



© ELOI BONJOCH

SANT MIQUEL D'ENGOLASTERS (XII C.)

# CONSTITUTION AND IDENTITY



ANDORRA NEEDS A CONSTITUTION WHICH, WHILE MAINTAINING HER TRUE IDENTITY, WILL DEFINE THE WAY OF LIFE THE COUNTRY WANTS IF IT IS TO BECOME A TRULY SOVEREIGN STATE IN THE CONCERT OF NATIONS.



CASA DE LA VALL IN ANDORRA LA VELLA

© ELOI BONJOCH

MARC VILA AMIGÓ NOTARY PUBLIC

**A**ndorra's "constitutional" system has often been compared to Britain's: in neither case is there a single written text dealing exhaustively with the political and institutional rules of play; instead, both countries have gradually, over the centuries, and starting in the Middle Ages—the "Pariatges" of 1278 and 1288 in Andorra and the Magna Carta of 1215 in Britain—shaped their respective political systems by a succession of rulings of a constitutional nature.

However, having made this initial analogy, we immediately discover an important difference between the two systems: the existence in the British case of a sovereign parliament, which is absent in Andorra and which, while originally intended to limit the absolute power of the monarch, very soon became fully sovereign and therefore a centre for decision-making and for the political life of the community. By virtue of its very sovereignty, this Parliament, a model for later European democracies, was responsible for providing the country with the laws needed to fill the gaps—together with the jurisprudence—resulting from the passage of time and, in short, gave form and structure to the British legal and political system.

In Andorra, on the other hand, things have developed very differently. Our Assembly, the *Consell General* (General Council) has never been a sovereign organ; created under the name of "Council of the Land" by a decree of the Co-Princes in 1419 to watch over the "Economic Policies of the Land", it has to this day remained an administrative organ with a certain measure of autonomy, as well as an organ for proposals and for channelling the aspirations and the desires of the people of Andorra towards the Co-Princes, who held and still hold sovereign powers over the country. The basic institutional system resulting from this can be said to have worked well for seven centuries, although it is fairly complex. There are two Co-Princes, one of whom is the Bishop



of the neighbouring diocese of Urgell and the other was first the Count of Foix, later the King of France and now the President of the French Republic, who, the same as their respective administrations, always have to act together. Then there is the *Consell General*, which represents the people of Andorra and makes proposals to one or other or both, with a traditional sense of equilibrium, according to the opportuneness or the nature of the issues. In this way, Andorra, with her simple mountain economy, has managed to satisfy her modest needs without important changes, little legislation and a great deal of inertia rooted in traditional habits and customs.

However, over the last fifty years, the enormous changes the country has undergone at all levels—economic, demographic, social—have led to the emergence of contradictions and ambiguities when it comes to confronting the problems of an advanced capitalist society at the end of the twentieth century. It has become clear, for example, that it was not very efficient for the same function to be exercised by two authorities who all too often disagreed; or also that no-one knew exactly which mechanisms to use or where to go to resolve

specific problems; or that, while the Co-Princes are theoretically empowered to deal with important aspects of political life, they preferred not to intervene until it was proposed by the people through the *Consell General*, which either failed to reach an agreement or else made proposals that were not supported by the wishes of the majority of citizens.

In short, Andorra has found it necessary to clarify and rationalize her basic structures and make a clearer demarcation of the responsibilities of each of the institutions involved. Hence the need for a constitution to define the way of life the country wants if it is to become a truly sovereign state in the concert of nations. The question is, though, how to go about this constitution while preserving the country's true identity. Or, in other words, we must decide which essential elements must continue to differentiate Andorra and form the basis of her existence, and which elements can be replaced by elements that are somehow standard in neighbouring democracies, so as to make a modern state of her but at the same time one that is different, as is true of most small countries. Because seven hundred years of history in peace and prosperity carry a considerable weight, but they must not be allowed to stifle the wish of the people to achieve a greater degree of sovereignty, embodied in a parliament with a decision-making capacity. And this will only come about if the people of Andorra, after a sufficient period of public debate, is capable of reaching the necessary consensus on the most important issues and of realising that greater sovereignty also means more responsibility. Similarly, it is absolutely vital that the Co-Princes also reflect and make public their feelings about the role they should play in the Andorra of the future. It is probably at the meeting-point of this twofold process of self-examination that we shall find the paths that will lead to a modern Andorra, but one deeply rooted in her traditional signs of identity. ■