

Dr. Claire Taylor is an Associate Professor in History at the University of Nottingham.
Claire.k.taylor@nottingham.ac.uk.

Abstract

The general court of the Agenais is an example of the diverse forms of semi-autonomous regional assemblies which emerged in the high-medieval Languedoc. They were identified and examined most convincingly by Thomas Bisson. However, the origins of the court, identified by Bisson as lying with the Plantagenet rulers of the Agenais in the twelfth century, have been contested since 1986. They are reinterpreted here instead as being thirteenth-century, and as the creation of the Albigensian Crusade (1209-29). In doing this, the early evidence is reconsidered in a new institutional context.

The general court of the Agenais revisited. An innovation of the Albigensian Crusade.

Introduction

In 2003 I published an article in this journal concerning the origins of the institution known to historians of southern France as the 'general court' of the Agenais. By the mid-thirteenth century this was an assembly not only of the nobles of the diocese of Agen, but was distinguished by consisting also of town and even village representatives. It could be convened by the count of Agen or his seneschal, but could act autonomously. It applied customs and laws to the whole of the county, bringing with them obligations and responsibilities, and it survived well into the fourteenth century.¹ The article took issue with the major previous historiography on this little-known institution, that of Thomas Bisson. Bisson had first identified the court as something worthy of study in the 1960s and considered that it had emerged during the twelfth century with the power to arbitrate between the counts of Agen, who were also counts of Toulouse, and the towns of the

¹ Taylor, 'The origins of the general court of the Agenais'. I am very grateful to the *Nottingham Medieval Studies* editors and readers for their helpful comments and corrections on this article.

Agenais. It was institutionalised under the Plantagenet kings of England, who were the counts' overlords for the Agenais. The origins, for Bisson, must have 'resulted from a combination of the military obligation imposed by the overlord and military necessity recognised by the community of Agenais', and it undoubtedly 'evolved from a pre-existent *curia* by the addition of town deputies'. As such, 'from a remarkably early date – at least as early as 1182 – this court of the Agenais could be summoned as a plenary or general body, including town deputies as well as knights', and undoubtedly went 'further back in time than we can trace it today'. The court was a response to the fact that the Agenais had 'a more marked consciousness of community and association than in most districts to the east [of Languedoc]' such that 'in the twelfth century the men of the Agenais were understood to form a kind of regional community, with common rights and responsibilities.'²

However, aside from involving towns, the court was not unusual as a constitutional innovation, but conformed to the character of other assemblies in Languedoc, especially those of the Pyrenees. James Given also notes that the high-medieval Languedoc was characterised by having numerous overlapping and even conflicting structures of curial authority. These were sometimes so ineffective as to be abandoned in practice. He observes that '(f)ew of the [Languedoc's] legal mechanisms seem to have been very authoritarian in nature or possessed a significant degree of developed means of coercion' by c. 1200, with most disputes being arbitrated informally by representatives appointed by the litigants. This was changing, however, even before the Albigensian Crusade of 1209-29, launched against the southern-French defenders of Cathar and Waldensian heretics. The war brought French political influence into the region and its settlement in 1229 resulted in increasingly direct Capetian rule. In this context town consuls in particular began 'solidifying their judicial prerogatives' and such 'pre-existing political organisations' would become 'embedded within the royal seneschausés'.³

² Bisson, 'An early provincial assembly', re-printed in his *Medieval France and her Pyrenean Neighbours*, from which it is cited (quotations at pp. 4, 11) and his 'The general court of the Agenais, 1182-1271' (quotations at pp. 73-74, 78).

³ Given, *State and Society*, pp. 57-63 (quotation at p. 57), pp. 80-82 (quotation at 82), and p. 88.

This would seem to provide a narrative framework for the court of the Agenais as well as other Occitan courts emerging in the twelfth century. However, problems with the dating of the earliest documentation for the court were identified by Jacques Clémens in 1985. He suggested that the court was more likely the slightly later institutionalisation, in c. 1200, of traditional regional powers concerning minting and the summoning of the host. This would make it the initiative of Count Raymond VI of Toulouse, who was count of Agen from 1196.⁴ Nicholas Vincent also prefers to find its origins in the period of Toulousain rule.⁵ My 2003 article, however, proposed an even later date for the origins of the court, attributing it to the period of the Crusade.⁶ This is my conclusion after revisiting all the evidence, prompted by Bisson's most recent article reasserting his position in response to my own work and also that of Clémens.⁷ I should like to propose an even more specific occasion for the establishment of the court, however. A more in-depth discussion than previously of the Agenais and crusading sources indicates the construction of the court by Simon de Montfort, the military commander of the crusade, specifically in 1212, as an element of the wider political changes wrought through the legislation he passed in that year for the parts of Languedoc which he governed, and in the context of him attempting to solve the problem of governing the Agenais at a distance.

This context, and my further observations below, indicate that the formation and early operation of the court of the Agenais means that it is not only of interest to historians of southern French political institutions, such as Bisson, or of the specificities of the Agenais, such as Clémens and myself. It is also of significance on a macro level, to historians of the Plantagenets in France and the 'Angevin Empire', and those interested in the extension of Capetian political dominance in the south. Indeed, because of its position in relation to the lands of the rival powers of Toulouse, England and France, it should be of interest to historians concerned with the occupation and governance of medieval marcher lands more broadly. The subject is equally as relevant for the study of the institutional development of

⁴ Clémens, 'Les origines de la cour générale de l'Agenais'.

⁵ Vincent, 'The Plantagenets and the Agenais (1150-1250)', at pp. 422-3.

⁶ 'The origins of the general court of the Agenais', and *Heresy in Medieval France*, p. 244.

⁷ Bisson, 'Sur la cour générale d'Agenais'.

towns, their relationship to the barons of a region, and the charters relating to the most assertive of urban centres. It is of significance also to our understanding of the exercise of local, secular authority by abbots and bishops. Not least, I hope to bring the court to the attention of historians of the Albigensian Crusade and its governmental characteristics as it came to impact not only on the Agenais, but on the wider Languedoc. Although crusade historians have by-and-large not noticed it, the general court and the Albigensian Crusade are institutionally related, as we shall see.

But we should first understand the historical context for the court in more detail, and the nature of the traditional and newly-considered sources for it.

Authority in the twelfth-century county of Agen

The medieval county of Agen corresponded closely to what is now the French department of Lot-et-Garonne, but also incorporated an area south of the river Garonne around the town of Condom, until Condom became a diocesan centre in its own right in 1317.⁸ As such, its territories in the twelfth century were distributed between Aquitaine, Gascony and the Toulousain. Furthermore, its major towns – Agen itself and also Marmande and Mas-d’Agenais - dominated river transport along the Garonne between the Toulousain and Bordeaux, whilst the river Lot, from Cahors to the Garonne, was controlled by the castle of Penne-d’Agenais, seat of the county’s seneschals. As a result, it represents a zone of long-standing disputed authority between the family of Saint-Gilles, who were counts of Toulouse, and the Plantagenet dukes of Aquitaine-Gascony, who claimed Toulouse themselves. Henry of Aquitaine, who would become Henry II of England in 1154, assumed the title ‘count of Agen’ in 1152. His son Richard became his vassal for it in 1169 and was its count in his own right from 1172. However, the counts of Toulouse still claimed it in the context of their attempts to hold Toulouse itself in their own right, rather than as vassals of

⁸ For histories of the early county of Agen see Ducom, ‘Essai sur l’histoire et l’organisation de la commune d’Agen’, with extensive appendices of sources, Samazeuilh, *Histoire de l’Agenais*, Labénazie, *Annales d’Agen*, and Tholin, ‘Notes sur la féodalité en Agenais’. See also Gardère, *Histoire de la seigneurie de Condom*. More recently, see Taylor, *Heresy in Medieval France*, esp. pp. 47-54, 161-70, and Vincent, ‘The Plantagenets and the Agenais’ and ‘Jean sans Terre et les origines de la gascogne anglaise’.

Aquitaine. Both matters were settled in 1196 when Richard, by then king of England, transferred the Agenais to Count Raymond VI of Toulouse as the dowry of his sister Jeanne. As such, Raymond became Richard's vassal for Agen, and the Plantagenets' claim to Toulouse itself was dropped. Raymond's homage was renewed in 1200, this time to King John.⁹

There are relatively few charters for these periods of external government of the Agenais.¹⁰ This gap in the Angevin and Toulousain administrative evidence is partly explained by the extent of the control of the bishops of Agen in secular affairs. By the late twelfth century they were counts in all but name, having had the *comitalia* conferred on them first by Henry, in the case of Bishop Elie II of Castellon (1149-82), and by Richard, in the case of Bishop Bertrand of Bécyras (c.1183-1209). This gave them exclusive control of the minting of 'Arnaudines' (the coinage of Agen), to administer justice and profit by its income, and to levy other taxes in the secular sphere. This combination of distance on the part of the Agenais's lay counts and immediate rights of its bishops persisted into the

⁹ The sources for these events are Gervais of Canterbury, *Opera historica*, vol. 2, p. 432 and Roger of Hoveden, *Chronica*, vol. 2, pp. 339-40. No copy of the marriage contract of Jeanne and Raymond survives, but see Guillaume de Puylaurens, *Chronique*, ch. 5, and Peter of les Vaux-de-Cernay, *Petri Vallium Sarnaii*, ch. 40. The anonymous second author of the *Chanson* of the Albigensian Crusade also refers to the settlement in his account of the Fourth Lateran Council of 1215, where he claims that the agreement was approved by Rome: Guillaume de Tudela *et al.*, *La Chanson de la croisade Albigeoise*, vol. 2, *laisse* 150 (henceforth: *Chanson*). For a more detailed overview see Taylor, 'The origins of the general court of the Agenais', pp. 161-2 and *Heresy in Medieval France*, pp. 148-50, 161.

¹⁰ For Agen's charters see Magen and Tholin, *Chartes de l'hôtel-de-ville d'Agen*. For its customs, Ourliac and Gilles, *Coutumes de l'Agenais*, and more recently, Akehurst, *The Costuma d'Agen*. See also Ourliac, 'Les coutumes de l'Agenais (xiiiè-xvè siècles)', Boussard, *Le Gouvernement d'Henri II Plantagenet*, pp. 148-51 and Ducom, *Essai*, vol. 1, pp. 273, 282-3. Nicholas Vincent has recently found five further documents: 'The Plantagenets and the Agenais' (*cf.* Taylor, *Heresy in Medieval France*, p. 185) and his 'England and the Albigensian Crusade', p. 71.

thirteenth century and provides one context, I argued, for the character of the court from 1209.¹¹

The sources for the 'general court' and its historiography

Taken at face value, the earliest evidence for the general court itself is in the vernacular customs of Marmande. These were apparently conceded by Richard in 1182 and include the clause, 'And when the prince of the land or his seneschal shall convoke his general court, some or all of the consuls, according to the order of the lord, should go to the said court for the town of Marmande, at the expense of the town'.¹² So the establishment of the court would appear to predate or relate to this charter. Bisson's case rests heavily on this.

However, Clémens pointed out that the customs of Marmande cannot be dated with certainty to any earlier than 1340. He argues that the document makes reference to an earlier period simply in order to give the customs the appearance of being ancient and traditional. The modern editors of the Marmande customs, Ourliac and Gilles, whilst considering it possible that a version did exist in 1182 and had been lost in the Albigensian Crusade, nonetheless also point to significant problems in the dating, noting the dubious provenance of other non-extant sources in the fourteenth-century version. Indeed, some thirteenth-century documents attribute the Marmande customs to Henry II, probably with a similar purpose. Furthermore, the date 1182 is not actually given within the articles of the fourteenth-century manuscript, but only in the fourteenth-century title, and even then, somewhat vaguely. Added to this is the unlikely survival of the Marmande customs through a tumultuous thirteenth century, during which they are never once mentioned. It was because of this that Clémens concluded instead that the Marmande customs should be

¹¹ Taylor, 'The origins of the general court', pp. 156-7. See also Ducom, 'Essai', vol. 1, pp. 318-21 and 2, p. 230.

¹² 'E quant lo prince de la terra o sos senescalc mandera sa cort general, lo cosselh tot o la una partida segont lo mandament del senhor devan anar en aquela court per la vila de Marmande a messon de la vila': Archives nationales MS JJ. 72, as transcribed in Ourliac and Gilles, *Coutumes de l'Agenais*, p. 140 (custom 69) and translated by Bisson in *Assemblies*, p. 78 and note 212.

discounted, although his suggestion that the court was probably a Raimondin initiative instead seems a bit arbitrary.¹³ Bisson briefly came to accept Clémens's concerns about the significance of the dating of Marmande's customs. Nonetheless, it remains central to his case that the court must have earlier origins because similar bodies existed elsewhere in the Midi in the twelfth century.¹⁴

My interest was in the religious and political character of the Agenais. I argued that by 1200 it was far from the homogenous society Bisson claimed it to be. Because of features in its history, it was remarkably divided, and along many different lines, with external influences (Gascon, Aquitainian, Toulousain and Quercinois) often proving most immediate. I sought to undermine an essentially 'Agenais' identity in the very decades in which Bisson found it, almost regarding the Agenais as something that should not have worked as a political unit. Furthermore, I attempted to demonstrate that because the Albigensian Crusade had given rise to radical new forms of administration in the wider Languedoc, we could usefully look for the origins of the court there. I concluded that it was the contested but enduring division of comital power between the counts and bishops which provided the origin of the powers of the general court once it was constituted.¹⁵

Bisson came to the subject of the general court again in 2012, having reflected on the counter-arguments. He remains unconvinced by my approach both to the origins of the court and to the relative position of the bishops as an explanation for its later characteristics. He still regards the county of Agen as having been relatively homogenous culturally and politically, with a 'collective character'. He also revises his original concession

¹³ Clémens, 'Les origines de la cour', pp. 70-2. The title of the 1340 customs is 'S'enseguon los fors e costumaz de la villa de Marmande, establidas per lo noble Richard du de Guiana, comte de Poytier, fils du noble Henric rey de Angleterra, lo temps que la dita villa fosc bastida per lo dit Richard, environ l'an mil cent quatre vint dus': Ourliac and Gilles, *Coutumes de l'Agenais*, p. 5 and note 13.

¹⁴ Bisson, 'The general court of the Agenais: a reconsideration', esp. 26-7.

¹⁵ Taylor, 'The origins of the general court', esp. pp. 150-8 and *Heresy in Medieval France*, pp. 47-54, 142-4, 161-70; Viollet, *Histoire des institutions politiques*, pp. 51, 54.

to Clémens that a c. 1182 origin for the customs of Marmande is questionable, on the basis that their editors, Ourliac and Gilles, did not entirely rule it out.¹⁶ Moreover, Bisson makes a further, highly significant **claim**: that there is twelfth-century evidence for the court in the customs of the town of Agen itself.¹⁷ I shall turn to this suggestion first.

The customs of Agen

A body fitting the description of the general court is indeed mentioned in the customs of Agen, and the customs certainly go back in some form to the late 1100s. The second item states that, in a case where the legitimacy of a military campaign is disputed, the party threatened with attack is able to get a judgement on the matter from ‘the lord and his court, [which] must be composed of the barons and knights of Agen and the council and the good men of the city of Agen and the suburbs of the Agen district’.¹⁸ This led Bisson to claim he had now found two twelfth-century records of the general court, this and the customs of Marmande.¹⁹

There is a problem. Bisson used the 1976 Ourliac and Gilles edition of the customs of Agen, but the most recent editor has demonstrated that they are no more twelfth-century than are the customs of Marmande. Fred Akehurst concludes that whilst they possibly

¹⁶ ‘Sur la cour générale d’Agenais: nouvelles considérations’. His main interest now lies in what this institution can teach us about the region and its characteristics in its later, better documented phase, but re-stating his position that the court makes most sense in a broader southern French context. Ourliac and Gilles considered that an 1182 version was possibly lost in the siege of Marmande of 1219, if not at some other point: *Coutumes de l’Agenais*, pp. 81-7.

¹⁷ Bisson, ‘Sur la cour générale d’Agenais’, pp. 346-8.

¹⁸ ‘del senhyor e de sa cort, la quals corts deu ester dels baros e dels vavers d’Agenes, e dels cosselhs e dels proshomes de la Ciutat d’Agen e dels borcs d’Agenesd’Agenes’: Akehurst, *The Costuma d’Agen*, articles 1 and 2 (pp. 18-19).

¹⁹ ‘il suffit de lire les articles 69-70 des coutumes de Marmande avec les articles 1-2 d’Agen pour voir que ces deux chartes définissent l’obligation consulaire d’assister à la cour du *senhor* ou, si celle-ci le décidait, de participer à son armée’: Bisson, ‘Sur la cour générale d’Agenais’, p. 345.

existed in some document by 1279, when they were apparently copied for adoption by the town of Montpézat-d'Agenais, they were only written down for certain in 1298, when a charter refers to them in this form for the first time.²⁰ Akehurst therefore disagrees with Ourliac and Gilles, who assumed that they were set down much earlier.²¹

It seems reasonable to consider that the customs were understood as existing in an unwritten form as early as c. 1200, because they were sworn to by the people of Agen in 1196 when the Agenais changed hands,²² and are referred to in a charter of 1196/97 which includes the assertion that the customary law of Agen is whatever its consulate declares it

²⁰ There are five extant manuscripts of the customs, and two others probably exist but have been lost within the archives housing them: Akehurst, *The Costuma*, pp. xi-xiv. Akehurst edited the 'swearing copy', Agen, Archives départementales du Lot-et-Garonne MS 42, which is late thirteenth-century: *ibid.* p. xi. It was dated by Tropamer based on the palaeography and artwork, and Akehurst accepts this date: *ibid.*, pp. xii, xiv. Henri Tropamer used another manuscript for his own edition, Agen, AD Lot-et-Garonne, MS 5: *La Coutume d'Agen* (Bordeaux, 1911). Another manuscript, Agen, AD Lot-et-Garonne, MS 42, must postdate 1221, because it refers to two charters of Raymond VII of Toulouse of 21 and 22 August that year: *ibid.*, p. 9 and Akehurst, *The Costuma*, p. xiv. On the various manuscripts see also Jacques Clémens, 'La coutume d'Agen au xiv^e siècle', *Review de l'Agenais*, 113:4 (1986), 303-311. Vincent also considers that the customs may have been codified in the twelfth century, but agrees that no actual version survives that is earlier than the late thirteenth or early fourteenth: 'The Plantagenets and the Agenais', pp. 419-20.

²¹ See Ourliac and Gilles, vol. 2, p. 78. But they do not offer evidence for this. In fact, in 1950 Ourliac gave 1270 as the first certain date for the existence of a general custom for Agen which applied to the Agenais more generally, when the nobles of the Agenais insisted to Alphonse of Poitou's officials that they be judged according to them: Paul Ourliac, 'Note sur les coutumes successorales de l'Agenais', at p. 257, after Paris, Archives nationales MS JJ. 24 b, fol. 67, as cited in Boutaric, *Saint-Louis et Alphonse de Poitiers*, pp. 414, 523.

²² Akehurst, *The Costuma*, p. xvi.

to be, listing one hundred and fifteen citizens of Agen as witnesses and cosignatories.²³ In other words, the customs existed in such a form that they could be sworn to in 1196 to the satisfaction of Richard I, and yet the process of settling what they actually were was still being debated and contested in that same year.

The customs then apparently formed the basis of those of La Sauvetat-de-Savères, conceded by Raymond VI on 4 August 1205.²⁴ However, the earliest extant record of the Sauvetat charter is a transcript made in 1318-19 of a lost *vidimus* of 24 May 1311.²⁵ So we cannot date this to c. 1200 with great certainty either.²⁶ More convincingly, ‘las costumaz de la ciudadas d’Agen’ were apparently confirmed in c. 1221.²⁷ But again, there is no evidence

²³ ‘Conoguda causa sia a totz omes qui son e serau que.l cossels d’Agen e li proome so acordat cum mantego los dregs e las costumaz de la vila a bona fe e ses enguan, e deu ne ester creutz lo cossels que o autreje sober lor sacrament...’ Magin and Tholin, *Chartes d’Agen*, no. 2, p. 2; Akehurst, *The Costuma*, p. xv.

²⁴ ‘Damus concedimus et confirmamus in villa Salvitatis de Saberiis illas consuetudines que in civitate Agenni esse noscuntur’ (Cuttino and Trabut-Cussac, *Gascon register A*, vol. 2, no. 56; pp. 333-4, at p. 333). Description in Macé, *Catalogues raimondins (1112-1229)*, no. 346, p. 271. See also Marboutin, ‘Notices historiques sur La-Sauvetat-de-Savères’, p. 164; Bisson ‘Sur la cour générale’, p. 346; Akehurst, *The Costuma*, p. xiv.

²⁵ The 1318-19 version is London, British Library, MS Cotton Julius E. I, fol. 216v to 217r; Macé, *Catalogues raimondins*, no. 346, p. 271.

²⁶ Cf. Bisson, who suggests that Ourliac noted ‘des conceptions archaïques’ in this document: ‘Sur la cour’, p. 346.

²⁷ Magin and Tholin, *Chartes... d’Agen*, no. 11, pp. 14-15. See also Akehurst, *The Costuma*, p. xiv and Bisson, ‘Sur la cour générale d’Agenais’, p. 347. This charter relates to the reconciliation between the town of Agen and the young Raymond (the future Raymond VII of Toulouse) after some of the citizens had sided with the crusade’s new commander Amaury de Montfort in the recent campaign which had included the massacre at Marmande (1219). As part of the new accord, the customs are confirmed, along with two other charters on the same day, 25 August: Magin and Tholin, *Chartes... d’Agen*, no. 10, pp. 13-14 and no. 12, pp. 16-17.

that the Agen customs were written down by this stage. In fact, the setting out in the charter of what would seem to be customary elements of the relationship between the count and the town, would imply that they were still not yet confirmed in textual form to refer to even at Agen. There may also be a problem with the authenticity of the document, because it is not noted by Laurent Macé in the modern edition of the comital charters.²⁸ Whatever the status of the 1221 document, it in any case post-dates the earliest uncontested date for the existence of the general court of the Agenais, 1212.

Akehurst is not even confident that unwritten customs for Agen existed in the twelfth century. Furthermore, if the content of orally-based customs of Agen was still contested and evolving in the late 1190s, as suggested above, then they cannot logically have been applied to the town of Marmande in 1182. This would seem instead to add weight to what Akehurst also suspects, that customs of Marmande were never in fact conceded by Richard at all. Or at least, whilst it is possible that they were, we cannot expect much of a relationship between the later, textual version and the early, oral customs.²⁹ Without reliable earlier evidence of what each set of customs – for Agen and for Marmande - contained, and given the number of regime changes and military campaigns experienced by the towns of the Agenais between 1182 and the turn of the fourteenth century, I suggest that the close alignment between the relevant articles in the two sets of customs works more easily to indicate shared origins in the later period rather than by c. 1200.³⁰

²⁸ Macé, *Catalogues raimondins*.

²⁹ He refers to it being the case that an ‘argument’ could be made that Richard I granted the customs of Agen to the citizens of Marmande in 1182 and that ‘the written text of the early part of the Marmande customary *seems* to go back to that time’ (p. xvi, my emphasis). As such, he is not going so far as to fully accept Clémens’s doubts about the Marmande charters, although these are not Akehurst’s concern in any case.

³⁰ Vincent has also observed that ‘there is a distinct risk here that we may be enticed into a circular argument in which the late copies of the customs of Marmande are allowed to supply a firm but inherently untrustworthy date of 1182 for the existence of the Agen customs’: ‘The Plantagenets and the Agenais’, pp. 419-20, at 420.

The Crusade in the Agenais, 1209-1212.

None of this has sparked much scholarly interest in the region itself, or amongst French medievalists since Clémens's article.³¹ However, the court could be, I suggest, of great interest to historians of the Albigensian Crusade. The subject of heresy and its repression is often avoided in political and institutional histories of the south-west of France in the period before French domination of the region, from 1229, when the way was paved for the transmission of the county of Toulouse, and the Agenais with it, into French royal hands. Bisson himself missed the crusader reference of 1212 to the court when he wrote in the 1960s, even though he observed that '[r]egional assemblies in Languedoc are better attested for the period of the Albigensian crusade than before'.³² But the crusade itself shaped the region's political structures from the outset.

From late 1209, much of the eastern Languedoc, held by the Trencavel viscounts of Béziers, fell into crusader hands and became the base of operations for its new commander, Simon de Montfort, a lord of the Île de France. Raymond VI of Toulouse himself, who had been excommunicated in readiness for the crusade, managed to escape attack by nominally joining up himself, thereby receiving the protection of Pope Innocent III. That was until 1211, when he was excommunicated a second time and his lands could be legitimately invaded. Their gradual conquest took place between that year and the Fourth Lateran Council in 1215, except for the town of Toulouse and some of the northern Languedoc, including much of the Agenais. This is surprising because, although this has received relatively little attention, the Agenais had in fact been the very first target of the crusade, even before the count submitted to Rome in 1209.³³

The context for the 1209 crusade in the Agenais, I have demonstrated, was a long-standing and highly acrimonious administrative rivalry between Agen's Bishop, Arnold III de Rovignha (1208-28), and Raymond as count of Agen. The county was attacked by an essentially southern army of crusaders assembled by the bishop. The campaign fizzled out,

³¹ As Bisson notes in revisiting the subject: 'Sur la cour générale d'Agenais', 244.

³² *Assemblies and Representation*, pp. 39-40, 43-7, 58, 62, 72, quotation at p. 39.

³³ For the Agenais in the crusade, see Taylor, *Heresy in Medieval France*. pp. 187-214.

but the bishop had his chance again in 1211, when the count was again excommunicated. Most of the lords and towns of the Agenais took Raymond's side and he mobilised them, under his seneschal since 1207, Hugh of Alvaro. This army aided Toulouse when it was unsuccessfully besieged in the summer. Raymond then took his revenge on the bishop, driving him from his see in the autumn of 1211 and seizing all comital rights for himself.³⁴

This was a step too far for Arnold's crusade supporters. In 1212 de Montfort took his opportunity and attacked the Agenais, besieging the seneschal's castle at Penne from 3 June.³⁵ Agen itself capitulated and he was received there with honour. The citizens made him their lord and swore an oath of fealty and handed the town over. De Montfort divided the *comitalia* between himself and the bishop. In other words, he was acting as count of Toulouse-Agen, and he and the bishop began jointly legislating. All of the region's barons then came to Penne, Peter of les Vaux-de-Cernay tells us, to submit to him. However, whereas de Montfort had dispossessed the lords of the Lauragais, Albigeoise, and Trencavel lands between 1209 and 1212, the lords of the Agenais were not, by and large, deprived of their ancestral lands, but received them back as fiefs of de Montfort. This was on account of the fact that they had in the main surrendered, unlike the conquered lords elsewhere in de Montfort's growing southern empire.³⁶

Significantly, this is the first occasion on which there is evidence for the nobles of the Agenais submitting as a body to a territorial lord. We shall see that they did so with guarantees of some autonomy. They had other options, after all. Before 1212 they had allied at times with their Toulousain counts as we have seen, and would do so again. Perhaps more decisively, they could potentially remove themselves even from the Toulousain sphere and revert back to their Gascon-Aquitainian identity, seeking the protection and overlordship of John. Indeed, John would fail to invade successfully in 1214 in the context of a significant rebellion against the crusade, which saw an effective if temporary challenge to de Montfort's authority. The rebellion brought de Montfort back into the Agenais, where he chased John's troops back into Gascony and avenged himself on

³⁴ Peter of les-Vaux-de-Cernay, *Petri Vallium Sarnaii*, ch. 153.

³⁵ For this major siege see Peter of les-Vaux-de-Cernay, *Petri Vallium Sarnaii*, chs. 321-36.

³⁶ Taylor, *Heresy in Medieval France*, pp 192-3.

his enemies along the Lot, and the papal legate Robert of Courson issued a charter granting the more recently conquered lands, including the Agenais, to de Montfort *in perpetuum*.³⁷

The Council of Pamiers, 1212.

This brings me to what I consider to be the earliest uncompromised textual evidence for the ‘general court’ existing, and to my central argument concerning its creation. The context is the business held at a regional council of 1212, convened by de Montfort in the medieval county of Foix, known as the Council of Pamiers. There, on 1 December, he enacted statutes to be applied within the territories in the eastern Languedoc which had been conquered and submitted to him since 1209. Bishop Arnold of Agen and other unnamed ‘wise men and barons and chiefs’ amongst his followers assented to the new laws.³⁸ Peter of Les Vaux-de-Cernay, who was probably present and, if not was always well-informed about crusading affairs, says that laws were considered by four clergy, four French knights, and four local laymen - ‘two knights and two townsmen’ - and that ‘these twelve, after much deliberation and discussion, established the best possible code to ensure (the interests of all)’.³⁹ Many

³⁷ Molinier, *Catalogue des actes de Simon et Amaury de Montfort*, p. 85.

³⁸ The statutes are Archives nationales MS J. 890, no. 6, published in Devic and Vaissète, *Histoire Générale de Languedoc*, cols. 623-35. They are transcribed and examined in Timbal, *Un conflit d’annexion au moyen âge*, appendix: ‘Texte du status de Pamiers (1212)’, pp. 177-84. The statutes are translated in Peter of Les Vaux-de-Cernay, *The History of the Albigensian Crusade*, Appendix H, pp. 321-29. The legislative context can also be understood from the description of the document and its copies: Molinier, *Catalogue*, no. 61 (pp. 463-5). More recently, Jean-Louis Biget’s discusses Pamiers as part of a wider process of conquest in ‘La dépossession des seigneurs méridionaux’. The best recent study of the contents and influence of the statutes is Gregory Lippiatt’s excellent, *Simon V of Montfort and Baronial Government, 1195-1218*.

³⁹ Peter of les-Vaux-de-Cernay, *Petri Vallium Sarnaii*, chs. 362-4, quotations in chs. 362, 364; Peter of Les Vaux-de-Cernay, *The History of the Albigensian Crusade*, pp. 170, 170-1.

statutes were not novel, in cases being the customs of the Île de France.⁴⁰ Some were intended to regulate social, economic and legal conduct, for example imposing the inheritance practices of the north, and restricting southern women's rights over property, facilitating its eventual transference into northern hands. Military and related legal statutes include that lords must render their castles to de Montfort as and when he asked, and may not additionally fortify them without permission. Fiefs were allocated by him with the understanding that they carried with them the obligation of knight service, and of how many knights they should be able to maintain and how many days military service was owed. They must also come to the military aid of the crusade whenever he asked. They could not deviate from this, with there being an established level of fine for each man who did not appear.⁴¹

However, de Montfort was expecting this military service of French settlers only. The arrangements concerning service and soldiers owed to him applied only to his barons. They may not even provide southern knights as part of what they owed.⁴² Such laws, let alone practice, were not a feature of the south and would likely have been unenforceable. Perhaps for similar reasons, many other existing southern customs were preserved. These concerned the mutable status of unfree people, taxation of southern lords, rights to woods, water and pasture, and the way in which justice was to be administered. These distinctions made between the invaders and the southerners are often overlooked, probably because it is difficult to reconcile the repressive and brutal nature of the crusade with this institutionalisation of a certain amount of autonomy in local affairs and a 'hands-off' approach in certain affairs between southern laypeople.⁴³

⁴⁰ See Aurell, 'Les sources de la Croisade albigeoise: bilan et problématiques', pp. 21-54, at p. 26.

⁴¹ See especially statutes 1-11, 14-15, 17-23, 25, 27-8, 44-6, and see Peter of Les Vaux-de-Cernay, *The History of the Albigensian Crusade*, p. 329.

⁴² Statute 18. But *cf.* statute 24.

⁴³ This all makes rather more sense in Claire Dutton's oft-cited but never published PhD thesis, which argues that the northerners were not attempting a long-term settlement: 'Aspects of the Institutional History of the Albigensian Crusades, 1198-1229', pp. 42-8.

Justice in the Condomois

This activity at Pamiers is relevant because it is in the broader proceedings of the council that we have that first direct and reliable reference to the court. It relates to a dispute at Condom, in the Agenais south of the Garonne, which was heard at Pamiers on 30 November, the day before the Statutes of Pamiers were issued. I consider it more than simply convenient that the parties concerned tried the case at this council, or coincidence that they were gathered there. Rather, the two processes were parallel and inter-related.

The Condom ruling concerns a dispute first recorded in c. 1170.⁴⁴ It began when demands were made by the Benedictine abbey of Saint-Marie-de-Condom on the townspeople concerning taxes on produce, to be paid in kind. Specifically noted are produce from gardens (cabbages and leeks), from fields (beans and straw), and a sales tax on wine. The inhabitants objected. Judgement was passed by the bishop of the Agen, Hélié of Castillon, and the bishop of neighbouring Bazas, Garsias of le Benquet. They made the abbey drop its claim to garden produce but upheld the claim on harvests from the fields and on wine.⁴⁵ The judgement was supposed to endure for at least ten years. Five years later, however, the townspeople appealed to Duke Richard that they had been forced into the agreement. In August 1175 he upheld the original decision of the two bishops,⁴⁶ as Pope Alexander had in July of probably the same year.⁴⁷ Indeed, Richard thought the case baseless and fined the town itself three thousand shillings. Resistance evidently followed, and we have a ruling in 1210 by Arnold Aimery, abbot of Cîteaux, papal legate to the

⁴⁴ Outlined in Gardère, *Histoire... de Condom*, pp. 7-33. Gardère suggests that Condom had a consulate consisting of three members of the urban elite and three from the lower order. The Latin documents he reproduces, and which are used below, do not support the view that Condom had a consulate this early, referring consistently simply to the *burgenses*. He conflates the content of several documents, which really need to be handled diachronically. Nonetheless his transcriptions of the charters themselves are useful.

⁴⁵ Gardère, *Histoire... de Condom*, appendix i, pp. 259-60.

⁴⁶ *Ibid.*, appendix iii, pp. 262-3.

⁴⁷ *Ibid.*, appendix ii, p. 261, and see p. 21.

Albigensian Crusade. He also ruled in favour of the abbey, along with Gascon bishops Vital of Albret of Aire and Gaillard of la Motte of Bazas.⁴⁸

By 1212 things had escalated further. The townspeople had evidently begun paying one eleventh rather than one tenth on harvests, death duties were being resisted, and prestigious urban responsibilities were being fought over, including the building and administration of a new hospital. In their turn, Bishop Arnold of Agen and Archbishop William of Bordeaux ruled in favour of the abbey. The Pamiers charter for Condom is therefore the latest in a series of judgements which had been largely in favour of the abbey. It denied the abbey's rights to garden produce and also to other moveable goods and animals, claims which had apparently emerged since 1210, but upheld the earlier rulings concerning the produce of fields, confirmed that the tax was a tenth rather than an eleventh, fixed death duties at ten shillings, and returned the responsibility for the hospital to the abbey. Finally, a deposit of three thousand marks would be retained if the townspeople broke the agreement.⁴⁹ But crucially, if they did not like the judgement, the townspeople were henceforth permitted by the ruling to make an appeal over the abbot's head, 'ad curiam Agennensem.'⁵⁰

Accounts of the court of the Agenais have tended to limit their observations to it being mentioned in this charter,⁵¹ if they note the Pamiers connection at all. But it is worth

⁴⁸ *Ibid.*, appendix iv, pp. 264-9, and see p. 23. The legate's hostility also reflects the fact that the abbot now accused the townspeople of receiving Waldensian and Cathar heretics.

⁴⁹ *Ibid.*, appendix v at pp. 272, 272-3, 275-6, and see pp. 25-30.

⁵⁰ 'Nichilominus vero statutum fuit quod si abbas vel monachus fuerit iudicatum, sicut burgensis ad curiam Agennensem appellare posset, si se gravari putaret, ita abbas vel monachus poterit appellare'. This and related un-numbered documents in the Larcher collection in the municipal archives at Condom, are reproduced as appendices in Gardère, *Histoire... de Condom*: here appendix v, pp. 270-6, with the quotation at p. 273, and see p. 8. We have no record of such an appeal, however. The next document noting dissent at Condom, a bull of Innocent IV, was issued in 1246: *Ibid.*, pp. 277-81.

⁵¹ Clémens, 'Les origines de la cour', p. 72; Taylor, 'The general court', pp. 150, 164. A link between Pamiers and the 'general court' was first suggested by Henri Gilles as early as 1967,

considering the nature of the ruling and those preceding it in more detail. We are observing a dispute being referred up the chain of command after 1170. In other words, the charter fixed what was an enduring problem in the Agenais, that of ultimate authority. The town of Condom had traditionally been represented by a combination of higher and lower-ranking townsmen and had certain rights to self-government by this time. But justice at Condom had traditionally been the business of the abbot, and if the townspeople had wanted to appeal over his head, they went to their bishop.⁵² To enforce a decision, the latter was now appealing for support from higher authority himself. Raymond of Toulouse was excommunicate by 1212 and as such had no legal right to the Agenais. The dukes of Aquitaine had retained a *bailli* there to guard their various interests in and around the town, and Vincent stresses that King John saw himself as overlord of the Agenais,⁵³ but this claim was never made actual during the crusade. The fact that the bishop referred the case to Pamiers indicates how closely the clergy of the north-western Languedoc identified with the crusade. In spite of having garrisoned Penne, de Montfort was involved in the affair at Condom explicitly as Simon ‘comes Leycestriensis, dominus Montisfortis, Dei providential Bitterris et Carcassonae vice comes’, and lends the document his seal only in that context.⁵⁴ After Pamiers, the ultimate court of appeal in the case of Condom was not himself, but the laity of Agenais.

Just as there is no good evidence for the court exiting before this, there is plenty of evidence that the creation of the court at this very point, and by Montfort, is likely. The most recent study of the crusade’s commander, that of Gregory Lippiatt, shows him to be multifaceted in his abilities and priorities, and far more complex than the traditional understanding of him as a monster driven by religious zealotry and personal ambition.

however, and thought likely also by Paul Ourliac and Monique Gilles: *Coutumes de l’Agenais*, p. 31 note 22.

⁵² Gardère, *Histoire... de Condom*, pp. 7-8, 14, 19.

⁵³ Gardère, *Histoire... de Condom*, p. 9; Vincent, ‘The Plantagenets and the Agenais’, pp. 440-1.

⁵⁴ Cf. Bisson who says that the Statutes were supposed to apply to lands including the Agenais: *Assemblies and Representation*, p. 43.

Significantly, he was a brilliant strategist when it came to the acquiring of southern lands, and a gifted administrator of them once he held them, which is what the Statutes of Pamiers are about.⁵⁵ He was certainly someone who might construct a parallel institution such as the General Court as a way of influencing and containing the Agenais even before he held it outright and could govern it directly. As Lippiatt observes, ‘Government...became the preoccupation of Simon’s later life’, as expressed ‘through the enactment of legislation, creation of administrative offices, and introduction of measures for accountability, however rudimentary.’⁵⁶ The Statutes ‘were an attempt to rationalize a complex landscape of competing legislation and jurisdiction’ in the diverse territories he already held.⁵⁷

Furthermore, the 1212 ruling resembles the Statutes in several ways. Lippiatt notes that the latter are surprising in their liberality in the context of access to justice by the less powerful in society, not least burghers, as well as northern and southern lords.⁵⁸ The Condom charter too is relatively even handed. For example, the consuls could not protect someone from abbatial justice, and the abbot could not offer sanctuary to the accused in cases brought by the town. It also limits the contexts in which the two parties could levy a range of costs and charges on each other, including on the sale of fiefs. Indeed, both documents are concerned with the fairness of taxes which clergy could exact. Read in this way, the Condom charter is also part of the establishing of wider regional government. By the end of November 1212, a mechanism existed through which the people of the Agenais could seek redress and which, remarkably, was not essentially under either crusader or clerical authority; it in fact gives both parties the right to appeal in future grievances, ‘ad curiam Agennensem’. With his seneschal positioned at Penne to keep an eye on the situation, the award of limited self-government to the lords and towns of the Catholic Agenais signals de Montfort’s intention to win their support at some future point when he would be able to add the title ‘Count of Agen’ to his authority.

Finally, a Montfortist origin is the logical way to account for an event in the violent

⁵⁵ Lippiatt, *Simon V of Montfort*, esp. pp. 1, 11, 161-9.

⁵⁶ *Ibid.*, p. 11.

⁵⁷ *Ibid.*, p. 161.

⁵⁸ *Ibid.*, pp. 165-8. Lippiatt in fact quotes Bisson here in the context of understanding Pamiers as, ‘recognition of societal needs and of judicial remedy’: Bisson, *The Crisis of the Twelfth Century*, p. 18, in Lippiatt, *Simon V of Montfort*, p. 165.

year of 1214 at Penne. Raymond of Montaut, a lord of neighbouring Quercy as well as the Agenais, acknowledged that he owed de Montfort for his castle 'such service...as the other barons of the Agenais owe' and acknowledges the authority of de Montfort's 'court of Agen'.⁵⁹ Why this court 'cannot have been new with Simon de Montfort, even though there is no earlier direct evidence of it', is explained by Bisson as being because a new baronial, or 'feudal' court had been created by de Montfort, presumably with some parallel authority to the 'general' court or to replace it.⁶⁰ It surely makes simpler sense to consider that 'de Montfort's court' was one and the same as the court created by him in 1212.

Conclusion

We have no evidence of the court being convened in an early, local context. Were the court indeed a Plantagenet initiative, John of England would have invoked it. But in 1203, in frustration at his vassal Raymond VI of Toulouse, he addressed himself to 'the barons and knights...bishop and clergy...inhabitants of Agen, and all the good men and burghers' of the diocese, and on another occasion in the same year pressed the bishop to summon 'all the barons, knights, town leaders (*probi homines*) and all men (*homines universos*) of the diocese of Agen' as their lord.⁶¹ The appeal is made conventionally enough, through John's officials and through the bishop. There is no mention of any institution binding them to each other or to him, or through which they were convoked. On no occasion that we know of did Henry or Richard summon such a court either. Raymond VI never apparently convoked it either, not even on 11 May 1217, when he called for an uprising in the Agenais and the mustering of an army under his seneschal William Arnold Tantalou, to become part of the force which relieved Toulouse during its siege of 1217-18, when he also instructed his allies to seize church assets and chase Bishop Arnold from Agen once again. The general court would have been the logical context in which this rebellion would have happened had he

⁵⁹ Archives nationales, MS J. 890, no. 12 and JJ. 13, fol. 43; Molinier, *Catalogue*, no. 89 (p. 471).

⁶⁰ Bisson, *Assemblies and Representation in Languedoc*, p. 77.

⁶¹ *Rotuli literarum patentium* 1, 23r-v, cited in 'Sur la cour générale d'Agenais', p. 350 and *Assemblies*, p. 76; Vincent, 'The Plantagénets and the Agenais', pp. 422-3.

recognised or even established the institution himself. Instead, like John in 1203, he needed to spell out that he expected the support of his ‘honoratis et karissimis amicis sui (sic) maiori et consulibus et omnibus aliis probis hominibus Agenni’.⁶²

The general court of the Agenais would seem nonetheless to have a place within James Given’s narrative of what became of such courts in the Languedoc in the context of the Crusade and its aftermath. Accordingly, its history can be traced into the fourteenth century because it was tolerated by the Capetians, who were tolerating other idiosyncratic bodies elsewhere after 1229 through attempting to ‘embed’ them rather than eradicating them.⁶³ As such it would be convened by Count Raymond VII in the 1230s, by both comital and royal officials in the 1240s, and was fully integrated into Capetian structures after Raymond’s death in 1249.⁶⁴ But its origins were quite distinct from those earlier idiosyncratic Occitan courts that Bisson and Given describe. In 1212, it provided an answer to a problem. The Agenais had proved itself difficult to subdue on any lasting basis. Peter of Les Vaux-de-Cernay tells us repeatedly, including in the context of the siege of Penne d’Agenais, that de Montfort was struggling to retain his army by the summer of 1212 and that many crusaders were returning home.⁶⁵ As Jean-Louis Biget suggests, de Montfort had no choice but to accept the homage of powerful lords at the regional limits of his authority more widely.⁶⁶ Although he disputes my portrayal of the region, Bisson too considers that the solution to the problem of governing the Agenais at a distance was its general court,⁶⁷ albeit he envisaged different rulers.

⁶² AD Lot-et-Garonne, E suppl. EE 1, published in Devic and Vaissète, *Histoire Générale de Languedoc*, VIII no. 194, col. 700, in Magen and Tholin, *Chartes... d’Agen*, no. vii, p. 9, and in Macé, *Catalogues raimondins*, no. 459, p. 342.

⁶³ Given, *State and Society*, p. 88

⁶⁴ Examples of its later convocation use are given in Bisson, ‘General court’, esp. pp. 2-3, 6, 18-20, 30 and Taylor, ‘The origins of the general court’, pp. 165-6.

⁶⁵ Peter of les-Vaux-de-Cernay, *Petri Vallium Sarnaii*, chs. 323, 327, 328, 334.

⁶⁶ ‘La dépossession des seigneurs méridionaux’, p. 267.

⁶⁷ ‘Sur la cour générale d’Agenais’, pp. 350, 356 and *Assemblies* p. 79.

As such, it is logical to suggest a closer relation between the statutes of Pamiers and the decision concerning Condom than their simply being enacted at the same council. The reach of Pamiers could not extend into the north-western Languedoc any more than it could into the lands of Toulouse, in spite of the alliance between de Montfort and the Agenais clergy. The court was therefore a solution to governing an unusually diverse, non-homogenous and internally contradicted and geographically divided marcher region. De Montfort decided to retain the loyalty of the Agenais laity not by imposing his will directly but by granting towns and nobles of the south what they craved: political and economic autonomy within a wider, protective polity and the weakening of their bishop. Those first-known region-wide submissions of the towns and nobles of the Agenais to a secular lord, in the summer of 1212 at Penne and Agen, were won in the context of the establishment of this innovative new institution.

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