

## Appendix B: Institutional Fusion and Subnational Variation in France

Comparativists have recently noted that since national units are often artificial, analysis needs to be at the level of their constituent regions that have more homogenous social and historical profiles.<sup>1</sup> This is the case with France as well, which was divided between regions with representative estates (the *pays d'états*) and those without (the *pays d'élection*).<sup>2</sup> Although the aim of the analysis is to explain outcomes at the polity level, looking at the regional level allows further testing of their hypothesis, though evidence is very scarce.

In fact, the provinces whose institutions survived into the absolutist period show strong elements of functional fusion. Of these enduring ones, one was the ancient county (*comité*) of Languedoc and the remaining ones were provinces incorporated late into the kingdom, namely Brittany, Burgundy, Flanders, Provence, and a few smaller ones.<sup>3</sup> This is not coincidental: provinces with estates had a robust structure of self-governance that also made them harder for the crown to incorporate—take-over often happened due to inheritance or marriage practices.<sup>4</sup> Normandy also had relative autonomy, though it had a different institutional structure. Moreover, these provinces were fairly large (about the size of Catalonia), so they are appropriate cases for testing an argument about governance over extended territory. In fact, my thesis explains the two regions, Normandy and Brittany, that are the major outliers in David Stasavage's distance-based theory for the emergence of representation.<sup>5</sup>

According to my argument, assemblies that survived as central governing institutions should originally fuse different functions, reflecting greater ruler strength, as well as noble participation and taxation.<sup>6</sup> Except for Languedoc after 1356, all these Estates could only meet if authorized by the crown.<sup>7</sup> Evidence on early taxation seems unavailable, but noble participation is recorded early on.<sup>8</sup> These cases confirm parts of the dynamic described here. The four provinces with a long tradition of independence, Brittany, Languedoc, Burgundy, and Normandy, also preserved more evidence. Flanders is analyzed in the next chapter. All these provinces established new *parlements* around the

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<sup>1</sup> {Naseemullah, 2016 #20333;Pepinsky, 2017 #20393}.

<sup>2</sup> {Bedos-Rezak, 1993 #6204}Soule (1990).

<sup>3</sup> Artois, Hainaut, Cambrésis, Flanders, Béarn, Bigorre, Foix, Labourd, Soule, Corsica; Doucet (1948, \*).

<sup>4</sup> Elsewhere, I show that such non-war-related patterns were more important in the expansion of France; Boucoyannis (2017).

<sup>5</sup> Stasavage (2010, 639).

<sup>6</sup> Maybe some that did not endure had similar features, but, as I've emphasized, this is not an argument of sufficiency, so they cannot be covered here.

<sup>7</sup> Rigaudière (1994, 175).

<sup>8</sup> Billioud (1922, 8), Blockmans (1998, 31).

1450s, as local equivalents of the Paris *Parlement*; but the interest here is in judicial institutions that pre-existed the formation of the local Estates.

Brittany had one of the most independent political traditions into the nineteenth century, long impeding its integration into French national culture.<sup>9</sup> By 1300, it had an active *parlement*, where the duke adjudicated cases, especially over land. But it displayed institutional fusion: “also, even foremost, [it was] a political assembly; the duke assemble[d] the lords, the prelates, and, after a certain point, the representatives of the cities, to examine with them the advantages of the duchy, and on this occasion he rendered justice.”<sup>10</sup> Accordingly, it was described alternatively as estates or general *parlement*: the term estates was used, albeit rarely, for meetings held under the auspices of the *parlement* by the 1350s.<sup>11</sup> This functional fusion, predicated on strong feudal ties among the different levels of the nobility, strengthened the institution, such that local histories would describe it as “the best regulated government in Europe.”<sup>12</sup>

Languedoc had a rich history of communal organization since the late eleventh century. Three areas had strong representative practices, the seneschalcies of Toulouse, Beaucaire, and Carcassone. Toulouse had a similar trajectory to the Italian city-states, from where it absorbed the Roman legal tradition. It even had a “republican” moment between 1189 and 1229, when a board of magistrates, the consulate, governed the town. After 1202, participation in the general assembly included the whole free citizenry.<sup>13</sup> But, again like Italy, princely rule was critical both before and after this period.<sup>14</sup> Before 1189, it was the counts that convened supra-local feudal assemblies.<sup>15</sup> And from the 1230s, it was the king who decreed that assemblies were necessary for local decisions and that they include all orders, prelates, barons, knights, and burgesses.<sup>16</sup> This common imposition generated petitions that were collective as well, enhancing their effectiveness.<sup>17</sup>

Functional fusion with a judicial body is not easily discerned, partly because cases from Languedoc were heard at the Paris *Parlement* and partly due to the wide variety of practices in the county.<sup>18</sup> But from 1271, when the king inherited the province, “general courts” were held that included nobles and prelates, sometimes called *parlamentum*, cort, or curia, terms used interchangeably for the larger assemblies.<sup>19</sup> These courts permitted

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<sup>9</sup> Weber (1976).

<sup>10</sup> Texier (1905, 88), Rigaudière (1994, 173).

<sup>11</sup> Texier (1905, 71), Le Moyne de La Borderie (1906, 383), Haut-Jussé (1925, 402).

<sup>12</sup> de Carné (1875, 23ff). Evidence on noble taxation seems lacking for the early period, but the nobility remained present later.

<sup>13</sup> Mundy (1954, xii), Trouvé (1818, 12), Mundy (1997, 234), Mundy (1954, 152).

<sup>14</sup> See chapter \*; Mundy (1997, 238-249).

<sup>15</sup> Bisson (1964, 20-136)

<sup>16</sup> Gilles (1965, 23).

<sup>17</sup> Hébert (2014, 466).

<sup>18</sup> Rigaudière (2003, 93-116), Dubédât (1885, 9, 14), Rigaudière (2003). Little information exists for the period between the Carolingians and 1271.

<sup>19</sup> Bisson (1961), Bisson (1964, 79).

proctorial representation and binding mandates, practices disseminated by diocesan assemblies.<sup>20</sup> County court meetings were complemented by local ones. Suit of court was, here too, an obligation flowing from “social status and holdings” in land.<sup>21</sup> Further, meetings began with petitions that proposed reforms, with the count’s response read in a public “parliament gathered in the town hall.”<sup>22</sup> Many such assemblies provided recognition of feudal holdings and obligations, again underscoring the importance of land regimes in encouraging political cooperation.<sup>23</sup> By the early 1300s, when the French kings summoned national assemblies, the province thus already had a strong local tradition that could be enlisted by the king.<sup>24</sup>

The duchy of Burgundy also had strong representative activity, with three distinct phases. Here I deal with the earliest, which lasted until 1363, with the start of the French line of the Valois. The second phase, when the Valois united Burgundy with the Netherlands until 1477, and the third, under the Habsburgs, until the Dutch revolt in 1581, I treat in chapter \*. Its early history is complex and poorly documented, but from the 1280s at least the duke dispensed justice in the *parlement* of Burgundy, called the *Grands Jours de Beaune*, with all three orders also meeting to counsel the duke.<sup>25</sup> However, after 1353 the *parlement* became professionalized and specialized in judicial affairs, whilst the duke began convening the three orders in a separate institution, the Estates of Burgundy, to give aid and for other state business.<sup>26</sup> Although institutional fusion therefore ceased, it continued at a lower level of aggregation. Representatives of the three orders were summoned to the tribunal of their local bailiwick, to participate in assizes (judicial sessions) in which ordinances were passed under the bailiff. These meetings also served to elect representatives to the Estates.<sup>27</sup> Institutions were thus at least integrated, facilitating subject summoning by the Valois dukes.

Normandy had a peculiar institutional profile, and as an economic powerhouse, it is well-positioned to inform this analysis: though 12% of France’s territory and population, it accounted for about 30% of its revenue. This extractive precociousness was predicated on an institution that fused judicial and fiscal functions: the Exchequer (*Échiquier*). Originally a fiscal institution, it became a judicial one, tightly integrated with lower jurisdictions that operated, like the English ones we examine next, based on the jury.<sup>28</sup> It was the sovereign court of the duchy, presided by the duke and operating in the presence of prelates and barons and probably preceding the Norman Conquest—just like the English Parliament.<sup>29</sup> Ordinances and acts were announced by the duke there,

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<sup>20</sup> Bisson (1964, 102-136).

<sup>21</sup> Bisson (1964, 79, 83, 219).

<sup>22</sup> Mundy (1997, 268).

<sup>23</sup> Bisson (1964, 81-9, 163-9, 231).

<sup>24</sup> Rigaudière (1994, 173).

<sup>25</sup> La Cuisine (1864, 2-3), Lot, et al. (1957, 219-29).

<sup>26</sup> Billioud (1922, 11, 14).

<sup>27</sup> Billioud (1922, 12, 21-22), Lot, et al. (1957, 226).

<sup>28</sup> Neveux and Ruelle (2005, 88).

<sup>29</sup> Floquet (1840, 29, 13-5).

especially those for transfers of property, especially for churches.<sup>30</sup> This institutional fusion sustained high extraction. Judicial revenue accounted for 40% of the total, whereas Normandy was the first to impose direct taxation that accounted for another 30%, a sign of extractive strength.<sup>31</sup> The nobility and clergy were not exempt.<sup>32</sup>

Nobles remained present in the Exchequer, even after the transfer of the region from the English to the French king in 1204, and, especially clerics, participated in the issuing of judgements.<sup>33</sup> They objected strenuously to such attendance, which was thus far from perfect, as the many surviving excuses and the fines (of twenty pounds) attest.<sup>34</sup> But it was considerable, not least because the duke of Normandy had limited local jurisdictions and controlled high justice. This internal organization allowed the Normans to extract a Charter of privileges in 1315, granting the sovereignty of the Exchequer—this was a response to a petition and the most long-lasting of provincial charters.<sup>35</sup>

But this internal organization was fractured by the subjection to an outside sovereign, the French king, who convened a separate institution, Estates of the three orders, to bargain on taxation. The Estates ceased to be called after 1655. “There is no trace that this voluntary forgetfulness provoked any complaints. The States had come to be looked upon as mere offices for the registration of taxes.”<sup>36</sup> A similar fragmentation and weakening afflicted the Exchequer, as some litigants chose to appeal to the Paris *Parlement*, undercutting its power.

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<sup>30</sup> Floquet (1840, 17)

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<sup>32</sup> Neveux and Ruelle (2005, 441).

<sup>33</sup> Floquet (1840, 37-41, 47-52), Neveux and Ruelle (2005, 90). Professionalization gradually occurred; Floquet (1840, 97ff).

<sup>34</sup> Floquet (1840, 44-6).

<sup>35</sup> Prentout (1925, 83).

<sup>36</sup> Canel (1889, 38).

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