

## The 'feudal revolution' and the origins of Italian city communes

Chris Wickham

I want here to take two major moments of social change in central medieval Europe, the 'feudal revolution' in France and the origins of Italian city communes, and see what they have in common. They are superficially very different, one rural one urban, and also one whose analysts focus on the breakdown of political power and the other on its construction or reconstruction; but some of that differentiation is because each has a considerable protective colouring which derives from their separate importance for two different national grand narratives, of France and Italy. In fact, they have more similarities than you might think. The first has often been denied to have occurred, the second never; but I would argue, and will argue here, that the second strengthens some of the arguments for the first – as well as making it less specific, less focussed on a French problematic, and, indeed, on a problematic which has often seemed to make sense only in France. I will, however, talk more here about Italy than about France, for it is my expertise, and anyway the French experience is better known in the English-speaking world.<sup>1</sup>

The debate about the 'feudal revolution' in France and its neighbours around the year 1000 and, more widely, in the eleventh century has been going on for over twenty years now.<sup>2</sup> It could be posed as an important and fecund one, as it has gone on so long; but it could also be thought of as tired, with most of its positions reiterated a dozen times. A case for the latter position can easily be made, in fact; it is not chance that many of its major protagonists, such as Thomas Bisson and Dominique Barthélemy, have more

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<sup>1</sup> I am grateful to Simone Collavini, Maria Elena Cortese, Alessio Fiore and Charles West for critiquing this text.

<sup>2</sup> Useful historiographical guides (none of them, of course, neutral) include C. Lauranson-Rosaz, 'Le débat sur la mutation féodale', in *Europe around the year 1000*, ed. P. Urbanczyk (Warszawa, 2001), 11-40; S. MacLean, 'Apocalypse and revolution: Europe around the year 1000', *Early medieval Europe*, 15 (2007), 86-106; D. Barthélemy, *The serf, the knight and the historian*, trans. G. R. Edwards (Ithaca, NY, 2009), 1-11, 302-13; C. West, *Reframing the feudal revolution* (Cambridge, 2013), 1-9.

recently focussed their attention elsewhere.<sup>3</sup> But a case can also be made for coming back to the debate as well, because it genuinely did place in centre stage some basic problems about how to understand medieval social structures and medieval social change which are very far from being resolved; recent and innovative work by some people who were not involved in the debate at its high-point, the 1990s, also allows us to reframe some of its parameters in fruitful ways.<sup>4</sup>

Briefly, what the debate has been about is the real underpinnings of the breakdown of political power which was so much a feature of the history of France in the tenth and eleventh centuries. Georges Duby argued in the 1950s, in an argument which was reformulated in 1980 in an influential book by Éric Bournazel and Jean-Pierre Poly, that the major change was not the collapse of royal power in the early tenth century in 'West Francia' – the western third of Charlemagne's empire, and the ancestor of modern France – because the rights of kings were simply devolved to the twenty-odd dukes and counts whose local territories made up the kingdom; rather, it was the break-up of the territories of (most of) these counts into a myriad of castle territories, a century later, which marked the real socio-political shift.<sup>5</sup> The rulers of these castle territories, 'castellans' or simply 'lords', ruled their territories using the 'banal' powers which they had usurped from kings and counts – rights of justice, rights to take dues of all kinds from the territories subject to them, whether they owned those particular lands or not – but, once power had been privatised in this way into the *seigneurie banale*, 'banal lordship', it changed form. The old public world dissolved. Justice, for example, became less of a formalised (again, 'public') process, with the assignment of victory and defeat to litigants, as it had been up to 1000 or so, and in seigneurial courts was often replaced by arbitration, reaching peace by compromise rather than the rule of law. Personal bonds everywhere replaced official roles. A new stratum took effective power, a very small-scale aristocracy of *milites*, whose ancestors might have often been noble cadets, but also often no more than fighters in counts' clientèles, and in some cases men of rich peasant origin. They would have been unrecognisable to the 'imperial aristocracy' of Charlemagne's time, who had dozens of estates each and neither needed nor wanted to control the

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<sup>3</sup> T. N. Bisson, *The crisis of the twelfth century* (Princeton, 2009), is not really about the 'feudal revolution' but about its aftermath in the late eleventh and twelfth centuries; Barthélemy has become more interested in the Peace of God and knighthood (see, among others, *Chevaliers et miracles*, Paris, 2004).

<sup>4</sup> West, *Reframing the feudal revolution*; Mark Whittow is also preparing a book on this subject.

<sup>5</sup> G. Duby, *La société aux XIe et XIIe siècles dans la région mâconnaise*, 2<sup>nd</sup> edn (Paris, 1971), esp. 137-90; J.-P. Poly and É. Bournazel, *La mutation féodale, Xe-XIIe siècles* (Paris, 1980).

peasantry with the oppressive detail which a castellan both could and had to use to keep control of his much smaller-scale lands, around his castle. The appearance of this stratum as major political players was what constituted the 'revolution' of the period, if anything did (and you may well think that it was therefore not a very happy word; indeed, opinion has always veered between using 'revolution' and preferring 'mutation' or 'transformation' – although some people think a mutation is a greater change than a revolution, and some think the opposite). But the way that power was refigured with respect to both the level of the kingdom/county and the level of lord-peasant relations marked an enormous structural change, only reversed by patient processes of reconstruction on the part of kings and major regional leaders from the late twelfth century onwards.

Everything about this formulation has been contested. Did this 'revolution' only take place in parts of France (including Catalonia and Flanders, then part of West Francia), or did it have analogues and parallels elsewhere? Was the early eleventh century really a more serious break than the early tenth? How sharp a change was it, over a couple of decades (i.e. fast and violent), or over a century (i.e. slow and sometimes imperceptible)? Did it bring with it a larger degree of local violence, as the new lords established themselves at the expense of both counts above and the peasantry below, as well as against their peers and rivals, or did it not, either because the Carolingian period before it was just as violent and domineering, or else because eleventh-century violence was more targeted and strategic than contemporary complaints, normally rhetorical and self-seeking, would suggest? Indeed, how far does the linguistic turn enable us to recognise the degree to which many of the 'changes' of the period were simply the results of different narrative strategies? How did these changes relate to the history of serfdom, or to the Peace of God? Did justice really change in its form after 1000, with new castellan courts, or did they replicate previous practices? Is the distinction between 'public' and 'private' of any analytical value in this period? Were banal dues really more oppressive than their equivalents had been under the Carolingians, or is it just that people talked about them more? Were the practical exercise of lordship, and lordly values such as honour, so regular between the ninth century (at the latest) and the twelfth that the whole period could best be seen in a frame of near-total continuity? Was there in general any real difference, apart from scale, between a single castellany in the eleventh century and a kingdom two hundred years earlier? And all this without even

starting on the troubled word 'feudal' and all its various meanings; but these questions will do to give a sense of the issues involved.<sup>6</sup>

I got involved in these debates myself, partially because I was annoyed at the Francocentricity of many of the participants, and also at the tendency of many of them to generalise on the basis of the single region they knew well and to forget the issue of local difference even inside France; partly because I was very interested in how land disputes worked, and I could indeed see differences there between a 'before' and an 'after'; partly because the debate, however skewed it sometimes became, did seem to me to be about important structural issues.<sup>7</sup> And it still does. The opponents of 'mutationism' have recently several times announced that they won, but for my part I still see Carolingian royal and aristocratic power as genuinely distinct from that exercised by castellans, focussed as the latter came to be on castles, points of bounded power in the landscape, rather than on the wider and less structured domination which greater lords can often get away with – even if the new lords were not all as violent as has been claimed, and even if their sense of honour and their political stage-management (Gerd Althoff's *Inszenierung*) had not changed so very much.<sup>8</sup> I found this in lordships (*signorie*) in Italy – where the echoes of this debate have not, in fact,

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<sup>6</sup> See esp., beyond the citations in n. 2, D. Barthélemy, *La mutation de l'an mil a-t-elle eu lieu?* (Paris, 1997), 13-28 and R. E. Barton, *Lordship in the county of Maine c.890-1160* (Woodbridge, 2004) (both against); the debate between T. N. Bisson and several commentators in *Past and present*, 142 (1994), 6-42, 152 (1996), 196-223, 155 (1997), 177-225; J.-P. Poly and É. Bournazel, *Les féodalités* (Paris, 1998) – only a small number of the contributions, but perhaps the main ones which stand now to represent it.

<sup>7</sup> My own contributions included 'Debate: the "feudal revolution"', *Past and present*, 155, 196-208; and 'Property ownership and signorial power in twelfth-century Tuscany', in *Property and power in the early middle ages*, ed. W. Davies and P. Fouracre (Cambridge, 1995), 221-44 (partially reprising 'La mutación feudal en Italia', in *Los orígenes del feudalismo en el mundo mediterráneo*, Granada, 1994, 31-55), as the most focussed examples, but reading through my 1990s articles I find echoes of the debate in many other pieces too.

<sup>8</sup> G. Althoff, *Spielregeln der Politik im Mittelalter* (Darmstadt, 1997) discusses the tenth and eleventh centuries, idem, *Die Macht der Rituale* (Darmstadt, 2003), 38-67 discusses the ninth, and 68-135 the tenth-eleventh again, in less detail. The analyses are developed in, among others, C. Pössel, *Symbolic communication and the negotiation of power at Carolingian regnal assemblies, 814-840*, University of Cambridge, PhD thesis, 2003, and West, *Reframing the feudal revolution*, 87-95.

been strong at all – quite as much as in France.<sup>9</sup> I argued then, and would still argue, that what marked this change was that local practices of domination, which had always existed informally in the countryside but had been regarded as illegal by legislators (including the Carolingians, but not only them), henceforth, after 1000 (or 1050, or 1100, depending where one was), *constituted* legality. A long-standing dialectic inside power-relations on the ground between the legal and the technically illegal therefore became much weaker. I also argued, and would still argue, that what I will call the formalisation of power on the ground, the greater boundedness of all its elements, what Robert Fossier called *encellulement*, became much greater after 1000/1050/1100, precisely to make up for the break-up of formal power at the level of the kingdom.<sup>10</sup> Charles West in an important recent book has developed this latter point very effectively, in a study of the French-German borderlands, Champagne and Lorraine, between the Marne and the Moselle: he shows how the new *seigneuries banales* were indeed distinguished from the past by a formalisation of justice and other political rights, of local power itself, in such a way that they became in themselves forms of property, which could be (and occasionally were) alienated as a whole or in bits to other lords; he proposes furthermore, more radically, that this was not only an intensification of the local oppressiveness of Carolingian practical power relations but also, particularly in the sharpening of concepts of property and

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<sup>9</sup> Italian historiography, even the strong contribution made to it by French scholarship, has in general been much less interested in the debate: François Menant, for example, who is of course fully aware of it, as his *thèse* shows (*Campagnes lombardes au moyen âge* [Roma, 1993], e.g. 563), does not even mention it in his important synthesis 'La féodalité italienne entre XIe et XIIIe siècles', *Settimane di studio*, 47 (2000), 347-87. A. Barbero, 'La polemica sulla mutazione feudale', *Storica*, 3 (1995), 73-86 (a sharp-eyed review of Barthélemy's own *thèse*) and S. Carocci, 'Signoria rurale e mutazione feudale', *Storica*, 8 (1997), 49-91 (one of the best analytical surveys of seignorial power) treated it as an essentially French, not an Italian, debate. A. Fiore, 'Dal diploma al patto', in press, is certainly what the French would call 'mutationiste' but does not refer to the French problematic (I am very grateful to the author for a copy of the text). The historiography of the *signoria* is in fact at least as developed as that on the *seigneurie*, but its focus has been different, as a glance at *Strutture e trasformazioni della signoria rurale nei secoli X-XIII*, ed. G. Dilcher and C. Violante (Bologna, 1996) (notwithstanding Barthélemy's contribution to it), or the two volumes of *La signoria rurale nel medioevo italiano*, ed. A. Spicciari and C. Violante (Pisa, 1997-8), shows. My own views are summarised in 'La signoria rurale in Toscana', in *Strutture e trasformazioni*, 343-409.

<sup>10</sup> R. Fossier, *Enfance de l'Europe* (Paris, 1982), 288.

jurisdiction, a completion of the highly theology-influenced Carolingian royal political programme itself.<sup>11</sup> I do not want to pursue this latter point, which takes me well away from my theme, but West's views about local formalised power I shall come back to later in this paper.

As to the origins of city communes in Italy, the other side of my equation: I will be talking about this in rather more detail later, but for now, the basic parameters can be set out briefly. Signorial, lordly, power developed very slowly in the countryside in Italy, more slowly and with less of an obvious crisis than in much of France, although by 1100 there were quite as many castles in Italy as in France and often more.<sup>12</sup> This is partly because of the force of Italy's cities, which were unusually large and politically influential by western European standards, not least because most major landowners lived in them, including castle-holding lords. The traditional Carolingian-style counties which the Kingdom of (north-central) Italy had as much as did France were mostly run from cities as well, and Carolingian-style collective, 'public', justice continued well into the eleventh century, as hundreds of documents for *placita*, assembly-based judicial hearings, tell us.<sup>13</sup> This fitted with the survival of royal power: this was experienced intermittently in Italy, for after 962 its holders were based in northern Germany, but it held the Kingdom together as a single unit until the wars between Henry IV and Gregory VII after 1080. Those wars were also civil wars, and they brought with them a delegitimisation of traditional power structures, as emperor and pope deposed each other and rival bishops appeared in many cities. Royal power rapidly weakened in the last decades of the eleventh century and was not revived again, apart from the grand attempt to do so by the German emperor Frederick Barbarossa in 1158-77, which failed. Urban leaders reacted by taking over

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<sup>11</sup> West, *Reframing the feudal revolution*.

<sup>12</sup> A good regional-based model for northern Italy is Menant, *Campagnes lombardes*; the other key monographic works are H. Keller, *Signori e vassalli nell'Italia delle città (secoli IX-XII)* (Ital. trans, Torino, 1995); A. A. Settia, *Castelli e villaggi nell'Italia padana* (Napoli, 1984); and the collective *La vassallità maggiore del Regno Italico*, ed. A. Castagnetti (Roma, 2001). For the frequency of castles, see for Tuscany *Castelli*, I, ed. R. Francovich and M. Ginatempo (Firenze, 2000). Tuscany however faced a sharper rural crisis because political breakdown all happened very late in the eleventh century, as we shall see later; a good local study of that is M. E. Cortese, *Signori, castelli, città* (Firenze, 2007).

<sup>13</sup> See C. Manaresi, *I placiti del <<Regnum Italiae>>*, 3 vols. (Roma, 1955-60) for almost all the texts; F. Bougard, *Le justice dans le royaume d'Italie de la fin du VIIIe siècle au début du XIe siècle* (Roma, 1995) for the basic analysis.

the running of cities themselves, and, increasingly, they did so as organised collectivities, which by the second quarter of the twelfth century were coming to be called by a new term, *commune*: city communes. When these managed to establish themselves as structured bodies, and when they took over their own rural territories as well (often, even if not always, fairly similar to the older Carolingian counties), we find ourselves in a world of city states with collective leaderships, a radically different one from the Carolingian world.<sup>14</sup>

Historians have chased the beginning of such communes by looking for the first references in each city to the word which came to be used for a member of the annually-changing communal ruling group, *consul*. This is a hopeless task, for these are in every case purely chance references, and the word 'consul' anyway did not mean an official urban ruler for some time, sometimes decades, after its first appearance in a document for the Kingdom of Italy, for Pisa in 1080-1. Rather, I would prefer to look for the slow development of the different elements of an ideal type of the early city commune, which I would characterise as consisting of: conscious urban collectivities, which included either all (male) city-dwellers or a substantial part of them, usually held together by oaths; a regularly rotating set of ruling magistracies, chosen or at least validated by that collectivity (not often in any 'democratic' way, but at any rate not chosen by superior powers such as kings or bishops); and a *de facto* autonomy of action for the city and its magistrates, including in warfare and justice, and eventually taxation and legislation – the basic elements of early and central medieval government. These appeared in different orders in different cities, although all of them characterised nearly every city of the by-now evanescent Kingdom of Italy in 1150 or so, and indeed outside it, in Venice and Rome. The crystallisation of communal government came most visibly with the development of regular communal tribunals for justice, which in most of the precocious cities was in the 1130s, although in Pisa and Genoa the date was as early as around 1110; these tribunals certainly mark a consciousness of political autonomy which was then built on more systematically later. When we reach these tribunals, the other elements of the communal ideal type can usually be found as well.<sup>15</sup>

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<sup>14</sup> Good introductions (out of several in the last decade or so) include F. Menant, *L'Italie des communes (1100-1350)* (Paris, 2005); G. Milani, *I comuni italiani* (Bari, 2005).

<sup>15</sup> I discuss this in greater detail in *Rethinking the origins of Italian city communes, 1050-1150* (Princeton, in press); see chapter 1 for the historiography (but a good recent survey is already P. Grillo, 'La frattura inesistente', *Archivio storico italiano*, 167 [2009], 673-700) and the ideal type. H. Keller, 'Gli inizi del comune in Lombardia', in *L'evoluzione delle città italiane nell'XI secolo*, ed. R. Bordone and J. Jarnut (Bologna,

Posed in these terms, the debate over the origins of Italian city communes might well seem to be an entirely different type of problematic from that concerning the development of castellan power in France, except for the obvious fact that the geographical scale of political practice had become more localised. Let us look at the experiences of some actual cities, however, to see what problems they pose, and what insights they give us as to how social development worked; these, I shall argue, have more analogies with France than might be obvious at first sight. That will give us something more concrete to handle when we come back to comparisons at the end. I will discuss two cities here as case studies, Pisa and Genoa, the two earliest-developing city communes of all as I have just said: for the kinds of problem I wish to set out are already visible in their evidence. They were not typical cities; they were both ports, the most active commercial ports of the Kingdom of Italy in fact, and, although they were fairly similar to each other, many of their experiences were not shared by their inland neighbours, even major internal commercial entrepôts like Milan and Cremona. But as far as the problems I want to set out here are concerned, they are certainly typical enough to be going on with.

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Pisa first, then. Pisa's ruling structures remained stable into the 1070s; it was part of the March of Tuscany, which was among the last of the territories of Carolingian Europe to remain governed according to more or less the same principles as had been used in the time of Charlemagne. Up to 1080, the *placitum* assembly met regularly in the city, normally in the presence of the marquis or marquise, to make judicial decisions, and the landed élite of Pisa turned out to it on a regular basis too, as witness-lists show – influential Pisans came to the assembly at Pisa, that is to say, just as influential Lucchesi turned out to similar assemblies at nearby Lucca, and so on, city by city, elsewhere too. The solid political aggregation of the Kingdom of Italy was clear here; every city had its own public political community (for, whatever problems the word 'public' may cause historians, the term *publicus* was used in our period with much the same range of meanings as

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1988), 45-70 is basic for the invisibility of communal origins. The document for Pisa in 1080-1, actually issued by a Sardinian ruler and in the Sard language, is most recently edited in *I brevi dei consoli del comune di Pisa degli anni 1162 e 1164*, ed. O. Banti (Roma, 1997), 107-8; for its dating to 1080-1 (rather than to the wider limits of 1080-5) and a good analysis, see M. Ronzani, *Chiesa e <<Civitas>> di Pisa nella seconda metà del secolo XI* (Pisa, 1996), 190-9.



it has today<sup>16</sup>), which could be called to the assembly by recognised hierarchical superiors: here the marquis, elsewhere imperial *missi* (themselves generally local élite figures) and bishops. Pisa was an unusually protagonistic city, with over half a century's worth of naval military expeditions at its back, raids of rich Muslim cities in the southern Mediterranean for the most part, but at home it was happy to be part of a political structure with very old roots. This changed after 1080, for the civil wars in Italy began, and already in 1081 Henry IV was in Pisa giving concessions to the city collectivity, the 'faithful citizens', having deposed Matilda, the ruling marquise of Tuscany and a close ally of Gregory VII. The Pisans switched back to Matilda a few years later, once Henry had left Tuscany for the last time in 1084, but Matilda did not return from her lands in northern Italy to her March for fifteen years, and, when she did, did not base herself in Pisa again; her palace would end up under the control of the commune.<sup>17</sup> There was a power vacuum in the city in the 1080s as a result; indeed, for four years there was no bishop in the city either. In 1090, however, a new bishop, the pro-Gregorian Daiberto, was asked by the city's *commune colloquium* to arbitrate on the height of tower-houses in the city. In the text of his arbitration, made with the help of 'strong and wise men', who are named, and are from the city's traditional élite, he determined the maximum height towers should in future be in the city (21 metres), and named the two towers which could remain higher than that (the towers of other élite figures), although men could not in future go up to their tops. This arbitration hints at

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<sup>16</sup> See, as one example out of many, *Monumenta Germaniae Historica* [henceforth MGH], *Die Urkunden und Briefe der Markgrävin Mathilde von Tuszien*, ed. E. and W. Goetz (Hannover, 1998), nn. 52, 52, 56, 61, for Tuscany in 1099-1100. Cf. for northern Europe L. Genicot, 'Sur la survivance de la notion d'État dans l'Europe du Nord au haut moyen âge', in *Institutionen, Kultur und Gesellschaft*, ed. L. Fenske *et al.* (Sigmaringen, 1984), 147-64; Y. Sassier, 'L'utilisation d'un concept romain aux temps carolingiens', *Médiévales*, 15 (1988), 17-29; and, for the continuing force of 'public' justice well after 1000 in France, even if in a county (Anjou) with a fuller survival of public power than many, B. Lemesle, *Conflits et justice au Moyen Âge* (Paris, 2008), pp. 41-6.

<sup>17</sup> For the palace see G. Garzella, *Pisa com'era* (Napoli, 1990), 86-8, 109-11. For the political history see esp. Ronzani, *Chiesa e <<Civitas>> di Pisa* and *idem*, 'L'affermazione dei Comuni cittadini fra impero e papato', in *Poteri centrali e autonomie nella Toscana medievale e moderna*, ed. G. Pinto and L. Tanzini (Firenze, 2012), 1-57; for the wars, most recently E. Salvatori, 'Lo spazio economico di Pisa nel Mediterraneo: dall'XI alla metà del XII secolo', *Bullettino dell'Istituto storico italiano per il medioevo*, 115 (2013), 119-52 (I am very grateful to the author for a copy of the text before publication).

civil discord, presumably in the context of Italy's civil war, but also at its resolution, and indeed Pisa is not known to have been politically divided again for over half a century. The policing of towers was left to the city's *commune colloquium* to ensure, and the whole agreement was confirmed by a collective and renewable oath of all Pisa's adult males.<sup>18</sup>

The *commune colloquium* is the key player in this text. It was the city's assembly, of the *populus* or the *cives*; it shows the continuing importance of assembly politics for the city, an issue I shall come back to; but it was not the same as the judicial assembly of the *placitum*. For a start, it was not making judgements here, which was the *placitum*'s core role – the Pisans had had to call in the bishop to do that, as in effect an external arbiter, for the bishop of Pisa had no traditional role as an urban leader, and Daiberto was not himself a Pisan – but also, crucially, it was not called by anyone in a hierarchy stretching upwards, be it king or marquis; it was defined by the Pisans themselves, and from now on, if not already, by their collective oath. Daiberto's arbitration was sworn to by all incoming consuls of the commune of Pisa by the mid-twelfth century, indeed.<sup>19</sup> But conversely, and for all that, the arbitration cannot usefully be seen as a communal document either. The city has no stable leaders here. The Pisans already called members of their élite 'consuls' on occasion as we have seen, but there are no consuls here either. The city assembly seems pretty well-defined by 1090; this was almost certainly in response to the power vacuum of the 1080s. The assembly, that is to say, took formal shape as a defensive reaction to the civil war and the sudden absence of traditional powers, a point I shall come back to. But its leadership remained informal. There is absolutely no sense in Pisa of the city's leadership leaping into the breach offered by the absence of traditional powers – and nor of the bishop doing that either. Daiberto was influential (he even managed to turn his office into an archbishopric), but he does not appear again as the city's arbiter, and anyway left in 1098 with the Pisan contingent to the First Crusade and stayed in Jerusalem as its first Latin patriarch; Pisa did not have an archbishop again until 1106.

Consuls in Pisa appear as political actors in texts from 1109, and fast take centre stage in our main document collections. They were city representatives in 1109; in 1110, in the same role, they are referred to as representing the *commune* of Pisa, almost the earliest citation in Italy of the noun; in 1111, they were the representatives of the city assembly too, and also made a trade treaty with the Byzantine

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<sup>18</sup> G. Rossetti, 'Il lodo del vescovo Daiberto sull'altezza delle torri', in *Pisa e la Toscana occidentale nel Medioevo*, II (Pisa, 1991), 25-47; cf. M. Matzke, *Daibert von Pisa* (Sigmaringen, 1998), 61-5.

<sup>19</sup> *I brevi dei consoli*, 60, 88.

emperor Alexios Komnenos; in 1112 they ran the first documented consular court case, together with the city's *populus*, held, symbolically, outside the old palace of the marquis, which is also, even more symbolically, the only documented consular-run case from anywhere in Italy which uses the *placitum* format; in 1113-15, they were the city's political and military leaders in the largest naval expedition of all, the Balearic campaign, which ended with the sack of Palma de Mallorca and generated not only vast booty but also a huge sub-Virgilian praise-poem about the city and its leaders, the *Liber Maiorichinus*.<sup>20</sup> The Pisans were on a roll, and they stayed proud and happy, violent and protagonistic, under the continuous leadership of their consuls, from then onwards, with regular communal judges appearing in the 1130s and the first communal legislation in the 1140s, culminating in their commissioning of the city's ambitious Roman-law legal code, the double *Constitutum* of 1161.<sup>21</sup> The consuls, once we see them and know their names, were overwhelmingly from the élite already documented in the eleventh century. Then, they had been happy to be the dependants of the marquis; in the intervening period, they were the informal leaders of the city assembly; but from here on they would be the city's consuls – annually-changing, but essentially showing us a continual turnover of members of the same fifteen or so families which ruled Pisa without much of a break, or even all that much renewal, from the early eleventh century to the early thirteenth.<sup>22</sup> Running the city was sufficiently attractive that a text of 1091-2 even shows a group of the leading families of Pisa giving

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<sup>20</sup> *Carte dell'Archivio arcivescovile di Pisa*, II, ed. S. P. P. Scafati (Pisa, 2006), nn. 10-12 (a. 1109), 14 (a. 1110), 19 (a. 1111), 20 (a. 1112); *Documenti sulle relazioni delle città toscane coll'Oriente cristiano e coi Turchi*, ed. G. Müller (Firenze, 1879), 43-5, 52-4 (the 1111 trade treaty); *Liber Maiorichinus de gestis Pisanorum illustribus*, ed. C. Calisse (Roma, 1904). For 1109, see M. Ronzani, 'Le prime testimonianze dell'attività dei consoli pisani in quattro documenti del 1109', in *Quel mar che la terra inghirlanda*, ed. F. Cardini and M. L. Ceccarelli Lemut (Pisa 2007), 679-705.

<sup>21</sup> The code is edited in *I Costituti della legge e dell'uso di Pisa (sec. XII)*, ed. P. Vignoli (Roma, 2003); 64-5, 105 for 1140s laws, and cf. C. Storti Storchi, *Intorno ai Costituti pisani della legge e dell'uso (secolo XII)* (Napoli, 1998), 72-4. For communal development, see in general Ronzani, 'L'affermazione dei Comuni cittadini'.

<sup>22</sup> See the lists in M. L. Ceccarelli Lemut, 'I consoli e i magistrati del comune di Pisa dalla comparsa del consolato (1080/1085) al 1189', *Bollettino storico pisano*, in preparation (I am very grateful to the author for a copy of the text); for the élite continuities in Pisa, see Wickham, *Rethinking the origins of Italian city communes*, chapter 3.

up the signorial rights they had recently constructed over villages some 10 km north of the city in favour of urban jurisdiction, and Pisa from then onwards gained a control over most of its diocese unusually rapidly, a diocese which also – another very unusual feature – contained few signorial territories apart from those of the bishop (by now archbishop).<sup>23</sup>

The establishment of the commune in Pisa was, as I have said, early. It was also not that difficult; it had little opposition as far as we can see. But this does not mean that it was a straightforward substitution of one governmental system for another. Our best evidence for this, as usual in this period, is the documentation for disputes. The Pisan consuls were prepared to imitate the *placitum* in a judgement of 1112, which shows that they could indeed see themselves as in some sense the heirs of the Kingdom and the March (Matilda did not die until 1115, but her hegemony was already weaker, and the March effectively collapsed after her death). But that was the first surviving Pisan dispute document which was not an arbitration for over thirty years, and the last (except for a late and by now outlying imperial-run case in 1116) for another twenty.<sup>24</sup> Dispute documents are so regular in Italian archives, from the late eighth century onwards, that gaps in their survival are always potentially significant; and this fifty-year low-point for Pisan formal justice is certainly significant. The fact that it is also typical of every other well-documented city in the Kingdom of Italy in the same period reinforces the point: the old legitimate judicial fora were failing or had already failed.

When consular judicial documents restart in Pisa, in 1135, they do not imitate the *placitum* any more. Instead, they are matter-of-fact texts, generated by the communal judges, who are 'chosen by the archbishop, the consuls and the whole *populus* to end cases both private and public', and who judge with the agreement of the parties. The involvement of the archbishop dropped out of the formula by 1138, but otherwise this pattern persisted from then on. The first such case has a large witness-list, indicating that the

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<sup>23</sup> The 1091-2 text is edited in *I brevi dei consoli*, 108-10; a good study (among several) remains G. Rossetti, 'Società e istituzioni nei secoli IX e X', in *Atti del 5o congresso internazionale di studi sull'alto medioevo* (Spoleto, 1973), 209-337, at 320-9. For the general history of the Pisan expansion into its contado, see G. Volpe, *Studi sulle istituzioni comunali a Pisa*, 2<sup>nd</sup> edn (Firenze, 1970), 1-123; for the restricted role of signorial territories, M. L. Ceccarelli Lemut, 'Terre pubbliche e giurisdizione signorile nel *comitatus* di Pisa (secoli XI-XIII)', in *La signoria rurale*, II, 87-137.

<sup>24</sup> *Carte dell'Archivio arcivescovile di Pisa*, II, n. 48 (a. 1116). *Ibid.*, n. 67 (a. 1125) is also a canon-law case, decided by the archbishop.

case was probably connected with the city assembly, but after that fewer people sign, often only consuls. These judgements tend to stress the agreement of the parties, which may make them seem like arbitrations, and I am sure that early consular justice was indeed, everywhere, in part based on practices of arbitration, which had always existed and which are also more prominent in our documents after 1080. This does not mean that the communal judges did not have full judicial powers, however; already by 1142 they judge in contumacy, i.e. in the absence of one of the parties, which shows that they could make judgements even without consent. But as important, in my view, is that even then communal justice is not at all frequent in Pisan documents; it only takes off in the 1150s, and arbitrations are more common in our documentation until then.<sup>25</sup> Although Pisa's commune started so early, and with a self-confidence already very clear in the early 1110s, it took another generation and more for this to be turned into lasting political structures. The early Pisan consuls and consular judges operated with a degree of informality, and indeed an often very ad hoc set of powers, which it would be wrong to underestimate. It could indeed be argued – I argue it elsewhere – that they were barely aware that they were creating a totally new political structure at all.<sup>26</sup>

Genoa, Pisa's maritime rival and by the 1120s its firm enemy, had a similar trajectory, but with some interesting differences. We cannot track its leaders back into the eleventh century, for Genoese documents hardly begin before 1100, but its consular élite after that, although often seriously divided, was almost as long-lasting as Pisa's. The first difference is that its commune had an early chronicler, Caffaro of Caschifellone (c.1080-1166), who was active in it for thirty years as a consul and ambassador, and who strongly stressed the organisational structure of the commune (here called a *compagna*) in his *Annals* from the start, in 1099, where he links the formation of the *compagna* to the Genoese participation in the First Crusade; from then onwards he gives the names of the consuls for every three- or four-year term, or, after 1122, for every year, names which seem, on the basis of the documents which survive, to be pretty accurate. Indeed, the first known consul of Genoa appears already in a text of 1098, in an apparently official role, i.e. even before Caffaro's formal date for the first *compagna*, which fits the fact that Caffaro in another work says casually that Genoa had already had a *consulatus* in the late 1090s. All the same, the neatness of the 1099 start of the commune in the *Annals* is undermined here; and, since Caffaro probably started

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<sup>25</sup> *Carte dell'Archivio arcivescovile di Pisa*, II, nn. 105, 124; A. D'Amia, *Diritto e sentenze di Pisa* (Milano, 1962), n. 2, for the three cited cases. See in general C. Wickham, *Courts and conflict in twelfth-century Tuscany* (Oxford, 2003), 108-14.

<sup>26</sup> See Wickham, *Rethinking the origins of Italian city communes*.

writing the *Annals* only in the late 1140s, and since he shows us such a strong ideological commitment to the relationship between the commune and civic concord, which was often hard to achieve in Genoa (much harder than in Pisa), we should be cautious of his wider claims for how the very early structuring of the *compagna* actually occurred.<sup>27</sup> The Genoese certainly used the word ‘consul’ for ordinary military leaders as well, for example, as Caffaro’s account of the First Crusade also shows; and the first document with a set of consuls making an agreement, an oath to the king of Jerusalem in 1104, probably reflects that. Other similar texts for the city from the decade of the 1100s only mention the Genoese *cives* or *populus*, not any formal leadership.<sup>28</sup> For the early part of that decade, in fact, I doubt that the Genoese commune had much of a structure at all.

Already by 1104-5, however, communal formalisation inside the city was rather more developed, for from then begin Genoa’s consular court cases, which were (unlike in Pisa) presided over and judged by the consuls themselves. These are never in *placitum* format; in fact, Genoa quickly developed a format for recording such cases which is unlike that of any other Italian city, but it is even shorter and brisker than those elsewhere. Early cases here, as in Pisa, were decided in the presence of the city’s assembly, again usually called a *compagna* or else *parlamentum*, although by the 1130s this practice was falling out of use and consuls henceforth more often judged on their own. These were more numerous than in Pisa. There, as we have seen, they are not common until the 1150s; but in Genoa they are visible in

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<sup>27</sup> Two recent unpublished theses, L. Filangieri, *Famiglie e gruppi dirigenti a Genova (secoli XII-metà XIII)*, Università degli studi di Firenze, dottorato di ricerca, 2010, and A. Inguscio, *Reassessing civil conflicts in Genoa, 1160-1220*, University of Oxford, DPhil thesis, 2012, are the best discussions of the Genoese élite. Citations of Caffaro: *Annali genovesi di Caffaro e de’ suoi continuatori*, I, ed. L. T. Belgrano (Roma, 1890), 5, 17, 111. For him as chronicler, see G. Petti Balbi, *Caffaro e la cronachistica genovese* (Genova, 1982); eadem, ‘Caffaro’, *Dizionario biografico degli italiani*, XVI (1973), 256-60. For his uniqueness among communal chroniclers (including Bernardo Maragone in Pisa) see C. Wickham, *Land and power* (London, 1994), 295-303. For the 1098 text, see *Codice diplomatico del monastero di Santo Stefano di Genova*, I, ed. M. Calleri (Genova, 2009), n. 96. The best overall study of the early commune of Genoa is R. Bordone, ‘Le origini del comune di Genova’, in *Comuni e memoria storica* (Genova, 2002), 237-59.

<sup>28</sup> *Codice diplomatico della repubblica di Genova*, I, ed. C. Imperiale di Sant’Angelo (Roma, 1936) [henceforth *CDGE*], nn. 16 (a. 1104, cf. *Annali genovesi di Caffaro*, I, 11), 20, 24, plus 22 (a. 1108), with a consul as one member of a wider *populus*. Cf. also Filangieri, *Famiglie e gruppi dirigenti a Genova*, 73-80.

different church archives already in the 1110s and 1120s, and are common by the 1130s.<sup>29</sup> In Genoa, consuls were by 1130 also legislating, changing some of their traditional city customs – which are documented in the eleventh century – on their own authority (in Pisa the first dated law is 1140); and we have a large set of customs and legislative acts documented in the first consular *breve*, the list of duties that the consuls swore to at the start of their official term, which is from 1143 (in Pisa the first surviving *breve* and consular oath is from 1162).<sup>30</sup> If this was a race, then, from a common starting-point around 1110, the Genoese were usually ahead in the period up to 1150, although the Pisans caught up and surged ahead with their monumental law code of 1161, which the Genoese did not match for a long time.

Conversely, the *compagna* was not as much a synonym for the city and its political community as this account might make seem. The word *compagna* is in fact otherwise (including in Genoa itself) used

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<sup>29</sup> For the first court-case, which is unpublished, see *Liber instrumentorum Monasterii Sancti Fructuosi de Capite Montis, Codice "A"*, Archivio Doria Pamphilj [in Rome], bancone 79, busta 12, fol. 8rv, concerning rights to the falcons of Capodimonte. Subsequent court cases to 1140, not in order: *CDGE*, nn. 45, 49, 50, 77, 93; L. T. Belgrano, 'Il registro della curia arcivescovile di Genova', = *Atti della società ligure di storia patria*, 2.2 (1862), 27-8, 56-60; *Le carte di Santa Maria delle Vigne di Genova (1103-1392)*, ed. G. Airal di (Genova, 1969), nn. 3, 6; *Le carte del monastero di San Siro di Genova (952-1224)*, I, ed. M. Calleri (Genova, 1997), n. 73; *Le carte del monastero di Sant'Andrea della Porta di Genova (1109-1370)*, ed. C. Soave (Genova, 2002), n. 2; *Codice diplomatico del monastero di Santo Stefano*, nn. 104, 110, 115; *I libri iurium della Repubblica di Genova*, 8 vols., ed. D. Puncuh *et al.* (Genova, 1992-2002), I/3, n. 524 [this partially supersedes *CDGE* as an edition, but *CDGE* is easier to use, and I cite it by preference where there is overlap]. Surprisingly, there is no study of these texts as a whole. M. Vallerani, 'La riscrittura dei diritti nel secolo XII', in *Zwischen Pragmatik und Performanz*, ed. C. Dartmann *et al.* (Turnhout, 2011), 133-64, at 153-60, is the best brief discussion.

<sup>30</sup> *CDGE*, nn. 53, 67-8, 96-7, 102, 128 (the *breve*); some of the cases listed in n. 29 are halfway to legislation too. Eleventh century: *CDGE*, n. 3, and in general A. Fiore, 'Giurare la consuetudine', *Reti medievali rivista*, 13.2 (2012), 47-80, at 50-2, for Liguria. The Pisans had local customs, at least for seafaring, too (*MGH, Heinrich IV. Diplomata*, ed. D. von Gladiss [Berlin-Weimar-Hannover, 1941-78], n. 336 – the diploma is interpolated, but almost certainly not in this clause); so may many other cities have had. We do not know how they were put into practice, although a Savona text of 1058 refers to local *non-placitum* justice (Fiore, 'Giurare la consuetudine', 51 for references and discussion).

to mean a commercial consortium, and it did not include all Genoese; the 1143 *breve* refers, for example, to people who ‘who were not called, or whom we [consuls] decided that were not suitable, to enter into our *compagna*’, which could certainly include people from the city, for another section of the *breve* discusses what to do with a Genoese who is indeed so invited but refuses to join – if so, he cannot be a communal official, and no-one in the *compagna* can ‘carry his money overseas’. (Pisa, by contrast, was more inclusive from the start; its leaders were uncontested, but its oath-swearing, which was at the base of the whole developing communal structure, explicitly included every Pisan male over 15 in the 1090 tower arbitration.) By now, the Genoese used the word *commune* too – in effect in the 1143 *breve* as a synonym for *compagna*; but a document of 1135, an agreement with Marquis Aleramo, a powerful rural lord, shows some differences, for the text involves Aleramo swearing the oath of the ‘*compagna* of the commune of Genoa ... as do other Genoese citizens who swear to this *compagna* which is now of the commune of Genoa or will swear to other *compagnae* of the commune of Genoa’.<sup>31</sup> The commune might thus be seen as the community of the city, and the *compagna* its apparently in theory temporary political expression, although this by no means shows that the commune extended to more people than did the *compagna*. Genoa was a coherent commune pretty early, but this image of temporaneity and exclusivity may explain why it was that even around 1150 agreements with the commune sometimes included clauses which covered what would happen if it ceased to exist.<sup>32</sup>

Gioacchino Volpe, the most interesting medieval historian of his generation in Italy, argued in 1904 for the ‘privatistic’ origins of the commune, based on voluntary associations held together by oaths, which were thus a world away from the ‘public’ institutions of the old Kingdom of Italy.<sup>33</sup> Partly, he did so because he, like most historians at the time (and a few legal historians still today), believed that communes did not have any standing in public law until Frederick Barbarossa conceded legal rights to them in the 1160s to 1180s – this does not stand up as an argument, for judicial assignments in contumacy, and the first documents exiling citizens, which both begin in Italy in the 1140s, clearly assume full public rights of that sort.<sup>34</sup> Partly, he argued this because he, like many people around 1904, saw the urban vitality of the

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<sup>31</sup> *CDGE*, n. 128, at pp. 155-6, for the *breve*; n. 73 (a. 1135).

<sup>32</sup> E.g. *CDGE*, n. 205 (a. 1150); see also n. 97 (a. 1139), an internal Genoese oath which envisages that there might be a time without consuls (*si autem consules lanue tunc non fuerint*).

<sup>33</sup> G. Volpe, *Medio evo italiano* (Firenze, 1961), 87-118, esp. 100-4.

<sup>34</sup> G. Milani, *L’esclusione dal comune* (Roma, 2003), 27-34.



communes as one of the main steps forward in Italian medieval history, and he wanted to stress the voluntarism of that vital spirit, a state of mind which would lead him to his later role as an ideologist for the Fascist Party. Historians from the 1960s onwards were keen to stress instead that city leaders in Italy had a public role from the start, representing the whole of their cities and claiming rights to rule, judge, take to war and, a generation on, tax as well.<sup>35</sup> In legal terms, they were right; but early communes were more uncertain than that, as Volpe also knew, with, not least, leaderships who were by no means sure that leading their neighbours and inferiors was more honorific than the traditional hierarchies of dependence stretching up to kings, where these still existed. I have argued before for a rather more informal, quasi-Volpean, position for early communes, using the example of Lucca, whose commune, first documented in 1119-20, was much more uncertain than that of its neighbour Pisa until its own consular court cases start in the 1130s, or indeed later.<sup>36</sup> But it is important to stress here that even Genoa, with its early judicial texts and legislation, shows the city as being ruled by something which remarkably resembles the private association which Volpe sketched out – although it did indeed also claim the right to judge everyone in the city, members of the *compagna* or no, as with the rule over India by the East India Company up to 1858. Conversely, even Pisa, although it had a less restricted community of the oath and no signs of the temporaneity of some Genoese texts, did not systematically make good the public role for its consular leadership which it undoubtedly claimed, until communal dispute settlement became more important for the city's inhabitants, in the 1150s.

Pisa and Genoa were the earliest Italian communes, as I have stressed, and also, in their different ways, the earliest Italian communes to develop a clear and solid institutional structure. Even Pisa and Genoa, however, show lasting signs of a relative informality for at least some of their communal

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<sup>35</sup> See G. Cassandro, 'Un bilancio storiografico' [1959], in *Forme di potere e struttura sociale in Italia nel Medioevo*, ed. G. Rossetti (Bologna, 1977), 153-73, often cited but even sketchier than Volpe; O. Banti, '<<Civitas>> e <<Commune>> nelle fonti italiane dei secoli XI e XII' [1972], in *ibid.*, 217-32; G. Tabacco, *The struggle for power in medieval Italy* [1973], trans. R. Brown Jensen (Cambridge, 1989), 182-90, 321-44; Tabacco is by far the most influential voice here for modern historiography. Tax: basic is P. Mainoni, 'A proposito della <<rivoluzione fiscale>> nell'Italia settentrionale del XII secolo', *Studi storici*, 44 (2003), 5-42.

<sup>36</sup> Wickham, *Courts and conflict*, 19-40. So does Banti, '<<Civitas>> e <<Commune>>', 222: 'an emergency solution'. But the social changes involved in the crystallisation of the commune were often greater than Banti and his generation took into consideration.

practices; others, as with Lucca, did so much more. Take Cremona, for example: this city had been long active as an urban community, with a history of urban opposition to and uprisings against its ruling bishop which went back to before 1000, and with the first reference to a *comunum* anywhere in Italy, in 1097; Cremona subjected some of the major centres in its territory in agreements of the 1100s-20s, and its city assembly is fronted in some of these, as in 1118 and 1120. Nonetheless, its communal judicial documents do not start until the 1130s, like Lucca and Milan and to an extent even Pisa; and its ruling consuls, although first referred to in the 1110s, are otherwise nearly invisible: they are named only once before the 1150s. This commune was active and independent, but remained informal, and very tied to the collectivity of its assembly.<sup>37</sup> Many communes were a good deal less active than that, such as Vercelli, now the type example of what Giuliano Milani calls a 'latent' commune, where consuls appear acting autonomously in the 1140s, but they were mostly also vassals of the local bishop. This was true of many communes, for city leaders often had episcopal associations for a long time, but such vassalage did not necessarily circumscribe their activities. In Vercelli, however, the commune drops out of our documentation altogether in the period 1150-65, and episcopal government is all we can find in our sources – here, that is to say, the bishop could return the city to more traditional hierarchies without recorded difficulty, and we must wonder how much the commune's leadership in the 1140s, however city-based (for urban leaders here had few rural connections) ever thought that communal rule was more legitimate and honorific than episcopal dependence. In Florence, too, another late commune (first reference to consuls in 1138, first surviving court case in 1172), consular activity, although here partially based on newer élites than in Pisa and Genoa and also not visibly associated with the bishop, was 'one power among others' even in the final decades of the century.<sup>38</sup> If even in Pisa and Genoa the commune began informally and uncertainly, it would not be surprising that in less precocious and more uneasy communes like Vercelli and Florence such a lack of certainty was still clearer. Even in Milan, however, we find signs of that. In this large and powerful city, with an urban élite which was very boisterous in the eleventh century, the close feudal ties of the major élite

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<sup>37</sup> F. Menant, 'La prima età comunale', in *Storia di Cremona*, II, ed. G. Andenna (Cremona, 2004), 198-281. The most convenient edition of the documents of 1097, 1118 and 1120 is *Le carte cremonesi dei secoli VIII-XII*, II, ed. E. Falconi (Cremona, 1984), nn. 242, 273, 279.

<sup>38</sup> See P. Grillo and A. Barbero in *Vercelli nel secolo XII* (Vercelli, 2005), 163-75, 293-7; E. Faini, *Firenze nell'età romanica (1000-1211)* (Firenze, 2010), 262-320, 361-3, and 263 for the quote. For 'latente', Milani, *I comuni italiani*, 24-6.

families to the equally powerful archbishop meant that the latter exercised a great influence over the city assembly of the 1090s and onwards, and over the first documented consuls in 1117 and 1130, who were very much part of the archbishop's entourage, to the extent that the contemporary chronicler Landolfo of S. Paolo could refer to them as 'his', the archbishop's, consuls. Here, only the 1140s, when a new stratum of influential consuls with judicial expertise and little land is attested in the fast-increasing sequence of consular court cases, did the commune really begin to separate itself from episcopal power; that separation was complete by the 1150s, when Milan became Barbarossa's major opponent, but it was not two decades old by then.<sup>39</sup>

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I could continue with sketches like these, of the different experiences each Italian city had with the halting development of its commune; but, although fascinating (at least to me), they would not add to the points I want to make on a more general level. Rather, I want to explore what they tell us about the problem of the formalisation of local power in Italy. Here, it is useful to begin with the urban assembly. This body is not always very prominent in our twelfth-century evidence (it is not in Lucca or Florence, for example), but it is certainly so in Pisa and Genoa, as also Cremona and Milan, and many other places as well, as two important recent studies, by Edward Coleman and Paolo Grillo, have stressed.<sup>40</sup> What did it consist of, and in what way was it new?

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<sup>39</sup> See Wickham, *Rethinking the origins of Italian city communes*, chapter 2; *Gli atti del comune di Milano fino all'anno MCCXVI*, ed. C. Manaresi (Milano, 1919), nn. 1, 3 (aa. 1117-30); Landolfo Juniore, *Historia Mediolanensis*, ed. C. Castiglioni (Bologna, 1934), cc. 44, 48 bis. Here the classic point of reference is Hagen Keller: see his 'Die Stadtkommunen als politische Organismen in den Herrschaftsordnungen des 11.-13. Jahrhunderts', in *Pensiero e sperimentazioni istituzionali nella 'Societas Christiana' (1046-1250)*, ed. G. Andenna (Milano, 2007), 673-703, which is perhaps his fullest statement of his argument about the 1120s-40s institutionalisation of the Milanese commune, and which refers to his previous work.

<sup>40</sup> E. Coleman, 'Representative assemblies in communal Italy', in *Political assemblies in the earlier middle ages*, ed. P. S. Barnwell and M. Mostert (Turnhout, 2003), 193-210 (which includes previous bibliography); Grillo, 'Una frattura inesistente', 692-6; and cf. also R. Celli, 'Il ruolo del parlamento nel periodo formativo dei Comuni', in *Poteri assemblee autonomie (il lungo cammino verso la sovranità popolare)* (Udine, 1989), 17-40, for a more legalistic argument along similar lines.

We have seen that in the Carolingian period assembly politics was a central part of political practice; indeed, a whole political habitus presupposed it, in Francia and Italy alike (as, also, further afield, in England, and indeed elsewhere as well).<sup>41</sup> Legitimation of rulership by large social groups, including, in theory at least, the whole free male population, had old roots, therefore, and the great *placitum* assemblies, surviving in Italian cities into the second half of the eleventh century, were simply part of that. Twelfth-century Italian urban assemblies might have simply seemed, and have been felt, to carry this tradition of mass legitimisation on, very occasionally even extending their participation to women, as was also a feature of a minority of earlier assemblies, most often visible in England.<sup>42</sup> Conversely, if membership of communal assemblies often seems by the mid-twelfth century to have become the right only of more restricted groups (explicitly so with the Genoese *compagna*, but more and more elsewhere too, either because fewer people participated in the main assembly or because more exclusive executive assemblies, the *credenza* in Lombard cities, the senate in Pisa, gained importance<sup>43</sup>), then that had long been a de facto feature of the Carolingian world too.

But there were important novelties as well. The practice of the Carolingian period was that such assemblies were called by rulers or their representatives; the major exceptions were in Scandinavia, where kingship was very weak. They made formal decisions, but according to scripts; and in Italy their functions were above all to hear royal commands, to decide on disputes, and, in general, to underwrite, by making public, a wide variety of legal transactions.<sup>44</sup> The assemblies of the early twelfth century were different.

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<sup>41</sup> C. Wickham, 'Consensus and assemblies in the Romano-Germanic kingdoms', *Vorträge und Forschungen*, in press, provides a survey; S. Reynolds, 'Assembly government and assembly law', in *Gender and historiography*, ed. J. L. Nelson et al. (London, 2012), 191-9 makes some important analytical points.

<sup>42</sup> Classic for Italy, but atypical: Landolfo Juniore, *Historia Mediolanensis*, c. 44 for Milan in 1117. For England, *Anglo-Saxon Charters*, ed. A. J. Robertson (Cambridge, 1939), nn. 66, 78; *Charters of St Albans*, ed. J. Crick (Oxford, 2007), n. 7.

<sup>43</sup> *Gli atti del comune di Milano*, lxxiv-vi; *I brevi dei consoli*, 48, 76. For the complexities involved, especially in decision-making, see G. De Angelis, '<<Omnes simul aut quot plures habere potero>>', *Reti medievali rivista*, 12 (2011), pp. 151-94.

<sup>44</sup> Bougard, *La justice*, esp. 307-46; C. Wickham, 'Justice in the kingdom of Italy in the eleventh century', *Settimane di studio*, 44 (1997), 179-255. The criticisms of this focus on the end of judicial assemblies made

There is no evidence that most of them were dependent on a superior power to be called – they were generally called by consuls by the 1150s, but that was after consular authority was fully established, and earlier on we cannot assume it. In Milan, for example, it is true that the powerful Archbishop Giordano could call a large penitential assembly in front of the cathedral after the great earthquake of 1117, but when a year later he ‘inflamed the crowd of the assembly to do vengeance’ to get it to declare war on Como in 1118, the event shows not only that he could not declare war on his own, but also that he had gone to a pre-existing assembly to do so.<sup>45</sup> They were indeed deliberative about a wide range of issues, as we shall see in a moment. They were a reinvention of a concept of assembly politics which had only recently ceased to exist, and, not surprisingly, they made some of the same assumptions about group decision-making and legitimacy, but they were not the same, any more than a large Union-called general meeting in a modern UK University is the same as the University’s Senate or Congregation. And they were never called *placita*, and only very rarely indeed (once in Pisa, as we have seen) used *placitum* notarial traditions in the recording of their decisions. They were in fact both less and more than *placita*. They evidently could not claim the *placitum* tradition as legitimately theirs, and, although justice was often done in front of them initially, their main function was not as a law court; indeed, non-criminal justice rapidly passed to much smaller groups of experts, and for the most part lost its assembly element entirely.<sup>46</sup> Conversely, they also did many things that *placitum* assemblies less often did: choose consuls and other urban officials (however restricted that right really was), very occasionally chase consuls out (maybe only in Brescia in 1135, but the

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by Stephen White in his ‘Tenth-century courts at Mâcon and the perils of structuralist history’, in *Conflict in medieval Europe*, ed. W. C. Brown and P. Górecki (Aldershot, 2003), 37-68, are fair as regards the Mâconnais, where judicial assemblies had a different history, but do not seem to me to reflect the Italian situation. For France, the best monographic analysis of the continuity of judicial assemblies into the eleventh and twelfth centuries is now Lemesle, *Conflits et justice*, pp. 33-81, for Anjou.

<sup>45</sup> Landolfo Juniore, *Historia Mediolanensis*, cc. 44, 47.

<sup>46</sup> Wickham, *Courts and conflict*, 19-40, and idem, ‘Public court practice’, in *Rechtsverständnis und Konfliktbewältigung*, ed. S. Esders (Köln, 2007), 17-30. I would now make some modifications: in Milan, large witness groups for civil judgements continue on and off until the second half of the twelfth century (*Gli atti del comune di Milano*, passim); in Rome, where memories of the *placitum* were particularly strong, collective judgements continue until c.1190 (cf. C. Wickham, ‘Getting justice in twelfth-century Rome’, in *Zwischen Pragmatik und Performanz*, 103-31, at 118).

example is still significant<sup>47</sup>), decide to go to war and make peace and alliances, approve legislation and other major political decisions. They had a wide variety of names: *concio*, *arengum*, *colloquium*, *parlamentum*, *consilium*, *consulatus*, varying from city to city but also inside the practice of the same city. This in itself indicates that they were local developments, in parallel across the old Kingdom of Italy, to meet similar needs, although also, doubtless, with considerable copying of practice from one city to the next.

In this form, the *concio* or *colloquium* had roots in the past as well. There had been occasional earlier non-*placitum* assemblies in Italian cities, too, in the ninth century and later, and in the urban uprisings of the mid-eleventh these assemblies had had an identifiable role, as did the oaths which they swore to each other. Some of them – one example is probably Liguria, in Genoa and Savona – seem to have been associated with the generation and ratification of local customs already in the eleventh century. These were evidently much more direct ancestors of the *concio* than the *placitum* assembly was, and are indeed cited in every account of the origins of the communes in these terms.<sup>48</sup> In the middle third of the eleventh century in troubled cities like Cremona and Milan they were ad hoc oppositional bodies, too. But what marked the novelty of the period from the 1090s onwards is that these assemblies were increasingly regular, increasingly visible, increasingly well-defined; they increasingly *were* the city, in its decision-making role. You might say that in (say) 1050 in a city like Milan there was a dialectic between a formal *placitum* assembly and the informal and as yet occasional oath-based *colloquium* of concerned citizens, which when there was conflict could easily be, and was, defined by traditional powers as illegal (as the Cremona

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<sup>47</sup> *Annales Brixenses*, ed. L. Bethmann, *MGH, Scriptores*, XVIII (Hannover, 1863), 811-20, at 812, cited in Grillo, 'La frattura inesistente', 694.

<sup>48</sup> For a good brief account, see Milani, *I comuni italiani*, 16-23. For earlier analyses, see among many W. Goetz, *Le origini dei comuni italiani*, trans. I. and R. Zapperi (Milano, 1965), pp. 34-6, 81-4, 94-5 – influential in its time, but now very dated; H. Keller, 'Mailand im 11. Jahrhundert', in *Die Frühgeschichte der europäischen Stadt im 11. Jahrhundert*, ed. J. Jarnut and P. Johanek (Köln, 1998), 81-104, at 93-8 (one of several parallel analyses by the author); and Tabacco, *The struggle for power*, 185. They indeed argue that the oath-based collectivities of mid-century Milan were definitely proto-communal, 'the premise for the future commune' (Tabacco). This seems to me too teleological. See Fiore, 'Giurare la consuetudine', 50-2, for Liguria.

uprising was by Henry III, and the Pataria in Milan was by its opponents<sup>49</sup>); and that, when the formal assembly failed, what was abandoned was this dialectic. Instead, the informal assembly formalised itself, regularised itself, turned itself into a de facto legal entity: the Cremonese *comunum* which took over the neighbouring town of Crema in benefice from Matilda in 1097, the Pisan *colloquium* which could call in Bishop Daiberto to make a ruling about Pisan tower-houses and engage itself to police the decision afterwards, the Pisan *populus* which could decide to send an expedition to the Balearic islands in 1113,<sup>50</sup> the Milanese *concio* which could start the long-lasting and bloody Como war in 1118, the *plenum parlamentum* in which the Genoese consuls set up some of the rules for the city's new mint in 1140.<sup>51</sup> What had been illegal now defined legality; as a defensive measure in front of political breakdown, but through a set of increasingly formal practices which would last.

This is where the parallels with France lie, then, in Italian cities a century later: in the formalisation of informal practices which had previously existed on the ground, the legalisation of the illegal, the end of the previous dialectic between formal and informal. I will come back to that shortly, but in the Italian context I want first both to nuance and generalise it.

As to nuancing: I have been characterising the early commune as informal until much later than the newly-defined assemblies of the 1090s. This is because I am using an ideal-type characterisation of the commune which is more elaborate than, simply, the appearance of a clearly-characterised city assembly. That assembly had formalised itself in many cities by 1100, but communal government remained uncertain for a long time, with city leaders who may well have – must have – dominated assembly deliberations, but who had not developed official status yet; that process of formalisation, institutionalisation, as we have seen, did not occur until around 1110 in Pisa and Genoa and the 1130s in other early cities, and in others rather later than that. I would guess that this was associated with a lessening of the defensiveness of the previous generation, when cities had had to deal as best they could with the breakdown of the hegemony and political structures of the Kingdom of Italy, and also with the steady regularisation of practice which must have slowly taken place everywhere. City leaders were, however, as uneasy about the legitimacy of

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<sup>49</sup> *MGH, Heinrici III. Diplomata*, ed. H. Bresslau and P. Kehr (Berlin, 1931), n. 319; Landolfo Seniore, *Mediolanensis historiae libri IV*, ed. A. Cutolo (Bologna, 1942), III. 15, 18.

<sup>50</sup> *Liber Maiolichinus*, lines 1, 40, 82, etc.

<sup>51</sup> *CDGE*, n. 102, cf. 96-7 – though note that previous consular legislation in the 1130s, nn. 53, 67-8, does not mention the city assembly.

self-made communal government as were traditional powers like kings and bishops; many of them stayed out of the crystallising commune for a long time; and few of them realised quite what a break with the past it was until some time later too. The process of formalisation of local power-structures was therefore a slow one, which took in some cases two generations to complete.

As to generalising: we have been looking here at cities, but the Italian countryside faced exactly the same situation, of the breakdown of the hegemony of the Kingdom, and reacted in similar ways. The development of the Italian equivalent of the *seigneurie banale*, generally called the *signoria territoriale*, that is to say lordship and the ability to exercise rights over all inhabitants of a single territory, be they tenants of the lord, tenants of other lords or independent landowners, was a long process in Italy. Already in the ninth century, large landownership sometimes brought some judicial rights, *iustitia domnica* as it was often called; in the tenth century, royal cessions of land (and sometimes of castles or castle-building rights, but often not) increasingly often included *districtiones*, rights of justice, plus rights to take tolls of different types, attached to the land. These did not develop further until the eleventh century in the Po plain. The decades after 1030 see many more references to *districtus* or *placitum et districtum* as a normal part of rural rights, especially if a castle is attached to the territory; but it is not until the 1070s or so that we start to find references to signorial rights held over people who were not tenants of the lord, and this is not generalised in neat legal terms as *dominatus loci*, something which can itself be an object of transactions, until after 1100. Such a *dominatus* could derive from legal means – transactions between the holders of different types of legally delegated power – but it could also be, and probably usually was, the result of creative and coercive improvisation on the part of lords, generalising out from other sorts of rights which they already had, as in France. This latter was initially illegal, and sometimes called (again as in France) *malae consuetudines*, but it too was later accepted as a legal *dominatus*: as with, for example, the local *signorie* enjoyed by the *capitanei*, episcopal vassals, who held tithes in fief from the archbishop of Milan, but frequently managed to extend this quite precise and restricted local right into a much more wide-ranging domination.<sup>52</sup>

The point about this is twofold. First, that the move towards the ability to coerce people in the countryside, whether by running their legal disputes, or by extracting tolls and wood-rights from them, or by

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<sup>52</sup> For all this, classic texts are C. Violante, 'Pievi e parrocchie nell'Italia centrosettentrionale durante i secoli XI e XII', in *Le istituzioni ecclesiastiche della <<societas christiana>> dei secoli XI-XII* (Milano, 1977), 633-799 (who stresses at 666-8, 717-21, that tithe fiefs did not bring signorial rights at the start); Keller, *Signori e vassalli*, esp. 118-36; Menant, *Campagnes lombardes*, 395-477, 728-35, 757-65.



forcing them to build and guard castles (or by other means: the list is long), had begun, slowly, well before the Kingdom of Italy broke up in the civil wars after 1080. The full public rights of the Kingdom persisted most of all, precisely, inside the walls of cities and in the urban-focussed *placitum* assemblies which were so much an Italian particularity by now;<sup>53</sup> and not every city had complete control over its countryside. But, second, and not less important, there is no doubt that signorial rights extended rapidly after 1080 or so. All our best evidence is from after that date in northern Italy. And in Tuscany, where, as we have seen, the March preserved Carolingian political practices unusually fully, signorial rights are hardly visible at all before 1080. There were a few, attached to comital families and the like, who were the first in the region to privatise their local powers; as early as 1075 we have a signorial court case for the powerful Guidi counts in one of their power-bases, in the hills east of Florence. But it was only after 1080 that that 'all power lost its strength, and justice died and perished in our land', as the peasants of Casciavola in the territory of Pisa said in their plea to the city against the coercion of local lords, in a famous text of c. 1100. From then on, once again, references to signorial rights, including over whole territories, become much more numerous, and also normalised; what had been illegal turned into legality, and could also, from now on, be seen as a basket of discrete quasi-proprietorial rights which could be sold or otherwise alienated. In the territory of Florence, it is also this period which sees medium-level lords detach themselves from a city focus and concentrate on more local rural territories, which they could now rule in greater depth, using developing signorial powers, and indeed they had to, given the competition of others. In general, indeed, a specialisation by certain families in signorial lordship in the countryside sometimes caused a political separation between city and country which would take a long time to reverse.<sup>54</sup>

If the Kingdom of Italy had lasted, many territorial *signorie* would certainly have developed anyway, and would not necessarily have been considered by kings, counts and bishops as a diminution of

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<sup>53</sup> Cf. esp. Tabacco, *The struggle for power*, 331-42.

<sup>54</sup> *I più antichi documenti del monastero di S. Maria di Rosano (secoli XI-XIII)*, ed. C. Strà (Roma, 1982), n. 9 (cf. S. Collavini, 'Le basi materiali della signoria dei Guidi tra prelievo signorile e obblighi militari (1075 c.-1230 c.)', *Società e Storia*, 24 [2007], 1-32); *I brevi dei consoli*, 105-7 (c. 1100); Wickham, *The mountains and the city* (Oxford, 1988), 313-14 (the basket of rights); idem, 'La signoria rurale in Toscana'; Cortese, *Signori, castelli*, esp. 231-48 (Florence); eadem, 'Aristocrazia signorile e città nell'Italia centro-settentrionale (XI-XII sec.)', in press (where she shows that many signorially-orientated families had, after all the necessary nuances, relatively little to do with early communes in north-central Italy).

their power at all – indeed, the latter two groups contained some of the keenest examples of aggressive local lords. Many city communes, later, particularly in northern Italy (less so Tuscany), once they reestablished structured power over the countryside (which they were already beginning to do by 1150), were equally unworried by such rural lordships, as long as they were loyal to the city. But what happened after the civil wars was that formal lordly power in the countryside extended over more people, and what was as yet informal became formalised; the countryside divided itself up between different blocs of *dominatus loci* in an increasingly homogeneous way. It began to be possible, indeed, to see all, or nearly all, the countryside of the former Kingdom as being divided up between signorial territories, whether weak or strong, as a matter of course. And, it must be added – I have discussed the point elsewhere, so I can be brief – that the same is true of other forms of rural territorialisation, that of the parish, crystallising around nearly every one of the numerous rural churches which had until 1100 had few autonomous religious and fiscal rights; and also that of the village itself, for village boundaries in Italy had very often been unusually vague by European standards until then. Rural communal structures would develop next, following these territories, which indeed were often superimposed, one on the other: first in large and relatively city-like rural centres (they would be called towns in northern Europe) and in villages with unusual legal autonomy from lords, but soon in villages of every size and level of dependence. All these were developments which were potential but incomplete before 1080, and became rapidly more complete from then on, in a process which was not always fast, here either, but which firmly took shape in the twelfth century above all.<sup>55</sup>

I do not want this to seem an eirenic process. Italian rural lords, like urban élites indeed, were domineering, unpleasant and badly behaved in all respects. This was not new either, but the late eleventh century and the early twelfth gave them many more opportunities to show it, just as the early eleventh century had done in France. How violent and unjust the countryside was or became is not, however, the point here. Rather, the points I wish to stress are that powers, and the very boundaries of powers and rights, in the countryside became much more clearly delineated in and after the 1080s; that this was a real and significant change; and that this process of delineation and formalisation exactly matches that of, first, the urban assembly, and soon the structures of the city commune. Personal relationships, whether vertical (the feudo-vassalic bond, lord-community agreements) or horizontal (private agreements of aid and

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<sup>55</sup> C. Wickham, *Community and clientele in twelfth-century Tuscany* (Oxford, 1998); P. Guglielmotti, *Ricerche sull'organizzazione del territorio nella Liguria medievale* (Firenze, 2005), 28-35; for autonomous villages, see e.g. Fiore, 'Dal diploma al patto'.

friendship between lords) gained a rather greater formality in the same period too.<sup>56</sup> In these respects the signoria and the commune in Italy are both examples of the same general process, the process by which informal (and illegal) power-structures become formal (and legal) ones.<sup>57</sup> The signoria was very hierarchical, the commune was much more associative, and indeed maintained the city assembly, the principal form of an imagery of mostly phony egalitarianism, in some form for a long time. But the contrast between lordship and collectivity was the main way in which they were opposed. Neither (contrary to a traditional Italian historiography) was older, more legal, or more 'public' than the other. The two models for local organisation would have a long history together, indeed, as rural communes began to run signorial lordships and, later, urban *signorie* came to take over cities, in future centuries.

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To conclude. The homology between the commune and the signoria in Italy of course makes even clearer the point I have already started to make, that there are close parallels between the changes which took place in France around 1000 or 1050 and those which took place in Italy around 1100. The contrast in dates does not matter; what matters is that in each case larger-scale political breakdown (whether at the level of the kingdom, the march or the county) was matched by local recomposition, the intensification or crystallisation of local power structures which had been much more ad hoc before, and which would be the basic template for local power henceforth. Here I do see something of a difference between cities and the countryside, however, for the causal process was not so clear-cut in the latter. In the latter, the formalisation model set out by West for the old Frankish heartland fits Italy pretty well, not least in the emergence of the assumption that the basket of banal rights – and the power derived from them – were by now sufficiently clearly defined that they could henceforth be treated as forms of property, which I find in Italy just as he does in the North.<sup>58</sup> Where Italy may differ from Francia is in that these changes in the Po plain and Tuscany can indeed, in my view, best be seen as a partially defensive response to the weakening of those

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<sup>56</sup> Menant 'La féodalité italienne'; S. Reynolds, *Fiefs and vassals* (Oxford, 1994), 215-35; Fiore, 'Dal diploma al patto'.

<sup>57</sup> For the homology between signoria and commune, see also P. Racine, *Plaisance du Xème à la fin du XIIIème siècle* (Paris, 1979), 372, but he said so for different reasons (city government as being *just like* the 'feudal' social relations in the countryside) and I do not follow him there – see further Cortese, 'Aristocrazia signorile e città'.

<sup>58</sup> West, *Reframing the feudal revolution*, 184-90, 196-8, 255-63.

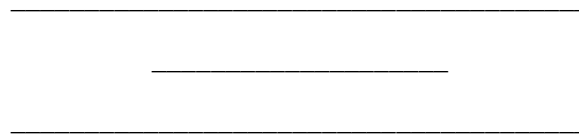
larger structures, even though it had independent origins as a process. In general, West sees the formalisation of local power as being the completion of Carolingian categorisations of political and property rights, and not a consequence of Carolingian failure. I am happy to accept that in large part, again particularly for Francia; but it is also arguable that in a world dominated by a politics based on land transactions, a lack of systematic attention to local power-relations in the countryside, such as we see in the actions of both emperors and major lay aristocrats (although less so monasteries) in the ninth century, was indeed potentially dangerous for them, and that these local power-relations, once they became formalised enough for whatever reason to manipulate politically, which in a land-based political system was always on the cards, might indeed slip out of the hands of greater powers.<sup>59</sup> That is a rural argument, however. Inside Italian urban politics by contrast – an arena virtually absent in Francia, of course – I do not see anything except a defensive reaction to political crisis in the decades after 1080 or so. Power carried on being exercised in Italian cities in Carolingian ways without all that much difficulty until then, and, until that traditional structure failed, the inchoate forms of local political practice which also existed, urban assemblies in particular, were not going to replace it anywhere. Indeed, the generation-long uneasiness about the new communal political structures which developed in its absence is itself a clear demonstration of the lasting hegemony inside city walls of the hierarchical presuppositions of the past.

These two, city and country, are nonetheless linked tightly by the fact that newly formalised structures replaced informal local ones, in the context of the failure (as it can be said to be in Italy) of the previous overarching structures of formal political power. The dialectic between informal and formal was here lost – at least until new informal practices developed again, which in Italian cities they would soon enough, urban factions, the *popolo*, and onwards from there. In Italy as in France, it was that which was the major change of the period, and it can be analysed in very similar ways. But I would like to end with a more sociological point, which I think follows from what has been argued in the foregoing. Informality of practice, it seems to me, is *always* in dialectic with formal social and political structures, and cannot exist without them. And I think this means that Pierre Bourdieu was not entirely right about one aspect of his theory of habitus, which has been so influential for me, and not only for me. He proposed that everything was habitus, and that formal structures were only secondary: a *post facto* power-play imposed on top of the

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<sup>59</sup> As with Marc Bloch's 'fragmentation of authority' (*Feudal society*, trans. L. A. Manyon, London, 1962, 446 – the French original says *pouvoirs* for 'authority', however).

durable informality of practice.<sup>60</sup> I would say, however, that that practice, the gamesmanship of which Bourdieu was the greatest theorist, presupposes not just a formal structure which the games-playing subverts – creative and successful cheating on the football field cannot exist without the rules of the Football Association (Bourdieu of course knew this) – but also that, if the subversion becomes more total, so that the formal structure fails, then part or all of the habitus has to turn itself into a newly formal structure to replace it: because at least some element of formal structure in the practice of everyday political and social life is essential, in societies with any degree of elaboration at all.<sup>61</sup> From that standpoint, in France, the formalisation of local power, which remains for me the most essential element of the ‘feudal revolution’, could not have failed to occur. What happened in Italy in the decades around 1100 seems to me to bear out the point as well. What Italians did with it, however, as they proceeded uneasily into the future, while looking backwards into the past, is another matter.




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<sup>60</sup> P. Bourdieu, most lucidly in *In other words*, trans. M. Adamson (Cambridge, 1990), 76-86; the most theoretically elaborated characterisation of habitus, leaving more implicit its relation with formalisation however, is in his *The logic of practice*, trans. R. Nice (Cambridge, 1990), 52-65.

<sup>61</sup> And perhaps in any society. Charles West suggests to me that the ‘big-men’ societies discussed by Marshall Sahlins and others (e.g. M. D. Sahlins, ‘Poor man, rich man, big-man, chief’, *Comparative studies in society and history*, 5 [1962-3], 285-303) might sometimes be different, structurally more informal. I am not sure here; that is certainly the way Sahlins presents it; but the closest medieval Europe visibly came to that, in Iceland before 1262, the structures of *goðord* and *thingar*, judicial rights over free men held by the equivalents of ‘big men’ and the assemblies in which those rights were expressed, seem to me, whatever their weakness and their practical subversions, to have had clear formal elements – see for a survey J. Byock, *Viking-age Iceland* (London, 2001), 118-38.