

Encountering Otherness. Diversities and Transcultural Experiences in Early Modern European Culture.

Modern European culture and politics have been largely shaped by the century-long material and cognitive relationships with several (domestic and exotic) forms of ethno-anthropological, sociological and cultural diversity according to both a spatial and a temporal dimension. The need to confront and handle 'diversity' did not just result from the European expansion process in the world, but coincides with the most classic problem of politics, consisting in the effort to harmonize different interests, groups, religious faiths, customs, languages, ethnic identities and merge them into some form of viable and durable co-existence. Approach to cultural diversity has produced two ideal extremes: suppression through assimilation or its perpetuation through radical 'othering'. Historical experience has offered, however, a large variety of policies and of intellectual or ideological constructs of a 'transcultural' kind, with the transfer, adaptation and dialogue of political, religious, economic patterns of relationships. This international collection of essays sweeps over a multiplicity of such cultural experiences according to a global, transcultural outlook, ranging from European encounters with exotic, savage peoples of newly discovered lands of conquest and colonization, to the European nation-State building process. The book is the outcome of the European research project, "EUO-European Culture and the Understanding of Otherness: Historiography, Politics and the Sciences of Man in the Birth of the Modern World (Sixteenth-Nineteenth Centuries)" conceived and directed by Guido Abbattista with researchers from eleven European universities and sponsored by the Italian Ministry of Education University and Research (Interlink program for 2006-2008).

Back cover:

A Patagonian woman of supposed gigantic stature, accompanied by her child, receiving beads from the English circumnavigator Commodore John Byron (1723-1786), who visited the Tierra del Fuego region in 1766, from G. H. Millar, *The New and Universal System of Geography*, London, printed for Alexander Hogg [ca. 1785].



WOMAN and BOY of PATAGONIA in South America, receiving Beads, &c. from COMMODORE (now ADMIRAL) BYRON, - whose Valuable Discoveries in his Celebrated Voyage Round the World (as well as All the Other Modern Discoveries in the Southern & Northern Hemispheres) will be Inserted in this Work.

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Encountering Otherness edited by Guido Abbattista

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A collection of essays based on the papers delivered at the final conference of the Miur-Interlink 2006-2008 research project "EUO-European Culture and the Understanding of Otherness: Historiography, Politics and the Sciences of Man in the Birth of the Modern World (Sixteenth-Nineteenth Centuries)", directed by Guido Abbattista

Fondazione
FONDAZIONE CRIESTE 



Università di Napoli "L'Orientale"

impaginazione
Elena Tonzar

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ISBN 978-88-8303-306-3

EUT - Edizioni Università di Trieste
Via E. Weiss, 21 - 34128 Trieste
<http://eut.units.it>

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The idea of ‘naturality’ in the Hispanic monarchy and the formation of Spanish identity between the sixteenth and the eighteenth centuries: an approach.

GUILLERMO PÉREZ SARRIÓN

Among the concepts which have served throughout history to define the political identity of Spaniards, there are several of particular importance: ‘naturality’, nation, and patria. The concepts of *nation* and *patria* have a broad literature and a long history: they were originally applied to individuals belonging to a group defined by lineage, language, religion, or the territory where they lived. This semantic slide happened throughout the modern period, and especially in the eighteenth century, and became consolidated from 1789 onward.

Little attention has been paid, though, to the terms ‘natural’ and ‘naturality’¹ (*naturalidad*) or nature², in spite of their importance. Moreover, in those cases,

¹ The term naturality is not strange to English. It seems rare in modern speech, politically dominated by ‘citizenship’, but it was not so in the sixteenth and seventeenth centuries. The New Shorter Oxford Dictionary registers nearly one full page for the term ‘natural’, including the meaning ‘natural-born’ as ‘native-born’ and “having a specified position or character by birth” (III, 15). It includes also ‘naturality’ as “the position or rights of a natural-born subject, chiefly Sc. E16-E17”, that is, in Scottish history of the early sixteenth and seventeenth centuries (II, 6). And, finally, the verb ‘naturalize’ appears as “Admit (an alien) to the position and rights of citizenship; invest with the privileges of a native-born subject, M16”, that is, mid sixteenth century (I, 1). To sum up, we can conclude that the term was alive in fifteenth-century Europe, and its use within the English and Scottish monarchies faded away during the sixteenth and seventeenth centuries in England and Scotland, standing alone in the Spanish monarchy. In this article, though is a legitimate English word, I will write it thus, ‘naturality’, for the benefit of readers, to emphasize its special standing in the Spanish juridical and political vocabulary.

² ‘Nature’ is a confusing word in this context, thus I will avoid it.

analysis has been conducted in a way that takes for granted the fact that everyone clearly knows their meanings, applying them to single, isolated cases, without making comparisons³. But the analytical strategy of examining a single case, applied to a composite monarchy such as Spain, does not allow the function of 'naturalness' to be seen in its actual function. What follows is just the opposite: to examine what 'naturalness' actually was in the several political territories in order to be able to compare and discover differences and common elements.

Jurists distinguish three types of 'naturalness': that defined by birth and lineage (*ius sanguinis*, or blood rights), that produced by residence (*ius soli*) and that acquired from a governor through a *carta de naturalidad* or 'letter of naturalness'. But the concept has a legal as well as social meaning, since, in the last instance, it functioned as an element of cultural and political identification. The only sure way to know what the social use of 'naturalness' was, is to resort to public archives, especially judicial records, but this goes beyond the reduced scope of this work. Reduced, indeed, but not marginal. The aim is to examine what was 'naturalness', and how it evolved, taking the principal Spanish juridical sources as primary evidence for whether the term became a relevant factor in the formation of political identity.

Even so, the field is very broad. In the sixteenth and seventeenth centuries, we find six distinct 'naturalnesses' in the peninsular territories of the Spanish monarchy: Castile (which included the Indies), Aragón, Valencia, Catalonia, Mallorca and Navarre⁴. With regard to this, we will examine the 'naturalness' in these realms and principality to demonstrate that, shortly after the War of Succession, they were reduced to two: Castilian 'naturalness', which in time became Spanish, and that of Navarre, which remained a stable exception.

I. CASTILIAN 'NATURALNESS' IN THE SIXTEENTH AND SEVENTEENTH CENTURIES

'Naturalness', according to the Dictionary of Authorities, was "the origin that a person has in the city or kingdom; and it is usually understood as the right through which an individual acquires the enjoyment of the privileges belonging to the natural-born". The term referred to the condition that permitted one to have something that others did not have. In effect, from centuries before, in Castile (and in other kingdoms of the Spanish monarchy, as we will see) the condition of being natural-born, or having 'naturalness', had developed from a right: he who

³ See Pérez Collados (1993) and Herzog (2003).

⁴ The question of whether naturals of Vizcaya, Guipúzcoa and Álava were or were not Castilian naturals is not considered here. Pérez Collados affirms that they did not have Castilian 'naturalness' (Pérez Collados 1993), 31 note 69, although he does not cite any source of authority. Personally, I think they did have it, but I am not able to prove it. In the same way, by extension, I discount Portugal, which was only part of the Crown of Castile for a short time (1580-1640); the county of Flanders, governed by the king of Spain as Duke of Bourgogne (1516-1711), the Low Countries (1516-1648), and the kingdoms of Naples and Sicily, that were united with the Crown of Aragón (1504-1713).

possessed it could hold public office and have certain ecclesiastical benefits. It was the *reserva de oficios* or reserve of offices, so called because the offices or positions were reserved only for the natural candidates. Only Castilians could occupy offices in Castile, and the Aragonese, Valencians, Catalans, Mallorcans and Navarrese in their respective kingdoms.

However, the origin of the matter was not so simple. There were two kinds of positions, actually, in Castile: those lay and ecclesiastical by royal appointment, the majority local, and those appointed by the king to serve him in the royal court and in the monarchy's government. In this second case, the monarchs, from the Catholic Kings onward, selected for themselves a majority of natural-born Castilians, but also included those from other kingdoms and territories of the monarchy, in proportions that varied over time. In the Indies, at first attributed only to Castilians, it became clear during the sixteenth century that natural-born individuals "from the kingdoms of Spain" could occupy offices, though in accordance with Castilian laws and government, since they formally belonged to Castile⁵. 'Naturality' was, then, not a collective political privilege but a personal privilege. This situation prevailed until the beginning of the eighteenth century.

Originally, the granting of 'naturality' was the purview of royal laws enacted in Parliament, that is, with its consent, resulting as much from the king's initiative as from petitions by the estates of Parliament. It is important to remember that, from the end of the fifteenth century, two of the three estates of the Parliament of Castile – the nobility and the ecclesiastic – had no longer been called to the sessions. From then on, only the estate of *universities*, representing the Castilian cities, was called to Parliament. Over time, stemming from a sequence of events that I am still unable to specify, the monarch acquired increased prominence and, by the eighteenth century, became the only one to grant 'naturality'. In Castile, I believe that this had already occurred from the beginning of the sixteenth century, but it cannot be verified with certainty without a detailed analysis of the acts of Parliament, which is beyond the scope of this study.

In any case, we know that in the sixteenth and seventeenth centuries, the appointments for positions and offices were matters *de cámara*, that is, handled in chamber⁶. Until 1588, they were determined by the Council of Castile, and from then on by the Council of the Chamber of Castile (or simply the Chamber of Castile), a body created by royal decree on the 6th of January, 1588, and presided over by the president of the Council of Castile⁷, created so that,

5 This was already noted by Herzog (2003), 64-65, also of interest on this topic 64-93. The laws of the Indies on the topic in the sixteenth century are in *Recopilación de leyes de los reynos de las Indias* (1681), book 9, title 27, laws I to XXXVII – IV, 11v-16v.

6 It is so-called because the king dealt with them 'in chamber', that is, in his private chambers or rooms, away from public view.

7 In the eighteenth century, the Chamber of Castile or Council of the Chamber of Castile also began dealing with matters in Aragón, calling itself at times the Chamber of Aragón. It was, in fact, simply a room in the Council of the Chamber of Castile, which was composed of a

[...] from here on might be seen all the business concerning my Royal Patronage of the Church in these my kingdoms of Castile, Navarre and the Canary Islands as well as those that pertain to Justice⁸ and to Grace⁹; and at the same time that which concerns the provision and appointment of persons for positions on my Councils, and the Chancelleries and other Audiencias of these kingdoms and for their other offices of Justice [...] ¹⁰.

The text shows that the Council of the Chamber of Castile handled two fundamental royal privileges: the royal patronage over the Church, that is, the right to appoint certain ecclesiastical offices¹¹, and the right to appoint all the offices of justice and governance.

The *Novísima recopilación* dedicates to the Council of Castile, which had broad jurisdictional powers from 1480, books IV – with 30 titles, one dedicated to the Chamber of Castile –, V and VI. This last was dedicated to limiting the matters that were within its own competence, and those that had to be resolved only after they were first dealt with in the Chamber of Castile.

Regarding the matters of the chamber relating to the Indies, they were resolved in the Council of the Indies, where the king exercised his prerogatives over the Church in America, the so-called royal patronage of the Indies. This is interesting, since the 'letters of naturality' to occupy positions and offices, or to conduct business in the Indies, were processed in this council and not in the Council of Castile, nor in the Chamber of Castile.

All this legislation, with laws in force from at least the fourteenth century, only determined how the king's power should be administered, but the appointments of civil offices corresponded to the king in person, aided by the councils of Castile and of the Chamber of Castile, through the king's laws, which were of two types: laws given in the Parliament of Castile and laws given outside Parliament. The same thing occurred in the other Spanish kingdoms. Lacking data on the role of the Parliament of Castile in this decisive matter, I suppose that it must have run parallel to its loss of political influence, which was relatively early. Since Parliament became limited in its power to approve the *servicios* or

majority of the members of the Council of Castile. For this reason there is, at times, confusion over the three institutions.

8 In all probability, the matters of offices in which judicial disputes were mediated.

9 The references to offices and positions that the king granted by his royal grace, that is, by his own will, not by a court sentence, and without necessarily paying attention to the merits of the beneficiary.

10 NR, book IV, title IV, law I – II, 225-228, the text on 225.

11 The king had patronage of numerous ecclesiastical offices, that is, he was their patron responsible for providing them with sufficient income, assuring their operation and also appointing those who would occupy them. The king had all the patronage of the Indies and, in Spain, that of the military orders. There were also many ecclesiastical offices that did not belong to the royal patronage. These appointments depended solely on the ecclesiastical authorities. The appointments to these offices were carried out by Papal bull.

services¹² that were paid to the king, and this tax was collected only by the cities, from the end of the fifteenth century the king opted to call to Parliament only the estate of the Universities, that is, that of the cities, never the ecclesiastical or the noble estates. This is in sharp contrast to what occurred in the Parliaments of the kingdoms of the Crown of Aragón, which almost always were convened with all of its estates. Within them, the king did not have as much room to maneuver. In these kingdoms, the king also appointed the offices of the Church included in the royal patronage, and likewise, it was necessary for the candidate to have Castilian 'naturality' for these appointments.

The condition of 'naturality' and its opposite, the condition of foreignness, and how they were acquired and lost in Castile, appears in detail in the so-called *Libro de las Siete Partidas*, by Alfonso X the Wise, from the middle of the thirteenth century. In it, ten means of obtaining and losing 'naturality' are established: through birth, through vassalage, through upbringing, through rescue from captivity, death or dishonour, through conversion to Christianity, or through residence for ten years in the kingdom. But it was only after the union of Castile and Aragón at the end of the fifteenth century, and as the exercise of royal power became stronger, that the peninsular parliaments, along with the king, put in place the so-called *reserva de oficios*, that is, the list of positions that were reserved exclusively for the naturals of each kingdom. For these, the king could not appoint someone who was not a natural. It was from then on that more foreigners sought 'naturality', the condition necessary to occupy these posts. In fact, as the king made the concession of positions and public offices a basic instrument of his power, the Castilian cities, and their lawyers in the Castilian Parliament, continuously negotiated with the king and, in exchange for payment of taxes (services, millions) tried to limit the granting of 'naturality' that the king gave to foreigners, who were precisely those non-naturals. It was normal for the king to promise to observe the agreed-upon limits and then to try to subvert them by making exceptions. There are indications that this process was not exclusive; it happened not only in the Parliament of Castile, but also in those of the other kingdoms ruled by the Spanish monarchy.

The *Nueva recopilación* (New Compilation) of 1640 contains the laws of 1401, 1415, 1417, 1473, 1476, 1480, 1525 and 1560, almost all presented in Parliament and by these petitions, revoking 'letters of naturality' not authorized by the king and reiterating that 'foreigners' (that is those not natural of Castile, even though they were from other kingdoms of the Spanish monarchy) could not obtain the ecclesiastical benefits or dignities that the kings granted in their kingdoms¹³. The

12 The king convened Parliament mainly to request a *servicio*, or tax, that he negotiated with the estates. Once the amount was approved, collection was in charge of the cities who had representation in Parliament. Over time, it became the main royal tax collected in Castile. The *millones* were amounts added to the services already approved; they were assessed in millions of maravedís, thus the name.

13 *Nueva recopilación de las leyes destes reynos* (1640), book I, title III, laws XIV to XX – I, 10-13.

Novísima recopilación (Newest Compilation), when it deals specifically with the Church, also refers to the royal patronage, and in book I, title XIV (on 'naturality') it gives notice of some of the laws already mentioned, and others from 1565, 1588, 1632, 1715, 1721 and 1723¹⁴. The compilation was published in 1805, and it is obvious that then, in the mind of the judges, the question of 'naturality' continued to be closely linked to the right to occupy offices, especially ecclesiastical ones.

In any case, Castilian 'naturality', always seen as the legal privilege that allowed one to hold office by appointment of the king, was re-defined in 1565. That year, an order by Philip II established that, regarding the possibility of obtaining ecclesiastical benefits in Castile, and

[...] because it has been and continues to be in doubt who might say they were natural able to have the stated benefits, we order that he who says he is natural be born in these kingdoms, and be the son of parents who both, or at least the father, is himself born in these kingdoms, or has established residence there and in addition has lived there for a period of ten years. So that if the parents, both or at least the father, having been born and being natural in these kingdoms; being outside them in our service or by our command, or in passing and without having a residence outside these kingdoms, have a child outside them, that child will be considered natural to these kingdoms. Be this applicable to both legitimate and natural children or only natural; but in the case of bastards we decree and order that the qualities that conform to the above which are required of fathers, must coincide with the mothers¹⁵.

According to this decree, children were Castilian naturals only if they were born to a father, or both parents, who were natural in Castile and had lived in these kingdoms for at least ten years. Children were also natural if they were born outside the kingdoms being legitimate children of the father or both parents who were natural. In the case of bastard children, Castilian 'naturality' could only be transmitted by the mother. That is, 'naturality' was held by two factors: descendency and place of birth, and the preferred transmitter of Castilian 'naturality' was the father, except in the case of illegitimacy. As we shall see, this was an important difference with 'naturality' in Navarre, where the preferred transmitter was the mother.

Throughout the sixteenth and seventeenth centuries, 'naturality' was adapted to the changes produced in Castilian society. It is interesting to point out, now, how legislation came increasingly to make the distinction that it was one thing to be born natural, and another thing to become natural. After 1565, when it was clear who were the Castilian naturals, an important question began to be asked: who could become naturalized, that is, what were the requirements to acquire the document called 'letter of naturality' given by the king. This was a matter that remained tied to the politics of distribution of power of the monarch, and to the

14 NR, book I, title XIV, laws I to VIII – I, 104-111.

15 NR, book I, title XIV, law VII – I, 110; **this is also in the** *Nueva recopilación de las leyes destos reynos* (1640), book I, title III, law XIX – I, 13. Generally, the punctuation and spelling have been modernized in the textual quotations.

so-called sale of offices, a practice originated in the early medieval period that the Austrians spread extensively to get money for the Royal Treasury. The sale of offices by the king is well-known, and covered all types of posts and saleable rights. The relationship between the granting of 'letters of naturality' and the reservation of offices has been explained in great detail by Pérez Collados for the kingdoms of Castile and Aragón¹⁶.

The necessary requirements to obtain the 'letter of naturality' varied over time, and with the monetary needs of the monarchy and the political circumstances during the sixteenth and seventeenth centuries. According to Herzog, the main factors taken into account for foreigners who applied for Castilian 'naturality' were love, loyalty and integration in the community where they resided. In this sense, the neighbourhood, a legal condition by which a resident enjoyed the rights and obligations of the local community in which he lived¹⁷, was important proof of integration into the community by Castilian naturals and, in fact, the declarations of local authorities in naturalization proceedings were frequently an essential element in the granting of 'naturality'.

Many foreigners, however, were only interested in obtaining 'naturality' in order to trade with the Indies, not to reside in Spain. Since to be able to do this one had to be natural to one of 'the kingdoms of Spain', one way to achieve it was to initiate a process of naturalization that ended in the purchase of a 'letter of naturality', providing another source of income for the king (another way of doing business was to use Castilian merchants as intermediaries). 'Naturality' came to be granted in exchange for money and thus entered into the sale of offices that had so much political importance in seventeenth century Spain.

At the end of the sixteenth century, a *real cédula* (royal decree), issued on the 27th of August, 1592, established that in order to obtain 'naturality', foreigners had to fulfill the following requirements: 20 years of residency in Spain, at least 10 of which as a household, marriage to a natural woman, and possession of at least 4,000 ducats in real property. These were severe conditions but with Philip IV, naturalizations and Castilian 'letters of naturality' to go to the Indies were granted more frequently: the king sold them and often ignored the laws for these grants. Between 1621 and 1645, 196 letters were granted and, after decreasing for a time, many more were again granted by Charles II¹⁸. In

16 Pérez Collados (1993), 171-230.

17 The status of neighbour was a legal category, but also a social category, closely linked to the credit or reputation that an individual had within the community. On this, see Herzog (2003), 17-42. A *resolución* (decree) by Philip V of March 8th, 1716, answering to a consultation of the newly created Junta de Extranjeros (Board of Foreigners) set up the conditions for foreigners to be considered as neighbours in Spain; see on this NR, book VI, title IX, law III – III, 166-167.

18 Domínguez Ortiz (1959), 227-239, the quotation is from 228. The regulations regarding requirements for 'naturality' to go to the Indies are the *reales cédulas* (royal decrees) of October 2nd, 1608; October 10th, 1608; December 25th, 1616; October 11th, 1618 and June 7th, 1620, in *Recopilación de leyes de los reynos de las Indias* (1681), book IX, title 27, laws 31 a 33 – IV,

addition, the king attempted to grant 'letters of naturality' to foreigners to whom he wished to sell offices.

With all of this, the concept of 'naturality' and its direct link to the reservation of offices changed. At the end of the seventeenth century, the royal officials, to evade opposition to arbitrary naturalizations from the local parliaments and communities, began distinguishing between those naturalizations granted by integration into the country in accordance with the laws, and those given by privilege or royal warrant. In some cases, the 'letters of naturality' restricted the reach of privilege: certain foreigners were naturalized as a reward for services given to the king, but were not considered authentic naturals: it was known that they had purchased it or it had been granted to them without them really deserving it. This was the case of quite a few French, Italian and Irish engineers, draftsmen, mathematicians and architects, who were made soldiers and appointed officials of the royal army. The rest, the majority, those who fulfilled the legal requirements of residency, loyalty, neighbourhood and matrimony were considered the true natural-born of Castile.

The royal policy of selling 'naturality' had important political consequences, probably without explicitly seeking them. Since 'naturality' could also be bought, it was not the only condition that granted the king's subjects the honour of serving him by occupying public and ecclesiastical offices in Castile and the Indies. This began to rupture its most valuable quality: the direct and unique relationship with the Castilian reservation of offices. The *de facto* paralysis of the Castilian parliament, which was almost never summoned during the seventeenth century, only served to facilitate royal politics. All this prepared the way for what would come later: the new strengthening of absolutist monarchy, in tandem with the political culture of the Enlightenment. Meanwhile, the monarch governed the other kingdoms and principalities of the Hispanic monarchy, as well. It is time to see what happened there.

II. 'NATURALITY' IN ARAGÓN, VALENCIA, CATALONIA AND MALLORCA

The most notable characteristic of the legislation of 'naturality' in the lands of the Crown of Aragón – Kingdom of Aragón, Kingdom of Valencia, Principality of Catalonia and Kingdom of Mallorca – is its morphological similarity to that of Castile. The first impression is that the differences between Castile and these other kingdoms occurred largely because the evolution of their Parliaments was different from those of Castile, and not so much because the king's policy was different.

15v-16r. Domínguez Ortiz appears to refer to the applications processed in the Council of Indies, but there must be much more documentation available for study in the Council of the Chamber of Castile.

This question in the kingdom of Aragón has been studied in detail by Pérez Collados¹⁹. Aragonese 'naturalty' was fixed by an act of parliament (*acto de corte*) of John II, in 1461, which was always in effect and applied repeatedly in the courts:

[...] if a person or persons born in the Kingdom of Aragón who by reason of following the Royal Court or managing an office that they have obtained or will obtain, or by reason of negotiation, or for any other cause or reason, have been or will be absent from the Kingdom of Aragón [...] and being there any women to whom a child or children have been or will have been born, [...] let [these children] be considered as natural and born in the Kingdom of Aragón, as if they themselves were born there. We wish that they enjoy all the positions, benefits, privileges, honours, liberties and immunities in all and for all that those born and residing in the Kingdom of Aragón are able and ought to enjoy [...] ²⁰.

Therefore it seems clear that those born in Aragón were natural and, in the case of the Aragonese residing outside the kingdom, their children also.

For the rest, the privilege of 'naturalty' was also directly linked to the possibility of holding royal or ecclesiastical positions and offices as in Castile. In 1423 and 1533, Alphonse V and Charles I, by two laws, established and confirmed, respectively, that the ecclesiastical offices by royal appointment had to go exclusively to the naturals of the realm, with the exception of those of the archbishop and bishops²¹. Finally Philip IV, in 1646, ended up reserving for them the archbishopric and all the bishoprics, abbeys, prelatures and *encomiendas* or trusts of military orders²².

Regarding civil offices, in 1362 a law by Peter II reserved various judicial offices of the kingdom for the Aragón naturals²³ and John II in 1461 added all the king's offices in the kingdom to them²⁴. In 1626 Philip IV, by seven different laws, reserved all military offices, diverse civil offices of the kingdom and certain places in the councils of the monarchy for naturals²⁵, and again, in three more laws in

19 Pérez Collados (1993).

20 *Acto de corte* of John II, parliament of Calatayud in 1461, in Savall and Penén, I (1866), 23-24. I have copied the version of the modern text provided by Pérez Collados (1993), 75. In the most usual edition of the code of laws of Aragón, that of 1866, the so-called old laws (to 1547) are organized by books and titles, with no indices, while the so-called new laws (1547-1702) are organized by parliaments and have no systematic compilation by books, titles and laws. The edition contains, besides, a collection of *actos de corte* (literally 'acts of parliament') from 1554 (II, 194-450), another of observances, another of laws no longer in force, several translations into Spanish of the codes of laws and observances printed in Latin, and an extensive analytical index.

21 Laws of Alphonse V in the parliament of Maella in 1423 and Charles I in the parliament of Monzón in 1533; Savall and Penén, I (1866), 2-4.

22 Law of Philip IV (III of Aragón) in the parliament of Zaragoza in 1646, in Savall and Penén, I (1866), 496.

23 Law of Peter II in the parliament of Monzón in 1362, in Savall and Penén, I (1866), 256.

24 Law of John II in the parliament of Calatayud in 1461, in Savall and Penén, I (1866), 30.

25 Laws of Felipe IV (III de Aragón) in the parliament of Calatayud in 1626, in Savall and Penén, I (1866), 455-456 and 458.

1646, gave them the offices of prisons of the kingdom, and places in different royal councils and in the Indies²⁶. Lastly, in 1585 Philip II decreed that Aragonese naturals could have offices in the Indies²⁷.

There are few doubts, therefore, that the possession or acquisition of 'naturalty' was always linked to a reservation of offices identical to that seen in Castile. Nevertheless, the Aragonese laws did not provide testimony about the processes of naturalization that took place and the 'letters of naturalty' that resulted, although there are references to the fact that these types of processes did occur²⁸. We know little about the real application of these laws, but certainly, in the seventeenth century, the residents faced, with attitudes of rejection, a new problem, which was the enormous French immigration stimulated by the expansion of the French market and high Spanish salaries. In numerous cases they resisted granting 'naturalty' – to which many had an absolute right solely by virtue of being born in Aragón, or living there for more than a generation²⁹.

Laws in Valencia provided a similar and complementary vision. 'Naturalty' was given by the king, too: it was frequently requested by the three estates of Parliament and so granted, as is verified in several sessions of parliament. In the sessions of 1542, nine individuals were naturalized³⁰. In 1547, upon the petition of the three estates, the king admitted 26 more individuals as naturals, almost all nobles and merchants, and some ecclesiastics³¹, and in 1604, upon the petition of all or some of the three estates (ecclesiastical, 'military' or noble, and 'royal' or from the cities) he declared as naturals 48 more individuals³².

26 Three laws of Philip IV (III of Aragón) in the parliament of Zaragoza in 1646, in Savall and Penén, I (1866), 497-498.

27 Law of Felipe II (I de Aragón) in the parliament of Monzón and Binéfar in 1585, in Savall and Penén, I (1866), 416.

28 Two cases from 1677 and 1692 are quoted; Pérez Collados (1993), 42, footnotes 105 and 106.

29 The French in Aragón numbered some 30,000 individuals, according to an anonymous document presented to parliament in 1646; the data and references are in Pérez Collados (1993), 44-48.

30 Micer Joan de Gays, Pompeo de Gays, Francesc Ubach, micer Bertomeu Camos, micer Joan Costa, Dorotea Francisca Philibert, the Duke Ferdinand of Aragón, Bernard of Cárdenas (Duke of Maqueda and Marquis of Elche) and Pedro Portocarrero Cervato. All of them were born in the city of Valencia or were neighbours of it. Decrees of Charles I, in the parliament of Monzón in 1542, in *Furs*, II, ff. xc-xci and ci-cii. In the legal compilation of the kingdom of Valencia, the code of laws in force until 1547 (probably until the parliament session of 1542) was organized by books, titles and laws, in two volumes. There is no general index, only an alphabetical index. The laws of the subsequent parliaments: 1547, 1552, 1564, 1585, 1604 and 1626 were further edited in another two volumes. They were only organized by parliaments. The king decreed, in parliament in 1626, that a systematic compilation be done, but it never happened (*Furs*, IV, f. 14). Also interesting is Mora d'Almenar (1635) and to a lesser degree, Branchat (1784-1786).

31 Parliament of Monzon in 1547, chapters iv-xxvi, in *Furs*, III, ff. xvi-xx.

32 In this case, it is said that both parties, the estates and the king, "lent their consent" to the acquisition of 'naturalty', which seems to indicate a role of the estates more equal in importance to that of the king; *Furs*, IV, parliament of Valencia in 1604, ff. 76-86.

However, the applications from the three estates were not always accepted. In 1626, the ecclesiastical estate asked that Henry of Aragón Folch Cardona and Córdoba, Duke of Segorbe, be naturalized, and the king postponed a decision until it was approved by the other estates of Parliament³³. This process was not always guaranteed³⁴.

In parliament sessions of 1604, much longer and more complicated, the king accepted that children of Valencia naturals, when born outside the kingdom, were also considered naturals³⁵, the same as in Aragón. This forged a link between place of birth and 'naturalty', and extended it to immediate descendents. It was an act of parliament (*acto de corte*) requested by the military estate (that of the nobility), newly confirmed in parliament sessions of 1626³⁶.

But the greatest importance of 'naturalty' was that it allowed one to hold office in the Royal House, as well as civil and ecclesiastical offices in the councils and offices of justice of the monarchy, and in the very kingdom of Valencia.

In the parliament of Monzón in 1585, the military estate (the one that included the nobility) asked that they and the other naturals of Valencia, by virtue of being naturals, be appointed to positions in the Councils of State, War and the Inquisition, as well as to offices in the Royal House. They also petitioned for the Council of Italy and offices in the kingdoms of Naples and Sicily, to which the king consented³⁷. That it was not always so is demonstrated by the fact that the three estates of Parliament in 1626 asked again for at least four places in these councils for naturals of the kingdoms of the Crown of Aragón. The king did not give his consent³⁸.

Regarding ecclesiastical benefits, the parliament of Monzón in 1547 prohibited foreigners from occupying such posts³⁹. In parliament in 1604, the three estates requested that, in accordance with the laws, different offices and posts of the kingdom continue to be given to naturals and not to foreigners; including all the ecclesiastical benefits, the scribes, the inquisitor of the kingdom, and the public offices of the Generalitat and the city of Valencia⁴⁰. The king in parliament in 1626 again approved this petition, which also extended to all offices with civil and criminal jurisdiction, the king's as well as those of the lords with vassals, and

33 Parliament of Valencia in 1626, chapter xliii, in *Furs*, IV, f. 42.

34 See parliament of Valencia in 1626, chapter cccxxiv, in *Furs*, IV, ff. 82-83.

35 Parliament of Valencia in 1604, in *Furs*, IV, f. 60.

36 Parliament of Valencia in 1626, chapter cviii, in *Furs*, IV, f. 22.

37 Parliament of Monzón in 1585, chapters xxxvii and xciv, in *Furs*, III, ff. 7 and 14.

38 Parliament of Valencia in 1626, chapters clxxiv, clxxv, clxxvi, clxxvii and clxxviii, in *Furs*, IV, f. 33.

39 Parliament of Monzón in 1547, chapter xxxi, in *Furs*, III, f. vi.

40 Parliament of Valencia in 1604, in *Furs*, IV, ff. 4, 14, 19 and 61.

to the public notaries⁴¹. He also answered – evasively – another petition which requested that in each office of the Royal House, the king reserve three places for naturals of the Crown of Aragón⁴², which implicitly bestowed one place on a Valencian natural, according to custom. The king continued to give ecclesiastical offices of bishoprics and archbishoprics, along with their rents or incomes, to naturals and also to non-naturals. The petition that these posts only be given to naturals of the kingdom or, failing that, to those of other kingdoms of the Crown of Aragón, was rejected by the king. On the other hand, he accepted it for other, lesser, ecclesiastical offices⁴³.

There is little data regarding naturalization for merchant interests. In the seventeenth century, it seems that foreigners who traded in the kingdom did not obtain ‘naturality’ easily, not even if they were married to a Valencian woman and resided for more than 10 years in the kingdom⁴⁴. We have observed a similar situation in Aragón.

I have very little direct information regarding the kingdom of Mallorca. It was united to the house and Crown of Aragón⁴⁵, and in 1439 no longer had a Parliament. Its matters were dealt with by the Parliament of Catalonia, but the Mallorcans were not called to the sessions: according to my research, the applications were sent directly to the king through ‘ambassadors’ commissioned for the job. Nevertheless, the inhabitants had privileges and franchises and one must suppose that, like other vassals of the Spanish king, they had their own distinct identity⁴⁶.

Philip II created a Royal Audience in the kingdom on the 25th of April, 1572. In 1608, he had a lieutenant and captain-general who acted as viceroy, at times, and presided over the Royal Audience and the Captaincy General with diverse offices appointed by the king⁴⁷. It is probable that there were offices reserved

41 Parliament of Valencia in 1626, chapters cxxviii and cxxxv, in *Furs*, ff. 24 and 26.

42 Parliament of Valencia in 1626, chapter clxxiv, in *Furs*, IV, f. 33.

43 Parliament of Valencia, chapters clxxii and clxxiii, in *Furs*, f. 33.

44 As seen in the case of Alicante in 1626; chapter ccxxix, in parliament of Valencia in 1626, in *Furs*, IV, f. 71.

45 *Ordinacions y sumari dels privilegis* (1663), 371.

46 “[...] com lo present Regne de Mallorca sia apartat, havent sas franchises especials, é en res en lo mon no sia sotmés al Principat de Catalunya ni a la observança de las llurs constitucions ni usatges, [y] mayorment com aquelles sien estades fetes en Corts particulars de Catalunya en las quals los habitants del present Regne no acostumen esser citats ni son tinguts de anar, encare [=encara] que los habitants del present regne hayan exprés privilegi [de] que per algun fet civil o criminal no poden esser trets fora lo present regne [...]” (as present Kingdom of Mallorca be apart, having its special franchises, and never be submitted to the Principality of Catalonia nor the observance of its laws and customs, as they are passed in the Parliament of Catalonia where they do not use to be called in neither have to go; though the inhabitants of this country [Mallorca] have the privilege of not being taken out of this country for any civil or criminal charge). The text is in Catalan. It is a decree of Alfonso V of June 17th, 1439, in *Ordinacions y sumari dels privilegis* (1663), 85 and 371.

47 Pragmatic of Felipe III, October 20th, 1608, in *Ordinacions y sumari dels privilegis* (1663), 212-214.

for naturals, as in other kingdoms, although I cannot be sure⁴⁸. I have not found any use of the words *naturalidad* ('naturality') and *natural* ('natural') among Mallorcan archives, but there is the word 'inhabitants' (*habitadores*) referring to a similar or identical quality. There are some indirect facts that indicate that the inhabitants had the privilege of holding offices⁴⁹, the same as naturals in other kingdoms. Thus, in 1663, relatives and servants of the governor could not occupy certain offices if they had not been born in the kingdom⁵⁰; no one from Aragón, Catalonia or Valencia could be the governor of Mallorca⁵¹; the so-called *habitadors* ('inhabitants') of the kingdom had diverse specific privileges⁵²; it was obligatory for them "[...] que los [¿jutges?] ordinaris sien fills de la terra" and "[...] de la Illa de Mallorques [=Mallorca]" (ordinary judges to be sons of the land and the island of Mallorca⁵³) and "[...] que los habitadors no sian tinguts pledejar fora lo regne" (that the inhabitants not be obliged to argue their case outside the kingdom)⁵⁴. Finally, in the seventeenth century, foreigners not married to a Mallorcan woman were not able to open a shop⁵⁵, a limitation that, in the eighteenth century, had the same force as those in Aragón and Valencia.

Book I, title V, of the king's laws, given in Parliament, refers to legislation regarding 'naturality' in Catalonia⁵⁶. It comprises a dozen laws, from the chapter on the king's court given by Alphonse IV in the parliament of Sant Cugat in 1419, to that given by Philip V (IV of Aragón) Bourbon in the parliament of Barcelona in 1702. All refer precisely to those persons who, from the beginning, were not considered naturals, the foreigners, to establish, as in Castile, Aragón, Valencia and Mallorca, that they could not hold ecclesiastical benefits and offices in the

48 Since there were no sessions of parliament nor processes for the application or approval of 'naturality' as in the rest of the cases studied, it can be inferred that Mallorcan 'naturality', if there was such, was freely handled by the king, or at least without the intervention of public petitions.

49 A good summary of the Mallorcan privileges in sixteenth and seventeenth centuries I am referring to, is *Sumari o repertori de les franqueses y privilegis del regne de Mallorca, en que está compres altre sumari fet antigamente per lo Magh. Micer Theseu Valentí Donzell, advocat del regne, dit vulgarmente 'la Valentina'*, in *Ordinacions y sumari dels privilegis* (1663), 215-401. The document gives an accurate reference of each one, giving notice of the legal compilations and repertories, printed or not, that contain the full texts. The following data have been taken from this source. The texts are in Catalan, not in Spanish.

50 *Ordinacions y sumari dels privilegis* (1663), 276, 301 and 355.

51 *Ordinacions y sumari dels privilegis* (1663), 298 and 301.

52 *Ordinacions y sumari dels privilegis* (1663), 305-308.

53 Although in Catalonia "[...] **los iutges deuen esser catalans e los mallorquins [allí] son reputats Catalans [...]**" (the judges must be Catalan and the Mallorcans [there] are considered as Catalans); all in *Ordinacions y sumari dels privilegis* (1663), 353-354.

54 *Ordinacions y sumari dels privilegis* (1663), 373.

55 *Ordinacions y sumari dels privilegis* (1663), 383.

56 *Constitutions* (1704), I, book I, title V, laws I a XII – I, 16-21. The texts of this compilation are in Catalan, not in Spanish.

principality. In another chapter from the court given by Charles I in 1534, it is indirectly stated that Catalans were only “[...] los nats, e domiciliats verdaderament y sens frau en los dits Principat de Cathalunya o comptats de Rossello y Cerdanya, y fills de aquells [catalans] encara que no sien nats dins los dits Principat o Comptats [...]” (those born and truly residing without fraud in the principality of Catalonia and counties of Rosellón and Cerdaña, and their children even though they may not have been born in the aforementioned principality and counties)⁵⁷.

These laws were reiterated, in other statutes until 1585, and expressly confirmed by Philip V (IV of Aragón) in the Parliament of Barcelona in 1702⁵⁸. The parliament of 1706, convened when the Catalans were already in rebellion, did not contain any substantial novelty, perhaps only a major exclusion of those non-naturals⁵⁹. They were *capítulos de corte*, or chapters of parliament, that is, they were given by the king in Parliament, so this institution must have participated in their development, the same as in all the other parliaments. The majority expressly mention, as the main reason to refuse Catalan ‘naturalty’, the fact that the Aragonese, Valencians and Castilians also prevented Catalans from occupying ecclesiastical offices in their kingdoms, since they were not natural to those respective kingdoms. This indicates that the granting of ‘naturalty’ was also a defensive mechanism, to keep their own reserve of offices from their neighbours.

In Catalonia, ‘naturalty’ was managed, notably, around ecclesiastical offices, according to what the laws of the principality show; that is, the same as in all the other kingdoms studied. But with respect to Castile, there were differences of magnitude. The power of the king was less, his capacity to appoint offices, and the number of offices that he appointed, were fewer. The same occurred in the other kingdoms. In Catalonia (as in Aragón, Valencia, and Mallorca), there were no *corregidores* or royal local magistrates until the eighteenth century, nor officials of the king to collect the main taxes, nor a developed army. One should not forget another important fact: the king’s Royal House in Barcelona, as monarch of the Crown of Aragón, was diminishing in importance, and in the number of offices, during the sixteenth and seventeenth centuries, while the Royal House of Castile, nucleus of government of the Austrians, only grew. Therefore, there were many more offices and power to distribute in Castile. Apart from that, in the fifteenth century, foreign merchants did not appear to have problems operating in Catalonia⁶⁰ and I do not believe that this situation

57 *Capítulo de corte*, Charles I Habsburg in the parliament of Monzón in 1534, *Constitutions* (1704), I, book I, title V, law II – I, 16-17.

58 *Capítulo de corte*, Philip IV (V of Castile) in the Parliament of Barcelona of 1702, *Constitutions* (1704), I, book I, title V, law XII – I, 23-24.

59 As they were presided over by archduke Carlos of Austria as Carlos III of Aragón; *Constitucions* (1706), see *constitucions* or constitutions 7, 24 and 27 and capitols or chapters 10, 65 and 112 to 115.

60 Pragmatic of Martín I the Human, on 15-I-1401, *Constitutions* (1704), II, book I, title XXVIII, law I – II, 66.

varied much until the massive penetration of the French occurred in the principality, between 1540 and 1620⁶¹.

III. 'NATURALITY' IN NAVARRE

The case of Navarre is complex, since it does not match any of the aforementioned situations and since, in order to explain it, one must go back in time to the sixteenth century, to the moment when the kingdom of Navarre was incorporated into the Crown of Castile.

The political facts that we know today⁶² establish that, when Ferdinand the Catholic conquered Navarre, he named himself king of Navarre, in August of 1512. However he did not succeed in conquering the entire kingdom itself, since the region of the trans-Pyrenees, the so-called 'Basse Navarre' or Lower Navarre, which later formed part of France, remained out of his reach. From there, the initial intention of the Spanish king, as it would be for someone who had achieved a military conquest, was to incorporate the kingdom into his other patrimonial states, that is, to the Crown of Aragón, as one more kingdom. The consolidation might have supposed a process similar to that of the rest of the kingdoms of this Crown: a union respecting laws and institutions. The initial incorporation into Aragón is verifiable, according to Floristán, at least, in an official document of 5th of June, 1514 in which there is reference to "[...] our kingdom of Navarre, due to its newly done acquisition and addition [...] of it to the Crown of our kingdoms of Aragón [...]" and in a letter to his son Charles I in 1515⁶³.

Nevertheless this intention was maintained for only three years. By then, Isabella the Catholic had died, in 1504, Ferdinand the Catholic had married Germana de Foix (1505) and had had a son by her, who died shortly after birth. The son, had he lived, perhaps would have been the new heir to a Crown of Aragón which included Navarre⁶⁴. The heiress to the Crown of Castile was Ferdinand's daughter, Joanna (so-called Johanna the Mad), by his first marriage with Isabella. Ferdinand did not get on well with her, nor with her son and future heir to the Crown of Castile, Charles of Gant. For a time, he considered disinheriting her from his estates in Aragón. Thus Navarre would not have united with Castile.

But politics won in the end. In the first half of 1515 Ferdinand, near death, faced with the support the new king of France, Francis I, gave to John Albret, pretender to the throne of Navarre, changed his opinion. Castile offered more options to defend the conquered kingdom against France, and Ferdinand the

61 See Nadal (1960), chapter 5.

62 For the argument, I take as initial reference the excellent presentation of Floristán (1991), 55-62, although, in my analysis, facts and quotations are placed in a specific and different context.

63 Floristán (1991), 57 and (1999), 475-476, note 63.

64 Although the marriage was agreed upon with the French king, and the descendant, in principle, would only have inherited the kingdom of Naples.

Catholic, as “administrator and governor” of Castile, decided to give Navarre to his daughter, Joanna, heiress to the Crown of Castile (1515).

The initial incorporation of Navarre into the Crown of Aragón, had it been consolidated, would have supposed an identical process to what had taken place in the other kingdoms, respecting laws and institutions. In fact, the Viceroy, in the name of the king, swore to respect the laws in the parliament of Navarre, on the 23rd of February, 1513⁶⁵. But the kingdom integrated finally with the Crown of Castile⁶⁶. Ferdinand the Catholic died soon thereafter, and could not completely carry out the integration of the institutions and laws of Navarre into those of Castile. The new king, Charles I of Gant, did not dare to continue and halted the idea of absorption⁶⁷.

So, the union of Navarre to the Spanish Crown was not by inheritance, but rather through its conquest by Ferdinand the Catholic. Initially it was to unite with Aragón in the Aragonese manner, then it began the process of uniting with Castile in the Castilian manner, and in the end it remained in between. The kingdom of Navarre united with the Crown of Castile, as the viceroy of Charles I, declared in the Parliament of Navarre on the 22nd of May, 1516⁶⁸, but the institutions and laws of Navarre were neither reformed nor abolished, remaining untouched. As Floristán holds, only the passage of time would determine how, finally, the incorporation was politically interpreted⁶⁹.

In any case, the partition of the kingdom into two territories was definitive. After several political events, the military victories at Noain (1521) and Maya (1522), besides the final seizure of Fuenterrabía by the Spanish (February 1524), assured the possession of most of Navarre. France and Spain agreed to let it be so, definitively, by the peace of Cambrai (5th August, 1529)⁷⁰.

In the Spanish part of Navarre, where the capital was located, Parliament continued to function in the same manner as before 1512. The viceroy governed with the Royal Council, also named the Council of Navarre. Justice was exercised by the Main Court for minor matters, the Royal Council of

65 See Floristán (1991), 57.

66 “[...] and that his Highness commanded that the things that touched the cities, villages and places of the mentioned realm of Navarre and their neighbours, be handled from that moment by the Council of the said Queen Joanna, our lady, and that justice might be administered to the cities and villages and places of the realm and to their neighbours, and that there they might come to petition her and keep the laws and customs of the realm [...]”, partially reproduced by Floristán (1991), 61-62. To which ‘Council’ does this refer: to the Royal Council of Castile or that of Navarre? Floristán maintains that it was the Council of Castile – it is the most logical – and that the incorporation should be thought of as a mere absorption by Castile. The original text, dated July 7th, 1515, is in the act of parliament of Burgos in 1515 (June 8th to July 7th, 1515), in *Cortes*, IV (1882), 245-259.

67 Floristán (1991), 59 and (1999), 477-479.

68 AGN, Comptos, record number 540, f. 132r, and a book of *Recopilación de actas de Cortes* (1503-1531), f. 158r; everything apud Floristán (1999), 478-479, note 76.

69 Floristán (1991), 59.

70 Floristán (1991), 76-83.

Navarre as supreme court of Navarre, and other Castilian councils (Castile, War, Inquisition) when one of the litigants was not a Navarrese, or when it dealt with the monarch's prerogatives⁷¹. Parliament, different from all the rest, self-convened every three years and did not need the king to call the sessions. One of its most important administrative duties became precisely the granting of 'letters of naturality'⁷², a fact that, with respect to the question under scrutiny, became decisive.

From the union of Navarre with the Crown of Castile, which was legally not very clear, three events (about which we know little) evolved over more than a century. We do not know the details, but we do know the results.

First, the idea that the incorporation of Navarre into Castile was a 'unión accesoria' (a union between unequals) like those in the Crown of Castile, where Castilian laws and institutions became weaker. Instead, the idea became dominant that it was a union *aeque principaliter*, 'egüeprincipal', 'equiprincipal' or 'unión principal', that is, a union between equals, identical to the rest of those in the Crown of Aragón, in which, when they united with the crown, the Kingdom of Aragón kept its laws and government institutions⁷³. Second, despite the aforementioned, the privilege of Castilian 'naturality' for the Navarrese as a consequence of their incorporation into the Crown of Castile did not disappear, but rather was strengthened through a particular mechanism: a double 'naturality'. That of Navarre was considered equal to that of Castile,

71 For example, when the appointments to offices were included in the Royal Patronage, in which case the competence was of the Council of the Chamber of Castile from its creation in 1588.

72 They approved each tax and global tribute to pay to the Crown, but the management of collection was done by the *Cámara de Comptos* or Chamber of Accounts. The permanent *Diputación del Reino* was only created in 1572, by agreement of Parliament. They shared the legislative initiative with the king: they proposed rules and agreements that, if the king approved, enacted laws considered to be Navarrese, and, at the same time, the king, on his own, also promulgated *reales provisiones*, *reales cédulas*, *autos* and *ordenanzas del Consejo* [*Real de Navarra*], y *ordenanzas de visita* (royal rulings, royal decrees, resolutions and ordinances of the Council [Royal of Navarre], and inspection ordinances). In order to propose rules or the compliance with provincial laws, laws, orders, privileges, uses and customs that were already granted, parliament prepared a document with *pedimentos*, or petitions, to the king. The document was delivered to the viceroy, dealt with and reported by the Royal Council [of Navarre], and delivered to the king for a decision. Since the granting of donations was the main prerogative of Parliament, they frequently delayed their approval in order to guarantee that the rest of their requests would be honoured. All according to Sánchez Martínez (2002), unpaginated.

73 From the sixteenth century, a double interpretation appeared, united to the topic of what was the nature of the laws of Navarre. The polemic was born out of the edition of the first 'reducción' or compilation of the code of laws of Navarre, already set forth in 1528. The question comprised several fundamental concerns: whether the union of Navarre with Castile was an absorption or an 'egüeprincipal' union, a union between equals; whether the codes of law of Navarre were granted by the king, or agreed upon with him, and whether they were only of the kingdom, or of the king and the kingdom (Juan Martínez de Olano, 1573; Pedro de Ollarizqueta, 1575). The polemic, which continued during the seventeenth to the nineteenth centuries, must be interpreted as normal in one context, that of the Ancien Régime, in which the re-defined, disputed role of the institutions was habitual. The data are in Leoné Puncel (2005), 63-87, the statement on 86.

and vice-versa. Third, a certain number of inhabitants of French Navarre⁷⁴ continued to consider themselves Navarrese and sought recourse to the laws and ‘naturalty’ of Spanish Navarre. After 1583, when at last Spanish Navarrese ‘naturalty’ became fixed, those whom we can call French Navarrese continued to apply for a ‘letter of naturalty’ as Navarrese, that is, as Spanish Navarrese.

The first question, that of the *unión principal* or *equiprincipal*, has a historiographical nature and is at the heart of everything. But we cannot go into detail about that; it is necessary to pay attention to the others, which are of most interest at the moment. The second question, that of double ‘naturalty’, was essential: with it Navarrese naturals, from the beginning, were also considered Castilian and admitted to positions and offices in Castile. The Parliament of Navarre, as in any other realm, asked the king, many times successfully, to permit only their naturals to occupy offices in Navarre⁷⁵. But in addition, after decades of petitions, they gained something very important: exclusive control of Navarrese ‘naturalty’, which was granted them by Philip II in 1580⁷⁶.

The capacity of Navarrese naturals to occupy offices in Castile was accepted from the very beginning, but with the crisis in the monarchy from the end of the sixteenth century, the Castilians occasionally raised objections, and it was not again clearly accepted until 1645. That year, in the context of a political crisis stemming from the Union of Arms and the war with France, the College of the Holy Cross of the University of Valladolid refused to admit the Navarrese José de Egués as the recipient of a grant, because he was not considered a Castilian natural. The Parliament of Navarre then applied to king Philip IV that two things be expressly recognized: that the union between Castile and Navarre had been a *unión principal*, or between equals, and that the Navarrese, from the beginning, had been admitted as Castilian naturals to occupy positions and offices in Castile, and vice-versa. The king determined that the petition had merit, admitted the thesis of the *unión principal*, and ordered that the Navarrese be admitted⁷⁷.

74 That is, from the *merindad* (‘county’) of San Juan de Pie de Puerto, or of Ultrapuertos (‘beyond the ports’), or of ‘Tierra de Bascos’ (that is, land of the Navarrese who speak Basque). The Navarre of Ultrapuertos, Lower Navarre (‘Basse Navarre’) or French Navarre, was an independent realm during the sixteenth century and did not unite with France until its king, Henry III of Navarre, inherited the Crown of France and, as Henry IV of France, united both kingdoms in 1594.

75 Navarrese ‘naturalty’ was the subject of legislation similar to others, it can be seen in NRLN, book I, titles VIII and IX – I, 373-419 –, and IX – I, 421-437.

76 Parliament of Pamplona in 1580, law 40, in NRLN, book I, title VIII, law I – I, 373-374. Quoted as well by Floristán (1999), 482, note 88.

77 “[...] the year 1513 [the kingdom of Navarre] was united and incorporated by king Ferdinand of glorious memory in the mentioned kingdoms of Castile and León. And although the kingdom [of Navarre] remained distinct and separate in territory, legal code and laws, it did not remain so in communication and promiscuous aptitude for royal offices and ecclesiastical benefits, by having incorporated [to Castile] with this quality. This was so established in the referring writ inserted in the General Parliament that took place in the city of Burgos in the year 1515, where it is expressly stated that by the incorporation of this kingdom to those of Castile and León, it

Shortly thereafter the king explicitly recognized, by royal warrant on the 30th of September, 1647,

[...] that the naturals of this kingdom of Navarre for the same reason as those of the Crown of Castile, León and Granada and of the rest of those individuals may enjoy and ought to enjoy the offices, benefits, scholarships, academic residences and all the rest useful and proper that they are able and ought to enjoy the same as those born [...] in the mentioned kingdoms [...]⁷⁸.

Shortly after, in 1652, the parliament of Navarre complained again to the king that, in 1648, Navarrese naturals had been prohibited from being able to enter the list of those eligible for other offices, those of the rector of the College of Saint Ildephonse and of the University of Alcalá de Henares, because of not being Castilian naturals. The Navarrese, invoking again the decree of 1645, asked to be considered Castilian, and the king again granted it⁷⁹. The double 'naturalty' of the Navarrese no longer seemed to be in doubt.

So, from the middle of the seventeenth century, both the *unión equiprincipal* and the double 'naturalty' were fully accepted. But since 1515, 140 years had passed, and in so much time other things had also changed. During that time, Castilian naturals came to realize the double privilege of the Navarrese: politically they continued to have their own institutions and laws, but at the same time they were equal when it came to occupying positions and offices in Castile and the Indies. They had the advantages of *foralidad* (privilege of having provincial laws) without its drawbacks. Neither did the king ignore these ambiguities when it came time to distribute royal and ecclesiastical positions and offices. And the same thing occurred with the French Navarrese. No doubt they soon realized that, continuing to be considered Navarrese, gave

might keep its laws and customs free of censure and unharmed so it might govern itself. This was in such a way that, the incorporation of this kingdom was not by means of suppression but by that of *unión principal* [=union between equals]. So each kingdom retained their original character in laws, territory and government, although [=and] naturals as well retained equal and reciprocal rights to those of Castile in Navarre and those of Navarre in Castile to obtain dignities, offices and benefits with no difference, which has been observed and used thus after the incorporation was done. Normally, many of the dignities of this kingdom have rested with Castilian people, and have not been allowed for anyone from another province, or nation. And also their naturals because of this aptitude being reciprocal, have been admitted to the offices and benefits of Castile. Since this right was recognized to be clear and common and very close to the spirit of your Majesty, besides being equal in both kingdoms, and that without this right the aforesaid incorporation would not have had any effect [...]", parliament of Olite in 1645, law 6, in NRLN, book I, title VIII, law XXXIV – I, 412-413, the quote is from 412. The event was also noted by Floristán (1991), 165-166.

78 Parliament of Olite in 1645, law 6, in NRLN, book I, title VII, law XXXIII – I, 404-407, the text on 405. It has been reproduced in part in Floristán (1991), 165-166.

79 Saying "That we have not considered, nor do we consider the naturals from that kingdom [Navarre] to be foreigners to the kingdoms of Castile and León [...]". Parliament of Pamplona in 1652, law 1, in NRLN, book I, title VII, law XXXIV – I, 407-419.

them privileges in Navarre and also allowed them to be considered as Castilian naturals, to be appointed to offices in Castile and the Indies.

We do not know to what extent the French Navarrese were considered naturals after the conquest of Navarre by Ferdinand the Catholic. Their situation at this time was probably not well-defined, like the conquest itself, which only became definitive after a time. However it was, the certain thing is that, during certain decades, many, sincerely or out of self-interest, continued to consider themselves Spanish Navarrese. As early as the 28th of September, 1526, the inhabitants of San Juan de Pie de Puerto, principal town of the *merindad* (county) of Ultrapuertos, or 'Land of the Basques', ratified their loyalty to Charles I of Gant as king of Navarre⁸⁰, and in 1580, within the framework of the religious wars that were then devastating France, the question of 'naturality' of the inhabitants of French Navarre came to the forefront. That year, parliament decreed that

[Your Majesty] declares to be natural he who was procreated from a father or mother natural inhabitant of the mentioned Kingdom of Navarre; and he who was born in the mentioned Kingdom of a foreigner not natural and inhabitant, be not understood to be natural of the mentioned Kingdom nor can he enjoy the liberties and privileges, nor 'naturality'. Which only the three Estates and no other give and can give⁸¹.

Thus it was confirmed that, from then on, only those born of parents who were naturals themselves and who, in addition, resided in the kingdom would be considered Navarrese naturals, not those who only fulfilled one of the two conditions. Only "the three Estates" gathered in Parliament were able to grant Navarrese 'naturality'. This decision gave a judicial instrument of great importance to the institution, which in time would have important social and political consequences. When a French Navarrese petitioner applied for 'naturality' he had to address the Navarrese Parliament to approve his petition. He could not go to the Council of the Chamber of Castile, where the family and client networks which had been formed on both sides of the border, since before the conquest, came to have growing importance, to assure that a petition would be successful. The grant depended on the Navarrese parliament, which convened every three years – whether or not the king called them into session. This differed from all the other peninsular parliaments, so that the process of granting Navarrese 'naturality' remained, in fact, outside direct royal control. The Castilian king, who controlled the granting of Castilian, Aragonese, Valencian, Catalanian and Mallorcan 'naturality' had lost control of Navarrese 'naturality'. Moreover, since this was a competence of parliament, it could be used by it as an instrument of negotiation with the king.

80 Yanguas, III (1840), 423-426; apud Floristán (1991), 83-84.

81 Parliament of Pamplona in 1580, law 40, in NRLN, book I, title VIII, law I – I, 373-374. This book and title are dedicated to Navarrese 'naturality' and provide more references with regard to it. In parliament in 1580 was also established, in its law 26, that naturals of Navarre could not be held prisoner, except by officials of the kingdom, nor be judged, except by Parliament and Council of the realm: NRLN, book I, title VIII, law XI – I, 380-381.

Three years later, the definition of Navarrese ‘naturalty’ was completed when parliament, in 1583, petitioned, and the king granted, that ‘French Navarrese’ or ‘Basques’ (that is those who spoke Basque in the French region) not be considered Navarrese:

By the laws of this kingdom it has been ordained and ordered that foreigners not be admitted in this kingdom in offices and benefits and, in spite of this, the [Navarrese] Basques have expected not to be foreigners and to be able to have offices and benefits in this kingdom. And since they are subjects and vassals of another prince, we beseech that your majesty order and command, interpreting the mentioned laws, [...] that the [Navarrese] Basques be considered foreigners and not be admitted in this kingdom in offices nor benefits, vicariates and rents [...]. And that the same be understood and done with the French⁸².

This deprived the French Navarrese of ‘naturalty’ in Navarre and as a consequence they directed a letter to the king (1586) in which they argued that, until 1583, when they resided in Spanish Navarre, they had been considered Navarrese for all intents and purposes:

[...] naturals born within the village of San Juan [de Pie de Puerto]⁸³ and other places of the mentioned Basque *merindad* [county] who came to live and reside from the ports to this part [...], as naturals have enjoyed what other naturals of the other five *merindades* [counties] of this kingdom enjoy and have been appointed and admitted to royal offices of justice and government and ecclesiastical benefits and cures as other naturals of this kingdom without any distinction and without it being necessary to naturalize them as required if they were foreigners [...]⁸⁴.

They complained about the cited law of 1583 that had declared them foreigners, and asked that it be revoked, arguing that when, in 1512, Ferdinand the Catholic took possession of the kingdom, the representatives of this jurisdiction had sworn their obedience and loyalty to him. Thus the petitioners affirmed that if, from 1527, the “princes that have been and are from Béarn” began to collect the rents from the territories, it was because the Spanish king allowed them to occupy those territories. They also argued that, when the prince of Béarn began to defend Lutheranism and attack his Catholic subjects, those subjects were helped by the viceroys of Navarre who had allowed them to enter Spanish Navarre to practice their Catholic faith⁸⁵; and that Charles I and Philip II had received “many knights and gentlemen” of the jurisdiction as their own subjects⁸⁶.

82 Parliament of Tudela in 1583, law 47, in NRLN, book I, title. VIII, law VII – I, 377-378.

83 Today's French village Saint-Jean-Pied-de-Port.

84 Idoate (1981), 406-408, in Floristán (1991), 145-146, where the complete document is found.

85 That is, to emigrate temporarily or definitively, at least in some cases.

86 Idoate (1981), 406-408, apud Floristán (1991), 145-146.

Therefore, it seems that the fixation of Navarrese ‘naturality’ and the rejection of the French Navarrese was an attempt either to slow the migration of Catholics persecuted by the Protestant prince of Béarn, in the context of France’s religious wars, or to prevent the king from issuing to them the ‘letter of naturality’ without input from parliament, or both. There are no details of the political debate this provoked, but there is proof that the petition was not successful, since, in 1592, parliament ratified the laws of ‘naturality’ given in 1580 and 1583⁸⁷. From then on, French Navarrese, as foreigners, remained obliged to apply for Navarrese ‘naturality’ to the Parliament of Navarre. The process took place in parliament and the petitioner’s personal contacts became more important than ever, since they could determine the successful outcome of the process.

The test of ‘naturality’ in Castile, Aragón, Valencia, Catalonia, Mallorca and Navarre reveals the existence of certain elements common to all these territories. Having or obtaining ‘naturality’ was needed to have the honour of serving the king. It allowed the occupation of civil as well as ecclesiastical offices in the monarchy, to ensure positions of power in service to the king and to monopolize the offices of one’s own territory, excluding the foreigners. The king controlled the process of granting ‘naturality’ in Castile and in the rest of the cases, except for Navarre. It seems clear that the Navarrese elites occupied advantageous positions with respect to the rest of the subjects in the territories of the Crown of Aragón, because they were the first to hold positions close to the king⁸⁸, they controlled ‘naturality’ from their own Parliament, and they certainly ensured an unusual position with respect to the Castilians: they were equal when it served their interest, and different when it served their own interests. The Navarrese reached the king before anyone else, and when the rest, without a doubt taking advantage of the crisis of State in the seventeenth century, came clearly requesting more offices, the Navarrese had already occupied important positions. They had had the important advantage of being first-comers. And they used it.

IV. THE CONFORMATION OF SPANISH ‘NATURALITY’ IN THE EIGHTEENTH CENTURY

In the eighteenth century, a new phenomenon, the accelerated spread of the market, promoted substantive changes in ‘naturality’. In the second half of the seventeenth century, the timid beginnings of economic recovery, together with the progressive paralysis of the provincial Parliaments (that had been almost never convened) during the century, made these institutions especially obsolete for any government that wanted to develop a mercantilist economic

⁸⁷ Parliament of Estella in 1592, law 20, in NRLN, book I, title VII, law VI – I, 377.

⁸⁸ The Navarrese were the first to occupy offices and positions in the Spanish monarchy from the beginning of the sixteenth century. According to Kagan, between 1524 and 1699, the percentage of Navarrese in a sample of colleges of Castilian universities was greater than all of the other non-Castilians together, and from the universities, they were promoted to offices and rents in the king’s Court and the Indies; Kagan (1981), 155, as quoted by Floristán (1999), 483, and this writer.

policy. The difficulties in admitting the 'naturalness' of the French in Catalonia, Aragón, Valencia and Mallorca demonstrated the new competition, and the ensuing problems, that these individuals – who in many cases were involved in commercial activities – represented. They were a problem not only for the noblemen, but also for natural merchants. On the other hand, customs duties in Navarre, Aragón, and Catalonia, were under the control of their respective Parliaments, not of the king, and thus it was simply impossible to develop a policy of tariffs with the provincial parliaments, if the king did not convene them. And he did not, for political reasons.

Moreover, the parliaments were not prone to draw up a policy on custom duties since these had primarily fiscal, not commercial interests, for them. In any case, it would not have been minimally effective; the on-going changes in international markets, and the changing situation of the prices of trade, would have demanded prompt decisions that could not be taken without the king. The last Catalan parliaments that produced legislation took place in 1599 and 1702 (the unfinished one of 1626 did not pass any law and that of 1706 was illegally presided over by the archduke Charles as Charles III of Aragon). The last Valencian parliament took place in 1626, and only in Aragon were there parliaments in 1626, 1645-1646, 1677, 1678, 1686, 1687 and 1702. They were not many, either. Once again, Navarre was the exception: parliaments were convened every three years, but by contrast, here, the so-called *derecho de tablas*, or custom duties tax, was an income of the king's Royal Treasury, not of the realm; it was managed by the Cámara de Comptos until 1749.

Nevertheless, in spite of all this, none of these provincial custom duties would have been useful in developing a mercantilist custom duties policy, since all of them were given at lease until the decade of 1740. So, it was the lessees, not the king's officials, who interpreted how the tariffs had to be applied in each case. Any customs policy was nearly impossible while customs continued to be at lease.

To this was added new and exceptional political circumstances, arising from the War of Succession: the suppression of *fueros* or provincial laws in Aragon, Valencia and Catalonia (but not in Navarre); the appearance of a French merchant elite in Madrid, joined to those of Seville and Cádiz, and the reaffirmation of royal power in concert with the political culture of the age.

For that reason, the granting of 'letters of naturalness', which until then had required the more-or-less formal consent of the respective Parliaments, ended up fully in the hands of the king, who within a few years made two important decisions that have not been taken into account until now, and that had considerable consequences. First, between 1715 and 1723, the different naturalities of the monarchy united around the Castilian 'naturalness'. Second, as a consequence of the new circumstances, the king began to use 'naturalness' as an economic instrument, not just as a tool for the distribution of power, and ended up establishing different types of 'naturalness'. All this strengthened his political capacity, weakened the reserve of offices that the Castilians had preserved for their naturals over two

centuries, and extended the social range of those who were entitled to occupy them⁸⁹. These changes left aside, once more, Navarrese ‘naturalty’, for three reasons: the Navarrese had been loyal to their king, they had contributed to the economic effort of the war, and their networks of political influence within the court were already well developed. From then on, they increased.

The first thing that Philip V did was to consolidate the competence of Castilian cities in the granting of Castilian ‘naturalty’ through a royal resolution, in consultation with the Council of the Chamber of Castile, on the 26th of August, 1715, by which it was decreed that Castilian ‘naturalty’ would not be granted “without asking for the consent of the cities and villages with a vote in Parliament” for the purpose of awarding rents or ecclesiastical offices and municipal posts. Next, four types of ‘naturalty’ were created. An important addition on the 7th of September, 1716 to the instruction of 1588 (“which has the Chamber [of Castile] for its government”, that is, that which created the Council of the Chamber of Castile), established four types of ‘letters of naturalty’ for foreigners:

[...] it is declared that naturalities for foreigners belong to the decisions by this Tribunal without the need for consultation, except those that are to enjoy ecclesiastical income, in whose case consultation should precede. This grace is an authorization for the foreigner to be able to enjoy and have in these kingdoms all and any offices, honours, dignities, rents and privileges that naturals have, without any difference or distinction. There are four classes: the first, absolute, to enjoy all the ecclesiastical and secular without any limitation; the second for everything secular, with the limitation that it not include things that impinge on the ecclesiastical; the third to be able to obtain certain ecclesiastical rent in canon, dignity or pension without exceeding it; and the fourth is for the secular and only to enjoy honours and offices as naturals excepting all that is prohibited by the articles established [in the contracts for the collection of the service] of millions. For the first three the consent of the kingdom must precede their grant, writing letters to the cities and villages voting in Parliament, except when such naturalities are of those that have been granted by the kingdom at the time of the dissolution of the general Parliament⁹⁰.

Here, two things must be noted. The first is that subjects of the king are no longer mentioned, rather only ‘foreigners’ who apply. Castilian ‘naturalty’ is not mentioned. It seems to be consolidated in the terms that were established in 1595: affiliation and birth, *ius sanguinis* and *ius soli*.

The second is the final sentence, key to the whole text, whose interpretation, in my judgment, is in no doubt. In a subtle but clear way, the vote in parliament, obligatory for granting Castilian ‘naturalty’ in the sixteenth and seventeenth centuries, was supplanted by an individual bureaucratic ‘consent’ of the cities with a vote in parliament, whatever kingdom it might be. In addition, the king gave more power to the Council of the Chamber of Castile in the granting of ‘letters of naturalty’ to foreigners, and establishing limits, depending on the grace that was

89 Herzog (2003), 76-93.

90 NR, book I, title XIV, law VI, footnote 5 – I, 110.

granted. In this way, cities with their own vote in Parliament, but not necessarily meeting in the sessions, continued to judge 'naturalty'; but in fact the granting of it remained in the hands of the Council of the Chamber of Castile (that is, the king), with the tacit consent of the *brazo real* or royal estate, that of the villages and cities, which was precisely the only body that had been summoned to parliament by the king during the sixteenth and seventeenth centuries.

The law also affected those who until then were Aragonese, Valencian, Catalanian and Mallorcan naturals. The three Parliaments of the Crown of Aragón, which comprised all the branches or estates, had been suppressed; but the representatives of the *brazo de universidades* or estate of universities, that of the cities (equivalent to the royal estate in Castile), of those political communities, continued to exist because the decrees of the *Nueva Planta* (literally 'new template') (1707, 1714) had incorporated them into the Parliament of Castile. They were part of it already, therefore the law affected them as well.

Indeed, soon after, in a resolution in consultation with the Council⁹¹, on the 1st of October, 1721,

[...] it was declared that in the kingdoms of Aragón, Valencia, Catalonia and Mallorca ought to be requested the consent of the cities with a vote in Parliament to take place in them the grace of 'naturalty' that His Majesty accords, so that foreigners might enjoy there certain ecclesiastical rent, And in the cases in which His Majesty grants limited or absolute 'naturalty' for all the kingdoms of Spain asking the consent of the cities with a vote in the Parliament of the kingdoms of León and Castile, it is requested it ought to be practiced in the same way with those of the Crown of Aragón⁹².

This law confirms that the king granted 'naturalty' to foreigners "for all the kingdoms of Spain", that is that the law of the 7th of September, 1716 was also being applied to the new representatives of the estate of universities, born from the old parliaments of Aragón, Valencia and Catalonia, who had become part of the Parliament of Castile. The decree of 1721 simply said it was enough to consult Aragonese cities in the same way that had been established for Castilian cities in 1716. Thus, it was explicitly declared that all the members of the parliament of Castile, each of them individually, and without the need to be gathered in parliament, continued to be competent to 'consent' that the king grant Castilian 'naturalty'. The innovation was that the Castilian parliament included Aragonese representatives, that it was no longer necessary to convene parliament for 'naturalty', and that 'naturalty' was granted for all of Spain. In fact, Castilian 'naturalty' had become Spanish 'naturalty'. Finally, it must be emphasized that it was applicable to "the grace of 'naturalty' that the king accords", that is, that which the king gave as a mercy, by way of grace, not by way

⁹¹ The text does not indicate which it is: it could be the Council of Castile or the Council of the Chamber of Castile.

⁹² NR, book I, title XIV, law VI, footnote 4 – I, 110.

of justice. Of the 'naturalness' attainable by the rest of the inhabitants, nothing is said, simply because there was no need. The king, in changing the awarding of 'naturalness' to foreigners, had created its opposite: a new Castilian 'naturalness' that had no name at first, included all others, and that by usage came to be called Spanish 'naturalness'.

Perhaps legal archives may some day provide details, not currently known, about how these laws were really applied. At this moment in time, their reading leads one to think that what the regulation did, subtly, was to attribute Castilian 'naturalness' to the king and extend it to the Aragonese, Valencians, Catalonians and Mallorcans. This interpretation concurs with the fact that soon after, by royal decree on the 7th of June, 1723, naturals of Castile, Aragón, Catalonia and Valencia could obtain ecclesiastical offices and positions reciprocally, without being considered foreigners among themselves⁹³, something that until then they could not do without fulfilling the requirements in force for each kingdom.

In this peculiar way, 'naturalness' in the Spanish monarchy became legally merged in the eighteenth century, dispensing with parliament but not with those who comprised it. Aragonese subjects could hold offices in Castile, along with those foreigners whom the king considered to be useful or necessary, which gave him the capacity of greater action than he had previously had and, in social and political terms, notably broadened the ability to distribute the power of the monarchy. It is worth pointing out that there is no reference to the Basques in these laws, I think because it was accepted that they had Castilian 'naturalness'.

And the kingdom of Navarre remained outside all of this, once more, because its parliament continued alive and active as before, which would have important consequences for maintaining the commercial networks of the French in Navarre. Or rather, Navarre remained at the same time within and without, because in the seventeenth century it was already established that Navarrese 'naturalness' was equivalent to Castilian 'naturalness'. The Navarrese continued in their singular situation, which offered them new possibilities and advantages.

The questions that remain unanswered in this analysis are many. But I believe that the comparative analysis of 'naturalness' from additional documentary sources will permit a better understanding of what is now barely outlined. 'Naturalness' in the territories of the Spanish monarchy had different origins, but almost all with common characteristics; the unification of the category by the king, at the beginning of the eighteenth century, set the basis of Spanish 'naturalness' as a political category. At the same time, in the context of the budding development of the domestic market, the use of processes of naturalization came to have an increasing economic significance and provided added advantages to the growing commercial networks like the Navarrese and Catalanian. For decades, the French networks competed successfully in the Spanish domestic market, but at a certain time they became non-naturals, that is, foreigners. They

⁹³ NR, book I, title XIV, law V – I, 108-109.

were stripped of privileges and finally, after the French Revolution, they ended up constituting the opposite of Spanish 'naturalness' which was then already the Spanish nation, the Spanish *patria*.

This paper derives from a research started for the Miur-Interlink project entitled "European Culture and the Understanding of Otherness: Historiography, Politics and the Sciences of Man in Modern Europe (XVI-XIX Centuries)" directed by Guido Abbattista, and deals with problems whose treatment has continued within a research project "Economía y política en la construcción del Estado español moderno, 1650-1808", no. HAR2008-01074, funded by the Spanish Ministerio de Educación y Ciencia (2008-2010).

ABBREVIATIONS

AGN = Archivo General de Navarra

Constitutions = *Constitutions y altres drets de Catalunya* (1704)

Furs = *Furs de València* (1547-1635)

NR = *Novísima recopilación de las leyes de España* [...]

NRLN = *Novísima recopilación de las leyes de Navarra* [...]

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