia; mas los reys elegits troben coses ordenades a en son ésser, e aquelles han de servar, e ab aquell mijà e pactes e condicions accepten la senyoria. E per la mateixa rahó, los successors són obligats les dites coses servar*' [Those who are born kings can make laws as they please, and what they give is due to their mercy; however, those kings who are elected have to comply with the existent legislation, and they have to observe it since they accept the rulership with its preconditions and through pacts. And because of this, their heirs are also obliged to observe the aforementioned things].[32] I believe that, with all the reservations needed,[33] this entire ideological substrate made a decisive contribution to the 'pactist offensive' of the estates during the 1413 Parliament of Barcelona: first, the estates detached the governance of the Diputació del General from the Parliament's inertia, given that the former's leaders, the deputies and auditors, came to be chosen through cooptation; secondly, the institution was assigned the power to keep watch over the constitutions with the goal of offsetting the monarch's power.[34]

However, the estates' offensive did not end with the 1413 Parliament of Barcelona. Eight years later, in the 1421-1422 Parliament of Barcelona, the Diputació del General's powers on observance were enhanced via Constitution 27/1422, known popularly as the *Fruyt de las Leys*. According to this constitution, which claimed that legislative acts only made sense if people effectively observed the laws, the deputies and auditors—the Diputació del General's rulers—were put in charge of condemning any anti-constitutional acts committed by the monarchs, their family members and their officers, and to seek reparations for them.[35] It has been said that Catalonia thus be-

came a dualist monarchy, in which the Catalan political community was represented by both the monarch and the corporation that personified the Principality of Catalonia, that is, the estates gathered in Parliament and their permanent committee, the Diputació del General de Catalunya. According to Tomàs de Montagut and Pere Ripoll, 'the relationship between the two general powers was based on loyalty, which was formalised in the monarch's prior oath to observe Catalan law, the *sine qua non* condition for the king to hold the *iurisdictio generalis* in Catalonia, and later the oath of obedience and loyalty by the people of Catalonia'.[36]

In short, the 'pactist ideology'—in the words of Josep Maria Gay Escoda—not only sought to limit the monarch's *plenitudo potestatis* via the estates' cooperation in creating general law in Parliament but also required the laws' observance, because although the prince had full authority according to *ius commune*, he could not command this authority over Catalan legislation. As the text condemning grievances presented during the 1431-1434 Parliament of Barcelona claimed, '*los dits Usatges e Constitutions e leys del dit Principat no sien romanes, ans són leys del dit Principat fetes, fermades e loades per lo dit Senyor e sos predecessors […] ab sos vassals e sotsmesos passades en convenció e contracte e forsa e virtut han de ley e, per consegüent, lo dit Senyor és tengut de servar aquelles per dret comú, leys romanes e justícia, e en aquesta conclusió romanen tots los glosadors de dret*' [The *Usatges* and the *Constitutions* and laws of the Principality are not Roman law yet they are considered to be legislation created within the Principality, thus agreed and lauded between the king and his predecessors […] and their vassals and subjects, and therefore turned into a pact which has the virtue and the strength of the law. And, as a consequence, the king has to observe these laws according to both justice and the Roman law, and this is the standpoint of all the jurists].[37] This argument is similar to the one used years later by the jurist Tomàs Mieres in his *Aureum apparatus super constitutionibus et capitulis curiarum Cathaloniae*, written in 1465, which Jesús Villanueva claims was crucial in articulating the exceptional nature of the legislation agreed upon in Parliament, which ranked higher than the monarch's prerogatives.[38]

During the central years of the fifteenth century, king and kingdom took increasingly distant political and constitutional positions, which ended up being one of the factors that unleashed the Catalan Civil War (1462-1472).[39] In Imma Muxella's view, the Capitulation of Vilafranca (1461)—in which the Catalan institutions managed to impose the primogenitor Charles of Viana as the *lloctinent general* of Catalonia—ended up institutionalising the constitutional conflict between the king and the estates represented in the Diputació del General de Catalunya. However, I believe that the Capitulation of Vilafranca was not the starting point of the modern constitutional system but yet another episode in the series of jurisdictional disputes between the monarch and the estates to set limits on the former's sovereignty. In contrast, the hypothesis that the Capitulation of Vilafranca had a considerable influence on the future Constitució de l'Observança [Constitution of the Observance] is much more convincing.[40] In fact, all the prior constitutional experience exerted an influence, including Court Chapter [*Capítol de Cort*] 53/1470 of the 1470 Parliament called by John II (r. 1458-1479) in Montsó, which was only approved with the participation of the members of the three estates who were in favour of the dethroned king but reiterated the core role of the deputies and auditors as guarantors of observance;[41] and Constitution 18/1481, which stated that any actions carried out by the king and his officers that ran counter to the law agreed upon in the Parliament were null and void.[42] Regardless, the majority of historians have focused on Constitution 22/1481, known as the Constitució de l'Observança. Its main innovation was the fact that for the first time an effective legal procedure was established to judge royal officers' actions that ran counter to the law agreed upon via pact. However, the top organ of royal justice in Catalonia, the Reial Audiència de Catalunya, was in charge of the procedure; that is, the constitutional oversight of royal officers' actions was in the hands of the royal jurisdiction.[43] As we shall see below, in the early modern era, the main bone of contention among the estates in the Parliament was achieving a mixed, equal procedure comprised of both the king's officers and members of the estates.

The limits of the Constitució de l'Observança, 1481-1652

The Constitució de l'Observança was actually the legislative rendering of the new balance resulting from the Catalan Civil War, in which the Trastàmara monarchs managed to prevail over the estates. However, they prevailed with a relatively small margin, which forced them to accept the Catalan constitutional system, albeit from a relatively advantageous position, given that they controlled the violations procedure via the Reial Audiència. Moreover, Ferdinand II (r. 1479-1516) further strengthened the crown's positions when he reformed the system of allocating posts in the Diputació del General and the Consell de Cent de Barcelona with the introduction of the ballot voting system [*insaculació*] and control over the lists of candidates.[44] As the outcome of this rebalancing of forces, we could say that relative calm, or even constitutional entente, prevailed in the early years of the sixteenth century. Still, Antoni Simon has noted that after the death of Ferdinand II, the shift in the monarchy toward the territories of the Crown of Castile led to the political marginalisation of broad swaths of the Catalan ruling class, who chose to ride the current of an 'updated' constitutionalist ideology that took a different pathway marked by the centralisation and unification being imposed by the central governing bodies of the Spanish Habsburg monarchy.[45] One of

the most obvious consequences of this shift in direction at the pinnacle of the monarchy was the gradual Castilianisation of the economic and political bases of the Spanish monarchy, which meant—among many things—longer periods between summons of the Catalan Parliament due the monarchy's ability to mobilise resources from other sources—such as American silver—that may have been simpler.[46] As Víctor Ferro stated, the early modern centuries witnessed the 'paralysis' of this institution, which was 'utterly fundamental' for the proper functioning of political life in the Principality of Catalonia, given that one could not 'govern without resorting to the institutionalised dialectic between the prince and the country, represented by the estates' gathered in Parliament.[47]

Regardless of whether the Parliament met more or less often, the struggle over the observance of pact-based law in Catalonia remained alive and well during the early modern centuries. Thus, there were soon calls for a reform of the Constitució de l'Observança. In the 1533 Parliament, the deputies and auditors of the Diputació del General presented a report in which they condemned the ineffectiveness of Constitution 22/1481, among other matters. According to the leaders of the Diputació del General, the procedure did not work because it ground to a halt once they condemned actions that ran counter to the pact-based law before the royal institutions—either the viceroy or the Reial Audiència de Catalunya. For this reason, they were in favour of creating a new court devoted solely and exclusively to judging constitutional violations.[48] However, the lack of tangible agreements on observance meant that the differences between king and kingdom became aggravated as the sixteenth century wore on.[49] The tensions caused by the military governing bodies of the Principality—primarily the Captaincy General—were joined by the clashes between the Diputació del General and the Inquisition. At least since the 1533 Parliament of Barcelona,[50] the estates strove to lower the number of officers from the Holy Office, which they did not achieve in either the 1563-1564 or the 1585 assemblies. In fact, during the 1563-1564 Parliament of Barcelona, the estates even failed in their attempt to impose on the inquisitors in the Principality the obligation to swear an oath to the agreement reached in 1512 between their predecessors and the Catalan institutions, a document that king and kingdom had ratified in the 1519-1520 Parliament of Barcelona and that Leo X (r. 1513-1521) later raised to the status of papal bull.[51] The estates' inability to constrain the Inquisition's sphere of action helped to unleash the conflict that pitted the leaders of the Diputació del General against the inquisitors of Barcelona in the late 1560s, which culminated in the monarchy's arrest of the deputies in the summer of 1569.[52]

All of this contributed decisively to the fact that during the reign of Philip II (r. 1556-1598), the Reial Audiència de Catalunya was confirmed as the central institution of royal governance in the Principality, both judicially and politically, serving as the advisory council of the viceroy.[53] Both judge and party in case of constitutional violations, the Audiència's structure was bolstered with the creation of the Criminal Court, and even though it was agreed that it had to be confirmed in each new Parliament, the increasing time between Parliaments helped to ensure its continuity and power in Catalonia in the sixteenth and especially seventeenth centuries. In parallel, the reinforcement of the authority of the Diputació del General—which considered itself the 'nerve centre of Catalonia' and claimed that its leaders had been given 'free and absolute authority' to resolve issues within its jurisdiction as the procurators of the Parliament—did not help the entente.[54] In the 1585 Parliament held in Montsó, the estates managed to secure approval of one law on the Diputació del General that was so extraordinarily ambitious that, in the words of Miquel Pérez Latre, it would become 'an alternative way to break the practical nullity of the Constitució de l'Observança from the previous decades'.[55] It is worth noting that more than just testing an alternative route for constitutional control, the reforms agreed upon in 1585 managed to invigorate the authority of the Diputació del General by reinforcing its decisions via an expansion in society's participation in them through the *divuitenes*—commissions of eighteen members from all three estates with the ability to decide on some of the governing matters of the Diputació del General. All of this prompted a political crisis in the summer of 1587 which lasted more than six years and peaked with Philip II's unilateral suspension of three *Redreç* chapters—Parliamentary legislation only affecting the Diputació del General—approved in the Parliament of 1585 and the flight of the majority of the government of Diputació del General.[56]

The leaders of the Diputació del General who began their term in August 1593 viewed this virtual constitutional coup d'état with hostility. They sent two embassies to the Catholic monarch in 1594-1595 and 1596 to remind him of the nature of the Catalan constitutional system, noting the importance of the observance of law, given that in Catalonia: '*lo mateix consentiment que·s requereix en fer contractes se requereix en los distractes de aquell, y la mateixa solemnitat qu·és necessària per a fer statuts és necessària per a desfer-los*' [the same agreement required on contracts is needed in their disarrangement, and the same solemnity expected to pass statutes is demanded to break them up].[57] This argument, borrowed from Papinianus's doctrine,[58] was joined by two other issues that the deputies regarded as fundamental: first, the very nature of royal power in the Principality of Catalonia, where the Aragonese monarchs had given up parcels of jurisdiction to the estates; and secondly, the interrelation among the pact-based laws agreed to in the Catalan Parliament, given that the abolition of regulations without an in-depth study of their content could cast doubt on the validity of other laws that had not been revoked.[59] This entire constitutional doctrine was summarised a few years later by the jurist Antoni Olibà, who went a step further than Tomàs Mieres by claiming that the transmis-

sion of royal prerogatives for special cases was joined by the transfer via a general law, that is, the laws agreed upon in the Parliament.[60]

King and kingdom tried to bring their positions into closer alignment in the 1599 Parliament of Barcelona. While Philip III (r. 1598-1621) received an extraordinary donation of 1,100,000 Barcelona *lliures*, the estates managed to regain positions on matters of observance that they had lost in the last years of the reign of Philip II. First, the priority of the sources of law in the Principality of Catalonia were definitively established: Catalonia's own laws had to be heeded first, and then, in this order, canon law, Roman law and civil law, and finally common law and the doctrines of the doctors.[61] Secondly, Constitution 16/1599 established the legislative primacy of the Parliament above any other political or legislative power in Catalonia, as the Constitution stated that pact-based laws could only be amended by Parliament.[62] Furthermore, Constitution 1/1599 confirmed all prior legislation agreed to in Parliament that was not explicitly repealed by the 1599 Constitution.[63] Thirdly, in response to the grievances submitted to Parliament, Philip III accepted the unconstitutionality of the suppression of the *Redreç* chapters 7, 13 and 34/1585 decreed by his father.[64] Finally, accountability measures were agreed upon for both officers of the monarchy and the Diputació del General, thus helping to limit public powers not only in the monarchy's jurisdictional scope but in also the kingdom.[65] Thus, positive assessments from contemporaries should come as no surprise, such as the one by the Barcelona nobleman Frederic Despalau, who asserted that '*à consedit Sa Magestat tot lo que se li à demanat […] de tal manera que no y avie més que desiyar*' [His Majesty has granted everything that he has been asked for (…) so there was nothing else to claim].[66]

Nonetheless, Josep Capdeferro and Eva Serra have recently described the estates' position on observance in the 1599 Catalan Parliament as 'conformist'. The circumstances in which the assembly was held, heavily marked by the monarch's rush to go back to Castile on the one hand and the previous period of constitutional struggle on the other, must have largely contributed to the fact that the estates did not try to improve the constitutional oversight procedure, allowing it instead to remain in the hands of the Reial Audiència de Catalunya.[67] And, indeed, constitutional clashes would soon arise again. In 1602, the viceroy, the Duke of Feria, had the deputy and military auditors arrested in order to end the Diputació del General's opposition to including five constitutions in the printed edition of the 1599 Constitutions; the deputies and the estates opposed this because they claimed that they had not been agreed upon in the 1599 assembly. Philip III assumed that the deputies' attitude was contributing to the bedlam and disorder, and he stated that whenever a similar situation arose he would combat it by claiming 'the sovereignty and supreme power I have over everything'.[68] Finally, an entente was reached in which the constitutions in dispute were ultimately published, but with the royal promise that they would not enter into force until a new Parliament was held. However, that was not the last confrontation. Months later, the estates once again protested vociferously when the *visitador* of the royal officers, Diego Clavero, tortured several Catalan knights for proceeding with the interrogatories of the *visita*, a completely anti-constitutional act.[69] Even the *visitadors* of the Diputació del General came to suffer from the *vis expansiva* of the royal jurisdiction. During the oversight conducted in 1617-1618, one of the *visitadors* was imprisoned on the orders of the viceroy on accusations of publicly badmouthing the royal officers. The arrest concealed the royal jurisdiction's blundering attempt to prevent the publication of the accusations against the governors of the Diputació in 1614-1617 for not having condemned the constitutional violations committed by the Reial Audiència de Catalunya.[70]

In the 1620s and 1630s, instead of easing off, the face-off between king and realm entered a new dimension. Dovetailing with the death of Philip III and Philip IV's ascent to the throne (r. 1621-1665), the debates on the constitutional nature of the Catalan political system became exponentially more heated. The first dispute occurred precisely on the occasion of Philip III's death. Unlike in the sixteenth century, the primogenitor, the future Philip IV, had not sworn his oath to the Catalan constitutions during his father's lifetime. This meant that when the Catholic king died, the king's entire administration in Catalonia was left hanging as they waited for his successor to come to the Principality to swear his oath to the constitutions and hold Parliament. However, Philip IV showed no interest whatsoever in visiting his Catalan subjects immediately. What is more, in 1622 he decided to replace the viceroy, the Duke of Alcalà, with the bishop of Barcelona. Despite begrudgingly accepting that the *vicerrègia*—the procedure whereby the highest-ranking ordinary officer in the Principality (the *Portantveus del General Governador*) would temporarily fulfil the functions of the viceroy until the monarch swore allegiance to the constitutions—would not be enacted, the Catalan institutions raised strong protests. In the months after the appointment of the new viceroy, several texts were commissioned to jurists like Felip Vinyes and Joan Pere Fontanella with the goal of explaining to Philip IV the constitutional nature of the Catalan political system. In one of these texts, Joan Pere Fontanella reminded him that '*Estas lleys que tenim en Cathalunya, són lleys pactionades entre lo rey y la terra, y se han de observar per sa Magestat […] per lo cual ditas lleys comprenen de tal manera lo Príncep, que no pot eximir-se d·ellas*' [These laws that we have in Catalonia are laws settled between the king and the kingdom and therefore must be observed by His Majesty (…) so the aforementioned laws are incumbent upon the prince in such a way that he cannot overlook them].[71] Felip Vinyes, in turn, reminded the king of the original pact whereby the Habsburgs ruled in Catalonia. As mentioned above,

this doctrine was novel in that it situated the pact at the time of the Carolingian conquest, but there was also a clear thread running from the late mediaeval postulates of Francesc Eiximenis.[72] The idea of the original pact remained in force in the years after the conflict over the *vicerrègia*. One good example is the way the jurist from Perpignan Andreu Bosch discussed it in his *Summari, índex o epítome dels admirables y nobilíssims títols de honor de Cathalunya, Rosselló y Cerdanya,* claiming that the bond between Catalonia and the Frankish kings was an '*elecció ab convenció y pacte y de aquí venir-nos governar per lleys convencionals y paccionades*' [agreement by election and pact, and therefrom to be governed by conventional and negotiated laws].[73]

The intellectual debates on Catalan constitutionalism sought to take specific form in the realm of observance during the Catalan Parliament of 1626–1632, which, as is well known, ultimately failed to bear fruit. In the 1626 session, different projects to amend the observance mechanism which had been in place since 1481 were considered. Felip Vinyes drafted a working proposal for the military estate which called for the formation of a mixed *tribunal de contrafaccions* (constitutional court) to resolve violations of the constitution; this tribunal would be made up of thirteen people, six or seven alternating from among Reial Audiència judges and members of the Diputació del General's electoral base.[74] In parallel, the city of Girona offered a 'republicanist' proposal, in which the violations procedure remained in the hands of the estates, personified by the three judges made up of the bishop of Barcelona, the military deputy of the Generalitat and the highest-ranked city councillor of Barcelona.[75] In turn, instead of suggesting a reform, the city of Cervera chose to insist that violations be resolved extrajudicially.[76] And many other legal proposals set forth during the 1626 assembly referred to the observance procedure with the goal of extending the purview of the future law to royal and even baronial officers. In the 1632 session, the estates once again called for a mixed *tribunal de contrafaccions* made up of judges appointed by the king and the estates, which would be called the *Sala de Sant Jordi*.[77] Yet it was all in vain. The lack of agreement between the estates and Philip IV mean that the Parliament did not close, which contributed decisively to the strained relations between Barcelona and Madrid. In the ensuing years, lawsuits like the *clau de comte*—whereby the monarchy tried to get Barcelona to pay the *quint* tax[78]—and procedures like the *visita* of the royal officers led by the *visitador* Matías de Bayetolá, made matters even tenser.[79] In fact, in 1639, based on the lawsuit between the Diputació del General and the monarchy over the seizure of French contraband goods deposited in the Diputació's warehouse in Mataró, Felip Vinyes—now aligned with the interests of the monarchy he had been serving since 1630—reformulated the thesis of the original pact from the Carolingian era by claiming that it contained conventions or pacts not between the Frankish kings and the Catalans, '*sino meras y puras gracias que concedieron a los vasallos de los condes particulares*' [but mere and pure royal grants conceded to the vassals of the Catalan counts].[80] As we shall see below, this reasoning advanced the postulates that were to govern constitutional relations between the king and the Catalans after 1652.

Constitutionally speaking, once the republican way had been discarded, the revolutionary uprising of 1640 primarily entailed a theoretical reaffirmation of the thesis of the original pact in that it matched perfectly with the Principality being handed over to Louis XIII of France. Thus, in his *Praesidium inexpugnabile*, Francesc Martí Viladamor came up with a royal law of the Principality of Catalonia that was closely tied to the concept of the people's sovereignty to defend the Catalans' rights when choosing their king. In fact, that Carolingian pact had entailed not an absolute transfer of power to the monarch but only some faculties, which enabled the people to remain as free as possible. Therefore, the royal law was implicit in the Catalan constitutional system, given that the early pacts could only be confirmed or amended in the Catalan Parliament.[81] In turn, Acaci de Ripoll drove this home by establishing two possible sources of royal prerogatives and therefore sovereignty: those originating from a royal decision and those reached via consensus and approval by the 'people', that is, the Parliament.[82]

The years of *conceded* pactism, 1652-1702

In 1956, the historian Joan Reglà was the first to posit the hypothesis that once the Reapers' War (1640-1652) was over, the relations between the Spanish monarchy and the Principality of Catalonia were characterised by a renewed constitutional entente based on respect for the unique nature of Catalonia, a situation he called *neoforalisme*.[83] This approach, which was fairly well accepted by historiographers in the immediately ensuing years,[84] was questioned in the early 1980s by Fernando Sánchez Marcos in two studies that revealed the depth of the reforms introduced by Philip IV once the Catalans' obedience had been restored. In fact, Sánchez Marcos considered these reforms extensive enough to be a forerunner of the Bourbon reformism in the following century.[85] Following in Sánchez Marcos's footsteps, over the last three decades, different historians have further studied these reforms, which primarily affected the two most prominent institutional actors in the 1640 Catalan revolt, namely the Diputació del General and the Consell de Cent de Barcelona.[86] In the case of the Diputació del General, the measures implemented from Madrid affected its political autonomy through the control over the electoral base of candidates eligible for the institution's main posts, that is, the *insaculació*, or ballot voting; its income—the requisition of the *nova ampra* tax;[87] and indirectly, the territorial scope of its taxation, given that the Counties of Roussillon and part of the Cerdagne became a possession of the

French crown after the Treaty of the Pyrenees (1659). Regarding the city of Barcelona, the reforms consisted of limiting the city's military control over its own defences, taking over the management of the *insaculació* procedure and assimilating the old Barcelona baronies into the monarch's direct holdings as economic compensation for the expenses caused by the war.[88]

Beyond these issues, lately there has been a stress on the fact that the repression initiated by Philip IV was not only political and economic but also had a heavy constitutional component.[89] In this sense, the key to it all would have been the legal concepts used in the letter that the viceroy John Joseph of Austria sent to the deputies and auditors of the Diputació del General on 12 February 1653 to confirm the Catalan constitutions,[90] as well as the decree on the reservation of the *insaculació* procedure on 24 February 1654.[91] In both cases, the monarch made the concession of allowing the legislation. Therefore, the original pact renewed in each Parliamentary assembly through the king's oath of observance turned into a favour granted by the monarch that he could withdraw at his pleasure.

As I have unpacked in the previous point, the idea that the jurisdiction of the Diputació del General—and by extension the Catalan Parliament and the entire pactist edifice as the original core of its power—was theoretically grounded on royal concessions of jurisdiction, and therefore the monarch had the ability to intervene in its affairs to a greater or lesser degree, had already been stated by Felip Vinyes in the late 1630s.[92] Nonetheless, it has also been shown that prior to 1652, all the royal power's attempts to impose a reduced interpretation of constitutionalism had come upon the staunch opposition of the Catalan institutions, fortified by the bulwark of the observance. In contrast, in 1653 the leaders of the Diputació del General did not protest. In fact, the deputies did not participate in an embassy to the Madrid parliament until 1678, led by the Consell de Cent de Barcelona, to complain about the numerous violations committed by the royal officers in the Principality. However, this embassy only managed to secure royal permission for the ambassadors of the Catalan institutions to place their coats-of-arms in the hostel where they were staying.[93]

The constitutional paradigm shift can be examined from different vantage points, such as some royal officers' more or less haphazard efforts to simultaneously hold a post in the Diputació del General—which, according to the pact-based law agreed upon in the Catalan Parliament, was incompatible; the Diputació del General's acceptance of royal law as its own; the hesitancy to condemn the royal officers' violations; and the acceptance of profound reforms of the *Visita del General* introduced via royal decree.[94] In this sense, the controversy between the Diputació del General and the Consell de Cent on the one hand and the scribes of the royal administration on the other, due to the latter's wish to be included in the pools of candidates to occupy posts in these institutions, is quite revelatory. In the report that the scribes sent to the viceroy, they stressed that their pretensions should not be resolved in accordance with what the laws agreed upon in the Parliament stipulated, because by virtue of the royal reservation of 1654, the monarch could decide whatever he wished on the assignment of posts in the two leading Catalan institutions: '*de suerte que no hay ley, constitución ni privilegio alguno que limiten esta reserva*' [and therefore, there is no law, constitution nor privilege that can limit the aforementioned reservation].[95]

However, it should be said that the step backwards taken by the Diputació del General as the institution in charge of pursuing observance of the Catalans' constitutional rights left a void that gradually came to be occupied by two other institutions that were clearly on the rise in the last few decades of the seventeenth century: the *Braç Militar de Catalunya* and the *Conferència dels Tres Comuns*.[96] Furthermore, not only was the constitutional framework defended by the Catalan institutions; it was also a phenomenon that permeated all of society. As Jaume Dantí has recently recalled, the demands of the rebels in the Revolta dels Barretines (1687-1689) perfectly captured what was at stake within Catalan society at the change in era: from the political standpoint, the difficulties that the Diputació del General and Consell de Cent de Barcelona had in striking a balance between the defence of 'constitutionality' as a 'means' to preserve lawfulness and the Catalans' interests on the one hand and loyalty to the crown on the other; and from the socioeconomic standpoint, a heightening of the internal social differences in both the rural and urban worlds, stemming from the crisis in the first sixty years of the century and the different ways of taking advantage of the economic '*redreç*' in the last thirty years.[97]

Be it as it may, all this evidence led Josep Capdeferro and Eva Serra to conclude that the period spanning from 1652 to 1702 was wholly 'frustrating' from the standpoint of the observance of law in Catalonia. Even though the Diputació del General—it is worth repeating: the institution charged with initiating the constitutional oversight procedure provided for in Constitution 22/1481—exercised its authority of constitutional oversight especially on fiscal matters and the billeting of troops in the homes of civilians, it often did so via politics, embassies to the viceroy, acting as a mouthpiece of the discontent of the local communities.[98] And even though Josep Maria Torras i Ribé has positive views of the role of the Diputació del General as a guarantor of individual rights due to the impossibility of continuing to exercise more—shall we say—global representation, none of this managed to conceal the fact that the constitutional reforms imposed by the monarchy after 1652 ushered in a new period in Catalonia's historical configuration, a period characterised by the fact that the political powers leaned more towards the side of the king than the land.[99] Indeed, the Catalan Parliament was never called during the reign of Charles II from 1665 to 1700.

The swansong of Catalan constitutionalism: *The Tribunal de Contrafaccions*, 1702-1714

With the arrival of the eighteenth century, winds of change could be felt in the Catalan political system. The death of Charles II of Spain on 1 November 1700 gave way to a new dynasty on the Spanish throne, with a new monarch, Philip of Anjou. If the Catalan constitutional tradition were heeded, he would come visit his Catalan subjects to swear the oath to the constitutions and hold the Parliament sooner rather than later. First, however, the *vicerrègia* procedure was once again ignored when Philip V (r. 1700-1724 / 1724-1746) confirmed that Georg von Hessen-Darmstadt would remain the viceroy of the Principality of Catalonia, and especially when he replaced him with the Count of Palma in late January 1701. Even though the Diputació del General came out in favour of compromising with the new monarch, the Consell de Cent and the Braç Militar refused to attend the oath of the Count of Palma and tried to launch the *vicerrègia* mechanism. The obstinacy of these two institutions forced Philip V to send them a letter in which he threatened them to obey the royal decisions while also confirming to the Diputació del General that he would travel to the Principality of Catalonia to hold the Catalan Parliament. As Antoni Simon recently noted, Philip V's visit to the Principality of Catalonia to swear an oath to the constitutions and hold the Parliament should be interpreted not as a sign of the new monarch's constitutionalist bent but as the political price that the Bourbons and the Madrid court had to pay to ensure a peaceful dynastic transition in the Principality.[100] Similarly, the renewed intensity of the Catalan institutions' constitutional demands for observance should be interpreted as the Catalan constitutionalist system's 'calling card' to the new monarch.[101]

Historians have traditionally interpreted the 1701-1702 Parliament from two vantage points: first, authors like Jaume Bartrolí and Josep Fontana highlight the ambitious economic programme,[102] while other scholars, without downplaying the importance of the economic reforms, stress the political-constitutional rollout, with such important milestones as the creation of the Tribunal de Contrafaccions. As Josep Capdeferro and Eva Serra recently restated, 'the Tribunal de Contrafaccions was the highest and most successful structure to guarantee respect for the Catalan community's laws'. The appearance of this institution signalled a furtherance of the mechanisms of observance that had been put in place with the Constitució de l'Observança in 1481. In this sense, the laws that devised the design and functioning of the Tribunal de Contrafaccions—Court Chapters 36, 37 and 38/1702—served to undercut decision-making authority on actions that ran counter to the pact-based legislation in one of the parties—the Reial Audiència—to instead place it in the hands of an equal body comprised of judges from the institutions of the king and the kingdom. What is more, this became the supreme judicial body of the Principality: appeals to the Catalan Parliament against the rulings handed down by the Tribunal de Contrafaccions could only be accepted via grievance.[103]

Another institution that the 1701-1702 Parliament managed to reform was the *visita* of the royal officers. The repeated difficulties implementing it in the seventeenth century led the estates to totally rethink it and establish a new tribunal that was supposed to meet every three years and would be led by seven *visitadors* chosen equally by the monarch and the Diputació del General. Furthermore, unlike the royal officials' *visita* established in 1599, the *visita* of 1701–1702 entrusted the execution of sentences to the deputies and auditors of accounts of the Diputació del General.[104]

Ultimately, if the monarchy granted both the composition of the Tribunal de Contrafaccions and the new system of the *visita*, that is, control over the royal officers, it was because it surely thought that the constitutional status of the Principality after 1652 would enable it to keep the action of the Catalan institutions on a short leash. However, the quarrels between the Catalan ruling class and Madrid after 1702 show to what extent this was a miscalculation.[105] Madrid's decision points to at least two core issues: first, the upper echelons of the monarchy viewed the Diputació del General as an institution that was within its fold, given that otherwise they would have never let it control two courts that were in charge of judging the actions of the royal officers; secondly, they never thought that holding Parliament would be equated by the estates as the end of the concession period and the re-entry into vigour of the constitutional pact. The subsequent actions of both the monarchy—violating the agreements reached in the Parliament—and the Catalan ruling class—condemning the situation of the institutions that were outside royal electoral control (the Conferència dels Tres Comuns and the Braç Militar)—only confirm this hypothesis.

Given this context, the thesis posited by Antoni Simon—namely that the 1705 pro-Habsburg uprising was essentially political, constitutionalist and proactive—is quite plausible, and I would further add that beyond the underlying issue of restoring the self-governance lost in 1652, what probably unsettled the ruling sectors of Catalan society was the rupture of the constitutional pact just a few months after it was sealed in Parliament by Philip V—a pact, we should recall, that had been ignored for almost half a century by virtue of the 1653 concession.

Regarding the 1705-1706 Parliament, the estates hotly debated the issue of the observance of law. In this sense, the Parliament's board of constitution writers suggested the possibility of creating a tribunal that encompassed the *visitas* of both Diputació del General and royal officers, and the Tribunal de Contrafaccions. With the goal of saving key economic resources at a time of war, which pitted Philip of Anjou against the Archduke Charles, the goal was to merge accountability with control over constitutionality. This was nothing new. Throughout the entire

seventeenth century, the *Visita del General* prosecuted the Diputació del General officers' actions that ran counter to the pact-based law. Still, the proposal did not end up taking root and instead the choice was made to renew the Tribunal de Contrafaccions based on very similar regulations to the ones agreed upon in the 1701-1702 Parliament.[106] Archduke Charles soon reached the conclusion that to subdue the Catalans' constitutional demands, he would have to compromise with the approval of the tribunal. However, it also realised that the existence of the magistracy was wholly compatible with bogging it down by either not initiating the violation cases or not ruling on and enforcing them. Against all expectations, in this stance the monarchy found an ally in the Diputació del General—which was in charge of instigating the violation proceedings in the Tribunal de Contrafaccions, first studying the internal solidity of the cases to avoid having to hear an avalanche of complaints about violations. Furthermore, the war prevented the tribunal from meeting until early January 1713, thus, when the conflict over succession in Catalonia was close to an end.[107]

Final recapitulation

The history of Catalan public law after Barcelona's capitulation on 11 September 1714 is well known: Philip V immediately declared the abolition of all the Catalan institutions, and later the 1716 Nueva Planta Decree introduced the governing system of the Crown of Castile in Catalonia, thus putting an end to more than four centuries of constitutionalism in Catalonia.

This article has provided a long-view picture of Catalan constitutionalism in the late mediaeval and modern periods, highlighting its parliamentary roots. The first section, which examines the genesis of late mediaeval constitutionalism, stresses the importance of the Catalan legal-positivist tradition while also spotlighting the key role played by intellectuals like Francesc Eiximenis, Jaume Callís and Tomàs Mieres in laying the theoretical groundwork of the Catalan political system in the ensuing centuries. It also emphasises the importance of the creation of the Diputació del General de Catalunya in preserving this political practice, particularly after 1413, when it gained authority to keep watch over the constitution.

The second part of this article studies the period spanning from the approval of the Constitució de l'Observança in the 1481 Parliament of Barcelona to the end of the Reapers' War in 1652. It highlights the fact that the Catalan estates soon realised the limitations of the constitutional oversight procedure established in 1481. This led them to suggest a reform of the procedure in different Parliaments over the course of the sixteenth and seventeenth centuries with the goal of it not remaining solely under the jurisdiction that was supposed to oversee it, that is, the royal jurisdiction. The impossibility of remedying the violations committed by royal officers sparked some tensions and even periods of constitutional rupture between king and kingdom, such as between 1587 and 1593. And even though there were attempts to reach an agreement on positions in the 1599 Parliament of Barcelona, Philip IV and his Catalan subjects clashed with increasing frequency in the 1620s and 1630s, until they did so definitively in 1640.

The third part of the article analyses the almost 50 years spanning from the end of the Reapers' War in 1652 to the death of Charles II in 1700, a period characterised by a new constitutional status conceded to the Principality of Catalonia in retaliation for the uprising and subsequent clash with Philip IV. As reported, the mutation in the political nature underpinning the Catalan political and legal system—from the pact to the favour of concession—led to a notable regression in the observance and power of the two main Catalan institutions, the Consell de Cent de Barcelona and the Diputació del General, the latter in charge of reporting violations committed by royal officers since 1422. Nonetheless, the rise of new corporations like the Conferència dels Tres Comuns and the Braç Militar, coupled with the rural Revolta dels Barretines in 1687-1688 against the burden of billeting troops, were indicative of the fact that Catalan society still considered constitutionalism one of its cornerstones in the second half of the seventeenth century.

Finally, the last part of the text studies the years of what was called the '*represa*' [resumption] of constitutionalism. In this sense, it reveals the renewed drive by Catalan institutions to demand that Philip V observe the law, and how this translated into the renewal of the pact between king and kingdom in the 1701-1702 Parliament. Likewise, it also reports that the start of the disenchantment between the first Spanish Bourbon and the Catalans, which later led to the rupture in 1705, can be precisely pinpointed in the renewal of the constitutional pact, an issue that the monarchy of Philip V clearly underestimated.

Notes and references

[1] This study was funded by the Agència de Gestió d'Ajuts Universitaris i de Recerca as part of the Beatriu de Pinós Programme (Grant agreement no. 2021 BP 00040) and is framed within the research activities of the Political Studies, Identities, Institutions and Corruption Research Group (GREPIIC) 2021 SGR 00053, funded by the Agència d'Ajuts Universitaris i de Recerca, and the RDI Projects «Las otras voces: ordenación politicosocial y resiliència del territorio a partir de los actores locales. El caso de Cataluña (siglos xvii-xix)». PID2019-109670GB-100/MICIN/AEI/10.13039/501100011033, i «Conflictos singulares para juzgar, arbitrar o concordar (siglos xii-xx)». PID2020-117702GA-I00/MICIN/ AEI/10.13039/501100011033, funded by the Ministry of Science and Innovation and the State Research Agency.

[2] ORCID ID: 0000-0001-8896-8486

[3] *Constitutions y altres drets de Cathalunya compilats en virtut del capítol de cort LXXXII de las Corts per la S.C. y R. Majestat del Rey don Felip IV, nostre senyor, celebradas en la ciutat de Barcelona, any MDCII*. Joan Pau Martí and Josep Llopis, Barcelona 1704. p. 45. Henceforth: CYADC.

[4] Charles H. McIlwain. *Constitucionalismo antiguo y moderno.* Centro de Estudios Constitucionales, Madrid 1991 [trans. Ed. 1947].

[5] Howard. A. Lloyd. 'Constitutionalism'. In: *The Cambridge History of Political Thought, 1450-1700.* Ed. J. H. Burns and Mark Goldie. Cambridge University Press, Cambridge 1991, pp. 254-297. I refer to pp. 254-255.

[6] Scott Gordon. *Controlling the State: Constitutionalism from Ancient Athens to Today*. Harvard University Press, Massachusetts 1999. I have specifically cited pp. 236-237. Regarding the Hispanic world, Rafael Jiménez Asensio has offered a similar version: Rafael Jiménez Asensio. *El Constitucionalismo: proceso de formación y fundamentos del Derecho constitucional.* Marcial Pons, Madrid 2005 (3rd ed.). See p. 24.

[7] Maurizio Fioravanti. *Constitucionalismo. Experiencias históricas y tendencias actuales.* Trotta. Madrid 2014. Especially p. 17.

[8] Jaume Vicens Vives. *Notícia de Catalunya*. Proa, Barcelona 1999 [1960 ed]. See especially pp. 90-91, where Vicens Vives compares the political systems of the old regime in England and Catalonia.

[9] John H. Elliott. *La revolta catalana, 1598-1640. Un estudi sobre la decadència d'Espanya.* Publicacions de la Universitat de València, Valencia 2006 [1st ed. 1963]. I specifically cite pp. 66-67.

[10] Joan-Pau Rubiés. 'La idea del gobierno mixto y su significado en la crisis de la Monarquía Hispánica'. *Historia Social,* 24 (1996), pp. 57-81. See p. 61.

[11] Víctor Ferro. *El Dret Públic Català. Les Institucions a Catalunya fins al Decret de Nova Planta*. Eumo Editorial, Vic 1987. See p. 430.

[12] Eva Serra i Puig. 'El sistema constitucional català i el dret de les persones entre 1702 i 1706'. *Butlletí de la Societat Catalana d'Estudis Històrics,* XXVI (2015), pp. 47-63. See pp. 49-50.

[13] Joaquim Albareda. 'Les Corts de 1701-1702 i 1705-1706. La represa del constitucionalisme'. In: *Constitucions, Capítols i Actes de les Corts de 1701-1702 i 1705-1706*. Generalitat de Catalunya – Departament de Justícia, Barcelona 2004, pp. XVII-XLV. I refer to pp. XVI-II. Likewise, Hèctor López Bofill. *Constitucionalisme a Catalunya. Preludi de modernitat.* Tria, Barcelona 2009.

[14] Josep Capdeferro i Pla, Eva Serra i Puig. *El Tribunal de Contrafaccions de Catalunya i la seva activitat (1702-1713).* Parlament de Catalunya – Departament de Justícia, Barcelona 2015. I cite pp. 41-42. This wonderful synthesis reveals the contradictions inherent in old regime societies. However, some heedless authors do not seem aware of it, as gleaned from reading Andrew Dowling. *Catalonia: A New History.* Routledge, Abingdon Oxon – New York 2023. See p. 61. Regardless of whether the confusion is due to ignorance of the preceding historiographic tradition or academic bad faith (cherry-picking), continuing to uphold certain viewpoints today is certainly worrisome.

[15] Antoni Simon i Tarrés. 'The Medieval Legacy: Constitutionalism versus Absolutism. The Case of Catalonia'. In: *The Crown of Aragon. A Singular Mediterranean Empire*. Ed. Flocel Sabaté. Brill, Leiden-Boston 2017, pp. 459-483.

[16] Ricard Torra i Prat. 'Repressió institucional i Constitucionalisme vindicat: les ambaixades de la Diputació del General a Felip II durant el bienni de 1594-1596'. *Afers, fulls de recerca i Pensament,* 86 (2017), pp. 221-248.

[17] Tomàs de Montagut i Estragués, Pere Ripoll Sastre. 'El pactisme a Catalunya: una concepció dual de la comunitat política'. *Revista de Dret Històric Català,* 20 (2021), pp. 189-210. The quotes are from pp. 194-195.

[18] Jesús Villanueva. *El concepto de soberanía en las polémicas previas a la Revuelta Catalana de 1640.* Doctoral thesis. Universitat Autònoma de Barcelona 2002. I refer to p. 13.

[19] Eva Serra i Puig. 'Butlletí bibliogràfic sobre les Corts Catalanes'. *Arxiu de Textos Catalans Antics,* 26 (2007), pp. 663-738. See pp. 683-684. Constitutions 14 and 23/1283 in *CYADC*, pp. 37 and 43, respectively.

[20] Josep M. Pons Guri. 'El dret comú a Catalunya'. In: *Recull d'estudis d'història jurídica catalana, vol. IV*. Ed. Josep M. Pons Guri. Fundació Noguera, Barcelona 2006, pp. 65-88. See pp. 73-75.

[21] *CYADC*, pp. 44-45.

[22] Regarding the grievance procedure, see: Oriol Oleart. *Els greuges de cort a la Catalunya del segle XVI.* Doctoral thesis. Universitat de Barcelona 1992.

[23] Ricard Torra-Prat. 'El judici de taula. El procediment del *sindacato* en el marc del dret públic català, segles XII-XVIII'. *Revista Catalana de Dret Públic*, 67 (2023), pp. 255-268. I refer to p. 258.

[24] Víctor Ferro. *El Dret Públic Català,* p. 430; Joan-Pau Rubiés. 'El Constitucionalisme català en una perspectiva europea: conceptes i trajectòries, segles XV-XVIII'. *Pedralbes, revista d'història moderna,* 18-2 (1998), pp. 453-474. I refer to p. 465; Antoni Simon i Tarrés. *Els orígens ideològics de la revolució catalana de 1640.* Publicacions de l'Abadia de Montserrat, Barcelona (1999). I cite pp. 45-46; Eva Serra i Puig. 'El sistema constitucional català', pp. 49-50.

[25] Jaume Vicens Vives. *Notícia de Catalunya,* p. 92. On the influence of Eiximenis' thinking on subsequent authors, see Josep Hernando. 'Obres de Francesc Eiximenis en biblioteques privades de la Barcelona del segle XV'. *Arxiu de Textos Catalans Antics,* 26 (2007), pp. 385-568.

[26] Eduard Juncosa Bonet. 'Pensar el pacto en la Corona de Aragón: Francesc Eiximenis y el *Dotzè del crestià*'. In: *Avant le contrat social… Le contrat politique dans l'Occident médiéval (XIIIè-XVè siècle)*. Ed. François Foronda. Publications de la Sorbonne, Paris 2011, pp. 451-480. See pp. 461-462. Regarding chapters CLXI and CLXII of *Lo Crestià:* Francesc Eiximenis. *Dotzè lli-*

bre del Crestià, I, 1. Universitat de Girona – Diputació de Girona, Girona 2005. Specifically pp. 347-350.

[27] Jesús Villanueva. *El concepto de soberanía,* p. 155; Antoni Simon i Tarrés. 'The Medieval Legacy', p. 464.

[28] '*Sa Magestat ve a ésser Senyor y Compte de Barcelona y Príncep de Cathalunya per successió a sos majors en execució y virtut de aquells primers pactes que foren fets ab lo primer senyor, aprés de perduda Espanya, los quals constitueixen los fonaments inviolables, y són les lleys fundamentals del Principat*' [The king is the lord and count of Barcelona and prince of Catalonia as the legitimate heir of the throne and due to the first pacts agreed with the first lord, after Spain was lost, which constitute the sacred bedrock and fundamental laws of Catalonia]. Felip Vinyes. *Memorial dels fonaments, y motius ab los quals se prova hi·s justifica que la nominació y deputació de Lloctinent General per a exercir jurisdicció en lo Principat de Cathalunya, Comtats de Rosselló y Cerdanya, no té lloch abans de haver jurat sa Magestat en la Ciutat de Barcelona*. Barcelona 1622, ff. 2v-3. Biblioteca de Catalunya (BC), F. Bon, 13.

[29] See Francesc Eiximenis' opinion: '*Qual hom se pot pensar que quant les comunitats se començaren a ordonar en lo començament del món, que les gents, qui lavors eren puralment franques e sens tota senyoria, fahessen tanta oradura que, simplement e sens tot pati, se posassen en mans d'un hom qui fos lur senyor, axí que ell pogués fer d'ells alt e baix, e·ls pogués auciure de destrovir a tota sa voluntat e·ls tractàs axí com fahera d'un moltó o un tros de fust! […] Donchs per força covench que la senyoria fos elegida e posada en alt sobre la comunitat per tal que la cosa pública fos per aquella mantenguda, e defesa e posada en millor estament que no era si fos sens senyoria*' [Who could even dare to imagine that when communities first gathered at the beginning of the world, their people, who were at that time purely free and without any lordship, would be stupid enough to give themselves up to a lord without any pact so said lord could organise their estate, decide over their lives, impose destruction and treat them as if they were sheep or a piece of wood! (…) Thus, I agree that such a lordship had to be elected and rise to the top of the community so that he would protect and maintain the public community in better shape than if it was not under the rule of a lord]. Francesc Eiximenis. *Dotzè llibre del Crestià,* I, 1, pp. 347-348.

[30] A good overview of the history of the Diputació del General in: Teresa Ferrer i Mallol (Dir.), Josep M. Roig Rosich (Coord.). *Història de la Generalitat de Catalunya: dels orígens medievals a l'actualitat, 650 anys.* Institut d'Estudis Catalans – Generalitat de Catalunya, Barcelona 2012.

[31] Pere Ripoll Sastre. *Llibre de Vuit Senyals (fifteenth century): An Edition, Legal and Comparative Study.* Doctoral thesis, Universitat Pompeu Fabra 2018. I refer to p. 21.

[32] Gabriel Turell. *Recort*. Editorial Barcino, Barcelona 1950. The quote is on p. 199. 'He is an elected king, and therefore he has to observe the liberties, which he already swore before his assumption'. 'Those who are born kings can make laws as they please, and what they give is due to their mercy; however, those kings who are elected have to comply with the existent legislation, and they have to observe it since they accept the rulership with its preconditions and through pacts. And because of this reason, their heirs are also obliged to observe the aforementioned things'.

[33] Jaume Sobrequés i Callicó. 'El pactisme en l'origen de la crisi política catalana: les Corts de Barcelona de 1413'. In: *Les Corts a Catalunya. Actes del Congrés d'Història Institucional.* Generalitat de Catalunya – Departament de Cultura, Barcelona 1991. I refer to p. 80.

[34] Maria Teresa Ferrer i Mallol. 'El naixement de la Generalitat de Catalunya (1359-1413)'. In: *Història de la Generalitat de Catalunya,* pp. 19-42. See p. 40.

[35] Constitution 27/1422 in *CYADC,* pp. 45-46.

[36] Tomàs de Montagut Estragués, Pere Ripoll Sastre. 'El pactisme a Catalunya', p. 200.

[37] Cited by Josep Maria Gay Escoda. 'La creació del dret a Corts i el control institucional de la seva observança'. In: *Les Corts a Catalunya,* pp. 86-96. See p. 92.

[38] Jesús Villanueva. *El concepto de soberanía,* pp. 24-26.

[39] On this conflict, see: Alan Ryder. *The Wreck of Catalonia. Civil War in the Fifteenth Century*. Oxford University Press, Oxford 2007; Laura Miquel Milian. *La Guerra Civil Catalana i la crisi financera de Barcelona durant el regnat de Joan II (1458-1479)*. Doctoral thesis. Universitat de Barcelona 2020.

[40] Imma Muxella Prat. *La Terra en guerra. L'acció de les institucions durant el regnat de Renat d'Anjou (1466-1472)*. Doctoral thesis. Universitat de Barcelona 2013. See pp. 622-623.

[41] *CYADC,* pp. 46-47.

[42] *CYADC,* p. 47.

[43] *CYADC,* pp. 47-50.

[44] The procedure of *insaculació* was introduced in the Diputació del General in the 1493 Parliament of Barcelona. Cfr. Eva Serra i Puig. 'Introducció. La insaculació i els llibres de l'ànima de la Generalitat'. In: *Els llibres de l'ànima de la Diputació del General de Catalunya (1493-1714).* Vol. 1. Coord. Eva Serra i Puig. Institut d'Estudis Catalans, Barcelona 2015, pp. 7-55. See pp. 28-31. In the municipal government of Barcelona, the reform took place in two phases, in 1493 and 1498. Cfr. Núria Florensa i Soler. 'La insaculació pactada. Barcelona 1640'. *Pedralbes, revista d'història moderna,* 13-1 (1993), pp. 447-455. See p. 447.

[45] Antoni Simon i Tarrés. *Construccions polítiques i identitats nacionals. Catalunya i els orígens de l'estat modern espanyol.* Publicacions de l'Abadia de Montserrat, Barcelona 2005. I quote from p. 145.

[46] Antoni Simon i Tarrés. 'The Medieval Legacy', pp. 459-460.

[47] Víctor Ferro. *El Dret Públic Català,* p. 440.

[48] Àngel Casals. *L'Emperador i els catalans. Catalunya a l'Imperi de Carles V (1516-1543).* Editorial Granollers, Granollers 2000. See pp. 250-252.

[49] Jordi Buyreu Juan. *Institucions i conflictes a la Catalunya moderna. Entre el greuge i la pragmàtica (1542-1564).* Rafael Dalmau Editor, Barcelona 2005. See pp. 450-454.

[50] Àngel Casals. *L'Emperador i els catalans*, p. 250.

[51] Joan Bada Elias. *La Inquisició a Catalunya (segles XIII-XIX)*. Barcanova, Barcelona 1992. Especially pp. 69-71. Miquel Pérez Latre. *Entre el rei i la terra. El poder polític a Catalunya al segle XVI.* Eumo, Vic 2003. See pp. 163-164.

[52] Doris Moreno Martínez. *Representación y realidad de la Inquisición en Cataluña. El conflicto de 1568.* Doctoral thesis, Universitat Autònoma de Barcelona 2002. I quote from pp. 550-551. Another publication that is essential in tracing this episode is Miquel Pérez Latre. *La Generalitat de Catalunya en temps de Felip II. Política, administració i territori.* Afers, Catarroja-Barcelona 2004. Specifically pp. 90-101.

[53] Miquel Pérez Latre. *Entre el rei i la terra,* p. 113.

[54] Ernest Belenguer. 'Pròleg: la Generalitat en la cruïlla dels conflictes jurisdiccionals (1578-1611)'. In: *Dietaris de la Generalitat de Catalunya,* vol. III. Generalitat de Catalunya, Barcelona 1996, pp. IX-XLVI. See p. X.

[55] Miquel Pérez Latre. *Entre el rei i la terra,* p. 175.

[56] Miquel Pérez Latre. *Entre el rei i la terra,* pp. 181-222.

[57] Quoted by Ricard Torra i Prat. 'Repressió institucional i constitucionalisme vindicat. Les ambaixades de la Diputació del General a Felip II durant el bienni de 1594-1596'. *Afers. Fulls de recerca i pensament*, 86 (2017), pp. 221-248. I refer to pp. 238-239.

[58] Charles H. McIlwain. *Constitucionalismo antiguo y moderno*, p. 142.

[59] Ricard Torra i Prat. 'Repressió institucional i constitucionalisme vindicat', pp. 238-246.

[60] Jesús Villanueva. *El concepto de soberanía,* pp. 32-37.

[61] Ernest Belenguer. 'La legislació político-judicial de les Corts de 1599 a Catalunya'. *Pedralbes, revista d'història moderna,* 7 (1987), pp. 9-28. See p. 14.

[62] Víctor Ferro. *El Dret Públic Català*, p. 305; Josep Capdeferro i Pla, Eva Serra i Puig. *El Tribunal de Contrafaccions,* p. 39.

[63] Constitutions 1/1599 and 16/1599 in *Constitutions fetes per la S.C.R. Magestat del Rey don Phelip Segon, Rey de Castella, de Aragó, etc. en la primera Cort celebrà als cathalans en la ciutat de Barcelona en lo Monastir de S. Francesch en lo any 1599*. Gabriel Graells and Giraldo Dotil, Barcelona 1603, ff. 1r-1v and 6v, respectively.

[64] Miquel Pérez Latre. *Entre el rei i la terra,* p. 251.

[65] See, respectively: Ricard Torra-Prat. 'De la teoría a la práctica: la Visita de los oficiales reales en Cataluña, 1635-1711'. *Memoria y civilización,* 22 (2019), pp. 263-287; Ricard Torra i Prat. *Anticorrupció i pactisme. La Visita del General de Catalunya (1431-1714).* Afers, Barcelona-Catarroja 2020.

[66] 'Diari de Frederic Despalau (1572-1600)'. In: *Cavallers i Ciutadans a la Catalunya del Cinc-cents.* Overseen by Antoni Simón i Tarrés. Curial, Barcelona 1991, pp. 100-177. I refer to p. 172.

[67] Josep Capdeferro i Pla, Eva Serra i Puig. *El Tribunal de Contrafaccions,* p. 45.

[68] Cited by per Antoni Simon i Tarrés. *Construccions polítiques i identitats nacionals,* pp. 141-142.

[69] Ernest Belenguer. 'Pròleg: la Generalitat en la cruïlla', p. XXXVI.

[70] Ricard Torra i Prat. *Anticorrupció i pactisme,* pp. 81-84.

[71] Joan Pere Fontanella, *Per los Diputats del General de Cathalunya, en defensa de la resolutió presa en la Diputació y Casa de la Ciutat acerca la assistèntia que·s pretenia avien de fer al jurament de Lloctinent General, provehit per sa magestat ans de jurar*, Barcelona 1622. BC, F. Bon, 12, ff. 2r-2v. Cited by Antoni Simon i Tarrés. *Els orígens ideològics,* p. 126.

[72] Flocel Sabaté. 'El temps de Francesc Eiximenis. Les estructures econòmiques, socials i polítiques de la Corona d'Aragó a la segona meitat del segle XIV'. In: *Francesc Eiximenis (c. 1330-1409): el context i l'obra d'un gran pensador català medieval.* Coord: Antoni Riera i Melis. Institut d'Estudis Catalans, Barcelona 2015, pp. 79-166. See p. 165.

[73] Andreu Bosch. *Summari, índex o epítome dels admirables y nobilíssims títols de honor de Cathalunya, Rosselló y Cerdanya*. Pere Lacavalleria Estamper, Perpignan 1628. See p. 162.

[74] Jesús Villanueva. *El concepto de soberanía,* pp. 254-255.

[75] Josep Capdeferro i Pla, Eva Serra i Puig. *El Tribunal de Contrafaccions,* p. 47.

[76] Josep Capdeferro i Pla, Eva Serra i Puig. *El Tribunal de Contrafaccions,* p. 48.

[77] John H. Elliott. *La revolta catalana,* p. 291.

[78] John H. Elliott. *La Revolta catalana,* pp. 304-308. Antoni Simon i Tarrés. *Els orígens ideològics,* pp. 140-152.

[79] Ricard Torra-Prat. 'De la teoría a la práctica', pp. 275-279.

[80] Felip Vinyes. *Puntos en respuesta de la relación que se ha impreso por los Diputados del General de Cataluña sobre los procehimientos hechos en Mataró y en la Real Audiencia, a instancia del procurador fiscal de la Capitania General de Cataluña*. Barcelona 1639. Cited by Antoni Simon i Tarrés. *Els orígens ideològics*, p. 157.

[81] Francesc Martí Viladamor. *Praesidium inexpugnabile Principatus Cataloniae. Pro iure eligendi Christianissimum Monarcam. Historia, Politica et Iurisprudentia omni umque divinarum, et humanarum rerum armis munitissimum. In que gravitores ac magis arduae. Regum et Principum disquisitiones, pro Catalonia et Barcinona*. Barcelona 1644. See chapter 22. Cited by Antoni Simon i Tarrés. *Els orígens ideològics*, p. 266.

[82] Acaci de Ripoll. *Regaliarum tractatus eminentissimo et reverendissimo Alexandro Bichio episcopo carpectoracten. s.r.e. cardinali dicatus*. Gabriel Nogués, Barcelona 1644. See chapter 3. Cited by Jesús Villanueva. *El concepto de soberanía*, p. 39.

[83] Joan Reglà. *Els virreis de Catalunya.* Teide, Barcelona 1956. I refer to pp. 159-171.

[84] For example: John H. Elliott. *La España Imperial, 1469-1716.* Vicens Vives, Barcelona 1965. See pp. 391-404.

[85] Fernando Sánchez Marcos. 'El autogobierno perdido en 1652: el control por Madrid de la vida política de Cataluña durante el virreinato de don Juan de Austria (1653-1656)'. *Pedralbes, revista d'història moderna,* 2 (1982), pp. 101-125; Fernando Sánchez Marcos. *Cataluña y el gobierno central tras la Guerra de los Segadores (1652-1679).* Publicacions i edicions de la Universitat de Barcelona, Barcelona 1983.

[86] Following are examples but not an exhaustive list: Josep M. Torras i Ribé. 'El control polític de les insaculacions del Consell de Cent de Barcelona (1652-1700)'. *Pedralbes, revista d'història moderna*, 13-1 (1993), pp. 457-468; Eva Serra i Puig. 'Catalunya després del 1652: recompenses, censura i repressió'. *Pedralbes, revista d'història moderna,* 17 (1997), pp. 191-216; Eva Serra i Puig. 'El pas de rosca en el camí de l'austriacisme'. In: *Del patriotisme al catalanisme: societat i política (segles XVI-XIX).* Ed: Joaquim Albareda. Eumo, Vic 2001, pp. 71-103; Eduard Puig Bordera. *Intervenció reial i resistència institucional: el control polític de la Diputació del General de Catalunya i el Consell de Cent de Barcelona (1654-1705).* Doctoral thesis. Universitat Pompeu Fabra 2011; Antoni Simon i Tarrés. *Del 1640 al 1705. L'autogovern de Catalunya i la classe dirigent catalana en el joc de la política internacional europea.* Publicacions de la Universitat de València, Valencia 2011. Especially pp. 61-97.

[87] This tax was introduced by the Diputació del General during the Reapers' War with the goal of financing the war against the Spanish monarchy of Philip IV. Cfr. Antoni Simon i Tarrés. 'L'estatus de Barcelona després de la Pau dels Pirineus, presidi o ciutadella?' *Estudis: revista de historia moderna*, 32 (2006), pp. 237-262. The tax was ultimately returned to the Diputació, dovetailing with the 1701-1702 Parliament of Barcelona. Cfr. Joaquim Albareda. 'Les Corts de 1701-1702 i 1705-1706', p. XXVII.

[88] Fernando Sánchez Marcos. *Cataluña y el gobierno central,* pp. 61-62.

[89] Ricard Torra i Prat. 'La reconfiguración del espacio político catalán a partir de 1652: ¿Hacia un constitucionalismo más ficticio que real?' *MAGALLÁNICA, Revista de Historia Moderna*, 4/8 (2018), pp. 157-180.

[90] *Dietaris de la Generalitat de Catalunya*, vol. VI, Generalitat de Catalunya, Barcelona 2000. See p. 1223.

[91] The decree is reproduced in: Eva Serra i Puig (Coord.). *Els llibres de l'ànima de la Diputació,* pp. 90-99.

[92] Jesús Villanueva. *El concepto de soberanía,* pp. 261 and forward.

[93] Antoni Simon i Tarrés. *Del 1640 al 1705*, p. 79-80.

[94] Ricard Torra i Prat. *Anticorrupció i pactisme,* pp. 149-166.

[95] ACA, Consell d'Aragó, bundle 243. Report inserted in a letter dated 11 April 1665. Cited by Ricard Torra i Prat. *Anticorrupció i pactisme,* pp. 151-152.

[96] See, respectively: Eduard Martí Fraga. *El Braç Militar de Catalunya (1602-1714).* Publicacions de la Universitat de València, Valencia 2016; Eduard Martí Fraga. *La Conferència dels Tres Comuns (1697-1714). Una institució decisiva en la política catalana.* Fundació Ernest Lluch – Pagès Editors, Barcelona 2009. The Conferència dels Tres Comuns was a gathering of the representatives of the three main Catalan political institutions in the last few decades of the seventeenth century: the Diputació del General, the Consell de Cent and the Braç Militar. The Braç Militar de Catalunya was the institution that defended and gathered the secular Catalan noblemen and should not be confused with the military estate in the Parliament (also called the *braç militar*, or military branch).

[97] Jaume Dantí Riu. 'Catalunya entre el redreç i la revolta: afebliment institucional i diferenciació social'. *Manuscrits. Revista d'Història Moderna,* 30 (2012), pp. 55-76. I mention p. 56. The importance of the constitutional issue in the demands of the *barretines* has also been highlighted by Antoni Simon i Tarrés. *Del 1640 al 1705,* p. 167. Eduard Puig Bordera. *Intervenció reial i resistència institucional,* pp. 278-279; Eva Serra i Puig. 'La Generalitat de Catalunya entre 1652 i 1700'. In: *Història de la Generalitat,* pp. 199-219. See pp. 211-214; Héloïse Hermant. 'Combattre par la plume: les écrits politiques soutenant la révolte des barretines (1687-1690)'. *Caplletra,* 57 (2014), pp. 193-214. I refer to p. 205.

[98] Josep Capdeferro i Pla, Eva Serra i Puig. *El Tribunal de Contrafaccions,* p. 49.

[99] Antoni Simon i Tarrés. 'The Medieval Legacy', p. 472.

[100] Antoni Simon i Tarrés. *Del 1640 al 1705,* pp. 250-255.

[101] Eva Serra i Puig. 'El debat de la vicerrègia (1700-1701): baralla judicialista o conflicte polític?' *Revista de Dret Històric Català,* 7 (2007), pp. 135-148. See p. 148.

[102] Jaume Bartrolí Orpí. 'La cort de 1701-1702: un camí truncat'. *Recerques: història, economia, cultura,* tal (1979), pp. 57-75.

[103] Josep Capdeferro i Pla, Eva Serra i Puig. *La defensa de les constitucions de Catalunya: el Tribunal de Contrafaccions (1702-1713).* Generalitat de Catalunya-Departament de Justícia, Barcelona 2014. See pp. 40-41.

[104] Ricard Torra i Prat. *Anticorrupció i pactisme,* pp. 184-186.

[105] Eduard Martí has highlighted the distance between the pacts reached between Philip V and the estates in the 1701-1702 Parliament and the monarchical institutions' political practice once the assembly was over. In this sense, the following hotspots of political tension have been identified: the composition of the Tribunal de Greuges; Cardinal Portocarrero's general governance; the attempt to expel Arnold Jäger; the Diputació del General's constant complaints about the entry of cloth for the monarchs' clothing without paying the corresponding taxes; the fraud committed by the French merchants to avoid the deputies' inspection; problems related to billeting soldiers; exertion of control over the

insaculacions without known cause; illegal lumber exports, presumably by the monarchy; the delay and difficulties of printing the Constitutions; and the refusal to hand over control over the *Nova Ampra* law to the Generalitat, even thought this pact had been reached in the Catalan Parliament. Cfr. Eduard Martí Fraga. 'La Diputació del General sota Felip V i Carles III, l'arxiduc (1700-1714)'. In: *Història de la Generalitat,* pp. 221-242. I refer to pp. 223-224.

[106] Ricard Torra i Prat. *Anticorrupció i pactisme,* pp. 200-204. Court Chapters 83, 84 and 85/1706 deal with the design of the Tribunal de Contrafaccions agreed to in the 1705-1706 Parliament. *Constitucions, capítols i actes de Cort. 1701-1702. 1705-1706.* Parlament de Catalunya – Generalitat de Catalunya, Barcelona 2006. See pp. 128-143.

[107] Josep Capdeferro i Pla, Eva Serra i Puig. *La defensa de les constitucions de Catalunya,* pp. 70-74.

Biographical note

Ricard Torra-Prat is a Beatriu de Pinós postdoctoral researcher at the Universitat Autònoma de Barcelona. He was previously a María Zambrano postdoctoral researcher at the Universitat Autònoma de Barcelona and an Alexander von Humboldt postdoctoral researcher at the Ludwig-Maximilians-Universität München. He is the author of *Anticorrupció i pactisme. La Visita del General de Catalunya (1431-1714)* (Afers, 2020) and co-editor with Joan Pubill-Brugués and Arndt Brendecke of *Corruption, Anti-Corruption, Vigilance, and State Building from Early to Late Modern Times* (Routledge, 2024). He has also published more than twenty book chapters and articles in journals like *Journal of Medieval Iberian Studies* and *Social History*.