Intermediate Institutions in the County of Flanders in the Late Middle Ages and the Early Modern Era

ARCHIVES GÉNÉRALES DU ROYAUME
ET
ARCHIVES DE L'ÉTAT DANS LES PROVINCES

ALGEMEEN RIJKSARCHIEF
EN
RIJKSARCHIEF IN DE PROVINCIËN

NATIONAL ARCHIVES
AND
STATE ARCHIVES IN THE PROVINCES

STUDIA

XX

ISBN : 978 90 5746 xxx x

Archives générales du Royaume – Algemeen Rijksarchief – State Archives

D/2012/531/0xx

Numéro de commande – Bestelnummer – Ordering Number: xxxx

Archives générales du Royaume – Algemeen Rijksarchief
2 rue de Ruysbroeck – Ruisbroekstraat 2
1000 Bruxelles – 1000 Brussel

INTERMEDIATE INSTITUTIONS IN THE COUNTY OF FLANDERS IN THE LATE MIDDLE AGES AND THE EARLY MODERN ERA

edited by

Georges MARTYN
René VERMEIR
Chantal VANCOPPENOLLE

Bruxelles – Brussel – Brussels
2012

CONTENTS

OPENING ADDRESS BY THE NATIONAL ARCHIVIST

Karel VELLE

It has become a tradition that researchers from universities all over the country regularly meet with archivists in order to share knowledge, to present the results of their research, and for networking.

A year ago, on 5 October 2009, a colloquium took place at the National Archives in Brussels with the title *Administrating and ruling in the Ancien Régime*. The proceedings have been edited by our colleagues Marc Libert, Michel Nuyttens and Catherine Thomas. In 2010, the State Archives also organised meetings in collaboration with various academic partners about the history of the institutions and the valorisation of the archives created by these different institutions, still largely unknown or less known. We certainly plan to continue our activities in this field.

On the occasion of the opening of your interesting colloquium about the reality behind the concepts 'centralisation', 'professionalization', 'specialisation' and 'bureaucratisation' in Flanders during the Late Middle Ages and the Early Modern period, I would like to shortly explain the policy of the State Archives as a federal scientific institution.

The orientation of scientific research carried out at the State Archives is determined by the following elements, in descending order of priority: the Royal Decree issued last year on 3 December 2009 and defining the mission and tasks of the National Archives and the State Archives in the Provinces; the strategic and operational goals fixed and validated in 2006 and amended in 2009; and finally a series of new opportunities or chances that have come up throughout the years and that are primarily related to the scientific agendas of the scientific communities.

The Royal Decree of 3 December 2009 stipulates a series of duties related to scientific research. In article 3, the State Archives are assigned with improving the collaboration with the regional and local authorities, in particular in matters as 'scientific research in the field of archival science'. With a view to sustainable preservation, protection of authenticity, accessibility and valorisation of the archives entrusted to the State Archives, article 6 of the decree assigns the State Archives with the following duty: 'carrying out historical research and scientific work related to archives and archival sciences; (...) the valorisation and spreading of scientific research

related to archives at national and international level; (...) an active participation in scientific projects and meetings at national and international level; (...) the provision of high-quality services to the public by providing information about records, the support of researchers and research groups, and the organisation of pedagogical activities; the publication of scientific studies'.

The State Archives carry out these assignments in various manners:

- by offering trainee posts for students following a training in archival sciences, more precisely for the postgraduate inter-university training *Archival sciences and modern document management* and for the academic trainings in archival sciences organized at UCL (Catholic University of Louvain-la-Neuve) and ULB (Free University of Brussels);
- by giving the scientific staff the possibility to gain within our institution a doctor's degree in history, but having an important archival focus. Currently five permanent staff members and six – as from 1 January seven – temporary staff members are preparing a doctoral thesis. This is an unprecedented success;
- by including in the job descriptions of all permanent scientific staff members one or more tasks that are related to the history of institutions and to the societal and archival contextualization of the archives. These are not limited to the realisation of inventories and records schedules, preceded by historical and archival introductions in accordance with international norms, but include also research related to the public domain, to digitising, archival law, records management, preventive preservation, etc.;
- by giving the scientific staff the chance to take part in national and international meetings and research groups. This month, a new internal guideline regarding 'scientific missions' will simplify procedures and increase researchers' responsibility;
- by organising national and international meetings, together with partners and stakeholders. The proceedings of these meetings are published by our institution;
- by promoting scientific research on particular topics (history of businesses, history of law, history of the First World War, history of school education, etc.) thanks to the realisation of annotated archives guides;

- by being – I hope so – a reliable partner in inter-university research networks such as the Interuniversity Attraction Pole 'Justice and Society'.

One of the strategic goals of the State Archives is to develop into a knowledge centre in the field of archival sciences (archivistics) on the one hand, and for record creators and their records on the other. Since a few years, the scientific projects being carried out in our institution are of archival nature, that is to say: at the same time aimed at a better knowledge of the record creators (institutions and organisations: institutional research, analysis of the administrative and political context, study of the competences, duties and activities, etc.), and geared towards a better knowledge of the typology of the records and the information that was produced and consigned. Building up knowledge of the record creators and the process of formation of records is one of the cornerstones for appraisal and selection of records, for making them accessible for research, for valorising them and for the offering of scientific services, online and on site (in the reading rooms).

In the short term, a series of opportunities will present itself to our institution, that will enable us to broaden the possibilities for scientific research. I will only mention one important development, namely the increase of the information in digital form we offer. In the past years, the State Archives have undertaken tremendous efforts with regard to digitisation and to making historical information available via digital channels, which has required extensive investments in ICT-infrastructure. To mention but a few examples: the so-called digital reading room, the search engine 'Search archives' by means of which digital content is made available (www.arch.be), archives guides in digital form and a large range of archival sources searchable via the Demogen interface and software. By making archives guides, research guides and all sorts of images available via intranet and internet, new forms of interdisciplinary research and new pedagogical pathways emerge in the special field of history. By making the digital copies of archives preserved in Bad Arolsen available online, by reaping the first results of the Cartesius project (historical cartographical material online), and thanks to other projects such as making the National Archives collection of seals from the Middle Ages accessible online, and last year, the correspondence between Brussels and Vienna for the period of 1740-1790, research perspectives will be boosted. And there are many more projects waiting to be implemented.

In order to develop the State Archives into a true open source for historical information in the coming years, more efforts need to be

undertaken, but I will only mention three main points of attention about which a decision will be taken at the beginning of next year:

- updating and renewing the search engine;
- making archives and research guides available in PDF format via internet, and making images about serial sources available that are currently only accessible via the intranet;
- actively participating in so-called social networks.

The strengths of the research carried out at the State Archives are mainly the following:

- knowledge of the record creators, both public-law institutions and organisations (at every administrative level) and private organisations, businesses and individuals. This implies: knowledge of the history, competences, tasks and activities;
- knowledge of a considerable part of the archival patrimony (origin, structure, content and research potential of the information sources composing the so-called 'national memory');
- knowledge of the methods regarding appraisal, selection, sustainable preservation, intellectual control and accessibility to archives;
- knowledge of how to manage large volumes of digital content;
- and finally, knowledge of laws and regulations for making historical information publicly available.

The scientific research at the State Archives must remain focussed on institutional and archival research, with a view to the valorisation of an important part of the national and communal memory of the country for the benefit of the largest possible user group and research community. In this context, striving for synergies with the Royal History Commission, with other scientific institutions and with universities and research groups is of major importance.

Today, I would again like to seize the occasion and encourage all professors and researchers to inform the colleagues at the State Archives early about research projects and intentions and to exchange views and ideas about the manner in which our organisation can contribute in a useful way to a successful realisation of these research projects. The earlier we are informed about any plans, the better we can meet your needs, because – as the saying goes – 'Your smile is our job…'

Dear colleagues, ladies and gentlemen, I would like to finish by thanking a few people. First, my acknowledgements go to the organisers of this meeting, namely the colleagues Georges Martyn from the Institute for Legal History (Law Faculty), and René Vermeir from the Department of History at the University of Ghent, and colleague Chantal Vancoppenolle, head of section at the State Archives, for their meticulous preparation. I also would like to thank the members of the Scientific Council and the colleagues from the universities who keep believing in the societal usefulness of an institution such as the State Archives, and who help many young archivists with words and deeds in the realisation of their scientific projects. Our young colleagues indeed need your support, expertise and encouragements.

I thank you for your attention and I wish you a pleasant and fruitful meeting.

INTRODUCTION

René VERMEIR

The eight contributions to this collection are the expanded versions of papers that were presented at the conference '*Vlaamse instellingen in de Late Middeleeuwen en de Vroegmoderne Tijd*'. This meeting took place in Ghent on the 26th of November, 2010, and was initiated by Georges Martyn and René Vermeir, both of Ghent University, and Chantal Vancoppenolle of Ghent's State Archives. More than a decade had passed since the publication of Walter Prevenier and Bea Augustyn's *De gewestelijke en lokale overheidsinstellingen in Vlaanderen tot 1795*, and the organizers thought that the time was ripe to place current research on the Late Medieval and Early Modern political and institutional aspects of the County of Flanders' history under the spotlight.

It is largely as a result of Prevenier and Augustyn's efforts and the boost provided by their concise but comprehensive treatise that this field of study is currently enjoying growing interest, as recent monographs by Frederik Buylaert, Jelle De Rock, Jan Dumolyn, Jelle Haemers, Tim Soens and Klaas Van Gelder among others, clearly demonstrate.[1] Archival access has also improved of recently through inventories such as Dieter Viaene's work on the *Indaging* archive and Sylvie De Smet's analysis of the

[1] F. Buylaert, *Eeuwen van ambitie. De adel in laatmiddeleeuws Vlaanderen*, Brussels, 2010; F. Buylaert, *Repertorium van de Vlaamse adel (ca. 1350-ca. 1500)*, Ghent, 2011; J. De Rock, *Het bestuur van de kasselrij Kortrijk in de Bourgondische periode (1387-1453)*, Brussels, 2009; J. Dumolyn, *De Raad van Vlaanderen en de Rekenkamer van Rijsel: gewestelijke overheidsinstellingen als instrument van de centralisatie (1419-1477)*, Brussels, 2002; J. Dumolyn, *Staatsvorming en vorstelijke ambtenaren in het graafschap Vlaanderen (1419-1477)*, Louvain, 2003; J. Haemers, *De Gentse opstand (1449-1453): de strijd tussen rivaliserende netwerken om het stedelijke kapitaal*, Kortrijk, 2004; J. Haemers, *For the common good? State power and urban revolts in the reign of Mary of Burgundy (1477-1482)*, Turnhout, 2009; T. Soens, *De rentmeesters van de graaf van Vlaanderen: beheer en beheerders van het grafelijk domein in de late Middeleeuwen*, Brussels, 2002; T. Soens, *De spade in de dijk? Waterbeheer en rurale samenleving in de Vlaamse kustvlakte (1280-1580)*, Ghent, 2009; K. Van Gelder, *Tussen veel vuren: het soeverein-baljuwschap van Vlaanderen in de Vroegmoderne Tijd (1500-1733)*, Kortrijk, 2007.

Waasland's *Kasselrijarchief*, to name but a few examples.[2] Further evidence of the topic's increasing popularity can be found in the numerous, unpublished licentiate and master's theses dealing with Flemish political-institutional subjects; in particular the Estates of Flanders has garnered a lot of attention recently.[3]

The aim of the conference was not just to provide a forum for current research. It was also the organizers' intention that the lines of enquiry and perspectives that have informed many political-institutional studies in recent years, and the insights derived from them, would be applied to the County of Flanders, and in particular towards the supra-local level. Indeed, during the conference, a great deal of attention was paid to the county's regional and provincial institutions. In the context of the late Burgundian and Habsburg Netherlands, these can be described as 'intermediate institutions', i.e. administrative bodies situated between the local and supra-regional or central levels of the Burgundian-Habsburg composite state as it had taken shape at the end of the fifteenth century and the start of the sixteenth.

The predominant discourse surrounding 'centralization' formed one of the points of discussion. Jan Dumolyn has defined this concept as 'the legal, administrative, financial and fiscal uniformization and monopolization strategies that the modern state (the Prince and his officials), supported by a specific social base, employed to gain political ground'.[4] As this description indicates, state formation and centralization are often mentioned in the same breath; the process of state formation is seen as both the driving force and the result of a trend towards centralization, initiated by the ruler, with a view towards expanding his or her power - what Paul Van Peteghem refers to as 'sovereign pretensions'.[5] This resulted in an increase of princely influence

---

2 D. Viaene, *Inventaris van het archief van de Rechtbank van de Indaginge van Gent, 1562-1796*, Brussels, 2010; S. De Smet, *Inventaris van het archief van het Hoofdcollege van het Land van Waas (1310-1796)*, forthcoming.

3 B. Bruylandt, *De aartshertogen en de Staten van Vlaanderen*, Ghent (unpublished licentiate thesis University of Ghent), 2000; M. Follebout, *De politieke besluitvorming bij de Staten van Vlaanderen (1670–1680)*, Ghent (unpublished licentiate thesis University of Ghent), 2003; M. Vandekerckhove, *De samenstelling van de Staten van Vlaanderen (1598-1648)*, Ghent (unpublished licentiate thesis University of Ghent), 2003; B. Vandemeerssche, *De politieke rol van de Staten van Vlaanderen (1620-1648)*, Ghent (unpublished licentiate thesis University of Ghent), 2004.

4 Dumolyn writes 'de juridische, bestuurlijke, financiële en fiscale uniformerings- en monopoliseringsstrategieën, die de moderne staat (de vorst en zijn ambtenaren), ondersteund vanuit een specifieke sociale basis, aanwendde om terrein te winnen op het politieke veld', in: Dumolyn, *De Raad van Vlaanderen*, 20.

5 'Soevereine pretenties', in: P. Van Peteghem, 'De verzameling van de ordonnanties voor de Nederlanden onder Bourgondiërs en Habsburgers en het probleem van hun auteurschap', in: D. Lambrecht (red.), *Lopend rechtshistorisch onderzoek.*

over various aspects of society, at the cost of the other players in the political field: the clergy, the nobility and the cities.

The question is whether historians haven't approached the construction of a centralized state that relied upon trained bureaucrats too much in terms of a simple dichotomy, with the ruler and his political plans and interests on one side, and resistance to this reorientation in the balance of power on the other. The existence of certain social groups that saw some advantages to be gained from this process and helped it along has, by and large, been neglected. This brings to mind the growing corps of officials that populated princely institutions at all levels of the state, and which had a direct interest in replicating this apparatus where possible. Research by Catherine Thomas has shown that a great many of the administrators working in seventeenth century central institutions belonged to a core of about eighty, profoundly interconnected, families that formed an open - but homogeneous - social group, with branches operating at regional and local levels,[6] where similar networks were in place.[7]

In addition to this, it is absolutely essential to research conducted into the early modern state, that its institutions not be analysed in isolation from the society in which they developed, as Andre Holenstein has quite rightly pointed out. Princes and the upper echelons of central institutions were not the only driving forces behind *state building*, or the creation of public institutions and the expansion and strengthening of their operations. Certain social groups, such as merchants, and local and regional governing bodies as well as private parties, benefited from professional, functional, princely institutions because they could provide solutions to complex problems and help meet certain basic societal needs. For example, by administering justice through princely law courts, the state took on the role of an umpire, with the authority to impose a ruling where local mechanisms proved inadequate to resolve disputes or keep order. By turning to such bodies to settle conflicts and distancing themselves from disparate customs

---

Handelingen van het tiende Belgisch-Nederlands rechtshistorisch colloquium, Iuris Scripta Historica, vol. 3, Brussels, 1990, 170 and 187.

6 C. Thomas, *Le visage humain de l'administration. Les grands commis du gouvernement central des Pays-Bas espagnols*, Louvain-la-Neuve (unpublished PhD thesis Université Catholique de Louvain), 2009, 234-236.

7 See, for example, F. Duquenne, *Un tout petit monde. Les notables de la ville de Douai du règne de Philippe II à la conquête française (milieu du XVIe siècle-1667). Pouvoir, réseaux et reproduction sociale*, Lille (unpublished PhD thesis Université de Lille III), 2011.

and splintered jurisdictions, litigants accepted the authority of the state in its entirety and in doing so, significantly contributed to its formation.[8]

Hugo De Schepper and Jean-Marie Cauchies have explained the meteoric rise of princely law in the Netherlands during the sixteenth century by highlighting an obvious trend of the times: individuals had greater faith in their ruler's judiciary than in their own local courts or customary law. It is therefore incorrect, according to both authors, to imagine that state formation under the Burgundian and Habsburg dynasties was simply imposed from on high.[9] Princely law was another area in which state building took place from below. A preliminary study by John Gilissen concluded that approximately one quarter of the edicts enacted in the Habsburg Netherlands actually came at the request of subjects, from city governments, estates or private parties, for example. Under Charles VI, figure appears to have risen even further, to more than forty percent.[10]

A second concept that was touched upon several times during the conference is the *professionalization* of the paid officials manning the institutions. This development shows the rising level of education and expertise found among these public servants - jurists made up an ever-greater part of their numbers[11] - and, by extension, the increasing functionality of these institutions: as officials' knowledge and expertise increased, so did their competence. According to Hilde De Ridder-Symoens, professionalization in medieval and early modern society consists of four elements: education, organization, autonomy and service. Although not all of these are always present throughout the period in question - it is, let us remember, an ideal type -, many of these civil servants did indeed receive specialized and uniform educations. Furthermore, many also belonged to a self-regulating body that monitored its members' professional skills and job performance. These new bureaucrats were autonomous when carrying out

---

8 A. Holenstein, 'Introduction. Empowering interactions: looking at state building from below', in: W. Blockmans, A. Holenstein and J. Mathieu (eds.), *Empowering interactions. Political cultures and the emergence of the state in Europa 1300-1900*, Farnham-Burlington, 2009, 1-31.

9 H. De Schepper and J.-M. Cauchies, 'Justicie, gracie en wetgeving. Juridische instrumenten van de landsheerlijke macht in de Nederlanden, 1200-1600', in: H. Soly and R. Vermeir (eds.), *Beleid en bestuur in de Oude Nederlanden. Liber Amicorum prof. dr. M. Baelde*, Ghent, 1993, 161 en 181.

10 J. Gilissen, 'Essai statistique de la législation en Belgique de 1507 à 1794', *Revue du Nord* 1958, 431-435.

11 P. Van Peteghem, *De Raad van Vlaanderen en staatsvorming onder Karel V (1515-1555). Een publiekrechtelijk onderzoek naar centralisatiestreven in de XVII Provinciën*, Nijmegen, 1990, 199; De Schepper and Cauchies, 'Justicie', 162-163.

their tasks and operated at the behest of a client whose interests they defended.[12]

Starting in the second quarter of the sixteenth century, holding a university degree was the norm for justices and *greffiers* in the Council of Flanders,[13] and this was patently the case for central institutions, such as the Privy Council and the Great Council of the Netherlands at Malines, as well.[14] This process of professionalization, which began in the legal sphere, gradually spread to financial and administrative fields.[15]. The new *professionals* were initially found in princely institutions, but graduates also began to come to the fore in regional and city governments. Starting in the Late Middle Ages, large urban centres were faced with increasingly complex lawsuits and so came to increasingly rely upon skilled legists. *Stricto sensu*, the 'pensionary' was responsible for city administration, but his remit was eventually extended to providing legal advice and it was therefore the first office to which lawyers were systematically recruited. It was via their employment by the great Flemish cities that qualified 'pensionaries' entered the service of the Estates of Flanders.[16] In the sixteenth century, jurist-pensionaries began to appear in castellany administrations: a 'pensionary' was already employed in the Courtrai castellany before 1515, and from 1516 onwards there were two, one of which had a law degree.[17] The castellany Land of Waas took a legist on in 1518.[18]

Thus, professionalization and increasing levels of performance were not limited to the central government, but also occurred in provincial and regional institutions, as well as in the large urban administrations. Here, however, there remain a number of unanswered questions, for example, with regard to the periodization of this process. The chronology is already well

---

12 H. De Ridder-Symoens, 'Training and professionalization', in: W. Reinhard (ed.), *Power elites and state building*, Oxford, 1996, 149.

13 Van Peteghem, *De Raad van Vlaanderen*, 423-427. With regard to the clerks (*greffiers*) serving the Council of Flanders in particular, see also the ongoing doctoral research of Joke Verfaillie, *Au coeur de la Cour. Een analyse van het personeel en de werking van de griffie van de Raad van Vlaanderen, 15e-18e eeuw*.

14 M. Baelde, 'Edellieden en juristen in het centrale bestuur der zestiende-eeuwse Nederlanden (1531-1578)', *Tijdschrift voor Geschiedenis* 1967, 39-51; A.J.M. Kerckhoffs-De Heij, *De Grote Raad en zijn functionarissen (1477-1531)*, Amsterdam, 1980.

15 De Ridder-Symoens, 'Training', 152.

16 P. Stabel, 'Stedelijke instellingen (12de eeuw-1795)', in: W. Prevenier and B. Augustyn (eds.), *De gewestelijke en lokale overheidsinstellingen in Vlaanderen tot 1795*, Brussels, 1997, 258-259.

17 J. Monballyu, *Het gerecht in de Kasselrij Kortrijk (1515-1621)*, Leuven (unpublished PhD thesis K.U.Leuven), 1976, vol. 1, 102.

18 See Sylvie De Smet's contribution to this collection.

understood with respect to the evolution of the sovereign's own central and regional institutions,[19] but the same cannot be said of the consequences that these developments held for the Estates as representative bodies or the regional administrations. Did they become more influential? And if so, how may this have impacted on the relationship between the Prince and the political community of the Habsburg Netherlands? The role played by regional councils also needs to be reconsidered with regards to this process. Jos Monballyu has already noted the ambivalent character of the Council of Flanders, which he calls 'a kind of Janus figure, with a particularistic face on one side, and a centralist one on the other', that represented both provincial and central interests.[20]

Simon Groenveld opens this collection with a contribution on the institutional organization of States Flanders, the northern portion of the County of Flanders that the United Provinces captured bit-by-bit with a view towards the creation of a defensive buffer zone on its south-western border. The institutional history of the County of Flanders had a decisive impact on the administrative organization of States Flanders' three regions: the Liberty of Sluis in the west, the *Committimus* in the centre and the City and Ambacht of Hulst in the east. In addition to which, the stage of development that the Republic's central institutions were in at the time of each annexation played an important role in determining the form that governing bodies took. As a result, States Flanders' administrative organisation was a mixture of ancient Flemish and modern, northern governmental practices and rules; moreover, the long period of incorporation led to the use of disparate institutional solutions in the three different regions. Despite the fact that the Republic was a confederation of autonomous provinces governed via a system in which authority flowed from the bottom-up, this Flemish annex had a top-down model imposed upon it. This did not mean that the inhabitants were entirely unable to participate in their own governance; in particular, the submission

---

19 M. Baelde, *De Collaterale Raden onder Karel V en Filips II (1531-1578)*, Brussels, 1965; M. Baelde, 'Edellieden en juristen'; H. De Schepper, *De Kollaterale Raden in de Katolieke Nederlanden van 1579 tot 1609. Studie van leden, instellingen en algemene politiek*, Louvain (unpublished PhD thesis K.U.Leuven), 1972; H. De Schepper, 'Vorstelijke ambtenarij en bureaukratisering in regering en gewesten van 's Konings Nederlanden, 16de-17de eeuw', *Tijdschrift voor Geschiedenis* 1977, 358-377; J. Dumolyn, *De Raad van Vlaanderen*; J. Dumolyn, *Staatsvorming en vorstelijke ambtenaren*.

20 J. Monballyu, 'De gerechtelijke bevoegdheden van de Raad van Vlaanderen in vergelijking met de andere 'Wetten' (1515-1621)', in: B.C.M. Jacobs and P.L. Nève (eds.), *Hoven en Banken in Noord en Zuid. Derde Colloquium Raad van Brabant*, Assen, 1994, 3.

of petitions allowed them to express their wishes and - to a certain degree - steer the policies made with regards to States Flanders.

Castellanies were rural districts organized by the Count of Flanders during the Middle Ages to aid in exercising his authority. Situated between the local village authorities and the ruler, they were wholly intermediate institutions. In her contribution to this volume, Sylvie De Smet discusses the castellany of the Land of Waas. In particular, she examines how, in the course of the Late Middle Ages and the Early Modern Period, the Waasland's governing body - the Chief College - strived both to extend its jurisdiction and improve the castellany's internal organization. She concludes that both before and during the Dutch Revolt, the central government was allied with the Chief College and supported its innovations, since the Waasland's ambitions allowed the authorities to curtail mighty Ghent's influence. In addition to which, the castellany held a strategic position in the fight against the rebellious provinces, and this made turn a Brussels sympathetic ear to the Chief College's aspirations. After the 1648 Peace of Westphalia, the political and military utility of the castellany for the central government was greatly lessoned, and the Land of Waas received many fewer concessions than it had previously.

The Liberty of Bruges was the richest and most powerful rural district of the region and one of the four original Members of Flanders, which acted as the Estates of Flanders. In his contribution, Laurent Inghelbrecht outlines several features of the castellany's 'general assembly': the gathering of the Liberty's nobility and rural representatives and of the *appendante* and *contribuante* seigneuries, who met to decide important matters concerning the castellany. The general assembly mainly focused on fiscal matters and devising the Liberty of Bruges' stances regarding the central government's requests for subsidies.

The article by Frederick Buylaert and Jonas Braekevelt deals with certain aspects of a single, rural district's history: the political elite of the relatively small but wealthy castellany of Furnes in the Late Middle Ages. Their research shows that in the fifteenth century, various routes to power and prestige such as large-scale landownership, seigniorial lordship or seats on the castellany's aldermen's bench, were increasingly accumulated by specific families that aspired to gain dominance over the region. This concentration of authority led to the creation of a ruling class in the castellany; a region elite that, on the one hand, was prepared to support the ruler's political projects, and, on the other hand, also pursued its own agendas and interests even when they did not necessarily match those of the prince.

Klaas Van Gelder illustrates how the Estates of Flanders succeeded in playing a significant role even at an international level by stubbornly refusing to accept the terms of the 1715 Barrier Treaty. In doing so, they employed an extensive arsenal of tactics - threatening to withhold subsidies to the central government, for example - and thereby forced their new ruler, Charles VI, to renegotiate the treaty with the Republic. In 1718, this resulted in a settlement that was more favourable to the county's interests. Van Gelder's study shows that at the beginning of the eighteenth century, the time at which the new Austrian regime took charge in the Southern Netherlands, the Estates of Flanders was a well-functioning representative institution through which the county's entire political community was able to defend its privileges. Furthermore, the new regime was prepared to compromise because it was very well aware of the fact that without the cooperation of the Estates, it would be unable to survive.

The article by An Verscuren discusses the relations between the Great Council of Malines and the provincial Council of Flanders. In contrast to the Councils of Brabant, Hainaut and Luxembourg, the Council of Flanders never obtained sovereign judicial status. Until the end of the Ancien Régime, it was possible to appeal against the Council of Flanders' rulings to the Great Council of Malines; during the eighteenth century, sixty percent of the total number of appeals heard by the Great Council originated in Flanders. According to Verscuren, part of the explanation for the council's non-sovereign status lies with the attitude of the Estates of Flanders, which often sought to appeal rulings by its own provincial council and so did not support the Council of Flanders' demand for sovereignty. Nor were rulers inclined to grant the powerful Council of Flanders even more authority by giving it this status, wishing instead to use the Great Council to curtail its autonomy. The Estates and the emperor had a common cause in this instance, and as a result the Council of Flanders never became a sovereign court.

The contribution of Laurie Fréger also deals with princely law courts, albeit in the portion of the County of Flanders annexed by France. After taking a portion of the western part of the county, in 1693 Louis XIV established a *bailliage*, a local princely court of law, in Ypres. In 1704, this was upgraded to a *présidial*, an intermediate appeals court. The Treaty of Utrecht marked the end of '*bailliage et siège présidial*' of Ypres and in 1713, the court moved to Bailleul, where it remained until the French Revolution. Laurie Fréger discusses the resistance met by this court from the Ypres magistracy as well as from the *Parlement de Flandre* in Tournai, the high court of French Flanders, and sketches the judicial procedures developed by the '*bailliage et siège présidial*' during its brief existence.

Sarah Castelain finally focuses on the University of Douai's jurisdiction over all its students and staff. This was just one of the many privileges the university received from Philip II at the time of its establishment in 1562. However, when France annexed Douai, Lille and Orchies in 1668, this led to the decommissioning of the university's judicial apparatus, which petitioners had found to be inefficient, corporatist and biased. During the late seventeenth and eighteenth centuries, the administration of justice in universities was placed under the jurisdiction of the *Conseil Souverain* (later the *Parlement de Flandre*) erected by Louis XIV, a move which was not only consistent with the general trend towards subjecting competing courts to princely justice, but one which also furthered the interests of litigants.

DUTCH OR FLEMISH?
THE OLD AND THE NEW IN THE GOVERNMENT OF STATES FLANDERS (CA. 1572-1700)

Simon GROENVELD

1. Introduction

The formation of States Flanders – nowadays Zeeland Flanders - and of its institutions took place within the context of the Eighty Years War. In order to better understand this process, it is necessary to begin with a short analysis of how this region came to lead a separate existence. Afterwards, we shall study the evolution in political views regarding this territory and how this affected the balance of power there, the structure of the governmental institutions and their personnel. How are these evolutions to be explained? It is rather surprising surprisingly that up to now no overall research into the topic has been made. Consequently, within the framework of this article we have to ask several basic questions. Did the way in which States Flanders was created directly influence the shape of its institutions? Did the old, southern Netherlandish institutional structures continue to exist? Or was it a case of northern Netherlandish rules and forms simply being imposed on the region, without any alterations? Were these institutions functioning bottom-up, or top-down? Who ran them? How can we explain changes that may have taken place?

2. Political and military origins

Early in the Eighty Years War, various Flemish towns fell to the 'Sea Beggars', Dutch privateers operating from the island of Walcheren.[1] Over the course of the following years, various coastal towns more than once changed hands. However, even though the County of Flanders was one of the initiators of the Pacification of Ghent in 1576, the province remained rife with divisions. That this situation did not improve during the next years,

[1] A.M.J. de Kraker, 'De woelingen der watergeuzen in het Vlaamse kustgebied. Een onderzoek naar hun akties in de Vier Ambachten en de gevolgen daarvan tussen 1572 en 1576', *Jaarboek De Vier Ambachten*, 1980-81, 65-186.

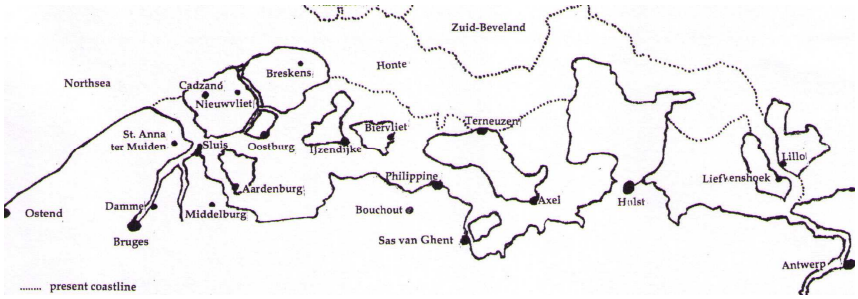
became readily apparent with the conclusion of the Union of Utrecht in January 1579, a defensive alliance against governor general Alexander Farnese's offensive warfare. All four 'Members of Flanders' joined the northern coalition – but separately. Calvinist Ghent was the first to sign up, on 4 February 1579, Ypres followed on 10 July, both Bruges and the Liberty of Bruges joined separately not until 1 February 1580.[2] However internally divided, Flanders had decided to ally with the insurgents.

Farnese's *Reconquista* brought a fundamental change to this situation. Having captured in 1583 most towns along the western coast of Flanders, Farnese took the majority of towns in the northeast: Sas van Ghent, Axel and Hulst. His next step was the seizure of the county's great inland towns. The rebels only held him off in Biervliet, which they had taken in 1575-76. During the years to come, they captured Terneuzen (1583), Axel (1586) and Hulst (1591). And in the northwest they kept the cities of Ostend and Sluis. All of these were regarded as bases of operation against both Farnese and his successors. But in 1587 Farnese retook Sluis, and nine years later Archduke Albert reconquered Hulst, both of them weakening the rebels. Thus, northern Flanders became a battlefield; the Honte or Western Scheldt demarcated the front line. More and more, however, the northern Netherlanders changed their views and started considering their Flemish possessions to be separate defensive strongholds to counter apparent threats from those quarters. Threats as had been actual between 1572 and 1574, when the rebels besieged the loyal city of Middelburg on Walcheren: time and again the defenders had been given support from 'the other side'.[3] Later on, at the turn of the century, Sluis constituted a real threat to Flushing (Vlissingen), because of a fleet of Spanish galleys stationed there. This particular danger was abated when the galleys were defeated in 1603 and Prince Maurice recaptured the city the next year. But a new problem arose because, at the same time, the city of Ostend was lost to the rebel cause.

---

2 S. Groenveld, '"Die originale Unie metten acten daernaer gevolcht". De Unie van Utrecht', in: S. Groenveld (ed.), *Unie-Bestand-Vrede. Drie fundamentele wetten van de Republiek der Verenigde Nederlanden*, Hilversum, 2009, 33-84, especially 71-72, 76 and 77-78.

3 S. Groenveld, 'Trouw en verraad tijdens de Nederlandse Opstand', *Zeeuws Tijdschrift*, 1986, 3-12; Id., 'In de frontlinie. Hulst en Hulsterambacht tijdens de Tachtigjarige Oorlog', *Jaarboek De Vier Ambachten*, 2001-03, 13-42; Id., '"Een doore geopent". Noord-Nederlandse tijdgenoten over de positie en de verovering van Sluis, 1604', *Archief van het Zeeuwsch Genootschap*, 2004, 5-48; W. Thomas, *De val van het Nieuwe Troje. Het beleg van Oostende, 1601-1604*, Louvain, 2004.



The continually changing geographical situation in States Flanders in 1649 (Source: K.J.J. Brand, in Annard, *Bestuur*, 6).

As the hostilities dragged on, both north and south began to view their former allies as different, 'others'. To the southerners, northerners were dangerous, marauding rebels and heretics. In the eyes of the northerners, the mighty House of Habsburg, dominating Flanders, posed a permanent threat to their independence and their Calvinist religion. They increasingly came to believe that the surest way to gain security was the creation of an unbroken defensive buffer zone across the territory of their adversary. This way of thinking already induced Maurice to retake Sluis and its environs in 1604 and to leave the more distant Ostend to its own devices. After 1625, the Republic systematically employed this strategy. Under Frederic Henry of Orange, a complete barrier was constructed around its heartland: from Oldenzaal in eastern Overijssel (1626), through Groenlo in Gelderland (1627), to Den Bosch (1629) and Breda (1637) in Brabant, and across Flanders via Sas van Ghent (1644) and Hulst (1645) to the States held territory on the North Sea.[4] In this manner, the front line was shifted to the east and the south, and the enemy kept at bay. The 1648 Peace of Munster recognized this *de facto* boundary. However, it was not until 20 September 1664 that an exact course of the border between Flanders and the Republic was decided upon, during negotiations between Spain and The Hague.[5]

4 S. Groenveld, H.L.Ph. Leeuwenberg et al., *De Tachtigjarige Oorlog. Opstand en Consolidatie in de Nederlanden (ca. 1560-1650)*, Zutphen, 2008, 242-293.

5 The text of the Peace of Munster is published in: Groenveld, *Unie-Bestand-Vrede*, 158-186, see especially 161, 166-167 and 179-180; for the treaty with Spain of 20 September 1664, see: C. Cau et al. (eds.), *Groot Placaet-Boeck...*, The Hague, 1658-1797, vol. 3, 313-315.

3. Princely authority

During the Eighty Years War, the young Republic of the United Netherlands was developing into a unique state within Europe in terms of its government. From 1588 onwards, it comprised a confederation of six, later seven, sovereign provinces, each of which considering its own Estates assembly to be the highest authority. These collegiate bodies, derived from the local rural and urban governments, were regarded as the successors of the former prince of every single province – the duke, count or lord –, having taken over his prerogatives. Thus, the representatives of the inhabitants now had a share in provincial sovereignty. For matters affecting the confederation as a whole, the provinces consulted one another through some Generality institutions: through the Estates-General and the Council of State. However, the relationship between these two colleges had yet to be settled upon and their respective responsibilities continually evolved over the period in question, as we shall see. Yet, at no time did either body have an ultimate, sovereign authority over the individual provinces; they functioned between, not over the seven provincial governments, they were intergovernmental by nature. Clearly, the unique structure of the Republic's government requires analysis from the bottom-up rather than the top-down.[6]

Yet, this was neither the case for States Flanders, nor for the other conquered parts of Brabant and Limburg. In States Flanders, ripped away from the county of Flanders in order to become a defensive bulwark, the establishment of an entirely new princely authority was required. This was easier said than done, however, States Flanders being added to the Republic bit-by-bit over a period of some seventy years – during the very period in which the Republic's own, highly unusual government was slowly taking shape. The long duration of this process led to the use of various administrative solutions in different parts of States Flanders, all of which mirrored the northern institutions' current stage of institutional development.

However, one thing was clear from the scratch: States Flanders would never be an independent province within the northern confederation, neither would States Brabant or States Limburg be so. States Flanders does not appear to have had any ambitions in that direction. States Brabant, on the other hand, requested recognition as such on several occasions, but this was never granted. Were that to have occurred, States Brabant would have gained its own estates assembly, as well as access to the Estates-General – where it, being the oldest duchy of the Low Countries, would have taken precedence over all other members. In fact, security concerns necessitated

---

6 S. Groenveld, *Regeren in de Republiek. Bestuurspraktijken in de 17e-eeuwse Noordelijke Nederlanden: terugblik en perspectief*, Leiden, 2006, 7-11.

that these territories be placed under the direct oversight of the Generality, and never got coordinating institutions of their own.[7]

As to States Flanders, it was wondered who would govern the areas conquered, manage food supplies and munitions stores, who would appoint the tax-farmers of the excises called '*gemene middelen*' ('general means'), and have collected the *contributions* and the '*brandschat*' (protection moneys imposed by the Republic), and who would assign local and regional functionaries. These issues were already being raised in the 1580's as to the strategically located area around Terneuzen. Here, Zeeland's *Gecommitteerde Raden* (the standing committee that steered the day-to-day administration of the province) initially took these tasks on for practical reasons: they were closest, they were the most familiar with Flanders, and they felt most threats from that side.[8]

However, at this time, the governance of this region remained rather *ad hoc*. Occasionally, the Council of State in The Hague, and sometimes the Estates-General also, had a hand in making appointments, arranging fiscal matters and overseeing fortifications.[9] Of these two, the Council of State initially appeared to acquire most intergovernmental authority, but eventually, around 1600, the Estates-General proved to be the strongest, pulling to themselves the power of decision, whereas the Council of State became the advising, preparatory and administrative organ of the Generality.

In spite of their initiatives taken in the region, the *Gecommitteerde Raden* of Zeeland were concerned that they lacked official power in the new territory.[10] Therefore, in 1588, they petitioned the Council of State for explicit authorization of their actions. On 28 August the Council replied that it 'at present commissions and authorizes provisionally and until cancellation the *Gecommitteerde Raden* of the Estates of Zeeland, being the

---

7 M.P. Christ, *"De Brabantsche Saecke". Het vergeefse streven naar een gewestelijke status voor Staats-Brabant, 1585-1675*, Tilburg, 1984; S.J. Fockema Andreae, *De Nederlandse staat onder de Republiek*, Amsterdam, 1969, 76-77.

8 K. Heeringa, 'Het aandeel van Zeeland in het bestuur van Staats-Vlaanderen', *Nederlandsch Archievenblad*, 1914-15, 45-60; A.M.J. de Kraker, 'Een staatse strategie in een "uitgestorven" land. Organisatie en ten uitvoerlegging van de brandschat in Vlaanderen, 1585 tot 1604', *Bijdragen en Mededelingen betreffende de Geschiedenis der Nederlanden*, 2006, 3-34. A good summary of the administrative situation in States Flanders can be found in C.W. van der Pot, *Bestuurs- en rechtsinstellingen der Nederlandse provinciën*, Zwolle, 1949, 103-106.

9 A.Th van Deursen, 'De Raad van State en de Generaliteit', *Bijdragen voor de Geschiedenis der Nederlanden*, 1964-65, 1-48; H. de Schepper, A.Th. van Deursen et al., *Raad van State 450 jaar*, I, The Hague, 1981, 47-91.

10 In 1586-1587 it was decided, as to Terneuzen, that the '*Gecommitteerde raden in 't quartier alhier geen gesach noch bewint en hebben*' ('The *Gecommitteerde Raden* have neither authority nor rule in this quartier'), Heeringa, 'Het aandeel', 54.

closest governmental body, that everything should be done by them, which they, following the proclaimed ordinances and instructions on the matter, will consider necessary in good conscience'.

This resolution did not give the Zeeland *Gecommitteerden* permanent authority in the area, nor did it provide them with all the powers they desired. The Council of State remained above them in terms of defensive and political policies, and as the region's appellate court. However, the then conquered territory was given a separate status as the so-called '*Committimus*' ('we entrust'). As a result, in 1590, Biervliet, Terneuzen and Axel were merged and given a joint, local governing body. The fortresses of Lillo and Liefkenshoek also formed part of this administrative unit, as did Hulst from 1591 to 1596. However, starting in 1594, the emergence of the Estates-General diminished the authority of Zeeland.[11] Nevertheless, the Zeeland *Gecommitteerde Raden*, as well as the Estates-General and the Council of State all three would continue to exercise power over the *Committimus* region in a somewhat arbitrary fashion for some time to come.

The rise of the Estates-General became particularly noticeable after Sluis was recaptured in 1604 and the East Liberty of Bruges fell into Republican hands. This included not only the *smalsteden* ('minor cities') Aardenburg, Oostburg, Sint Anna ter Muiden and IJzendijke, but also the *ambachten* (administrative and judicial districts in the countryside) around Aardenburg, Oostburg and IJzendijke, just as the seigniories of Breskens and Nieuwvliet. Now it was the Estates-General that, without any deliberations on the matter, directly determined the running of things in this newly conquered area.

The *Hoog Mogenden* ('High Mightinesses', the honorarium used by the Estates-General for themselves), pursued the rules, formerly issued by William of Orange in his capacity of the revolutionary stadtholder of Holland and Zeeland, in cooperation with the Council of State. On 23 April 1584, for instance, the Prince had granted Terneuzen the franchise of a town.

---

11 '*…committeren ende authoriseren by dezen by provisie ende tot wederseggen de Gecommitteerde raden van de Staten van Zeelandt, als naest gezeten zijnde, om by hen daerinne gedaen te wordden, zoo zy nae rechte ende uutwysen der ordonnantiën ende instructiën, daerop gemaeckt, in goede consciëntie zullen bevinden te behoiren*', Heeringa, 'Het aandeel', 55. See also J.M.G. Leune, *Lillo en Liefkenshoek*, vol. 1, Brussels, 2006, 181-250; J. Wesseling, *De geschiedenis van Terneuzen*, Terneuzen, 1962, 40-41 and 45-48; Id., *De geschiedenis van Axel*, Groningen, 1966, 106-109. Biervliet laid on a separate island and belonged originally to the Liberty of Bruges. At this point it was freed of the jurisdiction of the Liberty, see W. Prevenier and B. Augustyn (eds.), *De gewestelijke en lokale overheidsinstellingen in Vlaanderen tot 1795*, Brussels, 1997, 464.

His charter provided the residents with the low, middle and high jurisdiction – thus with courts for civil and for criminal affairs – 'as they had previously had and used'. It also recognized the freedom from tolls that they 'had from times immemorial and heretofore possessed'. Furthermore, as to the care of the orphans, it ordered the residents to 'regulate themselves according to the customs of the orphans' care of the city of Ghent, which in the quarter of Terneuzen had always been followed and maintained'. In addition, on 23 August 1586, 'all such privileges, freedoms, pre-eminences and prerogatives [...] granted and accorded' to Terneuzen by the Prince of Orange were confirmed by the English governor-general Robert Dudley, Earl of Leicester. Thus, the rebellious leaders as well as their English allies simply confirmed all of the old laws and privileges. Yet, Orange's charter revealed its moment of origin. Terneuzen was also granted *keurbevoegdheid*, the right to make its own local ordinances. Yet, before promulgation, the city had to gain prior approval from the Estates of Zeeland or their *Gecommitteerden* – and not yet from the Estates-General.[12]

Kindred decisions were made regarding the local government of Sluis and its environs. After Farnese's *Reconquista* of the Liberty of Bruges, fourteen of its twenty-seven 'chief aldermen' ('*hoofdschepenen*') fled to the north. They petitioned Prince Maurice and the Council of State for permission to continue in their old posts as they still considered themselves the main governing body ('*hoofdcollege*') of the Liberty of Bruges. On 13 October 1584, the Prince and the Council decided to allow them to serve 'as they of olden times and provenances, customs, privileges and liberty were used to doing'. Both this rump college and the Council of State were operating under the assumption that eventually the entirety of the Liberty would be reunited under the Republic's rule. The Rump met in Sluis, until the city fell to Farnese in 1587; then it was forced to move its seat to Ostend.

As a result of Maurice's offensive of 1604, the Republic regained only the eastern portion of the Liberty and lost Ostend, as we have seen. Accordingly, the Estates-General organized the region into the States Liberty of Flanders, which soon became known as the Liberty of Sluis. Here

---

12 Those of Terneuzen were granted a court, 'soo sij van te vooren gehadt ende gebruyckt hebben'; freedom from tolls that they 'van ouden tijden ende voor date van desen hebben gehadt'; furthermore they had to 'reguleren volgende de costume van de weeserije der stadt van Gent die men altijts int quartier van der Neuse achtervolcht ende onderhouden heeft'. Leicester reaffirmed 'alzulcke privilegien, vrijheyden, preeminentien ende prerogtive [...] gegunt ende geaccordeert'. Wesseling, *Geschiedenis Terneuzen*, 31-39. A.M.J. de Kraker, 'De Vier Ambachten en hun bestuur tijdens de vijftiende en zestiende eeuw', in: A.M.J. de Kraker et al. (eds.), *'Over den Vier Ambachten'. 750 jaar Keure, 500 jaar Graaf Jansdijk*, Kloosterzande, 1993, 545-556, see pages 554-555.

the Estates-General continued the former northern policies with regards to governing the new territories. They declared to observe this region's previous privileges and customs as well. In concrete terms, as we shall see, this included, among other things, the way of appointing the local and regional rulers. It became clear that the Estates-General were acting as the new prince, the new Count of Flanders, confirming the existing rules and structures in a traditional manner.[13] In States Brabant they dealt in the same way.

However, in practice not all the old rules could be maintained, nor could all the previous administrative and legal institutions continue to function. The political situation no longer allowed for the appeal of civil court decisions made by the local and regional courts to either the Council of Flanders in Ghent, or the highest appellate authority, the Great Council of Malines. The same problem had already arisen in States Brabant, where the remedy had been to provide the territory, in 1586, with a small appeals college in The Hague. By 1591, this body had already developed into a complete Dutch Council of Brabant. This college was a faithful facsimile of the Council of Brabant in Brussels and even adopted subsequent southern Netherlandish judicial modifications, such as the *Albertine ordonnantie* of 1604. Following its predecessor's example, it was a sovereign body whose judgements could not be appealed. In addition, it also acted as a feudal court for States Brabant.[14]

The authority of the newly created States Council of Flanders – a true copy of the Habsburg Council of Flanders – did not extend quite so far. Founded in 1599, this Council did not have – typical for the time of its creation – its seat in The Hague but in Middelburg, near its jurisdiction. Just as in its non-sovereign southern model, its decisions in civil cases could be appealed. Obviously, this could no longer be done through the Great Council of Malines. Instead, appeals went to the Supreme Court of Holland and Zeeland. This institution was founded in 1582 as the general successor to the Great Council in Malines, but was never accepted by all seven provinces as such. According to its charter, the States Council of Flanders had to function in accordance with the instructions given to this new Supreme Court. However, in 1616, this regulation was nuanced at the insistence of the

---

13 The regents were to act 'zo zij van allen ouden tijden, hercommen, costumen, privilegiën ende liberteijt ghewoon waren te doen', A. Meerkamp van Embden, *De archieven van de rechtbanken, weeskamers en notarissen, die over het tegenwoordig grondgebied der provincie Zeeland gefungeerd hebben. Zeeuwsch-Vlaanderen 1447-1798*, Middelburg, 1919, p. xix-xx; Id., *Archief van 't Vrije van Sluis 1584-1796*, The Hague, 1928, 10, 12 and 18-19.

14 Fockema Andreae, *Nederlandse staat*, 76-7; E.J.M.F.C. Broers and B.C.M. Jacobs, *Procesgids Staatse Raad van Brabant*, Hilversum, 2000.

Liberty of Sluis, stating that proper judgements in cases pertaining to issues particular to Flemish law, including inheritances and dykes, required a competent appellate court. As a result, the States Council of Flanders received its own instructions regarding these matters, which operated alongside those given by Charles V to the Council of Flanders in Ghent in 1522. It lasted until 1661 before the States Council of Flanders obtained new and far more detailed instructions from The Hague. Among other things, these brought in more changes to the appellate process. From then on, appeals could also be lodged with the sovereign of States Flanders, the Estates-General. Even after 1676, following problems with the Supreme Court of Holland and Zeeland, the High Mightinesses alone held that authority. In practice, they appointed for these cases delegated judges, whose rulings only came into force after they had been inserted by the Estates-General in their resolution book.[15]

The drawing up of the first instruction for the States Council of Flanders in 1616 coincided, though, with the introduction of a new feudal Court of Flanders, a year before, which was closely connected with the States Court of Flanders. Just as its Flemish counterpart, this feudal Court passed judgement in cases involving vassalage on the basis of Flemish feudal law, which remained in force in this region. Prior to this, the Liberty of Sluis' feudal court had handled such matters, even in cases from other parts of States Flanders.[16] That many of the previous feudal rules and traditions were retained, is clearly indicated by the new vassals' oath. They had to swear fealty to 'Their High Mightinesses, the Lords Estates General

---

15 M.-Ch. le Bailly, *Procesgids Staatse Raad van Vlaanderen te Middelburg (1599-1795)*, Hilversum, 2007, 11-23 and 88; L. Zoodsma, 'De Raad en het Leenhof van Vlaanderen te Middelburg (1599-1795). Een eerste verkenning', in: B.C.M. Jacobs and P.L. Nève (eds.), *Hoven en banken in Noord en Zuid. Derde Colloquium Raad van Brabant*, Assen, 1994, 27-37; M.-Ch. le Bailly and Chr.M.O. Verhas, *Procesgids Hoge Raad van Holland, Zeeland en West-Friesland (1582-1795)*, Hilversum, 2006; Chr.M.O. Verhas, *De beginjaren van de Hoge Raad van Holland, Zeeland en West-Friesland*, The Hague, 1997; Th. van Riemsdijk, *De Griffie van Hare Hoog Mogenden*, The Hague, 1885, 68-69; Van der Pot, *Bestuurs- en rechtsinstellingen*, 106. The 1661 instructions for the States Council of Flanders can be found in: Cau et al. (eds.), *Groot Placaet-Boeck*, vol. 5, 790-836.

16 The enfeoffment of Flemish fiefs sometimes raised serious problems. On April 4, 1615, the Estates-General asked the States Council of Flanders and the *hoofdcollege* of the Liberty of Sluis for advice regarding the granting of Flemish fiefs on the Republican side of the border. On 12 May the Estates-General put together a preliminary set of regulations. Moreover, on 9 December 1616, they instructed the States Council of Flanders not to act against the old rights, customs and privileges in these matters, A.Th. van Deursen (ed.), *Resolutiën der Staten-Generaal (RSG) 1613-1616*, The Hague, 1984, 423, 446 and 737. The preliminary regulations of 1615: Cau et al. (eds.), *Groot Placaet-Boeck*, vol. 2, 2276.

of the United Netherlands, as the Count of Flanders of the *Oudburg* ('Old Borough') Castellany of Ghent'![17]

Furthermore, that the Estates-General were slowly but surely edging out the Zeeland authorities is readily visible in how notaries were to be appointed to States Flanders. Essentially, the States Council of Flanders designated these officials, but only after approval by the Estates-General – and not by the *Gecommitteerde Raden*, even when the notary was to be stationed in the *Committimus*.[18]

As a result, many of States Flanders' governmental institutions had already taken shape by 1644 and 1645, when Sas van Ghent, Hulst and the majority of the outlying Four *Ambachten* were finally added to the territory. Once more, the third article of the Capitulation of Hulst specifically contained the confirmation of the area's rights: 'The aforementioned city and its inhabitants shall retain their privileges and freedoms'. Nevertheless, the Estates-General immediately demonstrated their growing self-confidence by deviating from this guarantee. On 9 November 1645, it appointed one '*baljuw*' (bailiff) for the city of Hulst and another one for Hulsterambacht, which was in accordance with the rules. But both men were also designated in the lower office of '*schout*' (a kind of sheriff) for their respective jurisdictions. For centuries, however, there had been just one *schout* for both the city and the *ambacht*, the position being part of a hereditary fief of the *Oudburg* Castellany. Consequently, the proprietor was now excluded from the office. He lodged complaints with the States Council of Flanders, was several times put in the right by this body, but eventually had to accept the Estates-General's decision.[19]

---

17 They swore allegiance to '*Haere Hoogmogenden mijne heeren de Staeten-Generael der Vereenichde Nederlanden als grave van Vlaenderen van haeren Casteele van den Oudenburgh van Gent*', Le Bailly, *Staatse Raad vanVlaanderen*, 12; Meerkamp van Embden, *Archief Vrije*, 14; Idem, *Archieven rechtbanken*, p. xxiii. Regarding the *Oudburg* Castellany see: Prevenier and Augustyn, *Overheidsinstellingen*, 439-446.

18 Meerkamp van Embden, *Archieven rechtbanken*, xxiv and n. 1

19 '*De voorseide stadt ende Ingesetenen der selve sullen bij alle hare Privilegien ende Vrijdommen werden gelaten*', W.J. Annard, *Bestuur en bestuurders in Oost Staats-Vlaanderen, 1645-1673. Een onderzoek naar de bestuurlijke gevolgen voor Oost Staats-Vlaanderen van de politieke overgang van Hulst in 1645*, Hulst, 1993, 9-12, 17 and 23-24; P.J. Brand, *De geschiedenis van Hulst*, Hulst, 1972, 223-240; J. van Lansberghe, *Beschryvinge van de stadt Hulst*, Rotterdam, 1692, 280-337.

4. Regional and local relations: the Liberty of Sluis

These problems as to appointments bring us to the governance on both the local and regional levels. Within the three parts of States Flanders, older, traditional structures were in existence, all of which showed both similarities and differences. These variations were associated with the different customs observed in the old County of Flanders' individual quarters. As we know, the western part of States Flanders derived from the Liberty of Bruges, whereas the *Committimus* – apart from Biervliet – and the eastern portion of States Flanders originally belonged to the Quarter of Ghent. Therefore, we have no choice but to analyse the institutional developments of these three sub-regions separately.

We shall start with the Liberty of Sluis, originally one of the three quarters of the Liberty of Bruges. Formerly, since the thirteenth century, a high bailiff had represented the authority of the Count in the complete Liberty of Bruges. Administration and justice were the allotted task of an overall mayor, a mayor from each of the three quarters, and twenty-seven '*hoofdschepenen*' ('chief aldermen'), nine per quarter. Continuity was maintained somewhat when, as discussed above, in 1584, the Council of State in The Hague acknowledged fourteen exiled *hoofdschepenen* as 'the governmental body [the '*wet*'] of the Land of the Liberty'.[20] Of these functionaries, only four were still alive when the Republic regained Sluis.

The Estates-General, acting as the new sovereign, now appointed a new high bailiff, of course only over the Liberty of Sluis, giving to him, however, the instruction for his predecessor of the old Liberty of Bruges. Their appointee was Jacob de Grijse, the Republic's chief provisioner. In line with the traditional practice in each of the quarters, and led by de Grijse, a '*hoofdcollege*' ('chief college') was installed over the Liberty of Sluis, consisting of nine chief aldermen, one of which was mayor. The High Mightinesses recognized the previous oaths of office made by the four surviving *hoofdschepenen* and appointed four new ones, giving the newcomers instructions, in line with the aldermen's customary responsibilities. All held office for life, as per usual throughout the Liberty, although this was not the practice in either the city of Bruges or the Republic. The mayor's term was for just one year; de Grijse filled also this role in the first year. The High Mightinesses, in conclusion, respected the existing rules. They did this even so much that, except for installing a stadtholder of the high bailiff, they also allowed the Liberty a '*krikhouder*' (another prosecuting attorney), just as it had had previously. But the

[20] The exiled chief aldermen were recognized as 'het Collegie ende lichaem van wette des Lands van den Vrijen'. Meerkamp van Embden, *Archief Vrije*, 18-19.

residents found the *krikhouder* so unnecessary that, at their instigation, the office was scrapped again in 1626.[21]

The high bailiff's tasks were both administrative and judicial. He submitted cases to the *hoofdschepenen*, appointed underlings, acted as both chief prosecutor and executioner of any resulting verdicts. The mayor functioned as the president of the *hoofdcollege*, presided over its meetings and was responsible for formulating sentences. The *hoofdcollege* had jurisdiction over all cases of low, middle and high justice in first instance, and over appeals in civil matters. In civil cases, parties could, in turn, appeal its decisions to the States Council of Flanders. Next to their legal rights, the *hoofdschepenen* had administrative and political authority, including the ability to write and promulgate ordinances. They also carried out the resolutions of the Estates-General and functioned as the feudal court of the region, acting in accordance with Flemish law.[22]

Differences can be perceived between the status and composition of the governments of the Liberty of Sluis' three main *ambachten* and those of the cities. The *ambachten* each had their own bailiff, appointed by the high bailiff, and a mayor and aldermen appointed by the *hoofdschepenen* of the Liberty. At a lower level, each *ambacht* contained a number of parishes that functioned as subordinate administrative units. The exceptions to this system were the remaining seigniories, where the local lord continued to appoint all of the functionaries.[23]

The cities, since long legally isolated from the countryside, had their own privileges. All had a bailiff, one or two mayors and aldermen who were appointed for life. Eventually, however, the office of bailiff in these places became connected to that of the high bailiff in a type of personal union. The number of aldermen varied from city to city, not only because of tradition, but also as a result of differing levels of depopulation and recovery from the war. The city of Sluis had two mayors and seven aldermen, whereas Aardenburg had two mayors and four aldermen, which later increased to eight. In cases as these, the two mayors would split government and court tasks; one of them would serve as president of the *schepenbank*. Oostburg and Sint Anna ter Muiden had only one mayor apiece and four and five

---

21 H.H.P. Rijperman, *RSG 1604-1606*, The Hague, 1957, 212 (24/09/1604), 214 (29/11/1604 and notes 4 and 5); Groenveld, '"Een Doore geopent"', 29-30 and 46 n.107; Meerkamp van Embden, *Archief Vrije*, 11-14; A. Sol, *27 Schepenen uit het college van het Vrije van Sluis. Een elite-onderzoek*, unpublished master's thesis, University of Utrecht, 1985, 6-7.

22 Sol, *27 Schepenen*, 7 and 38-40; Prevenier and Augustyn, *Overheidsinstellingen*, 469-472.

23 Prevenier and Augustyn, *Overheidsinstellingen*, 464-465; Meerkamp van Embden, *Archieven rechtbanken*, p. xx-xxi; Id., *Archief Vrije*, 11-13; Sol, *27 Schepenen*, 10.

aldermen, respectively.[24] The aldermen were given the ability to pass municipal ordinances, as well as complete judicial authority, although civil cases could be appealed to the *hoofdcollege*.

All of these governments – just like those found in the eastern parts of States Flanders, as we shall see – differed greatly from those of most cities in Holland and of a majority in Zeeland, in that they were missing a permanent city council. In this Flemish region an indeterminate number of dignitaries – *notabelen* – were occasionally called upon for consultation in important affairs, but did not constitute a fixed body. For instance, these men were convened during the formation of Sluis' new administration in 1604; later on they appeared as needed.

The magistrates of the *smalsteden* were not immediately reformed in 1604, but this became increasingly urgent. Aardenburg's was reconstituted as early as 1605, but that of Oostburg had to wait until 1610. The timings coincided with the presence of qualified potential office holders. Filling the positions became easier after functionaries who had fled in 1583 returned, after some of the governing families of the old Liberty of Bruges had resolved to remain in this former Eastern Liberty, or because other experienced people were attracted to it, particularly after the South had retaken Ostend. In this respect, the arrangements made in 1604 for the city of Sluis' new government are telling: only three of the nine magistrates were from the old college, three were from Ostend and the last from the 'most notable and best' citizens of the city itself. For example Maillart Mertens was installed as bailiff, having just lost the same post in Ostend.[25] Thus, the governing boards in both the city and the Liberty were mainly comprised of people originating from the city itself or from the area. They were required to be a member of the Calvinist church, or at least to be sympathetic towards it, which did not pose a real problem as Calvinism had already gained a significant foothold in the area.

Nevertheless, the number of available candidates for office gradually but manifestly became inadequate, so as the government underwent many changes in terms of its composition. This is clearly visible circa 1700, thanks to a study of twenty-seven members of the *hoofdcollege* as it stood around that time. Of these, only twelve came from States Flanders (44,5 percent), seven hailed from Holland (25,9 percent), five originated in Zeeland (18,5 percent), while Gelderland, Drenthe and States Brabant

---

24 Groenveld, '"Een Doore geopent"', 30; Sol, *27 Schepenen*, 8-9. This division of mayoral duties along administrative and judicial lines also took place in States Brabant, Fockema Andreae, *Nederlandse staat*, 77 and 87.

25 Rijperman, *RSG 1604-1606*, 212 (23 and 24/09/1604): '*notabelste ende beste*'.

contributed one apiece (3,7 percent).[26] However, this development was not at odds with the strong links between the institutions of the Liberty of Sluis and those of the old Liberty of Bruges. For example, it appears that the Bruges customary law continued to be followed as to substantive law – probably as a result of the majority of the population being familiar with it.[27]

Magistrates' origins[28]

	27 *hoofdschepenen* of the Liberty of Sluis (ca. 1700)		59 *schepenen* of the city of Hulst and of Hulsterambacht (1645-1673)	
	Number	Percent	Number	Percent
States Flanders	12	44,5	9	15.3
Holland	7	25,9	19	32.2
Zeeland	5	18,5	13	22.0
Smaller prov.	2	7,4	13	22.0
States Brabant	1	3,7	5	8.5

5. Regional and local relations: the Committimus, Hulst and the Four Ambachten

When we then turn to an analysis of the *Committimus*, and of Hulst and its surroundings, we are moving to areas that originally belonged to the *Gandavensis Burgi Castellaria*. The eastern portion of States Flanders coincided with the Four *Ambachten*: Asseneder-, Bouchouter-, Axeler- and Hulsterambacht. Over time, Hulst was to become 'the first and most notable of the Four *Ambachten*'. The quarter of Terneuzen had been split off from these four jurisdictions in 1488, but in 1527 it was put together with Axelerambacht. Cities and *ambachten* were often merged or separated, received a common government or were, on the other hand, governed apart.

---

26 Sol, *27 Schepenen*, 14-23, particularly 20. Among the governing families hailing from States Flanders, the de Beaufort's, originally from France, were quite prominent. This family arrived in Zeeland and States Flanders via a stewardship at the court of William of Orange and spread from Hulst, where its members served as regents, to the Liberty of Sluis, see Annard, *Bestuur*, 72-73.

27 Fockema Andreae, *Nederlandse staat*, 88.

28 Sources: Sol, *27 Schepenen*, 14-23; Annard, *Bestuur*, 51-61.

Each of the Four *Ambachten* had, under the authority of the high bailiff of Ghent, its own under bailiff, a hereditary *schout* and a bench of seven aldermen, the principal of which acted as the mayor. The city of Hulst had its own government with the same structure; as had the city of Axel, until its administration was combined with that of Axelerambacht in 1565. Unlike in the area of Sluis, the magistrates here were not appointed for life, but only for one year. Annually, around the middle of May, a formal change of mayors and aldermen took place upon nominations, drawn up by the local magistracies.[29]

The trend towards repeated modifications in the shape of the areas and of their governmental structures continued under Republican rule and is particularly visible in the *Committimus*. Here, we can only provide a rough sketch of these developments. The northern Netherlanders took Biervliet, located on its own island and originally part of the Liberty of Bruges, first; then they conquered Terneuzen and finally Axel, both situated on the same island. In 1590, these three places were joined in one governmental union that counted a total of just six *schepenen*, appointed by the *Gecommitteerde Raden* of Zeeland. At that time, both Axel and Biervliet had too few qualified residents to consider the formation of an independent bench of aldermen. However, in only four years the situation changed. The size of the population increased. Consequently, The Hague felt need to renew the union, raising the number of aldermen to twelve and leaving the appointments to the Estates-General. This interference was also influenced by the on-going tension between Axel and Terneuzen. Then, thanks to further recovery of the previously depopulated city of Axel, another union was formed in 1600, with four aldermen from Axel, three from Terneuzen and one from Biervliet. It wasn't until 1624 that the number of *schepenen* would rise to ten, two of which were from Biervliet. In 1643, Biervliet was separated from the union; the number of aldermen of the two cities left dwindled to eight, before rising to thirteen in 1675. These functionaries communally handled the criminal cases from the two cities, but in civil cases the local aldermen acted independently. It hardly needs stating that changes like these had immediate consequences for the position and seat of the bailiff and the mayor.[30]

In fact, the bench of aldermen of the union formed the overall governing body in the *Committimus*. Here did not exist, however, a

---

29 Prevenier and Augustyn, *Overheidsinstellingen*, 452-456; De Kraker, 'Vier Ambachten'. Gradually Hulst was regarded as '*'t eerste ende notabeleste van de Vier Ambachten*'.

30 Heeringa, 'Het aandeel', *passim*; Wesseling, *Geschiedenis Terneuzen*, 40-41 and 45-48.

hoofdcollege and accompanying hierarchy as there were in the Liberty of Sluis. Nor were they created when Hulst and its *ambacht* fell into States hands later on. These two areas maintained a governmental structure that was typical of the Quarter of Ghent. The only exception, as we have seen, was that the offices of bailiff and *schout* were merged. While this officer sat for life, the mayors and aldermen were, characteristically for the *Castellaria Gandensia*, only appointed to one-year terms. The *schepenen* of Hulsterambacht came from its parishes, which maintained their administrative functions in this era of political, Calvinisticly tinted reformation.[31] Their tasks were more or less of the same nature as those of their colleagues elsewhere in the region.

Just as in the rest of States Flanders, there weren't any formal city councils in these eastern parts. However, like in the Liberty of Sluis there were dignitaries ('*notabelen*'), who were consulted in various ways. In Hulst, where sources regarding such *notabelen* are scarce, only one resolution of mayor and aldermen, dating from November 1663, has been found, that mentions thirteen eminent and wealthy men who were occasionally called together but didn't have the status of an actual college.[32] According to W.J. Annard, a similar group within Hulsterambacht could be considered a board, in view of the fixed responsibilities its members had.[33] The difference could well be related to the requirement that all regents in this Catholic stronghold be Calvinists. However, within the group of *notabelen* of the city of Hulst we come across some Roman Catholics, former regents who still continued to serve their city, albeit informally.

Meanwhile, it was asked on several occasions whether it would not be better administratively to merge the city and the *ambacht* of Hulst. In the background of this on-going discussion mostly laid financial arguments between the two. In these cases, the city favoured merging, whereas Hulsterambacht, concerned for future domination by the urban elite, vehemently opposed the plans. In 1661, the Estates-General decided to allow them to continue to act independently of one another; however, this came at a high price for Hulsterambacht because of heavier governmental expenses than in a unified situation. When in 1667 a new altercation broke out, the High Mightinesses confirmed their decision.[34]

---

31 Annard, *Bestuur*, 13-19 and 43-46; Van Lansberghe, *Beschryvinge*, 117-163.

32 Hulst, Municipal Archives, Resolutions of mayor and aldermen 1646-1666, f° 222 v° (20/11/1663); S. Groenveld, 'Een onbekend ontwerp van Pieter Aaronszoon Noorwits. De toren van de Willibrorduskerk in Hulst (1663-1667)', *Bulletin van de Oudheidkundige Bond*, 2011, 19-43, especially 20.

33 Annard, *Bestuur*, 20-22.

34 Annard, *Bestuur*, 36-42; Groenveld, 'Onbekend ontwerp', 34 and 43 n. 101.

When the *Committimus* was established at the end of the sixteenth century, the still raging war led to a severe depopulation of the region, which, as we have seen, in turn caused a problem in finding suitable candidates for governmental positions. Regents had to be recruited elsewhere. Hulst was also obliged to do this in 1645, but now because there were simply almost no qualified Calvinists to hold the office. Between 1645 and 1673, in the city and Hulsterambacht in total sixty-seven regents were in office. The origins of fifty-nine of them are known. Of these just six were natives, a mere 10 percent of the total. Nineteen functionaries (32 percent) originated from Holland, and thirteen (22 percent) from Zeeland, mostly from prominent families. Gelderland contributed six regents (10 percent), Utrecht provided three (5 percent) and Friesland and Overijssel two apiece (3,4 percent). A significant contribution came from States Brabant with five regents (8,5 percent), while three came from elsewhere in States Flanders (5 percent).[35] Clearly, 'foreigners' dominated the governance of the region. They outnumbered the newcomers in the Liberty of Sluis, absolutely and relatively. Even only Hollanders and Zeelanders formed a majority in the governments of Hulst and its environs.

Despite what has often been suggested, these newcomers were not 'carpet-baggers', but people who served for years at a time, whose families intermarried and often continued to live in the area. However, it is difficult to contest that many of them were driven to the region by the chance to combine multiple offices – political or judicial and administrative ones –, and thus gain influence and considerable incomes. It proved to be possible to serve simultaneously as mayor, treasurer and collector of the convoy and license fees, or as churchwarden, treasurer of Hulst and alderman in Hulsterambacht.

This large influx of 'foreigners' also had very different judicial consequences than it did in the Liberty of Sluis. S.J. Fockema Andreae has pointed out that in early 1649, the Estates-General, by means of a charter, abolished the customary laws of Ghent in the area of Hulst with respect to important matters such as marital property, inheritance, and the transfer of real-estate, replacing it with the Roman-Holland-Zeeland legal system. However, Fockema Andreae failed to note that this change took place much earlier in the *Committimus*. In the union of 1590 the Generality already stipulated that Zeeland's positive law would be applied in the region. In addition to this, the three members of the *Committimus* petitioned on 23 October 1614 that pre-nuptial agreements, wills and other such acts would also be drawn up according to the Holland-Zeeland laws, and not those of

35 Annard, *Bestuur*, 51-61.

Ghent. They argued that this was to prevent many of the area's new residents from leaving. Reason enough for the Estates-General to give its consent.[36] This case makes clear, by the way, that it was possible for people in States Flanders to influence administrative policies through petitions – a bottom-up procedure that has left behind countless documents scattered across various archives, all awaiting further study.[37]

Nevertheless, the relationship between the region's native inhabitants and the newcomers was not free of disagreements as to the contents and the limits of their authority. For example, in November of 1646, the new bailiff of Hulsterambacht, Philip Ernst Vegelin van Claerbergen, collided with the mayor and aldermen. Vegelin, who was at the same time secretary to the stadtholder of Friesland and Groningen, felt that the college should consult him not only on judicial issues but on taxes and political matters as well. After all, 'he represented the authority of the Count of Flanders on behalf of Their High Mightinesses in Hulsterambacht'. The college responded that, as a matter of course, it would cooperate with regards to judicial and financial questions, but not when it came to '*policie*', politics. The bailiff should 'handle what was legally his Lordship's prerogative but also maintain the integrity of the college'. It was his job to uphold tradition and to mind the limits of his power. In this instance, this seems to be the end of the matter.[38]

---

36 Fockema Andreae, *Nederlandse staat,* 88; Van Deursen, *RSG 1613-1616*, 342-343 (23/10/1614).

37 Groenveld, *Regeren in de Republiek*, 11-12; Id. and J.A.F. de Jongste, 'Bestuur en beleid', in: R.C.J. van Maanen and S. Groenveld (eds.), *Leiden. De geschiedenis van een Hollandse stad*, vol. 2, Leiden, 2003, 54-83, esp. 70-74. Regarding the filing and handling of petitions: S. Groenveld and J.B. den Hertog, 'Twee musici, twee stromingen. Een boek-octrooi voor Anthoni van Noordt en een advies van Constantijn Huygens', in: A.Th. van Deursen, E.K. Grootes and P.E.L. Verkuyl (eds.), *Veelzijdigheid als levensvorm. Facetten van Constantijn Huygens' leven en werk*, Deventer, 1987, 109-127. An effect of the influence being exerted from below is visible in the scrapping of the office of *krikhouder* or *krukhouder* in the Liberty of Sluis. Of course, however, all final decisions on such matters remained with the institutions authorized to make them.

38 Vegelin was '*representerende de Graeffelijkchheijt van Vlaenderen van wegen Haer Hooch Mogenden in Hulster-ambacht*'. According to the aldermen, the bailiff should '*laten tgene zijn Edelheyt van rechts wegen toecomt doch oock de gerechtigheit vant collegie bewaren*', S. Groenveld, 'Philip Ernst Vegelin van Claerbergen (1613-1693). Secretaris, hofmeester en raadsheer in dienst van de vorsten van Nassau-Dietz', *Virtus. Jaarboek voor adelsgeschiedenis*, 2009, 83-118, esp. 110-15; see also Middelburg, Zeeland Archives, Archives of Hulsterambacht, inv.n° 99, 123 (03/11 and 13/12/1646), inv.n° 100, 54 and 55 (Results of the meeting of the *notabelen*, 23/11/1646), 229 (03/11 en 13/12/1646); inv.n° 42a (Resolutions of mayors and aldermen of Hulsterambacht, 03/11 and 13/12/1646).

6. The Generality in direct contact with States Flanders

How did the Generality's colleges exercise their sovereign powers in States Flanders? First and foremost, it must be said that the Estates-General never went *collegialiter* to the region. On the other hand, when States Flemish representatives came to The Hague, they were granted an audience in the plenary assembly of the High Mightinesses, or in a meeting of a committee. Such delegations were either *ad hoc*, comprising only one or perhaps a few city governors, or, structural, paid agents of either a States Flemish city or college, mostly residing in The Hague. As ordered, these representatives discussed States Flemish interests with the governing bodies in The Hague and kept their employers informed of developments over there. This form of communication between sovereign and subject had already been common practice in the old County of Flanders, and was also employed in the Republic – particularly among the more far-flung cities. Research has provided information on Hulst's representation in The Hague, which apart from the agent, who focused on political and administrative issues, also comprised a solicitor to deal with legal matters.[39] In the case of the Liberty of Sluis, its agent seems to have, among other things, reported to the Estates-General the occurrence of vacancies as a result of the death or resignation of one of the region's regents, and to have assisted to arrange the succession.[40] But how did the colleges in The Hague handle as to mayoral appointments in the Liberty of Sluis, or with regard to the annual changes in the composition of the local governments in the *Committimus* and the eastern part of the region?

---

39 Annard, *Bestuur*, 34-37; Id., '"Het manieeren, besolliciterenen, bevorderen van alle voorvallende zaecken." Professioneel lobbyen aan het Binnenhof in de zeventiende en achttiende eeuw', in: M.P.C.M. van Schendelen and B.M.J. Pauw (eds.), *Lobbyen in Nederland. Professie en Profijt*, The Hague, 1998, 93-109. Annard incorrectly states that agents were only sent by cities in the Generality Lands, J. Roelevink, '"'t Welck doende etcetera." Lobby bij de Staten-Generaal in de vroege zeventiende eeuw', *Jaarboek Die Haghe*, 1990, 152-167; *Sol*, *27 Schepenen*, 45. See also Groenveld, 'Onbekend ontwerp'. For the summary instructions given to the agent and solicitor: Hulst, Municipal Archives, Resolutions of mayor and aldermen, 1667-1672, f° 11 r°-12 r° (03 and 04/01/1667). For the role of solicitors in States Brabant: A.C.M. Kappelhof, *De Belastingheffing in de Meierij van Den Bosch gedurende de Generaliteitsperiode (1648-1730)*, Tilburg, 1986, 30-38.

40 One case of resignation (that of Noël de Caron) and the resulting succession procedure may be found in: H.H.P. Rijperman (ed.), *RSG 1607-1609*, The Hague, 1970, 884 (25/06/1609). For the procedure after the death of Aelbrecht Jansz., the bailiff of St. Anna ter Muiden, see: Van Deursen, *RSG 1613-1616*, 446 (12/05/1615). For the procedure in the case of a vacant *krikhouder*ship, see: *Ibidem*, 572 (30/01/1616). For the second and third offices people applied through petitions to the Estates-General.

In Holland and Zeeland, it was customary for the cities to draw up every year, at fixed dates, a list of candidates for the appointments of mayors and aldermen. The stadtholder would then make the choice out of the persons named in the list, mostly under advisement. In the eastern provinces, the cities, as a rule, arranged the appointments themselves, until 1674-1675. Over there, only in Nijmegen the stadtholder had, from 1591 on, the right to renew the magistracy annually, and even then only in times of war. Generally, however, the stadtholder allowed a commission comprised of a few confidants to handle these matters.[41] This method had already become typical in Flanders by then, and was now adopted by the Generality.[42]

Also in this regard, practice proves to have taken form gradually. Just as the Counts of Flanders had done before, the Estates-General sent an *ad hoc besogne*, an occasional committee from their midst, to the Liberty of Sluis, every year around the first of September. The committee travelled around the cities. Here it choose the mayor from the members of the *hoofdcollege*. However, as discussed above, the appointments for life – those of the high bailiff and the chief aldermen in other words – did not come from the *besogne,* but directly from the Estates-General. At the same time, these committees had other matters to deal with *in loco*, such as to solve topics brought to the attention of the High Mightinesses through petitions, or to audit the accounts of the cities and those of the *ambachten*.[43] The committee gradually increased to seven members – one from each province –, part of which travelled to the Liberty annually, while the other part carried out the same tasks in the *Committimus* and Hulst. In 1651, this system was changed in order to make it more efficient. All dates of the annual appointments of regents were moved closer to one another and the committee was placed on a rotation. One year, half the *besogne* travelled across the whole of States Flanders, and the following year, the other half of the commissioners visited the same area. This was done to prevent the commissioners from forming close contacts among the local authorities.[44]

---

41 S. Groenveld, *Evidente factiën in den staet. Sociaal-politieke verhoudingen in de 17e-eeuwse Republiek der Verenigde Nederlanden*, Hilversum, 1990, 24-42; A.H. Jenniskens, *De magistraat van Nijmegen 1619-1648*, s.l., 1973.

42 De Kraker, 'Vier Ambachten', 551.

43 See for example: Rijperman, *RSG 1604-1606*, 212 (23 and 24/09/1604), 214 (29/11/1604); Van Deursen, *RSG 1613-1616*, 307 (26/08/1614), 342-343 (23/10/1614), 494 (15/08/1615), 499 (27/08/1615) and 637 (28/05/1616). In Sluis, on 24 September 1604, the first magistrates were appointed by the Estates-General's deputies in the field, a committee that exercised *in loco* the supreme authority and command over the States' armies on behalf of the High Mightinesses.

44 Annard, *Bestuur*, 27-32 and 48-50; S. Groenveld, 'De institutionele en politieke context', in: J.Th. de Smidt et al. (eds.), *Van tresorier tot thesaurier-generaal. Zes eeuwen financieel beleid in handen van een hoge Nederlandse ambtsdrager*,

Outside the Liberty, the nominations for the choices of the mayors and aldermen were annually drawn up inside the cities and the *ambachten* – just as was usual in Holland –, and were handed over to the commissioners. In the case of Hulst, the commissioners deviated, rather remarkably, more than once from the nominations in making their choice.[45] Because of these recent changes, the committee became more structured than before, as has been evidenced by how it is referred to in the sources: 'The Lord Huygens [the Gelderland chairman] and their High Mightinesses Deputies in Flemish affairs'.[46] This was also proven when the members of the committee were back in The Hague and had retaken their seats in the assembly: there they were asked on various occasions for advice on matters relating to States Flanders.

The Council of State too increasingly employed committees, which, although also *ad hoc* in nature, were set up at regular intervals and staffed by the same people for several years. The Estates-General had ordered the Council to undertake structurally certain tasks regarding the Generality Lands: organizational and material arrangements for defence and finance, and for the administration of the regions. As a result, a two-man committee from the Council of State would annually arrive in States Flanders during March, to check fortifications and see that they were kept in good repair, to ensure that enough provisions were on hand, and to farm out the collecting of the taxes and of the rights to employ government owned facilities, like mills.[47] Because the same councillors went time and time again to the area, they too were consulted on specific issues involving States Flanders, by the Council of State itself, as well as by the Estates-General. In November 1663, for example, the church tower in Hulst was struck by lightning and burnt down; a *schepen* and the local agent contacted the Estates-General over the costs of repairing the damage. The High Mightinesses decided to provide the city with a subsidy, but charged the Council of State with overseeing the

---

Hilversum, 1996, 55-88, esp. 82-88. Van der Pot, *Bestuurs- en rechtsinstellingen,* 104, fails to discuss the earliest changes in the structure of the committee. The missions to States Flanders consisted in one year of deputies from Gelderland, Utrecht, Overijssel and Groningen, and in the other of those from Holland, Zeeland and Friesland.

45 See, e.g., the differences between the nominations for 1664-1665, drawn up in July 1664, and the results of the election by the committee of the Council of State: Hulst, Municipal Archives, Resolutions of mayor and aldermen, 1646-1666, f° 232 v° (22/07/1664) and 237 r° (23/07/1664). Cf. Van Lansberghe, *Beschryvinge,* 149-150.

46 During the first years since its reconstruction the *besogne* was called '*De Heer Huygens ende hare Hoog Mogende Gedeputeerden totte saecken van Vlaenderen*', Annard, *Bestuur,* 32-33; Sol, *27 Schepenen,* 42-43.

47 The Hague, National Archives, Archives of the Council of State, inv.n° 622, Incoming letters 1664, Van Boetzelaer van Asperen and Van Vrijbergen to Council of State from Hulst (18/03/1664).

construction. The Council appointed the architect for the project, awarded the contracts, and inspected the finished work.[48] The division of tasks inside the Generality had taken definitive shape, also with respect to Staats Flanders.

7. Conclusion

'[...] as the weak always attempts to lean against the strong [...] so this work [...] humbly seeks the protection of YOUR HIGH MIGHTINESSES and YOUR HONOURABLE MIGHTINESSES, whose sovereign rule this city is directly dependent upon'. This line comes from the dedication by Jacob van Lansberghe of his *Beschryvinge van de Stadt Hulst* to the Estates-General and the Council of State, signed 'Hulst the 1 of July 1687'. Van Lansberghe described himself as 'a Hollander, born in The Hague, but raised here in my childhood'.[49]

A few elements of this dedication relate directly to our subject. Over the course of a lengthy conquest, the sovereignty of States Flanders had gradually passed to the Estates-General. People of various origins had settled in the region, including Jacob's father, an apothecary from Goes named Daniël van Lansberghe. Between 1647 and 1651, this man served as a *schepen* in Hulst four times, before settling in The Hague. Jacob was born there in 1656 and, following in his father's footsteps, moved to Hulst, where he served as both alderman and mayor in the city, and at other times in Hulsterambacht and the village of Sint-Janssteen.[50] Both their careers were typical, given the situation in eastern States Flanders: more than half of the officials in this Catholic stronghold came from Holland and Zeeland and were year-after-year appointed to various governmental posts. In the Liberty of Sluis there were fewer such opportunities. After all, the Liberty had a relatively large, indigenous Calvinist population of its own. Besides this, the aldermen there were appointed not for one year, but for life. Both causes decreased the chances of Hollanders and Zeelanders of obtaining such a position. Consequently, their numbers were here lagging behind those in Hulst, whereas natives formed a far greater percentage of the regents.

---

48 Groenveld, 'Onbekend ontwerp'.

49 '*[...] gelijck het swacke altijdt aen het stercke tracht te leunen [...], komt oock dit Werck [...] sigh ootmoedigst begeven onder de bescherming van U HOOCH MOOGENDE ende EDELE MOOGENDE, van welckers Souveraine Heerschappye dese Stadt onmiddelijck af hangt*". Van Lansberghe charactarized himself as '*een Hollander, en van 's-Gravenhage geboortigh, doch hier van mijn Kintsche jaren opgevoedt*', Van Lansberghe, *Beschryvinge*, f° 4 v°-5 r°.

50 Annard, *Bestuur*, 88.

Under the sovereign Estates-General, certainly when they had gained ascendancy over the Council of State, the three parts of States Flanders maintained their own unique character as a result of their prior history within the old County of Flanders. The Liberty of Sluis exhibited features common to the old Liberty of Bruges, while both the *Committimus* and Hulst and Hulsterambacht shared traits with the Quarter of Ghent. The Estates-General preserved these differences by confirming many of the old privileges and leaving the particular administrative structures intact wherever possible. For their new high courts, like the State Council of Flanders, the High Mightinesses even copied the structures of the Flemish namesakes.

However, as the Estates-General itself gradually took shape, they admitted northern Netherlandish elements to creep into local administrations and legislation. This led to breaks with the previous state of affairs. For example, while Bruges' customary laws remained in place within the new Liberty, the Roman-Holland-Zeeland legal system was imposed on the other two portions of States Flanders. In both of those areas, the inhabitants themselves had requested these changes in order to oblige the greater numbers of 'foreigners' living amongst them. Despite these local administrative changes, States Flanders was never granted its own, autonomous representative administrative college; the region's strategic importance required that the Estates-General govern it directly in their capacity as the supreme defensive authority within the Republic.

Despite all changes made, States Flanders still retained a unique character inside the Republic. This confederation of autonomous provinces was characteristically governed via a system in which authority flowed from the bottom-up. In newly acquired States Flanders, however, were deliberately created top-down institutional structures, for defensive reasons. Yet, its inhabitants did not lose every form of influence. Primarily through the submission of petitions, they were able to make themselves heard and have impact on the decisions made on their behalf. Moreover, the region maintained strong personal ties with the Habsburg County of Flanders, despite the arrival of large numbers of functionaries from the north. These contacts persisted throughout the Eighty Years War and only increased after peace was finally achieved and the new border formally opened. The construction of Hulst's new church tower in 1663-1667, discussed above, provides one of the more striking examples of this. The architect on the project was a northern Netherlander appointed by the Council of State: Pieter Aaronzoon Noorwits. A consortium of five contractors, four of whom hailed from either Flanders or Brabant, undertook the actual building. Pieter Hemony of Amsterdam supplied the carillon, while Johannes de Mol from

Bruges provided the clockwork. Much of the building materials was purchased in the Southern Netherlands; although, it was subject to northern Netherlandish tolls.[51] Institutionally and socially, States Flanders showed a mixture of the old and the new. But in spite of its various personal links and administrative similarities with the south, the region had formally become part of the Dutch Republic.

Abstract

States Flanders was separated from the County of Flanders over the long course of the Eighty Years War. This lengthy process left its marks administratively. It stimulated the rise of institutional differences between the new region and the old county. Yet, inside the region governmental differences occurred also between all three parts (the Liberty of Sluis in the west, the *Committimus* in the centre, and the city and *ambacht* of Hulst to the east), due to their prior history as portions of distinct quarters of the County of Flanders. A third factor playing an important role, was the various moments of conquest of each of those three parts. Finally was of importance that governmental institutions in the Republic were simultaneously taking shape. Changes in the northern structures exerted direct influences on institutional resolutions taken concerning newly conquered parts in States Flanders. Thus, States Flanders institutions showed a mixture of ancient Flemish and modern northern governmental practices and rules, however differing from the one third to the other third part of the region.

The Republic conquered States Flanders part by part for defensive reasons and, as such, the new addition was placed under the authority of the Estates-General. This meant that the region got top-down rather than bottom-up governmental structures, familiar to those that made the Republic a rather unique case in Europe. Nevertheless, primarily through the use of petitions, its inhabitants still could influence governmental policies, although the extent of this has yet to be determined.

[51] Groenveld, 'Onbekend ontwerp'.

A MATTER OF GIVE AND TAKE. THE CHIEF COLLEGE OF THE CASTELLANY *LAND VAN WAAS* AND THE STATE BUILDING PROCESS IN THE SOUTHERN NETHERLANDS IN THE SIXTEENTH AND SEVENTEENTH CENTURIES

Sylvie DE SMET

1. Introduction

In the first decades of the sixteenth century, the state building process in the Habsburg Netherlands went through a clear acceleration. Examples of this acceleration are the revision of the Transport of Flanders (1517), the establishment of the Collateral Councils (1531) or the introduction of taxes collected by the Estates of Flanders (1543).[72] Starting from the last quarter of the sixteenth century, the Revolt of the Netherlands against Philip II of Spain caused a new, military focus for the government, which was at the expense of the state building process. It took until the Twelve Years' Truce before, on 12 July 1611 with the Perpetual Edict of the Archdukes, another important step was taken in the formation of a unified state with modern institutions.[73] After the Revolt, the Franco-Spanish War caused military threats until 1659. New armed conflicts with France arose from 1667 until 1668, from 1672 until 1678 and from 1688 until 1697.

---

72 On the Transport of Flanders: N. Maddens, 'De transport van Vlaanderen, 1517-1631', in: *LACH. Liber Amicorum Coppens Herman*. Algemeen Rijksarchief en Rijksarchief in de Provinciën, Studia, vol. 115, Brussels, 2007, 689-703. On the Collateral Councils (Council of Finance, Privy Council and Council of State): M. Baelde, *De Collaterale Raden onder Karel V en Filips II (1531-1578). Bijdrage tot de geschiedenis van de centrale instellingen in de zestiende eeuw*. Koninklijke Vlaamse Academie voor Wetenschappen, Letteren en Schone Kunsten van België, Klasse der Letteren, Verhandelingen, vol. 60, Brussels, 1965. On the taxes collected by the Estates of Flanders: N. Maddens, *De financiële geschiedenis der Staten van Vlaanderen (1588-1621)*, 2 volumes, unpublished dissertation Catholic University of Leuven, 1957.

73 G. Martyn, *Het Eeuwig Edict van 12 juli 1611. Zijn genese en zijn rol in de verschriftelijking van het privaatrecht*. Algemeen Rijksarchief en Rijksarchief in de Provinciën, Studia, vol. 81, Brussels, 2000.

This contribution aims to find out to what extent an intermediate institution, such as the Chief College of *Land van Waas*, contributed to the state building process, or worked against it. After all, the King and his collaborators in Spain and their representatives in the Southern Netherlands did not live in a vacuum. They were confronted with a variety of institutions, that in many ways influenced the government, or at least try to do so, by submitting requests, or by their way of dealing with orders from the government etc. As far as the county of Flanders is concerned, an important role is played by the Estates of Flanders, which, amongst other things, were responsible for the approval of the King's pleas for taxes. Within the Estates of Flanders, the Four Members – Ghent, Bruges, Ypres and the Liberty of Bruges – were dominant, but in this way, not the whole of the county was represented. The subordinate cities and castellanies also were an important part of the county and they paid a substantial part of the royal taxes. In 1614, they received an advisory voice in the decisions of the Estates of Flanders.[74] So, these pre-eminently intermediate institutions, situated between the local and the central level, have undoubtedly played a certain role. This point has – to date – hardly been investigated, one of the main reasons being the limited accessibility of the archives for researchers.[75]

2. Land van Waas

In this contribution, we focus on one specific castellany: *Land van Waas*.[76] The Chief College of *Land van Waas* was established in June 1241. By means of a ‘keure’ or 'charter', Joan of Constantinople and Thomas of Savoy prescribed that seven aldermen and one bailiff were responsible for a number of jurisdictional and administrative tasks in *Land van Waas*.[77] Very soon after its establishment, a clerk was attached to the Chief College.[78]

---

74 The Clergy was attributed a decisive voice in the Estates of Flanders in November 1596, by a decision of the Great Council of Malines. The subordinate cities and castellanies did not receive this right until 1754.

75 E.g. the archives of the Liberty of Bruges and the castellany of Kortrijk have not yet been made accessible by means of a modern finding aid.

76 The Land van Waas region is situated in the north eastern part of the county of Flanders, between the Flemish city of Ghent and the city of Antwerp in Brabant.

77 Brussels, City Archives (BCA), Charters of the counts of Flanders concerning Land van Waas, without number.

78 E.M.J. van der Vynckt (ed.), ‘Les anciennes magistratures du Pays de Waes et leurs titulaires. Recherches historico-biographiques annotées et analysées par le chevalier de Schoutheete de Tervarent’, *Annalen van de Koninklijke Oudheidkundige Kring van het Land van Waas* (*AKOKW*), 1867-69, 263.

The jurisdictional competence of the Chief College included, on the one hand, judging appeal cases from the local colleges of aldermen. On the other hand, the Chief College gave legal advice at the request of the same local colleges of aldermen regarding the lawsuits they were handling. These competences aimed explicitly at a more professional jurisdiction in the castellany.

In addition, the Chief College was also the main administrator of the villages. The Chief College, for instance, appointed the clerks and the aldermen of the local benches of aldermen. It was responsible for the distribution of the King's statutes applicable to them and it controlled their application. The jurisdictional and administrative competences were exercised in the ‘Keure’, which consisted of nineteen villages. Nine other villages, including Beveren, were only subordinate to the Chief College concerning royal tax matters.

The institution had its seat in Sint-Niklaas. Here, every two months, the 'Hoge Vierschaar' (‘High Bench’) was organised. On this day, the aldermen delivered their judgements and legal advices. In addition, there were ad hoc meetings about the matters in progress. For important occasions, e.g. the approval of royal tax pleas, the general assembly was called together. On this occasion, the representatives of the villages could cast their vote.

3. The Middle Ages

A brief look at the history of the Chief College in the Middle Ages, learns that the institution was an instrument used by the counts of Flanders to limit – in different stages – the Ghent supremacy over the castellany. Both the counts and their representatives in *Land van Waas* – the bailiffs – tried to detach the castellany from the city of Ghent. Already in the second half of the thirteenth century, the Waas bailiffs called themselves 'bailiff' instead of 'underbailiff', and from 1335 onwards they were appointed directly by the count instead of the Ghent bailiff.[79]

As a consequence of the Treaty of Athis-sur-Orge (23 June 1305) and the Treaty of Pontoise (11 July 1312), the Transport of Flanders came

[79] J. Van Rompaey, *Het grafelijk baljuwsambt in Vlaanderen tijdens de Boergondische periode*. Koninklijke Vlaamse Academie voor Wetenschappen, Letteren en Schone Kunsten van België, Klasse der Letteren, Verhandelingen, vol. 62, Brussels, 1967, 190.

about.[80] Since then, the Waas castellany also started to function as a fiscal resort. Every year, the Chief College received a licence to collect the Waas assessment in the Transports' interest. The fact that, within these licences, permission was given to collect a castellany tax in the Keure, called 'rijgeld', makes us suppose that there was a causal connection between both innovations.[81] In other words: the Chief College was given permission to collect taxes at the very moment the castellany became a fiscal resort.

In the oldest Transport of Flanders, the independent villages and manors in the Waas castellany (e.g. Beveren) had a separate assessment. They paid directly to the collector of the count,[82] which is logical, as they did not belong to the Keure. However, in 1408 a new Transport of Flanders was established, in which their assessments were put together with the assessment of the Keure.[83] Since then, the independent villages and manors were subordinate to the Chief College with regard to royal taxes. In this sense, the jurisdiction of the Chief College was called 'Generaliteit', as distinct from the 'Keure'.

In the beginning the supremacy of Ghent over the Waas castellany diminished steadily. In the first place, this supremacy was purely financial, or even a matter of accountancy, but under the government of John the Fearless (1404-1419), the Waas bailiffs started to make their own bailiff accounts.[84] There was also a fiscal supremacy, as the city of Ghent used to spread its assessments in taxes and fines over its area of influence. The Peace of Gavere (1453) however, heavily reduced this kind of oppression.[85] The same can be said about the military supremacy. It was no coincidence that the Peace of Gavere was concluded after a revolt of the city of Ghent against the ducal authority, in which the Waas castellany was forced to support the city.[86] When, in 1454, Philip the Good restored the Keure of the Waas castellany, he stipulated that the inhabitants of the castellany, as from that date, could lodge an appeal against judgements of the Chief College to

---

80 W. Buntinx, *Het Transport van Vlaanderen (1305-1517). Bijdrage tot de geschiedenis van de financiële instellingen van het graafschap Vlaanderen*, unpublished dissertation, Ghent, 1965.

81 Beveren, State Archives (SA), Chief College Land van Waas (CCW), inv.n° 3744.

82 Buntinx, *Het Transport van Vlaanderen*, vol. 1, 92.

83 Buntinx, *Het Transport van Vlaanderen*, vol. 2, 337-339.

84 Van Rompaey, *Het grafelijk baljuwsambt*, 190.

85 W. Blockmans, 'De tweekoppige draak. Het Gentse stadsbestuur tussen vorst en onderdanen, 14de-16de eeuw', in: J. De Zutter, L. Charles en A. Capiteyn (eds.), *Qui valet ingenio. Liber amicorum aangeboden aan dr. Johan Decavele ter gelegenheid van zijn 25-jarig ambtsjubileum als stadsarchivaris van Gent*, Ghent, 1996, 29-32.

86 Van der Vynckt, 'Les anciennes magistratures', 35-37.

the Council of Flanders.[87] This limited the urban supremacy in the jurisdictional sphere.

4. Until the Revolt of the Netherlands

In the period between the accession to the throne of Charles V as ruler of the Habsburg Netherlands in 1515, and the beginning of the Revolt in 1568, one can observe a radical professionalization of the Chief College. In the following paragraphs, we give a short survey and try to point at the triggers that lie behind this development.

In 1518, the Chief College engaged a jurist. He was permitted to live in the city of Ghent and he received an annual pension of 120 guilders. The innovation provoked some protest by eleven villages, but the Council of Flanders, in 1521, promulgated the Keure of Gavere, by which the appointment of the jurist was legitimised. He was described as 'a learned and experimented man' and it was his task to prepare the lawsuits for decision.[88] His arrival very quickly led to a more professional jurisdiction. It was, for instance, no longer necessary to ask Ghent jurists for advice about lawsuits.[89]

In 1522, the first loan with payment of interest took place. The loan to the sovereign, which was proposed by his commissioners, was explicitly meant to finance the war against Francis I[90] From then on, every year the Chief College received money from the collector of East Flanders. With this money, the Chief College paid the subscribers to the loans.[91] In doing so, the financial knowledge of the institution increased.

Ten years later, the Chief College received the privilege of written lawsuits. It meant that, when people lodged appeal against judgements pronounced by the Chief College in a written lawsuit, there was no need to start a new procedure at the Council of Flanders. In this case, the councillors would base their judgement on the proceedings before the Chief College, '*ex eisdem actis*'.[92] Logically, the acquisition of this privilege led to professionalization, but it also caused more writing and more bureaucracy.

---

87 BCA, Charters of the counts of Flanders concerning Land van Waas, without number.

88 Beveren, SA, CCW, inv.n° 3199, f° 6 v°-8 r°.

89 Beveren, SA, CCW, inv.n° 1087.

90 The war between Charles V of Spain and Francis I of France took place in different stages: 1521-1526, 1526-1529, 1536-1538 and 1541-1544.

91 Beveren, SA, CCW, inv.n° 1084, 1537-1538 and 3199, f° 62 r°-v°.

92 P.P.J.L. Van Peteghem, *De Raad van Vlaanderen en staatsvorming onder Karel V (1515-1555). Een publiekrechtelijk onderzoek naar centralisatiestreven in de XVII Provinciën*. Rechtshistorische reeks van het Gerard Noodt Instituut, vol. 15, Nijmegen, 1990, 150.

The initiative was taken by the Chief College, but, of course, it was the sovereign who granted it.

In 1535, the Chief College engaged a messenger and the bailiff also was permitted to engage a deputy bailiff to call together the local colleges of aldermen to judge lawsuits.[93] This also led to professionalization, because a number of secondary tasks could be left in the hands of specialised personnel.

During the Ghent Revolt of 1537-1540, Charles V explicitly chose the side of the Waas castellany. In 1538, the Chief College received the permission to sell the 1522 loans to inhabitants of the castellany, and in 1539, the institution was granted permission to raise a loan to pay the government's taxes. Probably for the first time this permission also included the right to charge excises for two years in order to be able to pay the interest on the loan.[94] The Ghent Revolt was definitively settled in April 1540 by the Concessio Carolina, by which Ghent lost its power over its area of influence ('Gents Kwartier' or 'the Quarter of Ghent'). The subordinate towns and castellanies of the region were granted the right to submit requests to the government, which, for its part, promised to consult the towns and castellanies in all matters concerning their jurisdiction.[95] Shortly after, the sovereign promulgated a general rule on the organisation of the general assemblies, applicable to all castellanies in the Quarter.[96] In addition, in 1541 a regulation was promulgated about the procedure to be followed by the subordinate towns and castellanies when they were invited to the assembly of the Estates of Flanders. Since they were denied the right to confer, one can suppose that the sovereign feared their opposition.[97]

In 1543, for the first time, the Chief College was critical about the developing state building process. The excises collected by the Estates of Flanders were disliked and the Chief College started searching for ways to obtain compensation. In December 1544 the institution drew up a so-called extraordinary account, listing a number of extraordinary costs: the introduction of the impost, the collection of the royal taxes in spite of the 'poverty and misery' of the inhabitants, the supply of horses and wagons for

---

93 Beveren, SA, CCW, inv.n° 1087; F. van Naemen (ed.), 'Chronique de François-Joseph de Castro', *AKOKW*, 1885-86, 133.

94 Beveren, SA, CCW, inv.n° 2020 and 3199, f° 61 v°.

95 J. Decavele, 'Bestuursinstellingen van de stad Gent (einde 11de eeuw-1795)', in: W. Prevenier & B. Augustyn (eds.), *De gewestelijke en lokale overheidsinstellingen in Vlaanderen tot 1795*, Brussels, 1997, 279; M. Cherretté, *Historische ontwikkeling van de instellingen in het land van Aalst tijdens middeleeuwen en moderne tijden, inzonderheid van het landscollege*, Ghent, 1992, 19.

96 Beveren, SA, CCW, inv.n° 1979.

97 Beveren, SA, CCW, inv.n° 3199, f° 61 r°-v°.

the benefit of the King etc.[98] It all concerned costs made by government order and with regard to the Generaliteit. The Chief College no longer wished to pay these costs from the taxes collected in the Keure. This innovation led to protests from two independent villages, but their protests were dismissed by a judgement of the Privy Council in January 1552.[99]

In 1546 the Chief College, urged by a number of ordinances of Charles V, drafted the customary law of the castellany. The text was not homologated, despite several deputations to the governor general in Malines.[100] The codification of the customary law, anyhow, was an important initiative in becoming a more professional institution.

Five years later, the acquisition of its own building ('Landhuis'), situated on the market of Sint-Niklaas, was a new step in the professionalization process.[101] Again a number of villages protested, but the purchase was explicitly supported by two judgements of the Privy Council in 1558 and 1560.[102]

In 1559 the Chief College received its reformation privilege. This implied that people lodging appeal against a judgement of the Chief College were obliged to pay a fine when their appeal was dismissed. When the Chief College pronounced an incorrect judgement, the institution itself had to pay a fine.[103] It was no coincidence that the Chief College, in the very same year, bought a law book as a way to try to draw up more correct judgements.[104]

In the period from 1559 to 1564, the Flemish subordinate towns and castellanies made an effort to pay back the interest that various merchants had bought from them for the benefit of the King. Considerable sums of money were at stake. In 1556, for instance, the Waas castellany provided ten percent of the total amount of Flanders, which was the same as Bruges and Ghent.[105] In this way, it was no coincidence that the Chief College played an important role in this campaign and at certain moments was the representative of all subordinate towns and castellanies.[106] At the end of this process, the King sold 'the right of the best head'[107] to the Chief College. In

---

98 Beveren, SA, CCW, inv.n° 1087.

99 Beveren, SA, CCW, inv.n° 113.

100 Beveren, SA, CCW, inv.n° 1087.

101 Beveren, SA, CCW, inv.n° 1087.

102 Beveren, SA, CCW, inv.n° 1603-1604.

103 Ghent, SA, Family de Moerman d'Harlebeke, 927.

104 Beveren, SA, CCW, inv.n° 449.

105 M. Baelde, *De domeingoederen van de vorst in de Nederlanden omstreeks het midden van de zestiende eeuw (1551-1559)*, Brussels, 1971, 50.

106 E.g.: Beveren, SA, CCW, inv.n° 449 and 1253-1254.

107 The 'right of the best head' ('beste hoofd') was a royal inheritance tax. From every inheritance, the Sovereign received could take the most valuable movable object. In

order to collect the necessary money, the Chief College was granted permission to raise a loan and to collect excises to refund the loan. In addition, the Chief College was enabled to judge disputes concerning the excises.[108]

We can conclude that the state building process went hand in hand with a strong professionalization of the Chief College. This was stimulated both by the King and by the Chief College. When, for instance in 1543, the state building process harmed the Chief College, the institution attempted successfully to obtain compensation.

5. The first stage of the Revolt (1568-1609)

During the Revolt the Chief College was able to realise important innovations. In November 1575 King Philip II sold the collection of a number of royal levies in the castellany to the Chief College.[109] A few months later, the institution was once more granted the right to collect excises in order to pay back the loans that were raised within the scope of the purchase of the levies.[110] From that moment onwards, the Chief College would never lose this right again. Already in 1578, Philip II stipulated that the excises in the Keure could be collected perpetually.[111]

After the reconciliation with Spain on the first of November 1583, a very specific situation came about.[112] As a consequence of its strategic position, close to the border of the Dutch Republic, lodgings and other military expenses would significantly affect the castellany. The Chief College took profit from this position by collecting a wide range of taxes, which were levied on wine, beer, export, property etc. All these taxes were collected in the Generaliteit.[113] Even the neighbouring castellanies did not escape from the Waas greed. Immediately after the capture of Antwerp, they were obliged to contribute to the maintenance of the soldiers in the castellany.[114] Moreover, the Chief College was exempted from the payment

---

practice, this meant that the heirs paid a sum of money in comparison with the value of this 'best head'.

108 Beveren, SA, CCW, inv.n° 1782.

109 Beveren, SA, CCW, inv.n° 1783.

110 Beveren, SA, CCW, inv.n° 1602.

111 Ghent, SA, Family de Moerman d'Harlebeke, 928.

112 The original agreement has not been preserved. For a copy, see: Beveren, SA, CCW, inv.n° 3199, f° 136 v°-137 r°.

113 See the chapter 'Collection of war taxes' in the finding aid of the archive of the Chief College (forthcoming).

114 Beveren, SA, CCW, inv.n° 381, f° 167 r°-v°.

of royal taxes for a period of ten years and, at regular times, the institution was granted permission to postpone the payment of interest.[115]

Together with this extension of fiscal competence, the Chief College in 1584 also acquired an extension of its jurisdiction.[116] The Council of Flanders clearly felt threatened. In September 1585 the chairman wrote a letter to the Privy Council complaining about 'those young ambitious', referring to the members of the Chief College.[117] One can ascertain a serious accumulation of realisations, going together with close personal relations between members of the Chief College and certain collaborators of King Philip II and the Archdukes (especially Jean Richardot, chairman of the Privy Council, and Frans le Vasseur, lord of Moriensart, secretary of the same council).[118] In the year 1599 all this built up to a climax. The Chief College started to register its resolutions.[119] Even more important was the way the Clergy and the Four Members organised the approval of tax pleas. The subordinate towns and castellanies were explicitly asked for advice.[120] Also in 1600, when the fireplace tax was established, their opinion was asked for.[121]

In the meantime, the Chief College took new steps in becoming more professional. Twice, in 1575 and in 1599, the bailiff and the aldermen granted themselves a wage increase and in 1602 they decided to restore their building, which had suffered from the Revolt.[122] In 1606 the Chief College engaged a second messenger.[123] Certainly in 1597 and probably earlier, the institution could rely on a proctor, who dealt with their affairs at the court in Brussels.[124]

6. The Twelve Years' Truce (1609-1621)

Taking into account the earlier development as described above, it comes to no surprise that during the Twelve Years' Truce a conflict arose between the

115 E.g.: Beveren, SA, CCW, inv.n° 2809.
116 Brussels, SA, Audience, inv.n° 1799/2.
117 Brussels, SA, Privy Council under Spanish Government. Boxes, inv.n° 167/17.
118 Beveren, SA, CCW, inv.n° 381, f° 89 r° and f° 93 r°.
119 Beveren, SA, CCW, inv.n° 389.
120 E.g.: Brussels, SA, Audience, inv.n° 1915/4.
121 Bruges, SA, Liberty of Bruges. Registers, inv.n° 642, f° 248 v°-250 r°.
122 Beveren, SA, CCW, inv.n° 1263 and inv.n° 389, f° 6 v°-7 r° and f° 12 v° and inv.n° 671.
123 Beveren, SA, CCW, inv.n° 389, f° 26 r°.
124 Beveren, SA, CCW, inv.n° 383, f° 47 r°. Besides, there were numerous personal contacts between the bailiff or his wife and members of the government in Brussels.

Clergy and the Four Members of Flanders on then one hand, and the subordinate towns and castellanies on the other. In 1612, a concession was made by granting the subordinate towns and castellanies jurisdiction in lawsuits between leaseholders of taxes and taxpayers.[125] The conflict was closed in September 1614 with an ordinance of the Archdukes granting the subordinate towns and castellanies an advisory voice in the approval of the royal tax pleas.[126] The Archdukes passed over some other demands of the subordinates, for instance to be present at the audit of the accounts of the Clergy and the Four Members. In this way, the final conclusion was negative. The subordinate towns and castellanies kept their earlier achievements, but could not extend them. After 1614 they tried again, but again their claim to have a decisive voice in the assemblies of the Estates was denied.[127] When the Archdukes introduced a new milling tax in 1615, there was no participation of the subordinate towns and castellanies. In vain, the Chief College protested this tax for years.[128]

Also in other matters, the Chief College had no success. In 1613 the institution didn't manage to obtain a prolongation of the export and beer excises, the last remaining war taxes of the castellany.[129] The aldermen tried to introduce new direct taxes in the Generaliteit to keep the flow of money constant. Protest arose, because these taxes were to be collected by the college clerk, who was only authorized to collect taxes in the Keure. In its decree of July 5th 1614, the Council of Finance prohibited the collection by the clerk. The college needed to appoint special collectors.[130]

The period of the Twelve Years' Truce is also characterized by a number of internal conflicts. The aldermen for instance refused assembling the 'Hoge Vierschaar' if they were only called together by the deputy bailiff. The bailiff, supported by the Archdukes, won the case.[131] The other conflicts were related to the procedure for the appointment of the aldermen and the delivery of hay and oats for the personal infantry of the bailiff. These conflicts had not yet come to an end in 1619. It was no coincidence, we suppose, because the Twelve Years' Truce gradually came to an end and there was a fear that the war would start again. As a result, the government again sympathized with the castellany. For instance, in May 1618, after a

125 Bruges, SA, Liberty of Bruges. Registers, inv.n° 644, f° 74 v°-75 r°.
126 Ghent, SA, Estates of Flanders, inv.n° 110, f° 68 v°-73 r°.
127 Ghent, SA, Castellany of Oudenaarde, inv.n° 945.
128 E.g.: Beveren, SA, CCW, inv.n° 390, f° 21 v°.
129 Beveren, SA, CCW, inv.n° 389, f° 70 r°-v°.
130 R. De Bock, *Het Hoofdcollege van het Land van Waas, 1648-1794. Bijdrage tot de politieke, institutionele en ekonomische geschiedenis der kasselrijen in Vlaanderen*, unpublished dissertation, Ghent, 1964, 120.
131 Beveren, SA, CCW, inv.n° 390, f° 6 r° and 665.

procedure that took more than five years, the Archdukes finally decreed the homologated customary law of Land van Waas.[132]

That the war was to be continued was also proved by the increase of the tariffs of the excises in the Keure in September 1620. This explicitly was a favour in return for the payment of the Waas assessment in the royal tax plea of 400.000 guilders, approved by the Clergy and the Four Members.[133] In the same month, the Chief College was able to buy the right to appoint the clerks of the local colleges of aldermen.[134]

7. The second phase of the Revolt (1621-1648)

During the second phase of the Revolt Land van Waas was again confronted with numerous military lodgings, passages and logistic problems of all kind. Just a few months after the Truce, the Archdukes already granted a considerable sum of money to the Chief College.[135] In the next year, Philip IV granted a licence to raise a loan to enable the castellany to pay its assessment in the royal taxes.[136] The Clergy and the Four Members for their part provided a yearly interest payment in exchange for the payment of the taxes.[137] But this did not continue. A new licence to collect excises could not be obtained and the Clergy and the Four Members as well as the neighbouring castellanies refused to support the castellany. As the position of the Dutch Republic became stronger and stronger, governess general Isabella especially made an effort to relieve the burdens on the castellany, especially as from 1631. On 29 October 1631, Philip IV granted a licence to collect excises on beer and wine in the Generaliteit. The licence applied for nine years.[138] Since then, there was a distinction between the old castellany excises (in the Keure) and the new castellany excises (in the Generaliteit). This assignment was just a forerunner of further concessions.

A few months earlier, the King had made a new step in the state building process: the revision of the Transport of Flanders. The new transport was not very favourable for Land van Waas, because the Beveren area got a separate assessment, which seemed to suggest that this region – as it had claimed for decades – was a separate castellany.[139] But, in July 1632,

132 Beveren, SA, CCW, inv.n° 1784.
133 Beveren, SA, CCW, inv.n° 717.
134 Ghent, SA, Family de Moerman d'Harlebeke, inv.n° 935.
135 Beveren, SA, CCW, inv.n° 390, f° 36 r°-v°.
136 Beveren, SA, CCW, inv.n° 2719.
137 Beveren, SA, CCW, inv.n° 2718.
138 Beveren, SA, CCW, inv.n° 1540.
139 Maddens, 'De transport van Vlaanderen', 697-698.

this error was corrected and the two territories had a joint assessment.[140] In other words, the King showed a lot of consideration for the castellany. At the end of 1632, Isabella imposed a new contribution on the neighbouring castellanies.[141] During the same period, Philip IV had pointed out several times the great importance of the conservation of the castellany.[142] Starting from June 1633, the Clergy and the Four Members granted financial compensation for the military burdens.[143] Only from 1645, when Spain already saw the storm coming and could no longer invest firmly in the war, the contribution of the Clergy and the Four Members and not just from the Chief College, decreased.

8. After the Revolt

After the Peace of Munster (1648) the situation changed drastically. The central and intermediate institutions were much less favourable towards the Chief College and caused failures and threats in many ways. The request for an extension of the new castellany excises was turned down (1655), the Privy Council issued a regulation concerning the organisation of the Chief College (1658), a conflict with the region of Hulst about the borders of the castellany ended unfavourably (1661), the government interfered more and more in the appointment of the aldermen (from 1653) etc. Initiatives of the Chief College, like the introduction of criminal jurisdiction, failed.

The Council of Flanders as well turned out more hostile and tried to judge lawsuits within the competence of the Chief College. Together with the Great Council of Malines, the Council of Flanders decided against the Chief College in the numerous lawsuits between this institution and local colleges of aldermen. In addition, the Clergy and the Four Members of Flanders caused problems as well. The castellany's assessments in the royal taxes were too high in comparison to those of the Transport of Flanders, tax pleas were approved without asking advice to the castellany etc. It is difficult to find positive events. Even the ‘Regulation of the countryside’, promulgated on July 30th 1672, giving the castellanies the right to audit the village accounts, can hardly be considered as positive. There is no indication that the Chief College contributed to the development of this regulation and the application started only late.

---

140 Maddens, ‘De transport van Vlaanderen’, 701-702.

141 Brussels, SA, Audience, inv.n° 2028/4.

142 E.g.: J. Lefèvre et al. (eds.), *Correspondance de la Cour d'Espagne sur les affaires des Pays-Bas au XVIIe siècle*, vol. 2, Brussels, 1923, 675.

143 Ghent, SA, Estates of Flanders, inv.n° 126, f° 250 v°-251 r°.

9. War, peace, war, peace...

From 1672 until 1678, during the Franco-Dutch War, there were only few positive things to mention and they all occurred thanks to the King or his governor. An example is the extension of the new castellany excises with brandy and tobacco in March 1673.[144] All other institutions, local, intermediate as well as central, had a negative posture towards the Chief College. The period of peace between 1678 and 1688 brought again a stronger interference from the central government. The most typical example was the regulation of Charles II of 5 November 1679 with regard to the organisation of the Chief College. The organisation of the institution was fixed in detail and it was, for instance, obliged to keep a register of attendances.[145] The same can be seen during the Nine Years' War between 1688 and 1697 and during the following period of peace.

10. Conclusion

The Chief College of Land van Waas was an institution that, during the sixteenth and the seventeenth centuries, continually strived for the extension of its competences and the professionalization of its organisation. Before and during the Revolt, the government supported this striving, because this matched its own process of state building. The struggle with the city of Ghent and the need for money to finance the wars between Spain and France also contributed to this development. During the Revolt, the strategic position of Land van Waas was an extra stimulus to realize positive innovations. The government could do nothing but accept the initiatives of the Chief College. During the Twelve Years' Truce, there was an open conflict between the subordinate towns and castellanies and the Clergy and the Four Members of Flanders. Now, the Archdukes chose a more critical position towards the Chief College, because the strategic value of the castellany had disappeared. The second phase of the Revolt had a lot in common with the first one: support from the central and the intermediate institutions and introduction of new taxes, especially from 1631 onwards.

After 1648, the strategic position of Land van Waas was once and for all over. The Chief College still took initiatives, but without success.

In other words, the increased role and the professionalization of the Chief College were a consequence of both internal factors and external factors. The initiatives of the institution only had a chance to succeed when

144 Ghent, SA, Family de Moerman d'Harlebeke, inv.n° 944.
145 Beveren, SA, CCW, inv.n° 1928.

they suited to royal ambitions, for instance the suppression of the city of Ghent. The larger the (strategic) importance of the castellany was, the larger the concessions that were granted. In this way, the Chief College could take a lot of advantages in the sixteenth and seventeenth centuries, but was also forced to give concessions at certain moments. The period after the Revolt was especially negative for the institution. Only during the War of Devolution (1667-1668), the Franco-Dutch War (1672-1678) and the Nine Years' War (1688-1697) little progresses were made.

Abstract

The Chief College of Land van Waas was an intermediate institution in the Southern Netherlands. In this contribution, the author tries to point out the role of the institution in relation to the state building process. Did the Chief College contribute to this process or did it work against it? Did the Chief College undertake own initiatives and what was the position of the central, the intermediate and the local institutions towards those initiatives?

THE GENERAL ASSEMBLY OF THE LIBERTY OF BRUGES (1505-1770)

Laurent INGHELBRECHT

1. Introduction

The Liberty of Bruges was the main rural district in the county of Flanders during the Early Modern Era. It was one of the 'Four Members of Flanders' – the three capital cities Ghent, Bruges and Ypres, and the Liberty of Bruges (but with the Flemish clergy as Fifth Member since the end of the sixteenth century) –, that channelled the Flemish popular representation. The Liberty comprised the territory between the river Yser, the North Sea, the Western Scheldt and a virtual line from Merkem to Eeklo, including the so-called 'appending' and 'contributing seigniories' (*appendante ende contribuante heerlijkheden*). The district was divided into three sections, each represented by nine aldermen. Every year, one of them was appointed mayor of the aldermen for this particular section. A complete council of aldermen counted 27 members, appointed for life. Three of them acted as mayors for one year. Next to these three, an additional external mayor was annually appointed as general head. Normally these four mayors were re-elected each year, but as the Ancien Régime progressed they stayed on for many consecutive years and the logical organization dwindled.[1] The four mayors met almost on a daily basis. The aldermen who did not act as mayor were divided between a summer and winter term by draft. As a result, each alderman was only active for current affairs during half a year.[2] There was a division of assignments per season. For example, two aldermen were responsible for the control of the churchwardens and two others for the orphan chamber.

The 'appending seigniories' constituted a number of territorial jurisdictions, e.g. the seigniory of Wijnendale and the seigniory of Lichtervelde. They were subject to the law of the Liberty, but were governed by an own bench of aldermen. In case of a trial, the serfs of the 'appending seigniories' turned to their own bench of aldermen at first instance, and lodged appeal to the chamber of the Liberty. The 'contributing seigniories', as for example the town and district of Eeklo, or the town and district of

1 Bruges, State Archives (SA), Registers of the Liberty of Bruges (*Brugse Vrije Registers*, RLB), inv.n° 631.

2 E.g. Bruges, SA, RLB, inv.n° 27, f° 141 and inv.n° 16602, f° 1 v°.

Kaprijke, were jurisdictions with an own bench of aldermen. Their serfs went to the proper bench for first instance trials and straight to the Council of Flanders for appeal, omitting the step to the chamber of the Liberty. The 'contributing seigniories' paid their share in the taxes via the Liberty. The rural district, called 'the countryside' (*platteland*), was governed directly by the college of mayors and aldermen of the Liberty. The countryside acted as one with the 'appending' and the 'contributing seigniories' in fiscal matters.[3]

Small delegations of aldermen sufficed for the ordinary application of rights: e.g. two aldermen operated the *vierschaar* (tribunal). The audit of the church accounts or accounts of orphans took place before two aldermen and a *pensionaris*, or two aldermen went to the countryside, accompanied by a *pensionaris*, to hear witnesses in cases of sudden death, arson or crime. For cases in which the interpretation of the legal rule was demanded, e.g. in the chamber, a minimum of five aldermen had to gather.[4] Aldermen of both seasons were called upon for important cases. For the '*aides*' (*beden*, i.e. the princely requests for financial aid) or important cases concerning the sovereign's rights, the representatives of the social ranks were called upon, next to the mayors and aldermen of both seasons. Together this was known as the general assembly.

It is not exclusively typical for the Liberty that representatives of the people had the right to be present when accounts got closed or when taxes were voted. Jan Dhondt and Wim Blockmans illustrated the existence of similar institutions elaborately for Flemish cities as Bruges, Ghent and Ypres and for the castellanies such as Ypres, Furnes or the *Oudburg* of Ghent. This kind of assembly was normally known in Flemish as *Generale Vergadering*, but could also have different names, such as *Brede Raad*, *Collatie* or *Landsdaging*. For some cities, like Bruges and Ypres, Blockmans noted that the general assembly did not always fully assemble, but only with part of its members, or sometimes even with a deputation only. In the castellany of Oudenaarde there was just one until the fifteenth century, but as this became optional it passed into disuse because of the high level of absenteeism. The same happened in the castellany *Land van Waas*. In Kortrijk, the

---

3 E. Huys, 'Kasselrij van het Brugse Vrije (ca. 1000-1795)', in: W. Prevenier & B. Augustyn (eds.), *De gewestelijke en lokale overheidsinstellingen in Vlaanderen tot 1795*, Brussels, 1997, 461-478.

4 L. Inghelbrecht, 'Processen in het Brugse Vrije. Taakverdeling tussen kamer & vierschaar', *Jaarboek Spaenhiers*, 2006, 105-144.

participation was restricted to the *roede* administrations.[5] The parishes were only consulted in exceptional cases.[6]

2. History

The term 'general assembly' only fully appears in the accounts of the Liberty from 1475 onwards, more particularly in the chapter of the wine funds.[7] However, general assemblies had already taken place before 1475 as well. The people of the Liberty represented as the 'general assembly' are already mentioned in several medieval charters and the eldest conserved accounts of the Liberty. Numerous charters of the counts of Flanders are addressed to the mayors, the aldermen and the common people. In a 1323 confirmation by count Louis of Nevers of the *keurbrief*, a by-law originally from 1190, the council of aldermen is mentioned as '*le loy dou franc*', and also the common people of the castellany are mentioned as '*nos boines gens du franc de le chastelerie de Bruges*'.[8] The *Kwaad Privilege* of 1330, on the other hand, shows that, when dividing the big bench of the Liberty into three separate benches, this also led to the division of the general assembly into quarters.[9] According to the *Kwaad Privilege*, one can read in the eldest accounts of the Liberty, for example the one of 1397-1398, about the 'common people' who came to the audit of the account of the castellany.[10] Philip the Bold and Margaret III, countess of Flanders, at their appointment in 1384, also addressed their people as 'our good people, inhabitants and the

---

5 'Rods', in Dutch *roeden* or *roedebesturen*, were administrative divisions in the castellany of Kortrijk.

6 W. Blockmans, *De volksvertegenwoordiging in Vlaanderen in de overgang van Middeleeuwen naar Nieuwe Tijden (1384-1506)*. Verhandelingen van de Koninklijke Vlaamse Academie voor Wetenschap, Letteren en Schone Kunsten van België, Klasse der Letteren, dl. 40, Brussel, 1978, 81-101; J. Dhondt, *Locale standenvertegenwoordiging in het graafschap Vlaanderen. Een tractaat uit de XVIIIe eeuw (1774-1775)*, Ghent, 1950, 11-30.

7 Bruges, SA, RLB, inv.n° 210, f° 166 v°.

8 L. Gilliodts-Van Severen (ed.), *Coutumes des pays et comté de Flandre. Coutume du Franc de Bruges*, vol. 2, Brussels, 1879, 70-73.

9 Gilliodts-Van Severen, *Coutumes*, vol. 2, 74-106: '*Nous (...) statuons nostre pays et terre du Franc devise, quant a communauté, eschevinage et ordenance de jugement appartient ou pourra appartenir pour le temps avenir, en trois parties*'.

10 Bruges, SA, RLB, inv.n° 142, f° 31 v°: '*verteerd (...) bii den commissarissen miins heeren van Bourgoengne, den oude burchmeesters ende de nieuwe, rudderen, scepenen, pensionarissen ende andere vele van den ghemeenen, diere camen omme de rekeninghe te hoorne*'.

whole community of our Liberty'.[11] In 1410, the French monarch explicitly addressed the generality of the Liberty and the *appendances*.[12] A 1414 charter of John the Fearless states that the count had received a supplication from the mayors and the aldermen of the Liberty, writing in their own name and in the name of all the inhabitants of the Liberty and its appendances.[13] Wim Blockmans confirms that words like community (*communauté*) had a clearly defined meaning.[14]

There was no all-over regulation that structured the functioning of the general assembly. The assembly, and in extension the whole Liberty as an administration, abided by a series of unwritten rules. A fragment of an eighteenth-century treatise on the political organization in Flanders confirms that there were no statutory texts that organized the institutions of the Liberty.[15]

3. Investigated period and sources

In order to study the activities of the general assembly of the Liberty of Bruges, we start from practical sources due to the lack of normative sources. The study of the decisions of the general assembly, however, is only possible up to 1770, because there are no more reports after this date. Nevertheless, the general assembly kept on working until the end of the Ancien Régime. From the latest conserved account of the castellany it seems that the general assembly assembled several times in 1790 and 1791.[16]

The resolution registers of the Liberty record the decisions taken by the mayors, the aldermen and the general assembly from 1504 onwards. Unfortunately, these books have a lot of lacunas. The interesting time of the reconciliation (from October 8, 1583, until November 13, 1589), for example, is missing. For the seventeenth century, several periods are

---

11 Gilliodts-Van Severen, *Coutumes*, vol. 2, 127-128: '*noz bonnes gens, les habitans et toute la communaute de nostre terroir du Franc*'.

12 Gilliodts-Van Severen, *Coutumes*, vol. 2, 162-167: '*nos bien amez bourghemaistres et eschevins de nostre terroir du Franc (...), tant pour eulx et en leurs noms comme es noms de tous les habitans et frans hostez, generalment dudit nostre terroir et des appendances dicellui*'.

13 Gilliodts-Van Severen, *Coutumes*, vol. 2, 195-200: '*tous les autres habitans et Franc-hostes, generalment dudit nostre terroir et des appendances dicellui*'.

14 Blockmans, *De volksvertegenwoordiging*, Brussels, 1978, 81-87.

15 Dhondt, *Locale standenvertegenwoordiging*, 17-19: '*Les constitutions du Pays du Franc ne se trouvent ni dans ses coutumes, ni dans aucun autre code, ou titre: c'est l'usage seul qui y doit servir de règle, et qui est par rapport aux aides et subsides et toutes autres affaires sur lesquelles la généralité est accoutumée de parler…*'

16 Bruges, SA, RLB, inv.n° 522, f° 74.

missing.[17] Moreover, the resolutions from March 14, 1670 until December 19, 1672, as well as the ones for the year 1690, are only available as a copy on several loose pages. The resolution books of the Liberty, kept at the State Archives in Bruges, run until 1777 and are conserved in their original form, in parchment covers, except for the copies mentioned above. The registers for the period from 1777 till the end of 1792 are conserved in the Archives of the City of Bruges. Fragments of the most recent resolution register, written in 1793-1794, are conserved at the State Archives in Bruges, in the collection 'French government'. It looks as if the general assembly had already lost value at that time, as the frequency of the assemblies had already been scaled down and also because for many years the assembly reports were no longer recorded after 1763.[18] This is undoubtedly related to the reformation of the Estates of Flanders in 1754-1755.[19] It has to be noticed, though, that the general assembly strongly revived during the revolutionary years 1789-1794.[20]

It is interesting to have a closer look into the chapter on wine expenses in the sixteenth century Liberty's accounts, because all the parties present at the general assembly are recorded. As from around 1580 separate registers mentioning the recipients of wine were kept, one can only find detailed information in the accounts until 1580.

Also important are the payments for transport to the presentation master, the *huissiers*, the messengers, the caretakers, the cook and several footmen, because they also show who was invited (even if only the most important invitees were named, adding the remark 'and more others').[21] In the castellany accounts the listings of the general assembly can be followed until the latest conserved account of the annuity 1790-1791.

Furthermore, convocation lists of noblemen and dignitaries of the Liberty who were invited to the general assembly were consulted.[22] The *feriebouckens* of the Liberty, i.e. registers with the reports of deliberations by the mayors and aldermen, give information for the beginning of the sixteenth century, which is similar to the information from the resolution registers. Until halfway the seventeenth century there are lists of people, noblemen as well as dignitaries, summoned for the general assembly. For the years in

17 29/07/1649-05/05/1654, 31/12/1665-14/03/1670, 19/12/1672-08/01/1678, 01/08/1690 02/06/1694, 19/07/1697-01/10/1697, and, for the eighteenth century, 27/01/1701-01/01/1719.

18 Bruges, SA, RLB, inv.n° 23-54.

19 P. Lenders, *Vilain XIIII*, Leuven, 1995, 51-58.

20 Bruges, City Archives, *Fonds van Caloen*, n° 279b; Bruges, SA, *Franse hoofdbesturen, Leiedepartement*, n° 120.

21 Bruges, SA, RLB, inv.n° 244-522.

22 Bruges, SA, RLB, inv.n° 778.

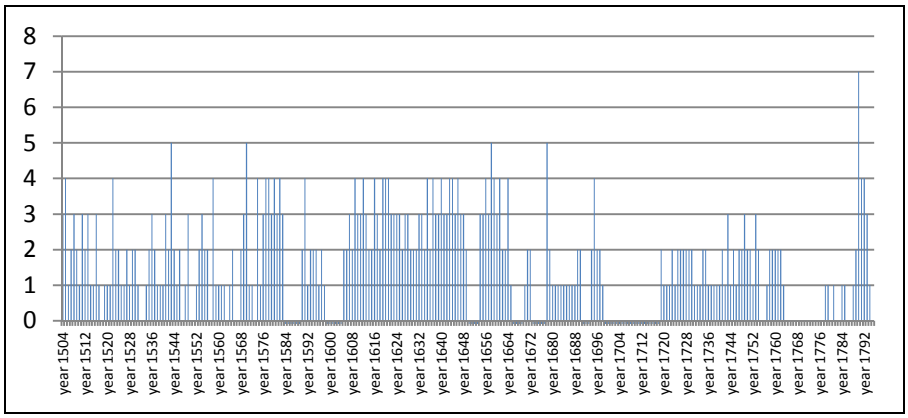
which resolution registers are missing, these lists provide a first indication when a general assembly took place, because this kind of allowance was usually given a few days previous to the assembly. This information always needs to be checked with the castellany accounts.

Finally, also parts of the collections *Bundels*, *Sanders*, and others, conserved at the State Archives of Bruges, were consulted.

4. Frequency of the meetings of the general assembly (1504-1794)

Graph 1 is based on the listings of the general assembly in the resolution registers. The invitation of the three departments of the general assembly for the audit of the castellany account in September was not taken into account. The listings of the general assembly in the castellany accounts were not used for the years for which the resolution registers are missing as (and especially so in the seventeenth and eighteenth centuries) it is extremely difficult to distinguish between them. Moreover, the number of general assemblies was often not specified in the castellany accounts during the last decades of the Ancien Régime, although they prove that the general assembly kept on meeting. Lacunas in the resolution registers are shown in the graph with bares under the X-axis, to indicate the difference with periods where the resolution registers are available but do not mention a gathering of the general assembly. When ignoring the lacunas in the resolution registers, we notice that the general assembly meetings were not arranged according to a fixed pattern. They varied between none and five per year. It seems that the general assembly gathered less frequently during the first half of the sixteenth century than during the period that began in the Wonder Year 1566 and lasted until approximately 1660. This frequency level is low compared to, for instance, the *Collatie* in the city of Ghent, which gathered around ten times a year.[23] From 1720 onwards, we notice that the general assembly met on a yearly basis, but the frequency turned to one, sometimes two and exceptionally three meetings per year. Finally we see that the general assembly had no more meetings during many years of the second half of the eighteenth century, with a revival however during the revolutionary years 1789-1794.

[23] M. Marechal, *Het politieke discours in de Gentse Collatie (1670-1677)*, Ghent, 2008.



Graph 1: Number of meetings of the general assembly (1504-1794)

Several factors influenced the importance of this regional representative structure. First of all, times of war had an influence, as the sovereign was always in want of money during wartimes. In wartime there were more requests for extraordinary subsidies.

Second, the decreasing importance of the general assembly, from the last quarter of the seventeenth century onwards, seems to be interconnected with the pressure to reduce costs from above on the administration of the Liberty. Next to several regulations and decrees to improve the administration, a rule to cut in the 'unnecessary costs' was promulgated by Charles II of Spain in 1682.[24] Hither and thither posts in the castellany accounts were diminished or cut out. There were also attempts to curtail the wine expenses of the general assembly.[25] Ordinary costs could continue to be paid, but festivals, banquets and other meals for the visitors had to be abolished. The mayors and the aldermen of the Liberty fought hard against the new rule, one of their arguments being that the offering of wine was much cheaper for the Liberty than refunding expenses, and that the abolishment of the meals would be a big discomfort for the visiting rural people. In their letter to *Son Excellence*, the mayors and the aldermen already put their finger on the sore spot in the opening lines. It stuck in their throat that within the new regulations they encountered a lot of articles that

[24] Bruges, SA, Liberty of Bruges, *Bundels*, inv.n° 782: '*pour le soulagement de nos sujets et vassaux d'excuser et retrancher diverses despences et fraix non nécessaires dans l'administration des deniers publicqs de nostre paijs du Francq*'.

[25] Bruges, SA, Liberty of Bruges, *Bundels*, inv.n° 782: '*Nous voulons que soient excusez à l'avenir les vins mentionnez au chapittre des comptes intitulé paijement des vins et cire qui se présentent de la part dudit paijs (...) aux nobles et notables, dépendans et contribuans, et aux chefhommes du plat paijs dudit Francq, qui viennent pour l'audition des comptes dudit paijs, et a l'assemblée générale*'.

ignored the old customs and introduced unwanted ones. The administration of the Liberty revealed its relation to the higher authorities in this letter by stating that those who introduced the reformations were not well informed about the functioning of the Liberty and that neither the mayors nor the aldermen of the Liberty had been heard.[26] It is remarkable that the mayors and aldermen were not heard in the process of the reformation of their own institution, especially taken into account that a representative of the Liberty used to reside at the court of the governor for quite a long time.[27]

Several attempts to reform the castellany authority in the eighteenth century are known, starting with the one of 1702-1704.[28] Another important change was read in the college of mayors and aldermen on December 30, 1754. His Royal Highness had decided not to appoint aldermen *ad vitam* anymore. The composition of the general assembly was changed in 1761, when former aldermen were allowed to participate in the department of the noblemen and dignitaries. In contrast to the – now temporary – aldermen, the mayors (who used to change every year) increasingly stayed for a long term during the eighteenth century. It is obvious that this resulted in a changed balance of power. A further collective biographical study of the mayors, aldermen and the buffet staff is necessary, along with an investigation into the effect of the reformation pressure that weighed upon the administration. Such investigations can prove how contacts between the Liberty as an intermediate institution and the higher authority changed in the course of the seventeenth and eighteenth centuries, and how this cost reducing pressure might lead to a more oligarchic Liberty towards the end of the Ancien Régime, or rather towards a decrease in the number of capable candidates-administrators.

A third very important reason for the decline of the frequency of the meetings of the general assembly in the second half of the eighteenth century was the frequent changing of the Estates of Flanders during 1754-1755.[29] It is more specifically the petition to the Estates of Flanders for a fixed subsidy

---

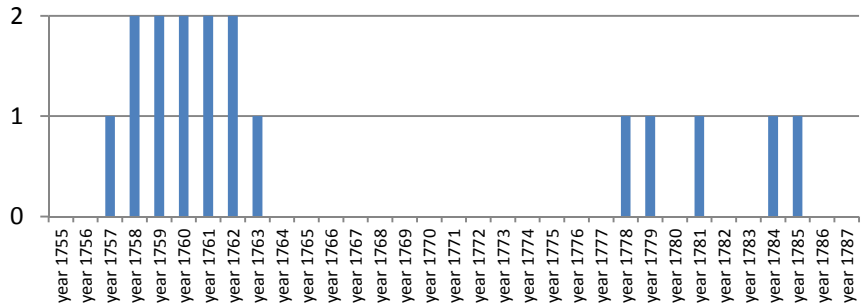
26 Bruges, SA, Liberty of Bruges, *Bundels*, inv.n° 782: '*ceux qui ont voulu donner lumière au Conseil Privé de sa majesté n'ont eux mesmes esté bien informez, nij les remonstrans préallablement ouijz*'.

27 E.g. Bruges, SA, RLB, inv.n° 25, f° 75. The system was changed on October 8, 1583. From then on, every two months the *pensionaris* residing at the court was substituted by a colleague.

28 J.A. Varenbergh (ed.), *Eerste deel van den vierden placcaet-boeck van Vlaenderen, behelsende alle de placcaeten, ordonnantiën ende decreten geëmaneerd voor de provincie van Vlaenderen sedert 't jaer 1684 tot ende met 1739*, Brussels, 1740, 356-386.

29 P. Lenders, *De politieke crisis in Vlaanderen omstreeks het midden der achttiende eeuw. Bijdrage tot de geschiedenis der Aufklaerung in België*, Brussels, 1956.

of 18.000 rations a day, and a fixed subsidy to maintain the court of the governor in 1754 that drastically diminished the frequency of the meetings.[30] The economic circumstances halfway the 18th century made it possible for the plenipotentiary minister Cobenzl, backed by the financially healthy (but before politically voiceless) smaller Flemish castellanies, to force the Members of Flanders to accept this petition. Cobenzl forced the deputies of the Members, ignoring the advices and authorisations of their general assemblies. This diminished power of the Members explains why after 1755 there were no more general assemblies in the Liberty for ordinary *beden*. Only the effect of the Seven Year's War (1756-1763) and the erection of a royal lottery on the frequency of general assemblies hide the effect of the changes of 1754-1755, which is shown in detail in graph 2. The general assembly never met in 1771 when there were requests to change the fixed subsidies. It seems that the Estates of Flanders (in their new composition) discussed the requests only by *sermo collegiis*. The same happened in 1780 when there was a *sermo collegiis* about the maintenance of the court of the new governor. The general assembly only met in the period 1755-1788 for requests for extraordinary subsidies as the *dons gratuits* and loans, for warranties for the royal lottery, and for the homage to the new sovereign Joseph II.[31]



Graph 2: Number of meetings of the general assembly (detail for 1755-1788)

5. The general assembly and the audit of the accounts of the Liberty

The accounts of the Liberty regularly referred to the meeting of the general assembly at the beginning of September, but there was no report on this matter in the resolution books. Usually, the account of the Liberty was

30 Bruges, SA, Liberty of Bruges, Registers, inv.n° 51.

31 Bruges, SA, RLB, inv.n° 51-54; Bruges, CA, *Fonds van Caloen*, inv. n° 279b.

controled yearly on the first Thursday after September 8, the celebration of the birth of Mary. On that very same occasion the mayors were 'renewed'. From the offered jugs of wine and from the costs for the presentation master, the *huissiers*, the messengers, the caretaker, the cook and loose footmen, it is clear that the departments of the general assembly were invited, but that – except for the 'appending' and the 'contributing seigniories' Eeklo, Kaprijke and Male – almost nobody attended. These general assemblies were restricted to the audit of the castellany account and the formal appointment of the mayors. The gathering of the general assembly in order to audit the account was already confirmed in 1330 as an old custom in the *Kwaad Privilege*.[32] When good people could prove that an alderman had committed fraud, this could lead to his dismissal. In the last decennia of the eighteenth century the noblemen were not invited to the yearly audit of the castellany account. In October 1792 they requested the college of mayors and aldermen to be invited again in the future.[33]

6. Procedure for the allowance of *beden*

Based on a study of the resolution registers we can get an image of the procedure the Liberty followed for allowing or refusing *beden*. The first step (step 1) was the Council of Flanders' request to send deputies of the Liberty to Ghent to listen to the proposition. Secondly (step 2), possible pieces of advice from subaltern cities and castellanies were provided.

The general assembly gathered at the initiative of the college of mayors and aldermen, or at the initiative of the Members of Flanders (step 3). Invitations were issued from the *Landhuis*, the headquarter of the Liberty in Bruges, to all invitees. The noblemen and the dignitaries who lived in or outside the city of Bruges, as well as the deputies of the 'appending and contributing seigniories' were summoned by the presentation master, the *huissiers*, messengers, caretaker, cook and footmen. For the invitations for the headmen of the parishes in the rural district of the Liberty, no expenses are found in the castellany accounts. They were summoned by church announcement.[34]

Meanwhile (step 4), the college decided what would be told, and if, next to the petition, the advices from the subaltern administrations and an own pre-advice would be read out. After having read out the 'letters of instruction and credention' (*brieven van instructie en credentie*) and possibly

32 Gilliodts-Van Severen, *Coutumes*, vol. 2, 74-106.
33 Bruges, CA, *Fonds van Caloen*, inv.n° 279a.
34 E.g. Bruges, SA, RLB, inv.n° 239, f° 91 r°.

the pieces of advice from the subaltern administrations and the own pre-advice, (step 5) the three departments split off in three different rooms to formulate their advice. According to Jan Dhondt one mayor per department was present.[35] The four *taellieden* (some kind of experimented spokesmen with judicial expertise) advised the headmen and in each department a *pensionaris* was present to draw up an act on their respective advice. The four *huissiers* ensured the good order. There is evidence that – at least in the last years of the Ancien Régime – the noblemen prepared the general assemblies in their own meetings.[36]

These three advisory documents were taken up again (step 6) in the plenary session under the lead of the mayor of the community, and a general conclusion was made. Often, the departments gave a mandate to the college to add extra conditions to the result.

Finally (step 7), the result was transferred to the Estates of Flanders, where, after being read and commented (step 8), the offer of act of presentation was agreed on (step 9), and the act of acceptation was formulated (step 10).

7. Structure and evolution of the general assembly

From the resolution registers, it can be derived that, when the general assembly came together, also the mayors and the aldermen of both seasons had a meeting. In the seventeenth and eighteenth centuries, the general assembly was invariably made up of three departments:[37] noblemen and dignitaries; deputies from the 'appending and contributing seigniories'; and the headmen from the countryside or *platteland*.

This division already existed in 1589. At the general assembly of 1582 there still was a separate advice from (1) the noblemen, (2) the dignitaries, (3) those from Eeklo and Kaprijke, (4) the *appendante* and *contribuante* and (5) the countryside. Already from 1550 onwards, there was a gradual internal move towards three departments. Before 1550, the countryside was no more listed as a department. The only term mentioned was 'dignitaries'. This terminology has a double meaning.

The following subdivision is a possible suggestion:

35 Dhondt, *Locale standenvertegenwoordiging*, 17-20.
36 Bruges, CA, *Fonds van Caloen*, inv.n° 279a.
37 Dhondt, *Locale standenvertegenwoordiging*, 17-20; Bruges, SA, RLB, inv.n° 23-54.

1. The 'right' Liberty (het rechte Vrije):
    a. Noblemen of the Liberty;[38]
    b. Dignitaries of the Liberty who inhabit the city of Bruges (Snellegem ambacht);
    c. The headmen of the parishes, called in that early stage 'dignitaries of the ambachten', assisted by the four taellieden;[39]
2. 'Appending seigniories';
3. 'Contributing seigniories'.

On a fiscal level, the Liberty in those days worked closely together with the three coastal castellanies Furnes, Bergues and Bourbourg. The deputies of these castellanies frequently conferred with the board of aldermen of the Liberty, or they took part in the general assembly. The many expenses for letters and wine that were spent on them stand as a proof.[40]

In the fifteenth century some 'contributing seigniories' wanted to break free from the Liberty. Eeklo and Kaprijke requested to be joined in with the quarter of Ghent at the general assembly of September 9, 1477. The resolution of the assembly was that one would leave things to 'the old customs'.[41] Also later during the Early Modern Era, accounts often refer to trials between the Liberty and independent-minded 'contributing seigniories'.

The ecclesiastical seigniories Proosse and Kanunnikse of Saint-Donatian took a different position at the general assembly. They came to hear the petition of the sovereign, but they did not give their advice through the section of the 'contributing seigniories'. In the fifteenth century, the tension between Proosse an Kanunnikse on the one side and the Liberty, the 'appending' and the other 'contributing seigniories' on the other side rose. The conflict set around the particular fiscal '*transport*', the distribution of the *beden* within the rural district of the Liberty, and the 'appending and contributing seigniories'. In 1476 count Charles the Bold forced all parties to stick to the *transport* of Flanders that was in force at that time. The conflicts about the particular *transport* within the Liberty had to be kept within the

---

38 Bruges, SA, RLB, inv.n° 30, f° 355. E.g. Philips Calonne on October 3, 1629, showed his royal letters of naturalization to the college, where aldermen of both seasons met; he was subsequently invited to the general assembly.

39 Bruges, SA, RLB, inv.n° 282, f° 144 r°: '*Van vier kannen wyns te 16 gr den stoop ten zelven daghe ghepresenteert den vier taellieden van den lande, de welcke waren ter voornomde generale vergaderinghe omme de notabele van den platten lande te instruerene ende beleedene up de voornomde openinghe ende peticie.*'

40 E.g. Bruges, SA, RLB, inv.n° 285, f° 105 r°.

41 Bruges, SA, RLB, inv.n° 16.599, f° 84 r°.

estate until a new *transport* of Flanders would become effective. The count confirmed that the Proosse and Kanunnikse, being ecclesiastical seigniories, could only be 'contributing' in the *beden* of the Liberty because they had nothing to do with the law of the Liberty, as they were nothing more than 'neighbours'.[42] To keep the peace, the count gave the ecclesiastical seigniories Proosse and Kanunnikse the freedom to pay their part of the *transport* either via the collector of the Liberty, or straight to the collector of the county. He stated that the Liberty was not responsible for the payment of the portion of these seigniories in the *transport* of Flanders, except if the Proosse and Kanunnikse paid their part voluntarily to the collector of the Liberty.[43] From the accounts of the Liberty we learn that both Proosse and Kanunnikse paid their *quotum* in the *transport* of Flanders via the collector of the Liberty during the sixteenth, seventeenth and eighteenth centuries.

COMPOSITION OF THE GENERAL ASSEMBLY OF THE LIBERTY OF BRUGES (17th – 18th c.)

1st section	2nd section	3rd section
Noblemen and dignitaries	**Deputees of the appending and civil contributing seigniories**	**Headmen of the parishes of the countryside**
Moderated by the mayor *of the commune* Assisted by a registrar	[The Deputees of the ecclesiastical contributing seigniories Proosse and Kannunikse only came to listen to the petition, and went away after that.]	Assisted by four *taellieden* Assisted by a registrar

42 Gilliodts-Van Severen, *Coutumes*, vol. 2, 387-391: '*les hostes desdits prevost et chanoines ne sont que des purs voisins et n'ont riens de commun ensemble avec lesdits du Franc*'.

43 Gilliodts-Van Severen, *Coutumes*, vol. 2, 387-391.

8. Convocation

Some convocation lists from the sixteenth century are conserved. These were non-restrictive lists. When comparing convocation lists with lists of wine expenses, one learns that various people were present at the general assembly, although they were not enlisted on the convocation lists. The costs for sending the invitations to the noblemen, the dignitaries and the 'appending and contributing seigniories' are added to the section of the payments to the presentation master, the *huissiers*, the messengers and the footmen in the castellany accounts. The headmen from the countryside were invited by church announcement. Those who were actually present are recorded in the wine expenses of the castellany accounts. Noblemen and dignitaries were enlisted by name. When comparing the 1542 convocation list with the castellany accounts of 1541-1550, we can conclude that the representatives of the countryside, the representatives of the 'appending and contributing seigniories' and dignitaries were mostly present. Of the noblemen recorded in the convocation list of 1542 almost half of them were never present during the studied decade.

Charles Laurin and Nicolaes Boullengier were always present.[44] For the studied period we notice that a lot of noblemen spent most of their time outside the Liberty, which explains why they could not always be present at the general assembly in Bruges. A lot of names of noblemen appear in the accounts of the Liberty where expenses for messengers delivering letters outside the Liberty are recorded. The account of 1541-1542 for instance reveals that messenger Anthuenis Merchier received two pounds because he was sent on July 23, 1542 to several noblemen in Ghent, and two days later to noblemen in Poeke, Lotenhulle, Kortrijk, Aalbeke and Rumbeke.[45] Regardless of the great absenteeism amongst noblemen, a lot of them regarded the invitation as very important. Silent witnesses to this thought are the requests from noblemen and dignitaries to be invited to the general assembly. These requests can be found in the resolution registers. Receiving a written invitation to the general assembly in the department of the noblemen was of proof of nobility. The *huissiers* of the chamber of the Liberty were frequently asked to write declarations that somebody was noble.[46]

When comparing which 'appending' and which 'contributing seigniories' were offered more or less wine jugs during the general

---

44 Bruges, SA, Liberty of Bruges, *Bundels*, inv.n° 778; Bruges, SA, RLB, inv.n° 279-296.

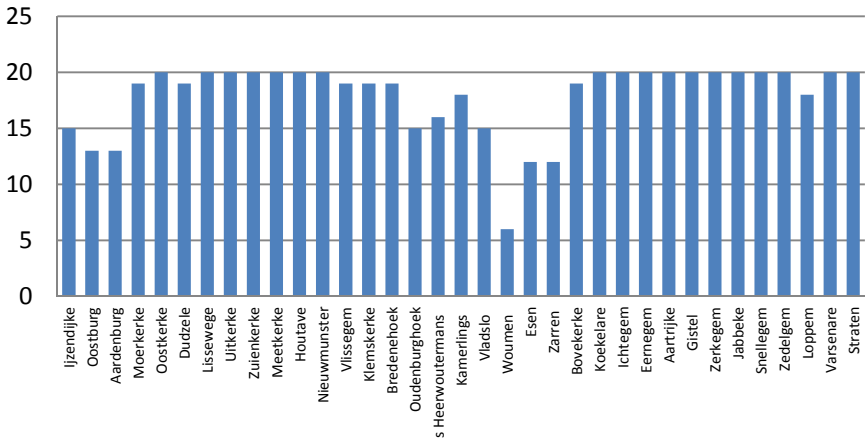
45 Bruges, SA, RLB, inv.n° 281, f° 95.

46 E.g. Bruges, SA, OP, inv.n° 19665.

assembly, or simply if any wine was served at all, with the respective contribution to the taxes of the castellany, we notice that the 'smaller fishes' were not always fully named. Whether they were present or not is not always clear. We notice for example that Buskens *ambacht* and Jongers *ambacht* are usually not mentioned, but during the general assembly of September 22, 1546, when hardly any 'appending seigniory' was present, they were recorded by name.[47] Surely four jugs of wine always awaited the deputies of Koolskamp-Ardooie. In the 1543 account of the Liberty we read that these four jugs of wine were offered to Koolskamp, Ardooie and Mortaignen during the assembly of January 18. Later that year, on July 19, Paensche is also mentioned with this delegation.[48] Therefore, one can conclude that it is not clear if small seigniories were present at the general assembly, and which bigger entity they joined, supposed they were present.

9. Frequency of visits

In a random check for the period 1541-1550 one can see a lot of differences between the departments as far as their presence at the general assembly is concerned.



Graph 3: Presence of the ambachten of the countryside at the general assemblies, 1541-1550

47 Bruges, SA, RLB, inv.n° 24, f° 106 r°.
48 Bruges, SA, RLB, inv.n° 282, f° 143 v°.

The representatives of the *ambachten* were always present in great numbers. Almost half of the *ambachten* were present at every general assembly. The *Kwaad Privilege* of 1330 already stipulated that being present at the assembly was compulsory for headmen.[49]

Especially the deputies of remote *ambachten* were frequently absent, although the geographical distance between the *ambachten* and Bruges cannot have been the sole reason to their absence. We notice for example that the deputies of Woumen *ambacht* were only present at six of the twenty assemblies, whereas the deputies of the 'appending seigniory' of Merkem only missed one single assembly, although Merkem is situated further off then Woumen.

Although in most cases representatives of most of the *ambachten* were present at the assembly, they are also the most variable audience. Supposing that representatives of the *ambachten* were headmen of the parishes of their resort, it seems that most of them took personally part in an assembly only scarcely. This declares the presence of the four *taellieden* of the Liberty at the reading of the petitions, in order to be able to assist the deputies in drawing an advice.[50]

The 'appending seigniories' and the 'contributing seigniories' Eeklo, Kaprijke and Male were practically always present. Leaving out the assembly of September 22, 1546, for which the 'appending' nor the 'contributing seigniories' were expected to turn up, we notice that twelve out of 21 seigniories never missed one single general assembly. The deputies of Nieuwvliet appeared for the last time in the period considered at the general assembly of November 27, 1544.

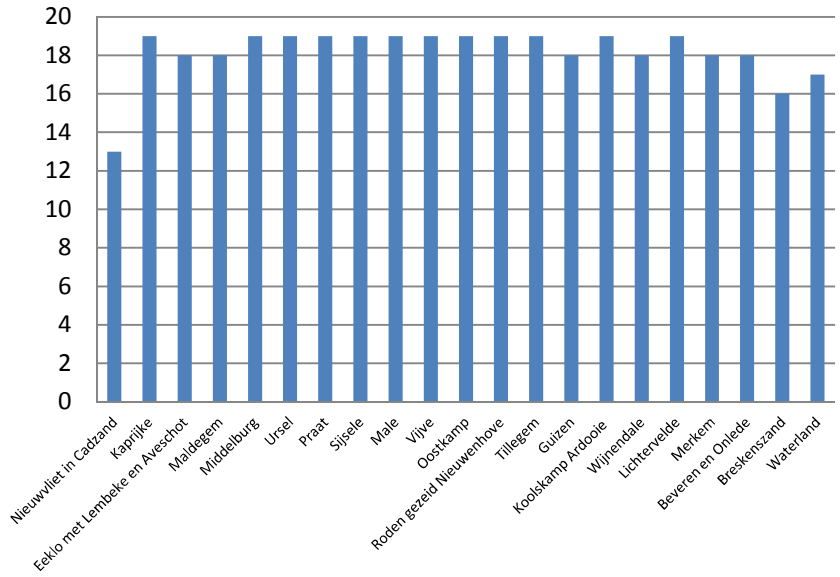
In comparison to the noblemen, the dignitaries counted a lot more systematic visitors to the assembly. One reason for their more frequent attendance is that this group of 'rural citizenship' lived within the city of Bruges. We can question the fact why Jan Dhondt's anonymous author only gave one single vote to the group of dignitaries in the general assembly, whereas each nobleman had a separate vote. It is correct, however, that at the end of the Ancien Régime the dignitaries went to court, to the Council of Flanders, because their votes had been counted as only one.[51]

---

49 Gilliodts-Van Severen, *Coutumes*, vol. 2, 74-106.

50 E.g. Bruges, SA, RLB, inv.n° 282, f° 144 r°.

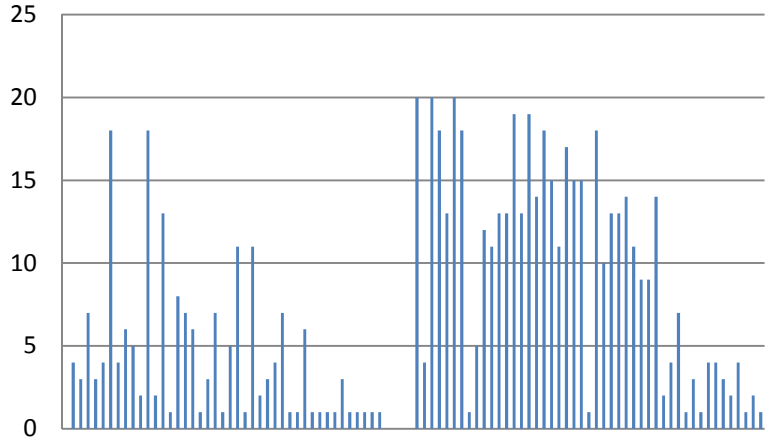
51 Bruges, CA, *Fonds van Caloen*, inv.n° 279a.



Graph 4: Presence of the deputies of the 'appending' and 'contributing seigniories' at the general assembly, 1541-1550

It is also striking that more wine jugs were offered to the higher noblemen in comparison to the amount of wine offered to the other participants. A possible explanation for this may be the fact that it was a habit amongst noblemen to bring along their own advisors and servants, similar to the habit of aldermen bringing their chamber servants and 'mates' (*ghesellen*).[52] A number of people got enlisted with the noblemen on one occasion, and with the dignitaries on the other, e.g. Jacop de Gryse, former mayor of the community.

52 E.g. Bruges, SA, RLB, inv.n° 27, f° 214 r°: The baron of Male asked the college of the Liberty on April 5, 1595 if he could bring with him the *bailiffs* and aldermen of his seigniories Male, Sijsele and Vijve. The college of the Liberty agreed, on the condition that they could sit on the places that were reserved for him at the general assembly before.



Graph 5: Presence of the noblemen (left) and dignitaries (right) at the general assemblies, 1541-1550

In graph 5, each strip on the X-axis represents one person. The amplitude shows how often one person was present at the general assembly. All these persons are ranked from the start per category according to the time of their first presence at the general assembly, hence the fact that for the new-comers the amplitude decreases in both categories.

10. Form of advice and reports, and discussed content

The general assembly almost always organized a meeting because of petitions from the sovereign, and exceptionally because of other important matters concerning the sovereign, e.g. succession, and other sensitive matters – such as the auction of the seigniories of Brecht and Zwijndrecht. Regularly, in the seventeenth century in particular, request for financial support of religious institutions occurred. This support was of little importance compared to the other requests and subsidies.

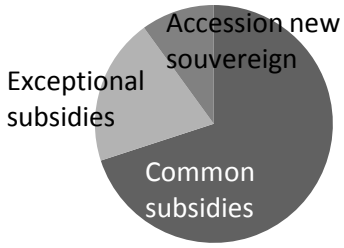
The reports studied for the period from 1504 to 1525 were short and concise. There is only a short definition of the problem, followed by the advices of the – at that time several – parties and the final decision. It stands out that the departments sometimes granted a request even when the other Members of Flanders did not agree. In contrast to later periods, departments in the sixteenth century would rather give smaller sums of money, spread

over longer periods, e.g. four years. The departments preferred to mention that in fact they were not able to pay, but that they wanted to prove their loyalty to the sovereign. These long periods are square to periods in the seventeenth century, when the departments of the general assembly put a brake on engagements for longer than six months. Much importance was attached to the time of payment and to the number of payment terms.

The requests and subsidies were the most important subject of the general assembly. In those days, the general assembly put forward a lot of subsidiary economic conditions regarding a possible approbation, e.g. nautical problems or problems about the wildlife that damaged the agricultural crops, the problems with the fishermen of Slepeldamme, Koksijde and elsewhere, as also the damaged economic interests at the times when inns and breweries were banned from the environment of the cities within the Liberty.

The reports of the general assembly from 1654 to 1678 look like a dossier in itself, because of the inserted letters of *credentie*, letters of proposition, the pre-advice of the college of mayors and aldermen, etc. The advice documents are clearly structured, except for the fact that for several questions during one and the same assembly, it is not always clear which question a condition is linked to. In this war time period it stands out that a lot of propositions were refused and that hardly any conditions were set when according requests and subsidies. The conditions recorded were military ones, e.g. not having to provide winter lodging. Only in 1662 economic conditions were set for the first time. Up until 1678 these were hardly found. Apparently, stimulating trade was not a priority in this period.

The reports from 1719 to 1743 give an account of the request for subsidy via the Council of Flanders to the Estates of Flanders. The reports describe how the three departments retreated into three separate rooms to deliberate. The advice and the final summary of the three departments is described. The sum of money the Liberty was willing to agree on was formulated during assembly and conditions were linked to it.



Graph 6: Partition of the subjects at the general assembly, 1719-1743

In a random check of thirty general assemblies from 1719 to 1743 we see that seventy percent of the assemblies were on the subject of allowing common subsidies. These requests were treated as a routine matter. The demand always was 25,000 rations daily during the course of one year, starting November first, till the end of October of the following year. These requests were always granted, but never for the full amount of money asked for. The summaries of the deliberations within the departments of the Liberty mention yearly between 10,000 and 16,000 rations a day. The deputies of the Liberty then took these propositions to the member meetings, where the suggested sums might be increased, e.g. the proposition of 15,000 rations a day from the general assembly of the Liberty on September 13, 1731 increased to 18,000 in the final act of acceptation. Next to this, twenty percent of the general assemblies were on exceptional subsidies, of which half was about war costs and the other half about the maintenance of the governor. Two of these were refused. The 1719 motivation proves that the previous subsidy had not been paid yet and that the subjects lived in poor conditions. In 1728 they argued that they had allowed a very high subsidy the year before in order not to receive any new requests, and also the poor state of the subjects was mentioned, and this due to the bad prices for wood and crops. Eventually, ten percent of all general assemblies were dominated by the Pragmatic Sanction and the accession of the new sovereign Maria Theresia. The conditions of the Liberty to this event were that the homage had to be done in Flanders, and that it had to be organized modestly.

At the consent to a request, the general assembly always took the opportunity to beg for the sovereign's special attention. It particularly put forward three kinds of conditions: financial and economic matters, rights and privileges, and particular demands concerning the request itself. With every common request from the random check studied goes the stipulation that the general assembly grants the request on condition that no other requests will arise during the duration of that particular period. In 85 percent of the cases compensations are asked for the lands that could not prosper because of floods, heavy rain, works etcetera, and it was stated that solvent people were not prepared to pay for the non-solvent fellow human beings. The bigger part of the demands were connected with the economic climate. In the years 1719-1729 for example there were yearly demands for a prohibition of export of raw flax and hemp. Because of the intensity of the labour involved in the flax and hemp production, this was an important factor within the regulation of the labour market. For many years the sovereign was requested to try to diminish the import rights on Flemish linen into France. Depending on the grain prices requests arose to either prohibit or stimulate the use of it for distillation of brandy. Prohibition was established by decree, and

stimulation or slow-down of grain and cattle trade with countries abroad was arranged by juggling with the import and export taxes. Similar to this was the request for a certain tariff to stimulate the linen, thread and other 'harvest' trade. For several years there was pressure to abolish taxes on packing material (*fustagie*) and to make it compulsory that the ships leaving from the port of Ostend were built in Flanders. Also came the request to provide passports to the Flemings more easily. Times seem to have been better between 1730 and 1732, as there were less requests concerning the trade in agricultural products. The request to raise taxes on imported coal in order to stimulate the local firewood trade kept coming back yearly. For the period from 1734 to 1743 the following requests were made: ways to stimulate the grain export, the abolishment of tolls, a patent for a five percent tax on all equestrian transport of commercial goods, and the prohibition for imported leather (to prevent the collapse of the tanneries). Also more concrete proposals were made, such as the building of the road from Bruges via Torhout to Menen. During this studied period the question to do something about exchange rates and other monetary matters regularly popped up. The Liberty several times asked to forbid the Council of Flanders to investigate on matters concerning local taxes (*pointinghen en settinghen*), and to forbid judges of the domains to deal with matters concerning territories flooded by the river Scheldt (because this was a matter for common magistrates). Moreover, it was asked to reserve the prebends, worldly offices and jobs within the province for Flemings, or the other way round to forbid foreign boatmen such as those from Brussels to fare to Ostend or Bruges. And finally, from 1737 till 1743, each year the same request arose to abolish the 1613 decree concerning the restoration of churches.

Generally spoken, it is remarkable that a lot of requests returned year after year, remarkable in the sense that the sovereign did not or hardly answer, but also remarkable because the Liberty, as well as the other Members of Flanders, insisted strongly. Now and then, the general assembly frankly formulated that it became time for the sovereign to take their requests seriously. This shows that the negotiation of the requests was a non-formal matter, but that they stated conditions which were on their mind. They were frustrated by the fact that they were not taken seriously. At the same time this shows the relative importance of the conditions set and it explains the subtle decision-making by the general assembly, and why the different departments gave authority to the college to adapt, increase or decrease conditions so swiftly to their own will.

11. Influence of the departments in the general assembly

If one wants to know who had the last say at the general assembly, one can find out by reading the reports in which the advice and the resolutions of the three departments are recorded. The series is complete for the seventeenth century. During the first half of the sixteenth century and during the eighteenth century however, it was different. At first sight, noblemen and dignitaries usually advised the lowest sums to the sovereign during the seventeenth century. It seems that the 'appending' and the 'contributing seigniories' behaved more generously but that the result inclined the most towards the sum suggested by the countryside. Possibly, the 'appending' and the 'contributing seigniories' suggested higher sums in order to keep loyal to the sovereign, or maybe they knew from experience that the final result would not be defined by themselves. For lots of advice a compromise was aimed at. When two equal pieces of advice arose the majority made the final decision.

It looks as if the representatives of the countryside, together with the noblemen and dignitaries, dominated the general assembly, and that they worked in a tandem so to speak. The 'appending' and the 'contributing seigniories' were aware of this situation, and in their advice of May 8, 1657, they explicitly wrote they refused a subsidy just like both other departments did, because they did not want to be overshadowed by the other departments.

Of all the wine expenses that were paid at the general assembly, half of them went to the department of the countryside. From this fact we can learn that they must have been the largest group of attendants. They paid more local taxes than all 'appending' and the 'contributing seigniories' together, except for the Proosse and the Kanunnikse. On top of this, it seems they had an extra influence compared to the influence of the 'appending' and the 'contributing seigniories', because of their stronger inner cohesion and their connection with the college. When appointing new headmen, the college could appoint one of their choice, of course they had to choose from the list one of the resigning headmen provided. Further research has to show how strong the social-economic cohesion was between headmen, noblemen and dignitaries. The 'appending' and the 'contributing seigniories' decided autonomously about who they delegated to the general assembly. It is doubtful whether the 'appending' and the 'contributing seigniories' showed any form of mutual fellowship at all. This would mean that each of them would formulate their particular wishes at the general assembly. It would also mean that these wishes would not so much rest on the group in comparison to the conditions for granting requests set by the department of the countryside. The larger distance between the college and the 'appending'

and the ‘contributing seigniories’ in comparison to those of the countryside *ambachten* is extra underlined by the variation of the paid taxes, like the *setting*, *pointing* and others. The seigniories paid the sums agreed on punctually. The *ambachten* and later the parishes of the countryside deviated regularly. Moreover, we find differences between the parishes on sandy soil and parishes in the Polder.

12. Conclusion

The countryside of the Liberty and the ‘appending’ and the ‘contributing seigniories’ formed a unit on fiscal matters. For the approval or refusal of requests and subsidies, as well as for other important matters and for the auditing of the castellany accounts, the three departments were convoked to the general assembly. This type of ‘people’s participation’ was a common phenomenon in the county of Flanders, in the cities as well as in the castellanies. The general assembly of the Liberty was already mentioned in the *Kwaad Privilege* from 1330. Before the sixteenth to eighteenth centuries, current customs defined the working of the general assembly and requests and subsidy demands were treated along a fixed pattern. The general assembly slowly segregated until 1589, when the noblemen and the dignitaries were mentioned as first department, the ‘appending’ and the ‘contributing seigniories’ as second, and the representatives of the countryside as third department. The seigniories Proosse and Kanunnikse took a separate position at the general assembly of the Liberty. They only came to listen to the proposition, but they did not take part in the decision-making process. Other ‘contributing seigniories’ like Eeklo and Kaprijke have also tried to keep distance from the Liberty.

In order to study the general assembly in the Early Modern Era, the resolution registers, the castellany accounts and some convocation lists of the Liberty are the main sources. Leaving the audit of the castellany accounts aside, we notice, based on the resolution registers, that the general assembly mostly got together at least once a year during the sixteenth century, with big differences in frequency, showing peaks of five assemblies per year. The frequency of the assemblies during the period 1566 to 1660 was at its highest with usually two to three assemblies each year. The frequency of the assemblies decreased to one or two and exceptionally three assemblies per year in the eighteenth century. For several years the general assembly was even not called together at all, except for the audition of the castellany account. And hardly any report was added to the resolution registers of the third quarter of the eighteenth century. From the castellany accounts and the

resolution registers, we learn that the general assembly kept meeting until the end of the Ancien Régime. Several factors had an influence on the importance of this regional representative structure, for instance war, pressure from above to reduce costs, the changes of the Estates of Flanders in 1754-1755, and related to these changes the petition of the sovereign in 1754 for fixed taxes for the ordinary subsidies, et cetera. Further research into the evolution of the importance of the administrative machinery of the Liberty, as well as putting together a collective biography of the aldermen and the buffet personnel are necessary.

Although a lot of noblemen and dignitaries found it important to be invited to the general assembly, a random-check for the period of 1541-1550 shows that absenteeism was a lot higher amongst noblemen than it was amongst the dignitaries or other departments. The representatives of the countryside and of the seigniories were punctually present. According to the *Kwaad Privilege*, their presence was compulsory. The headmen of the parishes of the countryside were assisted by the four *taellieden* of the Liberty, probably because they were a changing audience.

The sources for the first quarter of the sixteenth century reported briefly on the essence of the proposition, the advice and the result. Smaller sums of money were granted over longer periods of time. Rather primary conditions were set, such as the restriction of wildlife damage to harvests, as if living in the country seemed to get threatening. In the third quarter of the seventeenth century, the reports are real dossiers with lots of additional documents, clearly structured with three pieces of advice and the result. In times of war a lot of propositions were refused and there were hardly any conditions set for the grant. The few conditions that were set concerned military matters. Thanks to the availability of the advice and of the resolutions in the seventeenth century it can be stated that noblemen and dignitaries were usually the least generous and that the ‘appending’ and the ‘contributing seigniories’ were more generous. The headmen of the countryside followed a middle path, and inclined the closest towards the final resolution, which also filtered through into the resolutions of the Estates of Flanders. It looks like the noblemen and the dignitaries on the one hand, and the headmen of the countryside on the other, worked in tandem, which shows the cohesion between the ‘true’ Liberty, and, in reverse, it looks as if the cohesion between the ‘appending’ and the ‘contributing seigniories’ together, and between the seigniories and other departments, was much smaller. Finally, a clear routine and simplification of the administration in the second quarter of the eighteenth century is recorded, something that may be explained by the decreasing frequency by which the general assembly got together. A lot of conditions were set at the granting of

requests, roughly to be divided into practical demands concerning the request, rights and privileges, and mainly conditions of financial and economic kind. On matters of rights and privileges, the general assembly took a conservative position, which was in contrast with the active and progressive economic style of their policy. A lot of conditions though returned year after year, which explains the supple decision-making in the Liberty as well as the relative importance of the participation of the people.

Abstract

The general assembly of the castellany of the Liberty of Bruges was the forum for the noblemen, notables and the 'common people' of the countryside and the adherent seigniories to discuss subsidies, and to hear the annual financial reports. The main sources for the study of those gatherings are the resolution registers, the convocation lists and the financial reports. The frequency of the gatherings changed throughout the Early Modern Era. The noblemen showed a high rate of absenteeism. The acceptance of subsidies was linked to mainly rights and privileges, and economic conditions. The advices of the 'common people' of the countryside, i.e. the representatives of the parishes, were most often closest to the conclusions of the general assembly, which were passed on to the Estates of Flanders.

RURAL POLITICAL ELITES AND SOCIAL NETWORKS IN LATE MEDIEVAL FLANDERS: THE CASTELLANY OF FURNES

Frederik BUYLAERT & Jonas BRAEKEVELT

1. Introduction

This paper[1] focuses on rural political elites in late medieval Flanders, namely the conglomerate of groups that ruled the so-called castellanies (Dutch: 'kasselrijen'), the fifteen-odd rural districts that constituted the territory of the county of Flanders. There is a widespread consensus among scholars that the castellany was an important institution for the government of the principality, but to this day, it received only limited attention.[2] This contrasts sharply with British historiography, for example, where intensive research into the institutional, legal and social characteristics of shire politics is considered to be of pivotal importance in the study of late medieval English society. The administrations of the counties and the shires did not only function as a cornerstone for the English monarchy, but they also proved to be a crucial forum for the self-definition of the English gentry.[3]

That the history of rural elites in late medieval Flanders is still in its infancy is a consequence of specific historiographical traditions in nineteenth- and twentieth-century Belgium. In the wake of the influential work of Henri Pirenne (1862-1935), historians were first and foremost

1 The research for this paper was funded by the Research Foundation – Flanders. The authors thank Pieter Donche, Jan Dumolyn, Kristof Dombrecht, Andy Ramandt and Tjamke Snijders for their help and comments.

2 The genesis of the Flemish castellanies received considerable attention in F. L. Ganshof, *Recherches sur les tribunaux de châtellenie en Flandre avant le milieu du XIII^e siècle*, Antwerp, 1932 and A. C. F. Koch, *De rechterlijke organisatie van het graafschap Vlaanderen tot in de 13^e eeuw*, Antwerp, 1952, but this did not lead to focused studies of specific rural districts. In 1997, a synthetic discussion of the institutional organization of thirteen castellanies was published in W. Prevenier and B. Augustyn (eds.), *De gewestelijke en lokale overheidsinstellingen in Vlaanderen tot 1795*, Algemeen Rijksarchief Studia, vol. 72, Brussels, 1997, 363-504.

3 For a noted example of this research tradition, see C. Carpenter, *Locality and polity: a study of Warwickshire Landed Society, 1401-1499*, Cambridge, 1992. For the importance of shire administrations for the genesis of the gentry, see in particular P. Coss, 'The formation of the English gentry', *Past and Present*, 1995, 49-50 and 57-58 and Idem, *The origins of the English gentry*, Cambridge, 2003, 243-244, 251 and 254.

focused on the history of medieval cities, since Flanders was one of the heartlands of European urbanization. It has been estimated that no less than 36 percent of the roughly 660,000 inhabitants of late fifteenth-century Flanders lived in a town.[4] Furthermore, this old and dense urban network had three cores, namely the cities of Ghent, Bruges and Ypres, who used their economic, fiscal and military weight to dominate the entire county. From the mid-fourteenth century onwards, the Flemish popular representation was not channelled through a tripartite representation of the clergy, the nobility and the third estate, but through the so-called 'Four Members of Flanders', that is the three capital cities and the Liberty of Bruges, the unusually rich castellany that encapsulated the Bruges countryside.

All other cities and castellanies of the county were subject to one of those Four Members, who acted as their representatives vis-à-vis the count of Flanders. In this context, the research agenda was always dominated by in-depth studies into urban society and urban politics, rather than that of the social and political organization of the castellanies.[5] Even the Liberty of Bruges, the one castellany that belonged to the Four Members of Flanders, did not receive as much attention as one might expect.[6] Next to this understandable preoccupation with urban history, Belgian post-war historians also developed a strong research tradition for rural history under the aegis of the Ghent historian Adriaan Verhulst, but it was first and foremost focused on demographic and economic history.[7]

Only recently, both the 'urban' and the 'rural' historiography of medieval Flanders began to develop a more active interest in the political history of rural Flanders. The past years saw the publication of a monograph on the castellany of Courtrai, as well as two studies that respectively focused

---

4 P. Stabel, *De kleine stad in Vlaanderen. Bevolkingsdynamiek en economische functies van de kleine en secundaire stedelijke centra in het Gentse kwartier (14de-16de eeuw)*, Brussels, 1995, 16. The ways how twentieth-century scholarship was shaped by Pirenne and his students is discussed in M. Boone, *À la recherche d'une modernité civique. La société urbaine des anciens Pays-Bas au Bas Moyen Âge*, Brussels, 2010.

5 The Four Members of Flanders are extensively discussed in W. Prevenier, *De Leden en Staten van Vlaanderen (1384-1405)*, Brussels, 1961 and W. Blockmans, *De volksvertegenwoordiging in Vlaanderen in de overgang van Middeleeuwen naar Nieuwe Tijden (1384 – 1506)*, Brussels, 1978.

6 The last important contribution to its history is W. Prevenier, 'Réalité et histoire: le quatrième Membre de Flandre', *Revue du Nord*, 1961, 5-14.

7 For a historiographical overview, see the various contributions in J.-M. Duvosquel and E. Thoen (eds.), *Peasants and townsmen in medieval Europe. Studia in honorem Adriaan Verhulst*, Ghent, 1995.

on the dike management of coastal Flanders and the Flemish nobility.[8] Next to this, research projects have been set up that focus on the elite of the Liberty of Bruges and the organization of late medieval village communities.[9] In what follows, we intend to contribute to this burgeoning field with a study of the relatively small but wealthy castellany of Furnes ('Veurne-ambacht' in Dutch).[10] Confined by the Yser river (IJzer) and the North Sea, it encompassed the region around the town today known as Furnes ('Veurne' in Dutch). Together with the nearby castellanies of Bourbourg and Bergues-Saint-Winnoc, it fell under the authority of the Liberty of Bruges for matters pertaining to popular representation by the Four Members of Flanders. Our choice for this particular castellany is a pragmatic one. For most castellanies, only fragments of the medieval archives of the local administration survive, which makes it very difficult to determine the composition of the local political elite. Yet, the genealogist Pieter Donche recently published a thorough reconstruction of the lists of aldermen of the castellany of Furnes, based on a wide range of primary and secondary sources.[11] This survey provides an excellent point of departure for an exploratory study of the late medieval elite of this particular region.

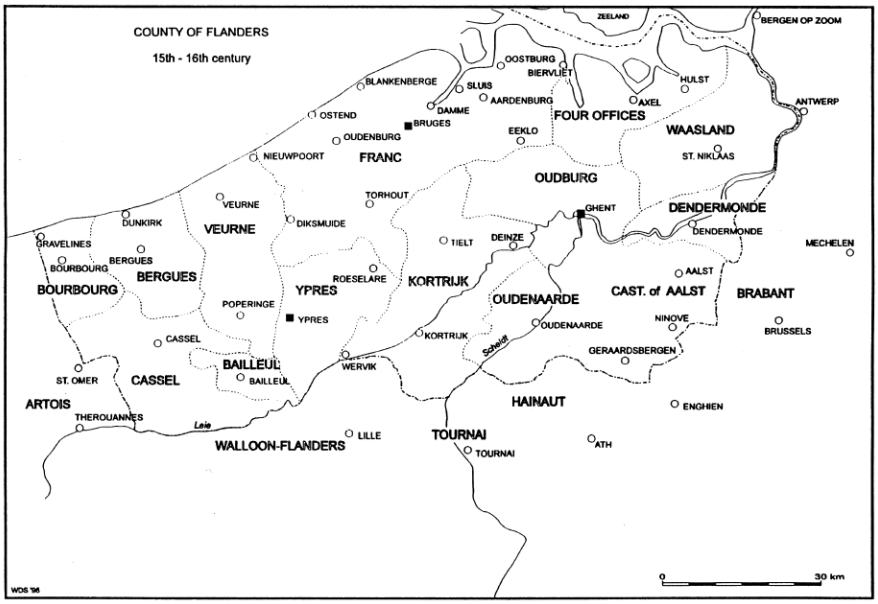
---

8 It concerns respectively J. De Rock, *Het bestuur van de kasselrij Kortrijk in de Bourgondische periode (1387-1453)*, Brussels, 2009; T. Soens, *De spade in de dijk? Waterbeheer en rurale samenleving in de Vlaamse kustvlakte (1280-1580)*, Ghent, 2009 and F. Buylaert, *Eeuwen van ambitie. De adel in laatmiddeleeuws Vlaanderen*, Brussels, 2010. The castellany of Cassel and the attempts of the Burgundian government in 1428 to reform its institutions was recently discussed in J. Dumolyn and K. Papin, 'La révolte paysanne de Cassel, 1427-1431', in: G. Brunel and S. Brunet (eds.), *Les luttes anti-seigneuriales dans l'Europe médiévale et moderne*, Toulouse, 2009, 79-92. A notable exception to the historiographical outline sketched above is D. Nicholas, *Town and countryside in fourteenth-century Flanders*, Bruges, 1971, but this work too, does not provide a thorough discussion of the political elites of the castellanies.

9 The political elite of the Liberty of Bruges is the subject of the doctoral research project of Andy Ramandt (Ghent University; under the supervision of Jan Dumolyn) and the composition of village society is studied by Kristof Dombrecht (Ghent University – University of Antwerp; under the supervision of Tim Soens and Erik Thoen).

10 In 1469, the Furnes countryside (the cities of Furnes, Lo, Nieuwpoort and Poperinge are excluded) would have counted something in between 11,500 and 14,500 inhabitants: respectively, this would amount to 1.7 and 3.3 percent of the population of the county at that time. This estimate is based on the source edited in J. De Smet (ed), 'Le dénombrement des foyers en Flandre en 1469', *Bulletin de la Commission Royale d'Histoire*, 1935, 136-137.

11 P.A. Donche, *Schepenen-keurheren van Veurne-ambacht, 1240-1586*, Berchem, 2006.



The county of Flanders and its castellanies[12]

In what follows, we will first assess the structural characteristics of the political elite of the castellany of Furnes between 1351 and 1500 and how they related to the social-economic organization of this region. After that, we will study the internal tensions within the political elite by focusing on a series of well-documented conflicts that erupted in the castellany in 1411, 1421 and 1436. In the third and last section, we will discuss a set of social and political strategies that individuals and groups deployed to maintain or to improve their prominence. With this three-tier analysis, we want to make a case for a 'Braudelian perspective' on elite formation in the pre-modern Low Countries. In our opinion, the conceptual distinction between 'events', 'trends' and 'structures' is helpful to frame the evolution of castellany politics.[13] As we will see, the upheavals of early fifteenth century were shaped by a context of institutional and legal infrastructure as well as the socio-economic characteristics of this particular region, and inversely, those events would shape that context for the years to come. Those two levels of analysis were connected by processes such as a growing commitment among nobles to institutional politics, and the pursuit of noble status among

12 P. Stabel, *Dwarfs among giants. The Flemish urban network in the Late Middle Ages*, Louvain, 1997, 1.

13 See his classic essay: F. Braudel, 'Histoire et Sciences sociales : La longue durée', *Annales. Économies, Sociétés, Civilisations*, 1958, 725-753.

prominent landowners. Our choice for this interpretative framework should not be understood as a plea for rigid model-building. The relativity of those categories is obvious, for example, for marriage: a key constituent of elite formation in fifteenth-century Flanders, it fluidly moves between an occasion and a process. Yet, we do believe that if one is sufficiently aware of the relativity of such analytical tools, they help to understand what made the Furnes elite of the late fifteenth century a rather different one than that of the mid-fourteenth century. A unilateral perspective on medieval elite formation – either one that limits itself to the 'legal', 'political' or the 'social' aspects or one that limits itself either to isolated events or to long-term change – is likely to misunderstand the complex dynamics that stemmed from various fields of tension, ranging from the give-and-take between various institutions with competing claims of authority, over the clashing demands of international politics and bureaucratic efficiency, to the inevitable strain between individual aspirations and the moral ties of marriage, kinship and affinity. What matters are the intersections, and we understand the history of the castellany of Furnes to be a powerful warning to keep this in mind.

2. The institutional and socio-economic framework of castellany politics

In the fourteenth and fifteenth century, the castellany of Furnes comprised some fifty parishes. Within this territory, there were four urban enclaves, namely the cities of Furnes, Lo, Poperinge and Nieuwpoort, which were autonomously ruled by their own bench of aldermen (in 1586, the bench of aldermen of the castellany would merge with that of the city of Furnes, henceforth jointly ruling town and countryside). The available sources are scarce, but it seems that the castellany of Furnes had developed a fixed institutional framework by the middle of the thirteenth century. It was governed by a bench of aldermen, which was technically a princely institution and consisted of eighteen magistrates who all had a specific hierarchical position within this body (the so-called 'schepenen-keurheren'). At the head of the bench of aldermen were two burgomasters: the so-called 'landholder of the magistracy' and the 'landholder of the commune' (respectively the 'landhouder van de wet' and the 'landhouder van de commune' in Dutch). The aldermen and one burgomaster were annually appointed by a committee of princely officials, usually consisting of two councillors or courtiers as well as the bailiff of the castellany of Furnes, the latter being the local representative of the count of Flanders charged with the persecution of criminal activities and the exertion of all princely rights that

were not delegated to the bench of aldermen.[14] This annual reappointment usually took place in spring, at which moment the committee would also inspect the accounts of the aldermen for the year of office that then ended. The only member of the twenty magistrates who was not appointed by the prince, was the landholder of the commune: he was elected by representatives of the parishes. This burgomaster was supposed to function as a spokesman of the local community vis-à-vis the other aldermen who were appointed by the prince.

The bench of aldermen of the castellany of Furnes was responsible for administrative, financial and fiscal matters. The aldermen also dispensed princely justice in the region, for which they worked in tandem with the bailiff of the castellany. Yet, it should be noted that the authority of the aldermen did not encompass the entire castellany. In the south of the castellany, there were the so-called 'Eight parishes' and the 'Vaucheriën', that fell under the bench of aldermen for certain financial and military duties, but not for any other matter. The same can be said for the various seigniories situated within the castellany: within those legal enclaves, crimes were either punished by the lord of the seigniory or by the aldermen and the bailiff of the castellany, depending on the specific legal rights encapsulated in that the seigniory.[15] As a result, contemporaries tended to distinguish the castellany of Furnes and the 'shire of Furnes' ('Veurne-ambacht'), the latter denomination excluding that southern part of the region where the power of the aldermen was rather limited.[16]

In what follows, we focus on the composition of the bench of aldermen of the castellany, but the reader must keep in mind that its claim to political authority was neither comprehensive, nor equally relevant to all inhabitants of the castellany (clerics, noblemen, princely officials and burghers all had specific privileges). The basic tenet of 'states' – that is, according to the influential Weberian definition of the term – is that one institution can effectively claim a monopoly on the wielding of political,

---

14 For the renewal of local political elites by the princely councillors and the comital bailiff, see J. Dumolyn, *Staatsvorming en vorstelijke ambtenaren in het graafschap Vlaanderen (1419-1477)*, Antwerp-Apeldoorn, 2003, 40-46 and J. Van Leeuwen, *De Vlaamse wetsvernieuwing. Een onderzoek naar de jaarlijkse keuze en aanstelling van het stadsbestuur in Gent, Brugge en Ieper in de Middeleeuwen*, Brussels, 2004. For the comital bailiffs, see H. Nowé, *Les baillis comtaux de Flandre des origines à la fin du XIVe siècle*, Brussels, 1929, 258-336 and J. Van Rompaey, *Het grafelijk baljuwsambt in Vlaanderen tijdens de Boergondische periode*, Brussels, 1967.

15 For a discussion of seigniorial lordship, see F. Buylaert, W. De Clercq and J. Dumolyn, 'Sumptuary legislation, material culture and the semiotics of "vivre noblement" in the county of Flanders (14th-16th centuries)', *Social History*, 2011 (forthcoming).

16 Donche, *Schepenen-keurheren*, 9-10.

military and symbolic power within a realm, but this situation did not exist in any medieval society. The castellany of Furnes, for example, was essentially governed through a complex and multi-layered system of complementary or contradicting claims to power by various secular and religious institutions, ranging from the bailiff, the bench of aldermen, the feudal courts, the noble lords of the region as well as local institutions.[17]

	NUMBER OF KNOWN MANDATES OF ALDERMEN	NUMBER OF FAMILIES THAT PROVIDED THE ALDERMEN
1351-1375	256	58
1376-1400	206	52
1401-1425	272	70
1426-1450	392	68
1451-1475	322	50
1476-1500	350	53

While further research will be necessary to assess its relations with the other players on the chessboard of regional politics, the bench of aldermen was certainly one of the most important – if not the most important – cornerstone of elite formation in the castellany of Furnes. First, it should be noted that we do not know the names of all the aldermen that served in the period under discussion. Before the 1420s, it is extremely rare to establish an exhaustive survey of the aldermen of a given year and many references to aldermen of the castellany are either ambiguous as to which year of office they pertained, or silent as to which place that aldermen had in the council.[18] In principle, twenty individuals were in office every year, which in theory amounts to 500 names per quarter of a century, but this degree of reconstruction is not reached before the sixteenth century. Yet, the degree of reconstruction seems sufficient to identify the fundamental characteristics of the Furnes political elite.[19]

---

17 For an introduction to this issue, see the essays of R. Davies, 'The medieval State: the tyranny of a concept?', *Journal of Historical Sociology*, 2003, 280-300 and J.J. Sheehan, 'The problem of sovereignty in European history,' *The American Historical Review*, 2006, 1-15.

18 Donche, *Schepenen-keurheren*, 53-62 and 245-251 provides an excellent discussion of the problems concerning chronology.

19 It should be noted that the following quantifications have an inevitable margin of error, which stems from the variations in the spelling of family names. In the 1360s, for example, several aldermen are known under the name of 'Ghiselin van Lo(o)' as well as 'Ghiselin van Loor'. Given the timing and the identical first name, we assumed that it concerns the representative of one family, but such interpretations

The degree of reconstruction improves over time, so the earlier periods are relatively underrepresented, but overall, it seems that per quarter of a century, the known aldermen and burgomasters were usually recruited from some fifty-odd families. Caution is in order, but this number seems to have increased somewhat in the early fifteenth century, when roughly seventy families provided the magistrates. Later on in this paper, we will suggest that this was caused by fierce conflicts between elite networks, that sought to close or to open up the composition of the bench of aldermen. The raise in the number of families that participated in the government of the castellany would then be a consequence of a series of marked shifts in the recruitment of aldermen. At this point, however, the first conclusion must be that castellany politics was to a large extent structured along the lines of kinship relations. The office holders came from a relatively small number of families. In 1351-1375, for example, no more than sixteen of the 58 families provided only one alderman. All the other families reached a much higher political participation, either by providing several aldermen, through family members that regularly reappeared in office, or by a combination of both. The Boye and Van den Hove families, for example, held the record for that period with respectively fifteen and seventeen mandates.

That many families provided more than one alderman per quarter of a century does not imply that contemporaries found it completely acceptable to see the bench of aldermen dominated by a family clique. The evidence is scarce, but in principle, it seems to have been prohibited for close relatives to seat together in the magistracy. This was certainly the rule for the magistracy of the town of Furnes. Yet, in the castellany, this rule was not strictly followed.[20] The overall record holder in the accumulation of mandates, the Knibbe family, even claimed 46 mandates in 1426-1450, which makes clear that it was quite common that more than one member from this family was active as a magistrate within one year of office. What was certainly not contested is the idea that, over time, aldermen were to a large extent recruited from the same families. Thus, many if not most of the aldermen came from ‘political dynasties’.

To understand the social basis of the political elite of the castellany, it is first and foremost necessary to study the distribution of mandates between the various families and how this balance of power evolved during the Late Middle Ages. For this purpose, we set up a Lorenz curve analysis,

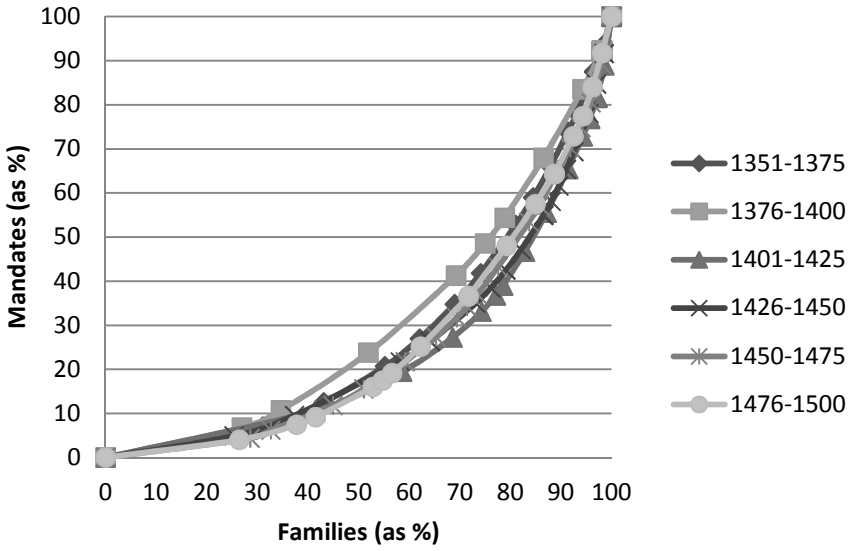
---

cannot be verified in the present state of research. Therefore, we expect that a future in-depth study of the Furnes elite will refine our estimates.

20 For the few normative sources and a seventeenth-century example of voiced objections against individuals that were considered too closely related to serve simultaneously as aldermen, see Donche, *Schepenen-keurheren*, 16-17.

in which both the number of families involved and the mandates they held are expressed as relative values. This makes clear that, structurally speaking, the political elite of the castellany consisted of a nucleus of extremely powerful families and a rather broad periphery of families whose participation to the bench of aldermen was much less intense.

Graph 1: Lorenz-curve of the distribution of mandates in the bench of aldermen of the castellany of Furnes: 1350-1500 (per 25 years)



Between 1351 and 1500, the top twenty percent of the families of the bench of aldermen always claimed roughly half of all known mandates. This concerns the cluster of mighty families whose name frequently reappears, year after year, in the lists of aldermen: Knibbe, De Crane, Boye, Van der Burch, Van de Walle… Inversely, the bottom twenty percent of the families that participated in the government of the castellany could not even occupy ten percent of the available seats. Even the bottom half of all families barely claimed twenty percent of the mandates, which makes clear that for most families, the participation in the magistracy of the castellany was a low-intensity commitment.

This analysis shows that it would be a mistake to reduce the political elite of the Furnes castellany to a cluster of powerful political families. Such families obviously existed, and they must have played an inordinately large

role in the decision making process, but this does not detract from the observation that most families would only have one or perhaps two representatives in the bench of aldermen per quarter of a century. The relatively broad distribution of offices over families, and the considerable renewal of what we might describe as the broad fringe of the political elite guaranteed that a great number of families were sooner or later involved in the government of the castellany. This observation corresponds well with the findings of the social and economic structure of the region in the sixteenth century. As Paul Vandewalle has shown, the largest part of the castellany consisted of polder soil, which lent itself best to bovine cattle breeding. In consequence, the castellany was largely dominated by large-scale and middle-scale farms: an estimate for 1569-1578 suggests that 135 large-scale landowners and 373 middle-scale landowners possessed no less than 69 percent of the soil. In other words, it was a castellany with a very strongly developed class of gentlemen-farmers.[21] Caution is in order, but research for the neighbouring Liberty of Bruges suggests that this situation was the result of a gradual concentration in landownership at the expense of small farmers that had started in the early fourteenth century.[22] It is clear that many of those wealthy families of farmers either participated directly in the bench of aldermen, or that they must have had relatives that did so. Even if they did not belong to the small circle of families that claimed a large number of positions in the bench of aldermen, those gentlemen-farmers must have felt entitled to participate in the making of policy.

In this context, it is important to note that on important occasions, the magistracy of the castellany organized broader meetings with the 'noble and notable persons' ('edele ende notabele persoonen') of the castellany. This suggests that the aldermen had to make sure that important decisions would not clash with the wishes and interests of the broader social and economic elite of the region. The best-documented example of such a meeting dates from the autumn of 1436, when the city of Bruges rebelled against Duke Philip the Good.[23] The magistrate now had to take measures to protect the castellany against the urban militia of Bruges, as well as to decide whether it would consent the ducal request for financial aid to quell the

---

21 For those estimates, see P. Vandewalle, *De geschiedenis van de landbouw in de kasselrij Veurne (1550-1645)*, Brussels, 1986, 116-117, 120-122, 383 and 387-388. For a broader discussion, see the contributions in P. Hoppenbrouwers and J.L. Van Zanden (eds.), *Peasants into farmers? The transformation of rural economy and society in the Low Countries (Middle Ages - 19th century) in light of the Brenner debate*, Turnhout, 2001.

22 See the long-run analysis provided by Soens, *De spade in de dijk?*, 88-90.

23 For an introduction to this conflict, see J. Dumolyn, *De Brugse opstand van 1436-1438*, Heule, 1997.

revolt.[24] Messengers were sent out to invite the most prominent inhabitants of the castellany to a gathering, which summons was eventually answered by no less than 72 individuals, coming from 52 different families.[25] Of those 52 families, nine were already represented in the bench of aldermen that was in office from the spring of 1436 to the spring of 1437, and another 33 families would provide at least one alderman or a burgomaster in 1426-1450. This leaves ten families that were not officially involved in the magistracy of that era, but who were nevertheless called upon to join in the decision making process. Clearly, the aldermen of 1436 were aware that they emanated from a broader social and economic elite which expected to be kept involved, even if their direct participation in the bench of aldermen was relatively limited or even non-existent.

3. Factional conflicts in the early fifteenth century

To contextualize those gatherings, in which aldermen were expected to check whether their policy had the support of the political community as a whole, it must be noted that when the gathering of late 1436 was held, the composition of the bench of aldermen was the subject of a protracted conflict between various segments of the socio-economic elite of Furnes. That there existed considerable tensions between various networks that constituted the top layers of the Furnes rural community is indicated by the discussed Lorenz curve analysis (see graph 1). There was a marked shift in the distribution of power at the turn of the fifteenth century. In 1376-1400, the top twenty percent of the families dominated roughly forty percent of the mandates, while the bottom fifty percent provided nearly 25 percent of the mandates. At that time, the positions were distributed somewhat more evenly than had been the case in 1351-1375, but this situation did not last. In 1401-1425, the top twenty percent of the families claimed about sixty percent of all known offices, whereas the participation of the bottom fifty percent of the families had dropped to a mere fifteen percent.

Caution is in order given the incomplete reconstruction of the lists of aldermen forces, but it seems that these trends are a quantitative echo of an attempt of certain individuals within the Furnes elite to monopolize the

---

[24] Another possibility is that the *aide* was requested to prepare the county for a threatening English invasion.

[25] A critical edition of this list is available: F. Buylaert (ed.), 'Sociale hiërarchisering en informatiebeheer tussen vorst en kasselrij. De productie van "adelslijsten" in het graafschap Vlaanderen (14e-16e eeuw)', *Bulletin de la Commission Royale d'Histoire*, 2011 (forthcoming).

bench of aldermen of the castellany. In 1411, John the Fearless, who had succeeded his father as Duke of Burgundy (1404) and his mother as count of Flanders (1405) was in dire straits, and several Flemish towns and castellanies exploited his financial troubles to secure privileges that reinforced their autonomy.[26] The castellany of Furnes was no exception: in return for the round sum of 10,000 écus of thirty groats, the Duke granted a privilege on 3 April 1411 that stipulated that the aldermen were from now on appointed for life, instead of being annually appointed by a princely committee. If an alderman resigned from office or died, his place would be filled by co-option.[27] Ducal representatives would continue their annual visit to the headquarters of the castellany situated on the Burg in the city of Furnes to control the castellany account, but henceforth they would only appoint the landholder of the magistracy. Probably since the middle of the thirteenth century, the magistrates were annually appointed by princely officials, but this was now abolished to the benefit of the elite network that controlled the bench of aldermen at that moment.[28] This privilege also bears the stamp of the lobbying of an elite faction in that it also allowed male inhabitants of the castellany to travel around armed, within the borders of the county, 'to protect themselves' ('pour la deffense et tuition de leurs corps'), and by lowering the fines for an attack against someone's house, the latter being a popular practice in feuds between powerful families of medieval Flanders.[29] Shortly after, on the occasion of the Duke's Joyous Entry in the

---

26 See the comments in J.-M. Cauchies, 'Jean sans Peur, comte de Flandre (1405-1419), législateur', in: F. Autrand and C. Gauvard (eds.), *Saint-Denis et la royauté. Études offertes a à Bernard Guenée*, Paris, 1999, 668.

27 The ordinance is edited in J.-M. Cauchies (ed.), *Ordonnances de Jean sans Peur, 1405-1419. Recueil des ordonnances des Pays-Bas, première série: 1381-1506*, Brussels, 2001, vol. 3, 211-215. The neighbouring castellany of Bergues succeeded the same day in obtaining similar privileges, *ibidem*, 208-211. Both privileges refer to the lifelong election of the aldermen '*par la maniere que l'en puet [...] a nostre terroir du Franc*', which indicates that the oligarchic government of the Liberty of Bruges served as an example to the elites of less important castellanies.

28 For the location of the headquarters of the castellany in the city of Furnes and the suggestion that the annual renewal of the bench of aldermen by a committee of princely officials was introduced somewhere in the middle of the thirteenth century, see Donche, *Schepenen-keurheren*, 11-12.

29 For an introduction to elite feuding in Flanders and the targeting of residences, see F. Buylaert, 'Gestion de vengeances et conflits privés de l'élite de Gand à la fin du Moyen Âge', in: C. Gauvard, R. Jacob and A. Zorzi (eds.), *La vengeance en Europe, 1200-1800*, Paris, 2011 (forthcoming). In the instruction drafted for William of Namur, who was appointed as the governor of Flanders by Philip the Bold in 1387, for example, much attention was paid to the unrest caused by noble feuds, see B. Verwerft, 'Een blauwdruk van het Bourgondische beleid in het graafschap

castellany on June 10th, John the Fearless granted another privilege that reinforced the position of the then-dominant network within political elite.[30] This charter now also allowed the aldermen to appoint the landholder of the commune if the usual electoral procedure through a gathering of the parish representatives failed. Next to this, the privilege lowered the fee one had to pay to the bailiff if one wanted to organize large wedding festivities with all their 'relatives' (the expression of 'leurs proïsmes et amiz charnelz' conveys more than family members in the strict sense of the word). Such festivities were an important cornerstone for elite network formation, because it was an occasion to develop or to strengthen the bonds of affinity with family members, friends and retainers.[31] Lastly, it stipulated that inhabitants of the castellany of Furnes could be bailed out if they were arrested for criminal offenses, thus again enlarging the freedom of action for elite families that were embroiled in a feud. In other words, the individuals who were in power in 1411 now successfully excluded their rivals from government.

The members of this faction seem to have abused their control over castellany politics to feather their own nest, because by May 1421, Duke Philip the Good – who had succeeded his father John the Fearless in 1419 – deemed it necessary to proclaim two ordinances with which he restored the electoral procedures abolished by the 1411 ordinance.[32] As the Duke put it, the privileges granted by his father '…had spawned much envy and secret hatred among many leading inhabitants of our aforesaid castellany [of Furnes], because some are constantly active in the bench of aldermen, while the others are never chosen…' ('…beaucop d'envies et haynes couvertes qui ont esté et se naissent entre pluiseurs notables de notre dicte chastellenie

---

Vlaanderen: de regentschapsinstructie van 1387', *Bulletin de la Commission Royale d'Histoire*, 2011 (forthcoming), sections 6-7, 9 and 14.

30 Cauchies, *Ordonnances*, 228-231. The ordinance seems to have come about during the Joyous Entry of the Duke in Furnes, after a meeting with the local elite 'en une maison sur le marchié'; it was enacted the very same day, apparently without any further investigation by ducal commissioners or institutions such as the Chambre des Comptes or the Council of Flanders, whose intervention was normally required before the redaction of new privileges could take place.

31 For a historiographical introduction and a survey of the available sources, see W. Paravicini, *Invitations au mariage. Pratique sociale, abus de pouvoir, intérêt de l'etat à la cour des ducs de Bourgogne au XVe siècle (1399-1489)*, Stuttgart, 2001. See also the more general considerations in E. Bousmar, 'Des alliances liées à la procréation: Les fonctions du mariage dans les Pays-Bas bourguignons', *Mediaevistik*, 1994, 11-69.

32 Both ordinances are edited in L. Gilliodts-Van Severen (ed.), *Coutumes des pays et comté de Flandre. Quartier de Furnes. Coutumes de la ville et chatellenie de Furnes*, Brussels, 1897, vol. 3, 184-194.

pour ce que aucuns demeurent souventesfois longuement en la dicte loy et les autres n'y sont point mis ne ordonnés…').

In response to the appeals from many inhabitants against this 'evil and exclusive government' ('le mauvais et petit gouvernement'), the Duke decided that for the next fifteen years, the landholder of the magistracy would again be elected by a committee of princely officials. He also stipulated that henceforth, someone could not serve as an alderman for two consecutive years (the so-called 'wepelplicht') and that the landholder of the commune would again be sworn in office by the elective committee, who were to choose that person who had the largest support among the nobles and the parish representatives ('cellui qui aura la plus grant voix des nobles et deputés des dictes paroisses'). Apart from reopening access to the bench of aldermen, the ordinances contained a barrage of measures against financial misconduct: strict regulations were developed for the reclaiming of expenses and the reception of all kinds of gratuities, as well as for the circumstances in which gifts could be distributed to individuals in the name of the castellany government.[33] Lastly, it was now mandatory for the aldermen to proclaim in advance the date of the annual inspection of the castellany accounts, so that all men of note could be present, and strict rules were developed for the compensations that could be given to the bailiff and the princely officials. This indicates that the network which had cemented its power in 1411 had successfully bribed them to ignore the fraudulent management of the castellany revenues.[34]

The restoration of the old procedure with an annual renewal of the magistracy was limited in time, and in 1436 the conflict resurfaced. On November 2nd, against the backdrop of the Bruges revolt against the Duke, the tensions erupted into an open conflict. The trigger was an attempt of the aldermen to enforce additional taxes in order to pay for a wide range of arrears, among which a part of the large sum which had been pledged in 1411 by some individuals to John the Fearless, to secure those infamous

33 In the castellany of Bergues-Saint-Winoc, the privileges granted in 1411 were already revoked in 1419, see Lille, Archives Départementales du Nord (ADN), inv.n° B 4935, f° 1 r°-4 r° (an edition of the ordinances of Philip the Good for the county of Flanders is being prepared by Jonas Braekevelt). At the explicit request of the local community, the Bergues aldermen were again to be appointed annually by a ducal committee and each parish was henceforth allowed to send representatives to the audit of the castellany accounts.

34 The widespread corruption among princely officials charged with the appointment of aldermen and the control of accounts is explicitly discussed in the instruction for governor William of Namur in 1387, see Verwerft, 'Een blauwdruk', sections 2 and 11-13.

privileges.[35] In the uproar that followed, an angry crowd armed itself and marched to the Burg square of the city of Furnes, where the magistracy of the castellany was in full session. According to a ducal inquest into the events of that day, the crowd had adopted the cry: 'It is now time to challenge the demands of our governors, because they want to desert us, and to set up a court of law and to dispense justice, while the [rebellious] inhabitants of the Liberty of Bruges are without government or judicial trouble; the situation has been suffered long enough.' ('Il est ores temps de contester aux volentéz de noz gouverneurs, car ilz nous veullent deserter, tenir vierschare et faire loy, la ou les hostes du Franc sont sanz loy et sanz traveil de justice; il a esté longuement assez souffert.')[36]

The princely official who, in 1438, was charged with the investigation, was unable to trace the names of the ringleaders, but there are indications that the crowd consisted of a mix of ordinary citizens (who were pushed into action by fiscal pressure in a difficult economic time and the financial misconduct of the aldermen), as well as of more prominent individuals (who feared that they would be once more excluded from government).[37] That the aldermen were trying to fulfil the payment stipulations for the 1411 charters does suggest that specific networks within the castellany elite again tried to monopolize the magistracy by exploiting the financial needs of the Duke. Whatever the precise composition of this angry crowd, when informed of its approach, the aldermen fled from their

---

35 This uproar was very similar to the protests in 1411 against earlier attempts of the aldermen to impose new fiscal burdens for privileges that were not sought after by the castellany community. The personal visit of Duke John the Fearless had allowed the aldermen to realize their plans, see E. Ronse (ed.), *Pauwel Heinderycx. Jaerboeken van Veurne en Veurnambacht*, Veurne, 1854, 94-97.

36 For this report, see Brussels, State Archives (BSA), Oorkonden van Vlaanderen, first series, inv.n° 918. Its author was Jan Rauledere, who served as a receiver for the Duke in Courtrai and Harelbeke from 2 October 1437 to 1 October 1438, ADN, inv.n° B 5413, f° 6 r°.

37 That wealthy inhabitants of the castellany were involved in the rebellion is indicated by the report of Rauledere, who noted that 'lui ont aucuns bien dit que [...] entre les autres il en y a qui ont bonne chevance dont pourtant qu'il y auroit confiscacion l'en y trouveroit et recouveroit pour monseigneur une grosse finance.' The established elite also reported some of the more affluent participants to the uprising to the ducal administration: during the inquest of 1439 that followed the crushing of the Bruges revolt in 1438, the previously discussed Reinoud Knibbe, together with the alderman Lancelot Veyse and Boudin de Baenst (who was in all likelihood related to Antoon and Jan de Baenst, who served as comital bailiffs in the castellany in 1431-1437), arranged two prominent inhabitants of the parish of Steenkerke to be fined 355 lb. par. for their involvement in the 1436 uprising in Furnes. The Duke granted Knibbe, Veyse and De Baenst a share of nearly fifteen percent of the fine (BSA, Chambre des Comptes,inv.n° 1246, f° 174 v°-175 r°).

courtroom. Yet, they soon received help from an unexpected quarter. Incidentally, two of the most prominent noblemen of the region, Reinoud Knibbe and Pieter van der Burch (who himself occupied the seat of third alderman at that time), were scheduled to submit their rather violent feud to arbitration by the bench of aldermen. Pieter and Reinoud had appeared with respectively twelve and twenty-two armed retainers, and they now both dramatically vowed 'to live or to die' next to the aldermen of the castellany ('pour vivre ou morir'). What followed was a standoff on the Burg square of Furnes between the aldermen and their supporters, who carried the banners of the Duke and that of the city of Furnes, and the protestors. According to the inquest, the crowd only dispersed after promises had been made that their grievances would be addressed. Also, their 'privileges' had been read out publicly, which probably concerned the two ordinances Philip the Good had granted in 1421 to end the reign of corruption and abuse of power. Evidence is lacking, but we suspect that the previously discussed list of the 72 individuals that joined the aldermen in the decision making process somewhere in the fall of 1436 pertains to a gathering that must have been held shortly after the crisis of November 2nd. It meticulously included a relatively large segment of the castellany elite, which must have been necessary to avoid a new disturbance of the peace.

In the following decades, the 1421 reactivation of the system of an annual renewal of the bench of aldermen by a princely committee seems to have remained in place. The Lorenz curve graph indicates that in the second half of the fifteenth century, the distribution of positions in the bench of aldermen over the politically active families was somewhat better than it had been in 1401-1425, although it would never equal the pre-1400 situation. This is confirmed by an interesting report from the princely administration that dates from shortly after the troubles. In 1438, Duke Philip the Good, who was no less desperate for money than his father had been, reminded the aldermen that they still owed him the last instalment of 2,500 écus of the 10,000 écus that had been promised to John the Fearless in 1411 in return for him granting the Furnes aldermen an appointment for life.[38] The financial experts of the Chambre des Comptes, the administrative heart of the Burgundian government, however, were alarmed enough to send a letter to the Duchess Isabelle of Portugal, who took care of her husband's affairs in this matter. They recommended the ducal couple to desist from pursuing payment of the last instalment '…considering that they do not enjoy those privileges and rights, nor have done so, and that this issue has provoked a great uproar among the inhabitants of the cities of the aforesaid castellany,

[38] BSA, Oorkonden van Vlaanderen, second series (unnumbered collection; charter dated '1430-1467').

who did not want to pay for those privileges, which had been pushed through without the knowledge of the community…' ('…toutesvoies ilz ne joÿssent point ne ont joÿ d'iceulx previleges et franchises mais pour ceste cause meut une grande commocion entre le pueple des villes de ladite chastellenie qui riens n'en vouldrent paier ne avoir lesdiz previleges qui par certains particuliers furent impetréz senz le sceu du commun …').[39]

In other words, the officials of the Chambre des Comptes feared that the fulfilment of the payment requirements would be used as a pretext by a faction within the Furnes elite to reactivate the 1411 ordinances, which was certain to provoke considerable unrest in the castellany. They even went as far as to openly criticize John the Fearless' policy of fundraising through the selling of privileges, which had considerably undermined the authority of the prince over large parts of his realm.[40] Eventually, it seems that the ducal couple decided to let sleeping dogs lie.

The attempt of the Furnes aldermen of 1411 to turn the castellany administration into a private fiefdom and the fierce reactions that it provoked are important, because they show that research into rural political elites must not limit its focus to the bench of aldermen of the castellany. Such institutions functioned within a broader network of politically conscious actors, ranging from local noblemen and gentlemen farmers to the parish communities. The success or failure of castellany politics was directly tied to the balance of power between those various forces.

4. Social network formation and its consequences

An aspect of the crisis of 2 November 1436 that deserves special attention is the feud between Reinoud Knibbe and Pieter van der Burch that intersected with the revolt against the aldermen. This conflict makes clear that there were other dividing lines within the upper layers of the Furnes community than that between the network that tried to seize power and those who opposed them. The joint pursuit of revenues, power and honour often led to

---

39 ADN, inv.n° B 17657 (folder labeled 'Domaine – rentes viagières'); for an edition of this document, see M. Sommé, *La correspondance d'Isabelle de Portugal, duchesse de Bourgogne (1430-1471)*, Ostfildern, 2009, 80-85.

40 In the letter to duchess Isabelle, the administration explicitly stated that 'lors pour trouver argent ledit feu monseigneur [i.e. John the Fearless] ottroya pluseurs telz previleges senz la requeste des habitans, qui fut grant diminucion de ses droiz et demainne'. This was considered to be a suspension of the ongoing efforts of the ducal administration to curb the carrying of arms, large-scale wedding festivities and other displays of power by local elites through legislation, see also Cauchies, *Ordonnances*, 377-379.

clashes between powerful individuals and their kin. Indeed, both individuals involved in the 1436 feud had a very high social status. Pieter van der Burch belonged to one of the most prominent noble lineages of the castellany. Apart from the seigniorial estate of Burch (near Alveringem), the family owned many feudal and allodial estates in the region and members of this family also frequently occupied a seat within the bench of aldermen.[41] Reinoud Knibbe was a member of the most active political dynasty of the castellany of Furnes: the family was active in the bench of aldermen since 1361 and accumulated the largest number of political mandates in the fifteenth century. Reinoud himself was knighted in the early fifteenth century, which made him the first noble member of this lineage.[42] Despite their differences, both men sided with the aldermen in 1436, but their conflict is revealing for the social networks that underpinned factional conflicts within rural elites. When they intended to present their feud for arbitration to the bench of aldermen, both men appeared with an armed group of allies and retainers, thereby making use of a right obtained only with the 1411 privilege. Thanks to the princely inquest of 1438, the names of those followers have been preserved.[43] Some of them were clearly retainers, tenants or servants – one of the twelve followers of Pieter van der Burch was explicitly designated as his valet – but some of them were members of other families that often seated in the bench of aldermen. Of the twenty-two followers of Reinoud Knibbe, six of them belonged to the families Van Oeren, Willemszone and Herlebout, who were also politically active in the second quarter of the fifteenth century. None of the twelve followers of Pieter van der Burch belonged to families of aldermen, but this might be a consequence of the specific context: Pieter himself was an alderman at that moment, and to flaunt his relations with his colleagues was sure to cast doubt on the bench of aldermen as a neutral forum for dispute settlement. In short, aldermen were connected by the ties of kinship, marriage, friendship

41 For a critical genealogy of the Van der Burch lineage, see H. Douxchamps, 'Les quarante familles belges les plus anciennes subsistantes: Burch', *Le Parchemin*, 1998, 112-125. For the integration of this lineage in the castellany of Furnes, see F. Buylaert, J. Dumolyn, P. Donche, E. Balthau and H. Douxchamps (eds.), 'De adel ingelijst. "Adelslijsten" voor het graafschap Vlaanderen in de veertiende en de vijftiende eeuw', *Bulletin de la Commission Royale d'Histoire* 173 (2007), nrs. 941, 875, 1336 and P. Donche, 'Joos van der Burch († 1497) en de raadsels rond zijn diptiek,' *Vlaamse Stam* 44 (2008), 61-110.

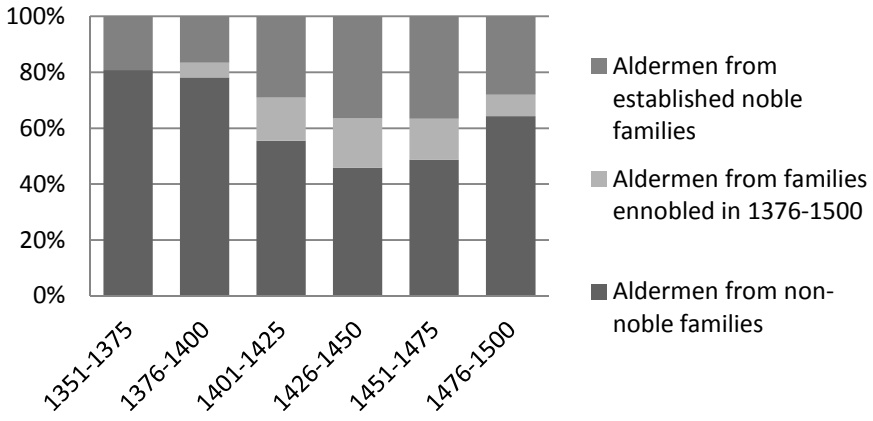
42 See P. Donche, 'De familie Knibbe in de kasselrij Veurne', *WH-info, Mededelingen van Westhoek-Jaarboek*, 1988, 5-10. For the ennoblement of Reinoud Knibbe, see BSA, Chambre des Comptes, inv.n° 13998-14015, 14282-14285 and 14540-14550 and ADN, inv.n° B 5701-5836.

43 BSA, Oorkonden van Vlaanderen, first series, inv.n° 918.

and collegiality, and the events of the early fifteenth century shows that tensions among such networks could run quite high.

Interestingly, the density of the social networks that constituted the top layers of Furnes society seems to have increased in the early fifteenth century, at least, that is suggested by an analysis of the social status of the aldermen of the castellany between 1351 and 1500.

Graph 2: the social status of the aldermen of the castellany of Furnes (1351-1500)



	1351-1375	1376-1400	1401-1425	1426-1450	1451-1475	1476-1500
Established noble families	49	34	79	143	118	98
Ennobled families	0	11	42	69	47	27
Non-noble families	207	161	151	180	157	225
Total	256	206	272	392	322	350

This analysis reveals a marked gentrification of the bench of aldermen in the fifteenth century. In the second half of the fourteenth century, about twenty percent of the aldermen belonged to established noble families. That is not to

say that all those aldermen were strictly noble themselves, but they were certainly related to noble lords. After 1400, however, the participation of the established nobility increased considerably to nearly forty percent of all known mandates. This was not an isolated event, but rather part of a broader process. Nobles became more and more committed to participate in various political institutions, because this opened up opportunities to increase both their wealth and power. In the period under discussion, the participation of the nobility in the government of the Flemish towns rose from twelve to at least 44 percent of all noble lineages.[44] Similarly, nobles were increasingly bent on reinforcing their power as the rulers of seigniorial villages with a seat in the castellany government.

The traditional aldermanic families were quite happy to welcome those nobles in their midst, because it provided them with an opportunity to improve their social standing. The social proximity between the nobles and the no less wealthy families of gentlemen-farmers increased, and gradually, a number of those political dynasties became noble themselves. By the second quarter of the fifteenth century, about half of all known mandates were claimed by members of noble or recently ennobled families. In itself, the change in social status of those political dynasties is irrelevant to the political context, but it deserves our full attention because it hints at a growing concentration of power within the castellany of Furnes. Ennoblement required that one cultivated marital ties with established noble families: apart from endowing a commoner with a claim to noble bloodlines via the maternal side, it often enabled such a commoner to acquire - either by inheritance or by marriage exchange – a seigniory, this being the source of noble lordship.[45] Therefore, this analysis of the social profile of aldermen indicates that there was a growing overlap between the hitherto more separate spheres of the seigniorial elite and that of the wealthy large-scale landowners with a tradition of participating in castellany politics. The network that repeatedly tried to dominate the bench of aldermen between 1411 and 1436 at the expense of the rest of the Furnes elite seems to have originated from those growing intersections between local noblemen and socially ambitious large-scale landowners. Unfortunately, little is known about the men that purchased the 1411 ordinance, but the bench of aldermen that was openly contested in November 1436 included eight members of established noble lineages (Van der Burch, De Crane, Van Pollinchove, Van

---

44 The urbanization of the nobility is discussed in Buylaert, *De adel in laatmiddeleeuws Vlaanderen*, 249-294.

45 For a more extensive discussion of the transfer of seigniories as the cornerstone for processes of ennoblement, see Buylaert, De Clercq and Dumolyn, 'The semiotics of "vivre noblement"', passim.

Haveskerke, De Visch and Veyse), as well as three aldermen of recently ennobled political families (Knibbe, Van den Torre and Van Wulfsberghe).

It is certainly not our contention that a 'noble faction' was born that excluded the lower-ranking families from power in 1411: that clique also included commoners, and there were undoubtedly nobles among those who were now barred from office until 1421. Political factionalism in fifteenth-century Furnes cannot be reduced to a side-effect of processes of social hierarchisation and the feud between Reinoud Knibbe and Pieter van der Burch shows that the aggregate of noble individuals was certainly not a coherent network. Yet, we do suggest that the gentrification of the political elite was very much a factor that contributed to the considerable political tensions in this castellany. It is likely that the widespread concern about the composition of the bench of aldermen was increasingly fuelled by conflicts that flowed from local property relations. Individuals who had to deal with the seigniorial aspirations of noble lords may have realised that finding recourse with the bench of aldermen of the castellany had become increasingly difficult, now that those local lords were increasingly likely to have relatives in the magistracy, if not being aldermen themselves. In the last quarter of the fifteenth century, the participation of noble lineages would again decrease to about 35 percent of all known mandates, but at this point, it is not possible to assess whether this was a structural trend that continued in the sixteenth century, or a temporary dip caused by the civil war between the Flemish towns and the Burgundian-Habsburg government in the 1480s.[46]

That the fifteenth century saw a growing concentration of power in the castellany of Furnes also becomes clear if we focus on the bailiff of the castellany, who was the representative of the prince in the region. He was not only charged with summoning the aldermen for the distribution of princely justice, but he was also involved with the annual renewal of the bench of aldermen and the checking of the castellany accounts by a princely committee. Because he was supposed to be a watchdog against abuse of power by the castellany magistracy, it was strictly prohibited for someone to become the bailiff of the town or castellany where he originated. Yet, this principle became under severe pressure under the reign of Duke Philip the Good (1419-1467). This Duke may have backed away from his father's policy to sell privileges to local communities, but he too developed ways of fundraising that seriously weakened the control of his administration over

---

[46] For the crisis of 1477-1492, see in particular J. Haemers, *For the Common Good. State power and urban revolts in the reign of Mary of Burgundy*, Turnhout, 2009 and W. Blockmans, 'Autocratie ou polyarchie? La lutte pour le pouvoir politique en Flandre de 1482 à 1492, d'après des documents inédits', *Bulletin de la Commission Royale d'Histoire*, 1974, 257-368.

the realm. From the early fifteenth century onwards, it became increasingly common to lease the office of bailiff to the highest bidder, who in turn would recuperate his 'investment' by pocketing the revenues that came from the exertion of princely justice.[47] Being a relatively important position, the function of bailiff of the castellany of Furnes, was certainly not exempted from this policy. A survey of the individuals that served as a bailiff in this castellany until the death of the last Burgundian Duke in 1477 shows the consequences of this policy.[48]

Name of the bailiff	Term of office	Member of a family with Furnes aldermen?	Member of a noble lineage?
Vaenkins, Jan	1349-1350		
Rijsele, Jan van	1351-1356		Yes
Wilde, Gossuin de	1357-1365		Yes
Scaec, Jan	1367-1368		Yes
Veste, Jan van der	1369-1372		Yes
Leken, Jan van der	1373-1376		
Brugghen, Jan van der	1376-1379		
Rike, Pieter de le	1380		
Jonghe, Philips de	1380-1382		Yes
Heilt, Godefroy le	1382-1390		
Capples, Robert de	1390-1395		Yes (ennobled)
Utenhove, Clais	1395-1397		Yes
Belle, Jacob	1397-1404		Yes
Latre-Kerchove, Jan de	1404-1407		
Berghe, Jan van den	1407-1411		Yes (ennobled)
Tannerie, Gerard de la	1411-1414		
Teldre, Mathieu le	1414-1417		
Teldre, Clays de	1417-1419		
Boudins, Pieter	1419-1421		Yes (ennobled)
Rabeke, Victor van	1421-1422		Yes
Utenhove, Clais	1422		Yes
Knibbe, Reinoud	1422-1423	Yes	Yes
Hole, Lodewijk van den	1423-1424		Yes

47 See Van Rompaey, *Het grafelijk baljuwsambt*, 144-147, 373-374 and 386-387.

48 For this survey of the bailiffs, see Donche, *Schepenen-keurheren*, 231-239.

Grijspere, Jan van	1424-1427		Yes
Knibbe, Reinoud	1427-1431	Yes	Yes (ennobled)
Baenst, Antoine de	1431-1433		Yes
Baenst, Jan de	1433-1437		Yes
Vlamync, Antoine	1437-1444		
Varsenare, Joos van	1444-1445		Yes
Scaec, Jacob	1445-1449		Yes
Veyse, Jan	1449-1453	Yes	Yes
Drincham, Jan van	1453-1459	Yes	Yes
Rabodenghes, Jean de	1459-1474	Yes	Yes
Winnezele, Frans van	1474-1477	Yes	Yes
Drincham, Simon van	1477-1485	Yes	Yes
Halewin, Joos de	1485	Yes	Yes
Drincham, Simon van	1485-1486	Yes	Yes
Gistel, Jacob van	1486-1488		Yes
Tepelle, Jacques van	1488		Yes
Gistel, Joost van	1488-1489		Yes
Morbecque, Denis de	1489-1491		Yes
Morbecque, Philippe de	1491-1493		Yes
Morbecque, Denis de	1493-1500		Yes
Burch, Pieter van der	1500-1503	Yes	Yes

First, it should be noted that after 1420, it had become extremely exceptional that the bailiff was not from noble stock. This was not specific to this castellany: all the important positions in Flanders were increasingly leased by members of the Flemish nobility because they both had the wealth and the influence to outbid or to intimidate other candidates.[49] Next to this, it is clear that from the 1420s onwards, the princely administration gradually succumbed to the temptation to lease this office to members of the local elite.[50] Of course, they would be most willing to pay the very large lease sums, because the position of bailiff of Furnes was the perfect complement to their power base as members of the local political elite. Some nuance is in order, because sir Jean de Rabodenghes, who was in office from 1459 until 1474, did not originate from Furnes, but from Artesia (he was lord of Boncourt). In 1457, however, he himself seated as an alderman, and he had married Margaretha van Pollinchove, a daughter from one of the most

49 For a more extensive discussion, see Buylaert, *De adel in laatmiddeleeuws Vlaanderen*, 106-107 and 189-205.

50 This confirms the hypothesis formulated in Van Rompaey, *Het grafelijk baljuwsambt*, 111-115 and 130.

prominent political families of the region (this family claimed twelve mandates in 1451-1475).[51] Similarly, it is striking that when the brothers Jan and Antoine de Baenst served as bailiffs in the 1430s, many members of this noble lineage started to invest aggressively in landed property in this particular region.[52] The integration of those bailiffs with foreign roots within the leading circles of the castellany of Furnes makes clear that the legal impediments against the fraternization between local elites and the bailiff were also failing the other way around.

We can only guess at the exact consequences of this development, but it is clear that in the course of the fifteenth century, the Furnes political elite had managed to liberate itself from any control of the comital bailiff as an independent princely agent. Inversely, it seems likely that the local population was increasingly left defenceless against rapacious bailiffs who tried to recuperate the lease sum paid for his office through corruption and extortion.[53] In the second half of the fifteenth century, it was more than likely that the bailiff could count on the support of his friends and relatives in the bench of aldermen to protect his interests. In the cities, the widespread corruption of the bailiffs was one of the main causes for the fierce reaction against Burgundian-Habsburg government in 1477 and the civil war that ensued in the 1480s between the Flemish cities and Maximilian of Habsburg. In that respect, it is quite striking that the legal boundaries between the political elite and the comital bailiff were again respected from 1486 until 1500 and that the participation of certain noble lineages and ennobled political dynasties in the bench of aldermen dropped suddenly in 1476-1500 (see graph 2). This suggests that a similar revolt took place in this castellany or that the Furnes community succeeded for a couple of years in enforcing the so-called Great Privilege of Flanders, that is, a privilege wrested from

---

51 He was convoked as a member of the nobility of Artesia for a meeting of the Estates General of the Burgundian Low Countries in 1464, see W. Blockmans (ed.), 'De samenstelling van de staten van de Bourgondische landsheerlijkheden omstreeks 1464', *Standen en Landen*, vol. 47, Heule, 1968, 83. Jean de Boncourt had also served as the ducal baillif of Saint-Omer, which city had close economic and social ties with the so-called Flemish 'Westland', i.e. the region constituted by the castellanies of Furnes, Bergues and Bourbourg. For his marriage to Margaretha van Pollinchove, see BSA, Chambre des Comptes, inv.n° 1086, f° 64 v°.

52 This is discussed in F. Buylaert, 'Sociale mobiliteit bij stedelijke elites in laatmiddeleeuws Vlaanderen. Een gevalstudie over de Vlaamse familie De Baenst', *Jaarboek voor Middeleeuwse Geschiedenis*, 2005, 209-211 and 216.

53 See the detailed analysis provided in J. Van Rompaey, 'Het compositierecht in Vlaanderen van de veertiende tot de achttiende eeuw', *The Legal History Review*, 1961, 43-79.

Duchess Mary of Burgundy in 1477 that expressly abolished the leasing of princely offices in the county.[54]

5. Conclusions

Our exploratory study of the government of the castellany of Furnes suggests a situation that corresponds well to the available information on the economic and social organization of this region. There was a relatively broad group of wealthy landowners, who were clearly used to participate directly or indirectly in the government of the castellany. Yet, this sense of entitlement was severely challenged in the fifteenth century. That era saw a marked concentration of power on the level of castellany elites, because a segment of the elite exploited the preoccupation of the Burgundian Dukes with their costly international politics of expansion. The various sources of power, ranging from large-scale landownership and seigniorial lordship to the power invested in the bench of aldermen of the castellany and the office of comital bailiff, were increasingly accumulated by specific networks which clearly wanted to carve out a dominant position within the region. The feudal law courts too were encapsulated into this strategy of patrimonial power building.[55] Those networks were often torn asunder by internal conflicts between rivalling families, but the growing overlap between different sources of local authority must have had serious consequences for the lower segments of the Furnes community, since the protection of their financial interests and political rights was largely contingent on a balance of power between the dominant political actors. If this pattern was also present in the

---

54 For an edition, see W. Blockmans and E.I. Strubbe (eds.), 'Privilegie voor Vlaanderen, verleend door Maria, hertogin van Bourgondië, ter bekrachtiging van de klachten die de Staten haar hadden voorgelegd', in: W. Blockmans (ed.), *1477. Het algemene en de gewestelijke privilegiën van Maria van Bourgondië voor de Nederlanden*, Heule, 1985, 126-144.

55 Donche, *Schepenen-keurheren*, 10, claims that the members of the feudal law courts were usually the same individuals that served as aldermen. A telling example of the dominance of local elites over the feudal institutions is that in 1430, the seigniory of Crombeke, until then held in fief from the feudal court of Elverdinge, was now brought under the jurisdiction of the feudal court of Furnes. The heir to this seigniory was the underage Willem van Stavele, the hereditary viscount of the castellany of Furnes, and by changing the legal status of his seigniory, the social networks that both dominated the bench of aldermen and the feudal court could control and protect the interests of this extremely prominent member of their clique, see BSA, Oorkonden van Vlaanderen, first series, inv.n° 917. For this noble lineage and its position within the castellany, see J. Van Acker, 'De familie van Stavele (1298-1603) in de kasselrijen van Veurne en Kortrijk', *Handelingen van de Koninklijke Geschied- en Oudheidkundige Kring van Kortrijk*, 1988, 160-163.

other castellanies – and scattered evidence suggests that this was the case, fifteenth-century Flanders was not unilaterally shaped by 'centralizing states', but also by the birth of an increasingly coherent 'ruling class'.

This development was a mixed blessing for the Prince. On the one hand, the interlinking of princely officers, aldermanic families and local noblemen could be useful to central government, since the intermediary level between the Prince and the local population had become more effective in realizing its goals. Indeed, the creation of such an intermediary level had been deemed a prerequisite by the ducal administration in the 1430s for the successful leasing of princely offices in the Flemish cities and castellanies.[56] This observation closely matches with the earlier research of Jan Dumolyn, who noted that key members of the central administration were often very careful to cultivate extensive contacts with regional elites. Victor van Ysemberghe and Andrieu Colin, for example, both belonging to families who regularly had a representative in the Furnes bench of aldermen, respectively went on to have successful careers in the Chambre des Comptes and the Council of Flanders. Such men acted as mediators between the elite of their home region and princely government.[57]

On the other hand, it is also clear that those castellany elites first and foremost pursued their own agenda, and that those interests did not necessarily match those of the prince. The strength or weakness of a ruler and his administration was thus structurally tied with the precarious relations with local elites. The case of the Furnes region shows that the distribution of power on the level of castellanies was far from stable, and closely entwined with the pursuit of wealth, honour and influence by individuals, 'families' and factions. The growing scholarly interest in the rural elites of medieval

---

56 According to a 1434 memorandum addressed to the president of the ducal council, the leasing of the offices of comital bailiff as a source of revenues had been considered and debated as early as the accession of Philip the Bold as count of Flanders in 1384. Apparently fully recognising the detrimental side-effects ('the leaseholders who might hold them [the offices] may act too harsh to fulfil their leases': 'les fermiers qui les tenroient pouroient estre trop aigrez pour attaindre la somme de leurs fermes'), the policy had not been implemented, 'considering it [i.e. the county of Flanders] is not yet sufficiently pacified' ('consideré que encores il n'est point presentement bien apaisié'). For this report, see ADN, inv.n° B 17651. In that respect, it is striking that the ordinance of 5 July 1439, that organised the large-scale lease of the office of bailiff, was drawn up in the wake of the suppression of the Bruges revolt in 1438 and the subsequent establishment of pro-Burgundian factions throughout the county, see Van Rompaey, *Het grafelijk baljuwsambt*, 369.

57 See Dumolyn, *Staatsvorming en vorstelijke ambtenaren*, 156-157 and idem, 'Les réseaux politiques locaux en Flandre sous la domination bourguignonne: les exemples de Gand et de Lille', *Revue du Nord*, 2006, 309-329.

Flanders can therefore be expected to throw a new light on the history of pre-modern ‘state formation’.

Abstract

This paper contributes to the study of rural political elites in late medieval Flanders, with a case study of the political elite of the castellany of Furnes (a rural district in coastal Flanders). A quantitative analysis of the composition of the bench of aldermen between 1351 and 1500 and a study of narrative and administrative sources suggest that castellany politics were largely dominated by a relatively broad group of large-scale landowners and that the fifteenth century saw a growing overlap between various power elites in the region, that is, the families that seated in the bench of aldermen, noble lords and princely officers.

THE ESTATES OF FLANDERS MANNING THE BARRICADES FOR TERRITORIAL INTEGRITY: THE PROTEST AGAINST THE BARRIER TREATY OF 1715

Klaas VAN GELDER

1. Introduction and historical context

On November 15, 1715, delegates from Austria, the Republic of the United Provinces and the Kingdom of Great Britain signed the Barrier Treaty in Antwerp.[1] This treaty was a direct result of the War of Spanish Succession (1701/2-1713/14). The Treaty of Utrecht had assigned the Southern Netherlands to Emperor Charles VI in 1713, but with the caveat that he would only be allowed to take possession of these regions once a barrier was created. The Republic wanted the region to serve as a territorial and military buffer against any possible French expansion, and during the Succession War became increasingly determined to station a permanent body of troops in the Southern Netherlands. This led to the signing of three consecutive and contentious barrier accords in 1709, 1713 and 1715.[2]

Charles' partnership with the maritime powers in the Grand Alliance of 1701 obliged him to accept the barrier. He also needed to settle the issue and be free to concentrate his attention elsewhere because from 1714 onwards, a new war with the Ottoman Empire looked increasingly likely. This helps to explain why he raised no fundamental objections to the barrier, although the 1715 treaty represented a profound violation of his sovereignty

1 I would like to express my gratitude to Trisha-Rose Jacobs for translating this paper and for suggestions concerning content.

2 On the barrier: O. van Nimwegen, 'The Dutch Barrier. Its origins, creation and importance for the Dutch Republic as a great power, 1697-1718', in: J.A.F. de Jongste and A.J. Veenendaal (eds.), *Anthonie Heinsius and the Dutch Republic 1688-1720. Politics, war and finance*, The Hague, 2002, 147-174; Id., *De Republiek der Verenigde Nederlanden als grote mogendheid. Buitenlandse politiek en oorlogvoering in de eerste helft van de achttiende eeuw en in het bijzonder tijdens de Oostenrijkse Successieoorlog (1740-1748)*, Amsterdam, 2002, 11-35; W. Hahlweg, 'Barriere – Gleichgewicht – Sicherheit. Eine Studie über die Gleichgewichtspolitik und die Strukturwandlung des Staatensystems in Europa 1646-1715', *Historische Zeitschrift*, 1959, 54-89; R. Geikie and I.A. Montgomery, *The Dutch Barrier 1705-1719*, Cambridge, 1930; H. Ritter von Srbik, *Österreichische Staatsverträge. Niederlande. Erster Band: bis 1722*, Vienna, 1912, 430-470.

over his newly acquired Southern Netherlandish territories. Dutch soldiers were to be stationed in eight fortresses strung across the provinces. Furthermore, the Austrian Netherlands were to be responsible for the upkeep of these foreigners in the form of an annual payment of 1,250,000 Dutch florins, of which 640,000 was to be provided by Flanders and Brabant. If the money was not forthcoming, the Republic could demand it manu militari, in the so-called 'right of execution'. In addition, the Emperor had to pay off a series of Spanish debts to the Republic, dating from the 1690's as well as covering some of the expenses incurred by the Republic during the Anglo-Dutch Condominium.[3] He was also banned from changing the tariffs that Great Britain and the Republic benefited from. Finally, and this was the main stumbling block for the Estates of Flanders, the Emperor was required to cede certain regions to the Republic: a portion of Upper Guelders and the land along the northern border of the county of Flanders.[4]

Thus, the Austrian government of the Southern Netherlands was fettered from the very start. Both the barrier payments and the Dutch debts meant the imposition of heavy financial obligations on the country, which would last for decades.[5] This burden meant that the new sovereign would be more dependent upon the provincial Estates, as it was their privilege to review the sovereign's annual petitions for taxes, the so-called 'beden'. Not only that, but the treaty itself immediately alienated the Estates, which were indispensible partners in governing the region.

This article focuses on just one aspect of this episode: the county of Flanders' opposition to the land cession. This was by no means the most damaging provision of the treaty, but it took on an enormous symbolic value. Flanders was relentless in its efforts to prevent any alterations to its border. Close examination of the source material will reveal what means intermediary structures, such as the eighteenth century provincial Estates,

---

3 The Anglo-Dutch Condominium (1706-1716) was the period during which the Republic and England (Great Britain from 1707 on) provisionally governed the majority of the Southern Netherlands in the name of Archduke Charles (Emperor Charles VI in 1711), in the expectation that a peace treaty and a barrier agreement would eventually be reached: K. Van Gelder and R. Vermeir, 'De Habsburgse Nederlanden in de overgang van Spanje naar Oostenrijk (1692-1713)', in: P.-J. Lachaert (ed.), *Oudenaarde 1708. Een stad, een koning, een veldheer*, Louvain, 2008, 43-47.

4 The treaty also stipulated that apart from these two regions, Charles VI was forbidden to give up any other territory in the Southern Netherlands.

5 H. Coppens, *De financiën van de centrale regering van de Zuidelijke Nederlanden aan het einde van het Spaanse en onder Oostenrijks bewind (ca. 1680-1788)*, Brussels, 1992, 268-278 and 328-331; H. Hasquin, 'Les difficultés financières du gouvernement des Pays-Bas autrichiens au début du XVIIIe siècle (1717-1740)', *Revue Internationale d'Histoire de la Banque*, 1973, 110-114.

had at their disposal, when attempting to pursue their own interests. This analysis will also engage in the debate surrounding the actual authority of so-called absolute monarchs in Early Modern Europe. As the protest against the Barrier Treaty will clearly show, even in the early eighteenth century, the Estates remained a force to be reckoned with.

2. Flemish discontent with the cession

Despite the euphoria in some circles following the signing of the Barrier Treaty, most sources testify to widespread disgust with the agreement.[6] When the Republic's negotiators travelled from their accommodations to the Antwerp city hall, they were heckled and called 'cheese farmers' by onlookers. One of them, Van der Dussen, expected even greater animosity once the full terms of the treaty became public.[7] He was soon proven right. Following the publication of the main provisions by newspapers in Holland, the discontent in the Southern Netherlandish provinces increased noticeably. On November 24, some Republican troops present in Antwerp were even harassed because of it.[8] In the neighbouring province of Flanders, the ire was directed at the Crown, mainly as the result of the significant territorial loss the county would suffer. Ortiz de la Carrera, supporter of archduke Charles during the War of the Spanish Succession and one of the main informers of Vienna, believed that some dissidents were even considering enlisting the French in fighting the implementation of the accords, if the Emperor refused to intervene. Flanders would then be in a position to pick its own sovereign, provided that Charles VI was yet not formally sworn in as the new Count. He thought it unlikely that things would get that far, but believed that the Flemish needed to be brought under control, lest their example encourage other provinces to rebel.[9]

In fact, Flemish hostility towards the deal predated the actual treaty, the issue appeared on the agenda of the Estates of Flanders in September of

---

6 Navarro and Ortiz de la Carrera to Rialp, Brussels, State Archives (SA), Department of the Netherlands of the Court and State Chancery in Vienna (DN), inv.n° 52 and 56 (18 and 29/11/1715).

7 Van der Dussen to Heinsius, in: A.J. Veenendaal and M.T.A. Schouten (eds.), *De briefwisseling van Anthonie Heinsius 1702-1720*, The Hague, 1998, vol. 17, 462 (16/11/1715).

8 Van der Dussen to Heinsius, *ibidem*, 487-489 (25/11/1715).

9 Ortiz de la Carrera to Rialp, Brussels, SA, DN, inv.n° 56 and 57 (9, 26 and 30/12/1715 and 30/01/1716).

1715.[10] Some aldermen from the Waasland castellany had gotten word that the provisions included a loss of territory for the county. The Estates decided to do everything in their power to prevent this.[11] Twenty-eight deputies were dispatched to the minister plenipotentiary, Count von Königsegg,[12] to request that their province not be subject to dismantling or, failing that, to delay signing the treaty until the county had a chance to send a deputy to the Emperor in order to make known their grievances. The Count showed little enthusiasm for such a demarche, at which point the Estates decided to send an address to the Emperor. On September 21, they had already completed their petition and von Königsegg duly forwarded it to Vienna. In the meantime, he tried to calm the delegates by pointing out that while the Republic's ambassadors were making large demands at the moment, they would eventually settle for less. He tried to advise them against sending a delegation to Vienna. The deputies would almost certainly return empty-handed. Nevertheless, he did promise to inform Vienna of their concerns.[13]

The Barrier Treaty was concluded on November 15, dashing Flemish hopes of keeping their territory intact.[14] Von Königsegg sent a letter to the Estates, informing them of the content of article 17 regarding the cession, and consoled them by pointing out that this was a much smaller amount of land than the Republic had originally demanded. This section of the treaty described the new border between Heist, on the coast, and Doel, near the Scheldt, down to the smallest detail. Everything north of this line

---

10 In February of 1713, Brabant and Flemish deputies travelled to Utrecht in order to join the Austrian envoy at the peace negotiations. Their purpose in doing so was to defend the commercial interests of the Southern Netherlands. While there, they became aware of Dutch desires to annex some of the land along the Flemish border. The Estates of Flanders predicted dire consequences should this come to pass, and these arguments were recycled for use in 1715, Ghent, SA, Estates of Flanders (EF), inv.n° 242, f° 147-161.

11 Resolution of the Estates of Flanders, Ghent, SA, EF, inv.n° 246, f° 182 v°-183 v° (15/09/1715).

12 Von Königsegg was minister plenipotentiary during the barrier negotiations in Antwerp. After an agreement was reached, he was to take possession of the Southern Netherlands in the name of the Emperor, see his instructions and patent from August 4 and November 2, 1714 in E. Kovács, *Instruktionen und Patente Karls (III.) VI. und Maria Theresias für die Statthalter, Interimsstatthalter, bevollmächtigten Minister und Obersthofmeister der Österreichischen Niederlanden (1703-1744)*, Vienna, 1993, 52-73.

13 Resolutions of the Estates of Flanders, Ghent, SA, EF, inv.n° 246, f° 183 v°-185 v°, f° 186-187 and f° 190-192 v° (20, 21 and 25/09/1715).

14 Von Königsegg to the Estates of Flanders, Brussels, SA, Secretary of State and War (SSW), inv.n° 1420, f° 29-29 v° (27/11/1715). Shortly thereafter, von Königsegg sent an order to the Council of Flanders to halt all court proceedings in this region, Brussels, SA, SSW, inv.n° 1420, f° 32-32 v° (exact date unknown, 1715).

would go to the Republic. In response, the Estates requested opinions on the matter from dozens of subaltern towns and rural districts.[15]

The negative reactions of the subordinate administrations streamed in at the end of December. By and large, their arguments against the so-called 'boundary extension' (l'extension des limites) were quite similar.[16] The reason cited in article 17 for this land grab – securing a defensible perimeter along the difficult to defend Dutch-Flemish border – was dismissed as nonsense. The Republic claimed it was just trying to gain control of a number of crucial waterways and locks that it could use to flood the area in case of emergency. However, as a few of the subordinate institutions argued, this could be done without territorial expansion. This, plus the presence of Republican troops, indicated an offensive, not a defensive, strategy. But above all, it was argued that article 17 was in violation of the 1664 border agreement, which was a consequence of the 1648 Peace of Munster.[17] According to the 'Old Borough' (Oudburg) of Ghent castellany, article 17 implied that the Estates-General did not consider Charles VI capable of securing his own territory. The Courtrai castellany noted that the payments to support this barrier could just as easily be used to fund local troops, rather than Dutch regiments. The Oudenaarde castellany feared that the barrier would turn the Southern Netherlands into a new battleground in any war between France and the Republic. The inundations would prevent a French army from moving north, and force them to confront the Republic's forces in the Flemish heartland.

---

15 Resolutions of the Estates of Flanders, November 28, December 16 and 24, 1715 and January 2, 1716, Ghent, SA, EF, inv.n° 246, f° 193, 201-201 v°, 209 v° and 246 v°, each with appendices on the following folios; Estates of Flanders to von Königsegg, Brussels, SA, SSW, inv.n° 1420, f° 25 (29/11/1715). For the complete text of the treaty: von Srbik, *Österreichische Staatsverträge*, 476-502.

16 Both this and the following paragraphs are based on copies of the letters received from the subaltern institutions, Ghent, SA, EF, inv.n° 246, f° 209 v°-251 v°. These are the Land of Aalst, the Courtrai castellany, the town of Dendermonde, the town and castellany of Oudenaarde, the town and county of Gistel (each dated December 18), Damme-Hoeke-Monnikerede (December 19), the *Oudburg* of Ghent, the town and *ambacht* of Boekhoute, the town and *ambacht* of Assenede, Ostend (December 20), the Waasland castellany (December 28) and Blankenberge (exact date unknown, 1715).

17 In order to settle the remaining controversies concerning the Flemish-Dutch border, which had not been clearly solved by the Peace of Munster, a new border agreement was signed by deputies of Spain and the Dutch Republic on September 20, 1664. For the text of this agreement, see: *Tweede deel vanden derden Placcaet-Boeck, ghecompileert en uytghegheven by Ordonnancie van Hooghe ende Moghende Heeren den President ende Raedtslieden van Syne Majesteyts provincialen Raede van Vlaenderen*, Ghent, 1685, 1322-1327.

Military matters were not their only concern. The agreement could have an impact on the food supply. Virtually all of the governments that wrote in to complain also claimed that most fertile polder lands were being ceded. These were vital to keeping cities like Ghent and Bruges supplied with enough grain. With a new border, the grain would suddenly be subject to import duties – provided that the Republic would even agree to export it, which was doubtful. Grain shortages and increased prices were a distinct possibility. Moreover, a large part of the fertile fields and pastures would be rendered unusable if subjected to flooding because of the deleterious long-term effects of seawater.

Ostend and Blankenberge warned of the potential adverse consequences for fishing and trade. They feared that Southern Netherlandish fishermen would lose access to the best fishing grounds should the Dutch border move southwards. It would be in their northern neighbours' own interest to cut them off from these areas. Fish from abroad would be the only option open to the south, increasing costs and destroying the home industry.

There was also great concern for the preservation of Catholicism in the ceded territories. Article 17 guaranteed free exercise of Catholicism, but this was considered suspect. It was feared that the magistrates and teachers for the region would be recruited from Reformed circles. If that happened, it was not unthinkable that a wave of conversions would result as Catholics found their situation increasingly untenable.

Parts of the sovereign's domain would be lost, the revenues from customs offices would diminish, the food supply would become less secure and more castellanies would have difficulty in paying their share of the annual *beden*. Since the complete terms had not yet been published, article 17 drew most of the fire, but the Oudburg of Ghent had also heard that a large barrier payment was hanging over their heads. In their view, any such promise or plan made on their behalf was a direct attack on their privileges, specifically, the right not to be taxed without the prior consent of the Estates.

This last observation was quite prominent in the Estates' final report to von Königsegg, in which they informed him of their decision to send a deputation to Vienna, despite his arguments against this move. Among other things, they argued that the ceding of territory was contrary to their privileges, as such a decision required the consent of the Estates. Privileges that the new monarch, like all of his predecessors, must swear to defend and uphold as part of his inauguration ceremony.[18]

---

[18] Address of the Estates of Flanders, January 3, 1716, Brussels, SA, SSW, inv.n° 1420, f° 34-39 v° (03/01/1716); see also the undated and quite extensive memorandum in the same series, f° 101-117. For the Flemish Estates, it was rather problematic that,

Brabant was also growing increasingly concerned about the provisions of the Barrier Treaty. In this province, the breaking point came with word of a reduction of import duties on English cloth and Dutch brandy. It was decided to inform the Emperor of Brabant's concerns in writing and potentially following this up by sending a deputation to Vienna.[19] Just as he did with the Flemish representatives, von Königsegg responded to Brabant's anxieties with soothing language. He stressed that new duty rates were a temporary measure pending the conclusion of a trade treaty between the Emperor and the maritime powers, and he again stated that sending a delegation to the court was unnecessary.[20] In December, Brabant's dissatisfaction was increased by concerns over the barrier payments, the so-called 'barrier subsidy'. In many respects, this was a direct violation of the duchy's rights as they were listed in the Joyous Entry. This provision of the treaty deprived the Brabant Estates of their right to approve taxes and set conditions with regard to how the money raised was to be used. Allowing the Estates-General the possibility to collect the payment by force was also in direct conflict with their privileges.[21]

Emboldened by the level of general discontent, the Estates of Flanders decided to get in touch with their counterparts in Brabant.[22] Convinced more than ever that a union of the provinces was necessary, they called for their Brabant colleagues to join their delegation to Vienna 'to prevent this fatal treaty and preserve us from the ruin and slavery it would lead to'. The Brabant Estates responded positively. It was thought that such a joint deputation would carry more weight.[23]

---

unlike Brabant, they did not possess a written document in which all of their privileges were outlined, which meant that they could easily come into question.

19 Resolution of the Estates of Brabant, Anderlecht, SA, Estates of Brabant (EB), Registers, inv.n° 35 (21/11/1715).

20 Resolution of the Estates of Brabant, Anderlecht, SA, EB, Registers, inv.n° (22/11//1715).

21 Estates of Brabant to Eugene of Savoy, Anderlecht, SA, EB, Registers, inv.n° 35 (undated, but added to the resolution of 16/12/1715).

22 Estates of Flanders to the Estates of Brabant, Anderlecht, SA, EB, Cartons, inv.n° 150/4 (29/12/1715). This letter reveals that Namur and Hainaut had also been contacted.

23 Resolution of the Estates of Brabant, with appended letters, Anderlecht, SA, EB, Registers, inv.n° 35 (30/12/1715); citation from Peelaert to d'Ursel, Brussels, SA, Family archives d'Ursel, inv.n° 329 (05/01/1716). From the December 31 resolution, it appears that the Brabant delegation was intended to present more than their concerns regarding the barrier (Anderlecht, SA, EB, Registers, inv.n° 35). The Estates of Namur also wrote their colleagues in Brabant, but more research is needed to explain why Namur and Hainaut did not, in the end, participate in the delegation: Estates of Namur to the Estates of Brabant, Anderlecht, SA, EB, Registers, inv.n° 35 (07/01/1716), and reply, Anderlecht, SA, EB, Cartons, inv.n° 150/4 (09/01/1716).

While the delegates' preparations proceeded apace,[24] the imperial court came to the realization that the opposition of the Southern Netherlands, if carefully handled, could be turned to the advantage of the Austrian government. Ortiz de la Carrera expected that the delegates would arrive with full authority to negotiate and that some of their proposals could prove favourable to the future Brussels government.[25] The Spanish Secretary of State in Vienna, the Marquis of Rialp, considered the Treaty a slap in the face – but the only way to gain possession of the Southern Netherlands. He thought that Charles VI, although not in a position to remedy the situation at the moment, might be able to do something about it in the future, if only patience could prevail for the time being.[26] The Southern Netherlanders were not entirely unaware of these developments. Count d'Ursel, a Brabant deputy, reported that several people in Vienna considered the treaty extremely damaging to the crown.[27]

As the resistance to the Barrier Treaty grew, the southern provinces increasingly maligned their northern neighbours. The Dutch authorities had grave concerns over the plans of Flanders and Brabant,[28] but Johan van den Bergh, *de facto* head of the Anglo-Dutch authorities, tried to pour oil on troubled water. He thought it advisable to let the deputies go to Vienna unhindered because 'the more one wants to stifle such passions, the harder this evil sort of people will work against it and often take this as a pretext to justify public disorder'.[29]

3. The delegation to Vienna

In mid-January of 1716, two delegations were on their way to Vienna.[30] According to a copy of the Flemish deputies' commission, it appears that

---

24 Estates of Flanders to the Estates of Brabant and reply, Anderlecht, SA, EB, Cartons, inv.n° 150/4 (05 and 07/01/1716).

25 Ortiz de la Carrera to Rialp, Brussels, SA, DN, inv.n° 57 (20/01/1716).

26 Rialp to Ortiz de la Carrera, Brussels, SA, DN, inv.n° 55, f° 194 and 214 (27/11/1715 and 04/01/1716).

27 D'Ursel to Vandenbroeck, Brussels, SA, Manuscripts, inv.n° 1525, f° 30-32 v° (12/02/1716).

28 Heinsius to van Wassenaer-Duivenvoorde, in: Veenendaal and Schouten, *Briefwisseling Heinsius*, vol. 17, 552-553 (31/12/1715).

29 Van den Bergh to Heinsius, *ibidem*, 560-561 (02/01/1716).

30 A travel journal with an account of the trip was written by van Johannes Vander Slype (Verslype) and later published: *Journal ofte dagregister van onze reyze naer de keyzerlyke stadt van Weenen ten jare 1716*, Maetschappy der Vlaemsche Bibliophilen, series II, vol. 10, Ghent, s.d. According to the introduction, the Flemish delegation consisted of Philippus-Erard van der Noot, bishop of Ghent, Johannes Vander Slype,

their plan was to emphasize the disadvantages of the treaty to the Church, the monarch and his subjects. They were under orders to stop its ratification, or, failing that, its implementation.[31] The various delegates reached Vienna in the middle of February. The bishop of Ghent soon asked the Brabant deputies to work closely with them, in order to further their goals, but his Antwerp counterpart did not think that this was practical. Although they could meet together to discuss certain issues; the large number of Flemish deputies was an obstacle for joint audiences.[32] In the weeks that followed, the representatives had long series of meetings with various dignitaries and high-placed functionaries, including Count von Stahremberg, who was acting as the Emperor's intermediary. On March 5, the long awaited first audience with the Emperor took place.

In the meantime, the delegates were informed, during an interview with the papal nuncio, that the Republic's diplomats were moving heaven and earth to prevent them from succeeding in their mission. Their envoy had sought an order commanding the delegations to return *stante pede*, but the imperial entourage had refused to grant it. Furthermore, the deputies gained the impression through these meetings that various personages at the court saw the merit of their grievances.[33] Naturally, this alarmed the Republic's Estates-General. They stressed that the opposition to the treaty was greatly exaggerated. First, the area to be ceded was quite small, and above all it was to be offset by the return of the *Pays rétrocédé*.[34] Besides this, the loss of the area's locks and waterways was moot, because the Republic already controlled all of the important points in the network. As to the barrier subsidies, they were tiny in comparison to the huge sums of money the Republic had pumped into the effort to recapture the Southern Netherlands

---

vicar and canon in the cathedral of St. Donatian in Bruges, Alexander Vander Meersch, alderman of the *Keure* in Ghent, Albert Triest, head secretary of the *Keure* in Ghent, Roeland de Grass, mayor of Bruges, Felix Baron de Camargo, alderman of Bruges, Johannes Peelaert, former mayor of Bruges, and Johannes Cordonnier, the *pensionaris* of the Liberty of Bruges. The Brabant Estates sent the bishop of Antwerp, the count d'Ursel and the mayor of Antwerp, del Campo. Regarding the actual negotiations, the journal unfortunately relates very little.

31 Letter of commission, *ibidem*, p. iv-vi (14/01/1716).

32 D'Ursel and the bishop of Antwerp to Vandenbroeck, Brussels, SA, Manuscripts, inv.n° 1524, f° 93-94 v°, f° 97-99 and f° 100-102 (15, 22 and 26/02/1716); D'Ursel to Vandenbroeck, Brussels, SA, Manuscripts, inv.n° 1525, f° 41-42 v° (18/03/1716).

33 *Journal ofte dagregister*, 31-50.

34 The *Pays rétrocédé* was an area in southern Flanders, including Ypres, that had been under French governance since the second half of the 17th century, but which was apportioned to Charles VI after the Peace of Utrecht, together with Tournai and Tournaisis.

for the Habsburgs. Hamel Bruyninckx, the Republic's ambassador to Vienna, was charged with convincing the Emperor of all this.[35]

Vander Slype states that the Estates of Holland had requested in March to present their own counter-grievances; according to him, this gave rise to the hope that they were prepared to negotiate on some of the barrier provisions.[36] A few weeks later, the Estates-General provided them with an opening. They wouldn't give up the Barrier Treaty – it had taken too much trouble to close the deal, they reasoned – but they were willing to discuss the terms of the barrier payments.[37]

Despite the Republic's concerns, from the start, the arrival of the delegates in Vienna seemed to have little impact. Some officials may have been sympathetic to their cause, but their chances of changing the terms of the Barrier Treaty were considered low. Even some of the deputies thought it unlikely they would succeed.[38] However, people in Vienna had taken note of the inconsistencies between what von Königsegg reported regarding the land cession and what the Estates of Flanders' representatives said. The minister plenipotentiary had spoken of an almost uninhabited area with no more than two villages, while the Flemish envoys claimed it covered one hundred and eighty hamlets. The truth probably lay somewhere in the middle, and the *Geheime Konferenz*, the sovereign's highest advisory organ, counselled the Emperor to demand precise information on the subject.[39]

On March 13, the *Geheime Konferenz* debated the matter for a second time. After reading the petitions from Flanders and Brabant, those present reduced their objections to four main issues: the religion of the area allotted to the Republic, the land loss in Flanders, the excessive barrier payments with the 'right of execution', and the damage to trade. The *Geheime Konferenz* decided that on the subject of faith, the Emperor had to make it completely clear to his ally that he would tolerate no violations against articles 17 and 18 respecting religion. As to the cession, the imperial advisers decided that this was not against Flanders' privileges. After all, they had not opposed the adjustment to their border made in 1664. Furthermore, they emphasized that although the province was losing a small strip of

---

35 Resolution of the Estates-General, March 13, 1716, The Hague, National Archives (NA), Estates-General (EG), inv.n° 4640, f° 59-60 v° (13/03/1716); Hamel Bruyninckx to an unidentified recipient, Anderlecht, SA, EB, Cartons, inv.n° 150/4 (30/03/1716).

36 *Journal ofte dagregister*, 50-54.

37 Resolution of the Estates-General, The Hague, NA, EG, inv.n° 4640, f° 67-70 (14/04/1716).

38 Bishop of Antwerp and d'Ursel to Vandenbroeck, Brussels, SA, Manuscripts, inv.n° 1524, f° 95-96 and inv.n° 1525, f° 39-40 v° (19/02 and 11/03/1716).

39 Consult of the *Geheime Konferenz*, Brussels, SA, DN, inv.n° 584 (17/02/1716).

territory, it was going to increase considerably in size after the *Pays rétrocédé* was returned. However, if the ceded area turned out to be more important than von Königsegg's reports had indicated, then the count was to postpone the implementation of the treaty until the matter had been clarified.[40] The *Konferenz* considered renegotiating the amount of the payments impossible, but it did advise the Emperor to indicate to the Estates-General that military intervention would be considered an attack on the fundamental rights of the southern provinces.[41] Lastly, the conference members addressed the fourth point with reassuring language; they estimated it would take six months to a year to reach a trade agreement. It was also during this gathering that the Marquis de Prié was put forward as an envoy to The Hague, in order to find accommodation on these four points. Charles VI agreed with all of the proposals.[42]

A long memorandum, most likely from the hand of von Stahremberg, shows that the deputies stressed that the harmful treaty was the result of not consulting with the Estates. As far as they were concerned, their privileges had been entirely ignored. The author tried to contextualize the Emperor's decisions, and emphasized that Charles' hands had been tied. Moreover, his Spanish predecessors had, at times, ceded territory without consulting their subjects. Plus, there were guarantees of protection for the Catholics in the area to be ceded, which was much smaller than first envisaged. He frankly admitted that there were drawbacks to the treaty as it stood, but he believed these would largely be remedied by the forthcoming trade agreement –, although later this would prove to have been wishful thinking on his part.

For their part, the Estates recognized that the international situation had played a part in influencing the terms of the treaty, but they continued to insist that their absence in the negotiations had been disastrous.[43] According

---

40 That the members of the *Geheime Konferenz* were basing their advice on von Königseggs' claims that the ceded territory contained only a few villages, if any, is clear from the report of February 19, 1715, Vienna, Haus-, Hof- und Staatsarchiv (HHStA), Staatskanzlei-Vorträge, inv.n° 20, folder I-V, f° 67-68 v°. Nevertheless, Gachard has suggested that von Königsegg estimated the population in the area at around fifty thousand souls: L.P. Gachard, *Recueil des ordonnances des Pays-Bas autrichiens* (*ROPB*), series III, vol. 2, Brussels, 1867, p. liii.

41 According to Gachard, von Königsegg had pointed out the trouble that the 'right of execution' would cause, considering that the Estates had the right to approve *beden*, but in the end it was decided to deal with the issue by hiding this provision in a separate, secret article, *ibidem*, p. lxi.

42 Consult of the *Geheime Konferenz*, Brussels, SA, DN, inv.n° 587 (13/03/1716).

43 This is in conflict with Gachard, who states that the Estates were present; he even provides a list of the representatives by region, *ROPB*, series III, vol. 2, p. l-li. I did not find evidence for this statement.

to them, von Königsegg had his own, rather inaccurate notions regarding the make-up and current state of affairs in the southern Netherlands, and was therefore not qualified to negotiate with the Republic's representatives, who had gained years of experience under the Anglo-Dutch condominium. Von Stahremberg, if he was indeed the author, admitted that the Flemish deputies were, in all likelihood, correct in their assessment that the guarantees provided to Catholics were worthless.

The author provides a quite detailed transcript of all of the Flemish arguments as discussed above and informed the Emperor that the delegates did not think that the long awaited inauguration could take place without changes to the treaty, preventing Charles from being recognized as the legitimate ruler of their principalities.[44] Finally, argued von Stahremberg, if the Emperor could resolve these issues, he would find himself in a stronger position with his new subjects. Certainly, it would improve his credibility with the Estates. At the same time, however, it all boiled down to maintaining the confidence of the maritime powers, the Emperor's ostensible allies. The author was pessimistic about the chances of successfully renegotiating a treaty that had already been signed and ratified, but hoped that by pointing out some of the Southern Netherlandish objections to the Republic, room to manoeuvre could be found. To that end, he also considered it prudent to allow Brabant and Flanders to appoint a few deputies to assist de Prié in his mission to The Hague. The count also suggested that a portion of the barrier subsidy could be delegated to the *Pays rétrocédé*, thus sparing Flanders and Brabant from shouldering so much of the burden.[45]

On April 17, the Geheime Konferenz discussed von Stahremberg's memorandum and, broadly speaking, followed his recommendations. They suggested dispatching de Prié to The Hague as soon as possible, and writing down his instructions immediately, so that the inaugurations in the Southern Netherlands would not be long delayed. They also demanded to be fully informed regarding the exact nature of the disputed territory in Flanders,

---

44 Navarro predicted that as long as there was no remedy provided for what they saw as an attack on their privileges, Brabant and Flanders would continue to resist Charles' inauguration: letter to Rialp, Brussels, SA, DN, inv.n° 53 (02/01/1716). For the strained negotiations with the Estates of Flanders and Brabant prior to the inauguration, see K. Van Gelder, 'The investiture of Emperor Charles VI in Brabant and Flanders: a test case for the authority of the new Austrian government', *European Review of History*, 2011, 443-463.

45 Memorandum to Charles VI and a consult of the *Geheime Konferenz*, Vienna, HHStA, Belgien DDA - Vorträge, inv.n° 1 (16/04/1716).

because further negotiations regarding the cession depended upon it.[46] Charles, for his part, agreed with the Geheime Konferenz's advice, as is apparent in his decision. On May 3, 1716 the Emperor admitted to the Flemish deputies that if he had realized the extent to which the 'border extension' was detrimental, especially to the Catholics in the area, he would not have approved of this measure. The Marquis de Prié was to travel to The Hague in order to renegotiate the implementation of the treaty. Furthermore, the Estates were to appoint one or two deputies to assist the marquis in this matter.[47]

Not everyone was convinced of the merits of this plan. One of the Brabant representatives, d'Ursel, was entirely dissatisfied with the decision. He believed that the marquis had little chance of succeeding. Above all, his concerns stemmed from having heard that de Prié was under orders to close a new alliance between the Emperor and the Republic. He feared that The Hague would use this to their advantage when it came time to renegotiate the Barrier Treaty.[48] The bishop of Antwerp remained cautious in his own assessment of the decision but refused to believe that Vienna was merely fobbing the delegates off in such an underhanded manner.[49] The envoys' suspicions notwithstanding, the people back in Flanders were elated by the news.[50]

The administrative documents cited here repeatedly draw attention to the delicate balancing act in which the Emperor was forced to engage, between his allies' own interests and those of his new subjects. He admitted that he had been forced to make concessions on the Barrier Treaty in order to achieve his primary objective: gaining sovereignty over the Southern Netherlands. The same pragmatism forced him to comply with at least some of the delegates' demands, because the provincial Estates held the purse

---

46 Consult of the *Geheime Konferenz*, Brussels, SA, DN, inv.n° 587 (17/04/1716). Eugene of Savoy later remarked that during the negotiations no one had had precise knowledge of the disputed territory: Eugène to de Prié, Vienna, HHStA, Belgien DDB – Indices, Protokolle, Verzeichnisse, Inventare (Indices), inv.n° 32, f° 35 v°-36 (25/11/1716).

47 *Journal ofte dagregister*, 77-80; Charles VI to the Estates of Flanders, Ghent, SA, EF, inv.n° 246, f° 277-278 (02/05/1716) and to the Estates of Brabant, Brussels, SA, DN, inv.n° 316, f° 185-185 v° (02/05/1716). The County of Namur also sent three deputies to The Hague: von Königsegg (probably) to de Prié, Brussels, SA, SSW, inv.n° 2568, f° 199-199 v° (October 1716).

48 D'Ursel to Vandenbroeck, Brussels, SA, Manuscripts, inv.n° 1525, f° 56-57 v°, f° 80-82 and 95-96 (02 and 30/05 and 27/06/1716).

49 The bishop of Antwerp to Vandenbroeck, Brussels, SA, Manuscripts, inv.n° 1524, f° 148 (06/05/1716).

50 Estates of Flanders to the Estates of Luxemburg/Chimay, Ghent, SA, EF, inv.n° 246, f° 275 v°-276 (19/07/1716).

strings of his new government, and they could open and close it by approving or rejecting the *beden*.[51] Furthermore, their cooperation was indispensable when it came to the inauguration ceremonies. The imperial entourage fully realized that renegotiating the Barrier Treaty could soften some of its apparent drawbacks, and the effort would gain the court credibility in the eyes of the Southern Netherlanders. Moreover, the Succession War had weakened the Republic's position, especially financially, while the prestige of the Austrian monarchy had grown internationally. All in all, it was worth taking the gamble.

4. The renegotiation of the Barrier Treaty

Even while the delegations were en route, the Republic was trying to implement the Barrier Treaty. After both parties ratified it on January 31, 1716, concrete plans were made to carry out its provisions. The Estates-General wanted surveyors from both sides to draw up the changes to the boundary as quickly as possible. The Dutch leaders suggested a deadline of two months for putting the new border into effect.[52] In early February, von Königsegg gave orders to the effect that the Republic was to take possession of the area.[53] The Estates of Flanders put their foot on the brake: at the very least, this had to await the outcome of the delegations to Vienna.[54]

Meanwhile, the Council of Flanders also came out against the Barrier Treaty and passively resisted it by not including the necessary clauses demanding obedience of the Emperor's subjects when it published article 17. Von Königsegg demanded a new and complete publication of the terms.[55] The subaltern administrations also kept up a steady stream of

---

51 Pesters implies as much, Pesters to Heinsius, in: Veenendaal and Schouten, *Briefwisseling Heinsius*, vol. 17, 753-754 (13/04/1716).

52 Resolutions of the Estates-General, The Hague, NA, EG, inv.n° 4640, f° 2-4 v° and 35-37 v° (04/01 en 12/02/1716).

53 Von Königsegg to Charles VI, Brussels, SA, DN, inv.n° 28, f° 157-160 v° (02/03/1716). The count thought this was the best way to nudge the Republic towards transfer of the *Pays rétrocédé*.

54 Resolution of the Estates of Flanders, Ghent, SA, EF, inv.n° 248, f° 9-10 (18/03/1716), with copies of the advisory notes received from the principals on f°11-17. Two weeks prior, the Flemish Estates had already been ordered not to carry out any more legal acts in this area: von Königsegg (probably) to the Estates of Flanders, Brussels, SA, SSW, inv.n° 2567, f° 43-44 (04/03/1716).

55 Von Königsegg to the Council of Flanders, Brussels, SA, DN, inv.n° 667; Brussels, SA, SSW, inv.n° 2567, f° 49 and f° 52-53 v° (21/02, 08/03 and 10/03//1716). The Council defended its actions in its reply but promised to publish the necessary orders to comply on March 13. Nevertheless, the president of the council pointed out that as

complaints about the implementation of the treaty. The *ambacht* of Boekhoute accused the Republic's surveyors of not strictly adhering to the lay of the new border as it was put forth in article 17. The bailiff of Blankenberge also criticized them, insinuating that fraud was being committed.[56]

When news of de Prié's mission reached Brussels, the Republic's representative in residence there, Pesters, urged even harder for a quick settlement of the issue. He also noticed that von Königsegg was becoming increasingly reluctant to push the Republic's agenda.[57] Still, they continued to work steadily on the layout of the new border. In May, Pesters and von Königsegg met several times to discuss the matter, assisted by the northern and southern surveyors. However, because their interpretations of article 17 were literally miles apart, they could not come to an agreement.[58]

For his part, the Marquis de Prié had to rely on the instructions of May 30, in which it was impressed upon him that he must tread as carefully as possible with the Estates-General. The alliance with the maritime powers could not be compromised. His orders highlighted the same four matters that the Geheime Konferenz had identified in March. This council ordered de Prié to use all of the persuasiveness at his disposal on the border matter, because the Emperor did not believe that he had any actual grounds to oppose article 17. The directives regarding the enforcement of the barrier subsidy and trade ordered him to be more resolute.[59]

However, additional instructions made it clear that Charles VI was concerned that the Estates' blustering would encourage the Republic to form an alliance with France. So he informed the marquis that the Estates' delegates, that were to join him in The Hague, were not to be admitted to the actual conferences, at most they were to be given an audience with the

---

long as the delegation was still trying for changes in Vienna, some, such as the Liberty of Bruges, would refuse to obey, Brussels, SA, SSW, inv.n° 2567, f° 56-59; cf. Liberty of Bruges to the Council of Flanders, Brussels, SA, DN, inv.n° 667 (18/03/1716). The 'Old Borough' (*Oudburg*) of Ghent had already refused to publish article 17 as they had not yet had a definitive answer from the emperor: Council of Flanders to (probably) von Königsegg, SA, SSW, inv.n° 2567, f° 62-62 v° (17/02/1716).

56 Sersanders de Luna to (probably) von Königsegg, SA, SSW, inv.n° 2567, f° 50-51 v° (08/03.1716); Nollet to von Königsegg, SA, SSW, inv.n° 2571, f° 332-333 (15/04/1716).

57 Pesters to Heinsius (11, 18 and 25/05/1716), in: Veenendaal and Schouten, *Briefwisseling Heinsius*, vol. 17, 789, 795 and 800-801.

58 Navarro to Rialp, Brussels, SA, DN, inv.n° 53 (11 and 18/05/1716).

59 Instructions for de Prié regarding the barrier issue, Brussels, SA, DN, inv.n° 29, f° 49 v°-72 (30/05/1716).

Grand Pensionary Heinsius. In this fashion, the Emperor tried with all his might to lessen any potential fallout from the diplomatic mission.[60]

In spite of the apparent urgency, it took several months after the deputies had returned to Flanders and Brabant in May before the marquis began his journey. He did not reach Brussels until September 16, but departed almost immediately for The Hague, in order to begin work alongside the imperial envoy extraordinaire, the Baron of Heems. [61] The Marquis opened the renegotiations with a *captatio benevolentiae*, in which he expressed his sovereign's great affection towards the Republic, as well as his intentions to comply with the treaty. At most he merely wished for a little more clarity regarding certain issues. Following this, he broached the four points of contention. The Estates-General declared that they were willing to negotiate on these matters.

Despite these pleasantries, in its first resolution of October 20, the Estates-General showed little appetite for discussion, and emphasized that the barrier negotiations had dragged on for long enough and that this should have provided ample time for the Emperor's diplomats to inform him regarding the make-up and disposition of the Southern Netherlands. It was insinuated to be unreasonable to claim that the supposed ignorance of the Viennese court had worked to Austria's disadvantage and led to the current rebellion among the Estates. The same body also disparaged the complaints regarding the barrier subsidy, convinced that the sum demanded did not outweigh the actual amount that the Republic would have to pay to support the forces. Gradually, however, leeway was found, particularly in the matter of the terms of payment. At the same time, however, the Republic had its own list of grievances to present regarding the implementation of the Barrier Treaty thus far.[62]

On October 28, despite their apparent reluctance, the Estates-General appointed Geldermalsen and Gockinga to negotiate with the marquis. In the subsequent discussions, it was suggested that some of the *desiderata* regarding religious matters could be dropped and a few concessions made on the Flemish border. However, de Prié's proposals for adjusting the subsidy, which involved instituting higher taxes on the *Pays*

---

60 Imperial dispatches, Brussels, SA, DN, inv.n° 29, f° 72 v°-84 (15/07 and 02/09/1716).

61 M. Braubach, *Prinz Eugen von Savoyen. Eine Biographie. Band IV: der Staatsmann*, Munich, 1965, 123-124. In June of 1716, de Prié was appointed minister plenipotentiary in order for him to take the place of the governor-general in Brussels, Eugene of Savoy, whose military duties prevented from travelling to the Netherlands: Kovács, *Instruktionen und Patente*, 76-79 and 111-114.

62 Resolutions of the Estates-General, The Hague, NA, EG, inv.n° 3771, 906-910 and inv.n° 4640, f° 213 v°-214 and 214 v°-218 (20, 28 and 29/10/1716).

rétrocédé and setting up certain customs, were considered entirely insufficient and rejected.[63]

In the end, de Prié and the Republic's negotiators reached an accommodation on the religious and border questions, which led to his triumphal reception in Brussels on November 16.[64] From a dispatch in which Charles VI expressed his satisfaction with de Prié's achievements, it appears that the envoy had gained back four fifths of the contended area. This amounted to 25 out of 34 polders, 1127 out of 1276 houses, one out of the 13 mills, four out of the seven locks, and all seven of the churches. The Emperor ordered de Prié to continue to press for a reduction in the subsidy, and in case this proved impossible, to try and have Flanders and Brabant relieved of the payments. He also gave his blessing for the closure of a new Barrier Treaty conforming to the changes de Prié had foreseen..., the sooner the better, so that he could take possession of the *Pays rétrocédé*, Tournai and Tournaisis, and so that Flanders and Brabant would agree to his *beden*.[65]

However, a short time later it became apparent that de Prié had not obtained any of this in writing. In January 1717, the Republic boldly stated that it had absolutely no intention of modifying the treaty apart from perhaps clearing up a few minor difficulties. Moreover, the provinces of Zeeland and Guelders had come out against the results of the renegotiations, and without their consent the Estates-General would not give the go ahead. De Prié was back to square one.[66] The Republic also questioned the creditworthiness of his plan to use the Southern Netherlands' import and export taxes as collateral for the barrier subsidy. The customs offices would be over mortgaged as a result.

---

63 Resolutions of the Estates-General, The Hague, NA, EG, inv.n° 4640, f° 218-220 v° and 222-224 (29 and 31/10/1716). In these resolutions, the Estates-General stated that any and all promises or commitments regarding adjustments were conditional upon approval by the Republic's provincial governments. It is not clear whether de Prié entirely realized this.

64 For examples of the high expectations and premature victory celebrations: Navarro to Rialp, Brussels, SA, DN, inv.n° 53 (12/11/1716); de Prié to Antonio Folc(h) de Cardona, Brussels, SA, DN, inv.n° 106, f° 360-361 v° (19/11/1716); de Prié to Kurz, Brussels, SA, DN, inv.n° 25, f° 83-84 v° (29/11/1716).

65 Dispatch of Charles VI to de Prié, Vienna, HHStA, Belgien DDA - Depeschen, inv.n° 1 (12/12/1716). The *beden* approved by the Estates of Flanders and Brabant were indeed lower in the first years of the Austrian regime than during the last years of the war, but, despite their threats to the contrary, were always eventually granted. Nevertheless, those from Brabant were often greatly delayed: H. Coppens, *Basisstatistieken voor de reconstructie van de centrale staatsrekening der Spaanse en Oostenrijkse Nederlanden, ca. 1680-1788*, Brussels, 1993, table 2.4.1; Id., *Het institutioneel kader van de centrale overheidsfinanciën in de Spaanse en Oostenrijkse Nederlanden tijdens het late Ancien Régime (c.1680-1788)*, Brussels, 1993, 146-150.

66 Von Srbik, *Österreichische Staatsverträge*, 533-536.

Their refusal opened a new chapter in the diplomatic showdown over softening the provisions of the Barrier Treaty, which would drag on until the end of 1718. During this drawn out process, de Prié and Pesters would come to form the central axis around which the talks would turn. The barrier question would increasingly come to take the form of a highly technical financial discussion, in which most of the attention would be focussed on the assignment of the barrier subsidy and the debts of the Southern Netherlands. The northern Flemish border would take a back seat to these more pressing matters.[67]

Gradually, the barrier also came to play a part in much broader diplomatic issues. The peace treaties of Utrecht, Rastatt and Baden after the Succession War had not led to a full truce: Spain and Austria were still at war. In 1716, Great Britain began to press for an alliance that would completely restore calm in Europe, so that, among other things, the trade in the Mediterranean basin could flourish freely again. In August of 1718, their efforts led to the creation of the so-called Quadruple Alliance among Great Britain, France and Austria. The Republic stubbornly refused to join, mainly under pressure from the urban centres enjoying a lucrative trade with the Iberian country, that they didn't want to see compromised by a conflict with Spain. The Republic made the conclusion of an agreement on the barrier a *conditio sine qua non* of their cooperation. It was in this context that both Vienna and London began to apply pressure to de Prié to end the barrier negotiations as quickly as possible.[68]

Despite this, de Prié stood his ground, and his staff remained in The Hague and Brussels, haggling for better financial terms and a new agreement. He continuously reiterated the fact that the Republic was not in compliance with the terms of the treaty as they stood. For example, although they demanded the full sum of the subsidy, they had not actually stationed the number of troops stipulated in the barrier fortresses. Pending a resolution, he even went so far as to refuse payment.[69] This strategy allowed him to keep the upper hand during the negotiations. In the meantime, he finally succeeded, in October of 1717, in drawing the discussions

---

67 For an oversight of these later talks: Von Srbik, *Österreichische Staatsverträge*, 536-550.

68 C. Sturgill, 'From Utrecht to the little war with Spain: peace at any price had to be the price', in: J. Black (ed.), *The origins of war in early modern Europe*, Edinburgh, 1987, 176-184; O. Weber, *Die Quadrupel-Allianz vom Jahre 1718. Ein Beitrag zur Geschichte der Diplomatie im 18. Jahrhundert*, Vienna, 1887; A.F. Pribram, *Österreichische Staatsverträge. England. Erster Band: 1526-1748*, Innsbruck, 1907, 349-384 en 574-599.

69 De Prié to Charles VI, Vienna, HHStA, Belgien DDA - Berichte, inv.n° 2 (exact date unknown, shortly after 25/03/1717).

surrounding the inaugurations in Brussels and Ghent to a favourable close – an important milestone for the Austrian government.

Only in the autumn of 1718 did the barrier issue again raise its head. Probably as a result of the pressure being applied by the Estates' deputies present in The Hague, the talks turned to what had been discussed in late 1716 regarding the loss of Flemish territory. On December 22, 1718, de Prié finally signed the new barrier agreement, often called the modération or exécution de la Barriére.[70] The first article of this document outlines in detail the new border between the Republic and Flanders, supplanting the one stipulated in the article 17 of 1715. Safeguards were built in to prevent any abuses of the locks, and the Catholics were granted the same protections as those granted to their co-religionists in Guelders in 1715.[71] Estimates vary as to the size of the territory that was to be handed over, but it is thought that cession was reduced by around two-thirds to three-quarters.[72] At first glance, the new treaty appears to have been a major coup, but for the Flanders Estates it was still a bitter pill to swallow. They had set their sights on preserving the integrity of their territory down to the last square inch.

The ratification of the new barrier agreement dragged on until May 1719, and thus the changes to the northern border and the return of the *Pays rétrocédé* did as well. Not until August did both sides begin to make the necessary preparations. This involved the Flemings affected by the shift in the border to be released from their oath of allegiance to the Emperor.[73] The actual exchange took place on November 6.[74] However, the Fiscal Counsellor of Finance,[75] Patrice Mac Neny, still had to make regular trips to The Hague in order to go over some of the details of the treaty's

---

70 De Prié to Antonio Folc(h) de Cardona, Vienna, HHStA, Belgien DDB – Rote Nummer, inv.n° 243 (24/12/1718).

71 Von Srbik, *Österreichische Staatsverträge*, 555-558.

72 *Ibidem*, 551; document titled: *Liste des villages et poldres avec leurs censes, et le nombre des arpens de terre qui se trouvent dans les nouvelles limites par le Traité de Barrière*, with a comparison of the 1715 and 1718 agreements, Brussels, SA, SSW, inv.n° 1420.

73 Act of August 23, Brussels, SA, SSW, inv.n° 1420, f° 160-161; resolutions of the Council of State, Brussels, SA, Council of State, inv.n° 92, 118-119 and 151 (25/02 and 17/05/1719); for the definitive act, see L.P. Gachard, *Histoire de la Belgique au commencement du XVIIIe siècle*, Brussels, 1880, 490-491 (29/10/1719).

74 Von Srbik, *Österreichische Staatsverträge*, 553. The act in which de Prié ceded the border region of Flanders to the Republic is dated October 28, Brussels, SA, Audience, inv.n° 2451, f° 76-77. The next day, he ordered the Council of Flanders to stop its activities in this area, and this applied equally to the subaltern officers and magistrates, Brussels, SA, SSW, inv.n° 1420, f° 164-165 and 168-168 v°.

75 It was the task of the Fiscal Counsellor of Finance to watch over and defend the interests of the ruler within financial questions. Therefore, he could decide to prosecute whenever this seemed necessary.

implementation. As late as 1720, imperial dispatches testified to the fact that several matters, including the Flemish border and the return of the *Pays rétrocédé*, had yet to be cleared up.[76] In February 1720, Charles VI was finally inaugurated in Tournai, Tournaisis and the *Pays rétrocédé*.

In spite of everything – the heated arguments, the delegations and endless rounds of negotiations – it does not appear as though the cession ever took place. The Republic had reacted with displeasure to de Prié's demand to demarcate a new border on the basis of the map that had been made, and refused to appoint commissioners for that purpose. While this was necessary to correct the numerous errors on the map, the northerners saw this as an excuse for the southerners to continue postponing the implementation of the modified treaty. In 1720, when they came back around, the Southern Netherlandish engineer de Bauffe employed various arguments in order to shift the border to avoid the village of Doel and its environs. Afterwards, the Republic's time was increasingly taken up by the problems surrounding the Ostend Company. However, in 1728, the Estates-General made a renewed effort to renegotiate the provisions of the treaty that had not yet been implemented – indicating that Charles had still not ceded the disputed land. According to Gachard, in 1737 the Republic had still not taken possession of this territory, and at least Doel remains part of Belgium to this day.[77]

5. Conclusion

What does this episode tell us about the Flemish Estates' role as an intermediate government structure at the start of the eighteenth century? First, the fight they put up against the Barrier Treaty makes it clear that they had an entire arsenal of means with which to gain the ruler's compliance. A steady stream of petitions and letters of complaint issued from this body, and deputies were sent to Brussels. They threatened that the beden would be decreased, and the official inauguration, in which Estates representatives were to have played a key part, was delayed for months. These last two were its most effective bargaining chips, as the Emperor required the cooperation of the Estates to obtain both the money and his investiture.

However, the Estates went even further in their opposition than these ordinary measures. They made a serious effort to involve other regions in

---

76 Mac Neny to de Prié, Brussels, SA, SSW, inv.n° 898, 628-631 (27/12/1720); Charles VI to Eugene, Vienna, HHStA, Belgien DDA - Depeschen, inv.n° 4 (07/02/1720).

77 Memorandum and authentic fragment from the Estates-General's register of resolutions, Brussels, SA, SSW, inv.n° 1421, f° 61-72 v° and 73-73 v° (21/05/1728); Gachard, *Histoire de Belgique*, 499-500.

resisting the barrier – albeit with varying degrees of success. Their pièce de résistance was sending a delegation directly to the Emperor, against the advice of the minister plenipotentiary. This was not entirely unheard of, but since the mid-sixteenth century the sovereigns of the Netherlands had resided abroad and such face-to-face meetings had become increasingly rare.[78]

This brief summary of the extraordinary lengths to which the Estates went in order to have their say, reflects the fact that at the start of the eighteenth century, it was a well-functioning administrative organ, which could react quickly to effectively and efficiently pursue its own interests. Throughout the entire period, the Estates maintained the unquestioning support of the subaltern administrations (and even the Council of Flanders) that quickly put their disgust for the 'border extension' in writing. They also kept the Estates abreast of any abuses made in determining the border, as well as refusing to promulgate the orders for the transfer. The opposition was not only well organized but it also found broad support, extending well beyond the districts directly affected.

The protest against the cession also provides us with a clear picture of this body's influence in the early eighteenth century. In The Hague, the Estates-General grew quite concerned at the news that a formal deputation was to be sent to the court in Vienna. They even tried to prevent the delegates from ever reaching their destination. This indicates that the Republic was well aware of the impact this could have, and of what resources the Estates could employ in order to get their way; in other words, they constituted a credible threat to the Republic's plans. After all, this

78 In 1572, deputies of the Estates of Brabant, Flanders, Hainaut, Artois, Lille-Douai-Orchies and Utrecht went to Madrid in order to make known their grievances regarding the financial policies of the Duke of Alba. The institution of the tenth and twentieth penny had aroused particular ire. Just as in Vienna in 1716, the court in Madrid's attitude evolved from a negative stance towards the subjects' demands to a more understanding position. In 1574, Brabant sent another representative to the king in order to ask that he respect their privileges, among other things: G. Janssens, *Brabant in het verweer. Loyale oppositie tegen Spanje's bewind in de Nederlanden van Alva tot Farnese 1567-1578*, Heule, 1989, 147-159 and 281-282. The Estates of Brabant also went international in the years between 1709 and 1711, sending a delegation to The Hague in order to plead for the inauguration of Charles VI, and another to Frankfurt in 1711, where Charles was at the time being crowned emperor, for the same purpose. In 1712, the Brabant Estates sent d'Ursel to The Hague in order to protest the 1709 Barrier Treaty, the terms of which had just become known, and in the same year they invited Hainaut and Flanders to aid them in The Hague and Utrecht in their efforts to obtain permission to start organizing Charles' inauguration. However, in Flanders, only Ghent agreed to support them, *ROPB*, series III, vol. 2, p. xxxix-xlv. The findings in footnote 10 prove that the Estates of both Brabant and Flanders in 1713 sent deputies to Utrecht in order to defend commercial interests.

institution was not an unknown quantity – the Republic had ten years experience in managing the Southern Netherlands during the Anglo-Dutch condominium. Even in the Viennese court, which, as we have seen, had considerably less firsthand knowledge regarding the Southern Netherlands than the Republic did, people were apprehensive about what the Estates might accomplish. It was especially feared that they could delay the inaugurations and thereby undermine the Austrian regime. Indeed, this was the reason why Vienna was receptive to the complaints from the Flemish and Brabant representatives.

Finally, the success of the deputations cannot be explained without reference to the historical context. The Barrier Treaty was signed on the heels of almost fifteen years of war and administrative chaos. During that time, one short lived regime followed another in the Southern Netherlands. Moreover, already by the end of the seventeenth century, the central authorities in Brussels had grown increasingly reliant upon the provincial Estates to meet their financial needs.[79] Thus, the Flemish Estates were confronted with a new regime that had the monumental task of establishing its authority after an extended period of strife and administrative and financial bedlam. If the Austrians were to succeed in creating a strong central authority in this new territory, they were going to need the cooperation of the Estates. Their knowledge and efficiency, as well as the myriad ways in which they could hinder any plans the Emperor cared to make, made them a necessary partner in government. At the start of the eighteenth century, the ruler of the Southern Netherlands did not have absolute power and the Estates reminded him of this fact through such showdowns.[80] Throughout the century, the Southern Netherlandish Estates protected their fiscal privileges, forcing their princes to political compromise. Even when the Flemish Estates were largely reorganized between 1754 and 1756, as a result of the sovereign's centralizing tendencies, the reforms weren't just simply pushed through. Rather they were gradually implemented, and always with an eye towards what was considered constitutionally acceptable.[81] The Austrians had learned their lesson well.

---

79 Van Gelder and Vermeir, 'Overgang', 35 and 37.

80 The arguments surrounding the inaugurations of 1717 also illustrate this.

81 B. Bernard, 'Reform und Modernisierung in den Österreichischen Niederlanden', in: H. Reinalter and H. Klueting (eds.), *Der aufgeklärte Absolutismus im europäischen Vergleich*, Vienna, 2002, 264-265; P. Lenders, *De politieke crisis in Vlaanderen omstreeks het midden der achttiende eeuw. Bijdrage tot de geschiedenis van de Aufklärung in België*, Brussels, 1956, passim.

Abstract

This paper focuses on the opposition of the Estates of Flanders to the Barrier Treaty of 1715, and in particular their displeasure with the land cession to the Republic stipulated among its provisions. This episode illustrates how the eighteenth century Estates had an entire range of methods at their disposal by which to pressure the supposedly absolute monarch, to fight any alleged violation of their privileges. Before sending a delegation to Vienna, they threatened, among other things, to cut off funds to the Emperor. In 1718, the Estates partly succeeded in achieving their ambitions. This indicates that as an effective, intermediate administrative body in the Southern Netherlands, they were indispensable governing partners that the new Austrian regime simply could not afford to ignore.

THE INTERACTIONS BETWEEN THE COUNCIL OF FLANDERS AND THE GREAT COUNCIL OF MALINES IN THE EIGHTEENTH CENTURY

An VERSCUREN

1. Introduction

In August 1785, the Council of Flanders wrote a letter to the Privy Council, containing the following extract:

> *…quoiqu'il n'appartienne pas aux exposans d'approfondir les motifs qui déterminent sa majesté à laisser subsister le Grand Conseil presque pour la seule province de Flandres, ils estiment qu'il est au moins nécessaire d'obliger le Grand Conseil à suivre en matière d'appel les mêmes règles que les exposans suivent à l'égard de leurs subalternes, savoir, de ne tenir aucune sentence en suspens à moins que son exécution ne soit irréparable…*[1]

The Council of Flanders made this somewhat sour remark in the context of a conflict with the Great Council over the latter's right to issue letters of appeal that suspended the execution of the original sentence. According to Flanders, ever since Joseph II had conferred the status of sovereign court on the Council of Luxemburg in 1782, the Great Council almost exclusively derived its existence from its competence as appeal judge for the province of Flanders; Namur was too small to be significant.

It should be no surprise that the Council of Flanders wished to become a sovereign court, a status the Councils of Hainaut and Brabant had already acquired in the sixteenth century and which had now also been granted to the Council of Luxemburg. Ever since the creation of the Great Council as a court of appeal, the relations between the two councils had been intense, but not always cordial. The eighteenth century is no exception to that rule: the archives of the Great and the Privy Councils abound in conflicts between the two courts of justice, even though there were rare moments when both the Great Council and the Council of Flanders had common interests and pulled in the same direction. Furthermore, the two

[1] Brussels, State Archives (SA), Privy Council (PC), Registers, inv.n° 481 (1785).

councils also maintained informal relations: not only did the councillors of the Council of Flanders often appear as judges in grand revisions at the Great Council, a position in the Great Council certainly figured among one of their most desirable prospects of promotion.

This paper discusses the relations between the Great Council on the one hand and the Council, as well as the provincial Estates, of Flanders on the other. First, we will investigate the interests Flanders had in the Great Council, in terms of personnel as well as in terms of workload. Secondly, we will focus on the various confrontations between the Great Council and the Council of Flanders in the eighteenth century and analyze at what point the government intervenes in these disputes. Finally, we will examine the sovereignty of the Council of Flanders – or rather its lack thereof – and attempt to formulate a hypothesis on the question why the Council of Flanders remained subject to the Great Council until the very end of the Ancien Régime, while all the other large provinces had been able to extract themselves from its jurisdiction.

It must be kept in mind that this paper approaches the issue from the Great Council's point of view. All insights have been obtained from documents that can be found either in the Great or in the Privy Councils' archives. Therefore, this article presents merely provisional results. Chronologically, we limited the time frame to the period before 1785, because the reforms, introduced by Joseph II, and the ensuing 'small' Brabant revolution thoroughly changed the relations and hierarchies. Methodologically, we derived some general theses from a number of cases. This rather labour-intensive method appeared to be the only viable means to get a perspective on the larger processes. In fact, there are no laws or ordinances that regulate the relations between the Great Council and the Council of Flanders, nor do we possess any documents that describe these interactions as they happened in actual practice. These limitations explain why we preferred to develop a few examples in order to arrive at general conclusions.

2. The relations between the Great Council and the Council of Flanders

Given the fact that the Great Council had jurisdiction to decide appeals from Flanders, the Council and the Estates of Flanders had an interest in introducing into the Great Council as many councillors as possible from Flemish origin.

Table 1: Geographical origins of the councillors of the Great Council in the 18th century[2]

Nationality	Number	Percentage
Brabant	29	30,9%
Flanders	23	24,5%
Malines	14	14,9%
Hainaut	8	8,5%
Luxemburg	6	6,4%
Namur	3	3,2%
Gelre	2	2,1%
Tournai	1	1,1%
'*Terres de débat*'[3]	1	1,1%
Limburg	1	1,1%
Other[4]	6	6,4%
Totaal	**94**	**100%**

Not only did these Flemish councillors possess the necessary knowledge of the Flemish institutions and legislation, they were also supposed to defend the interests of their province at the Great Council. Therefore, it should be no surprise that the Estates of Flanders made several attempts to influence the advice of the Privy Council on the nomination of new councillors at the Great Council, by writing letters of recommendation for candidates of their own province.

---

2 These data have been extracted from a wide range of sources. First of all, we used the 'appointment records' in the archives of the Privy and the State Councils: Brussels, SA, Privy Council. Austrian period (PCAP), Cartons, inv.n°. 442A, 443A and 443B; Brussels, SA, Council of State (CS), inv.n° 651, 653, 654, 655 and 656; Brussels, SA, Regency Council of State (RCS), inv.n° 286; Brussels, SA, Royal Council Philip V, inv.n° 19. In addition, we made use of biographical descriptions resting in the *manuscrits divers*: Brussels, SA, Manuscripts, inv.n° 860/A, 860/B and 432.

3 The '*Terres de débat*' consisted of seven seigniories – Flobecq, Wodecq, Ellezelles, Lessines, Bois-de-Lessines, Papignies and Ogy – which took their designation from the fact that, in the Middle Ages, they had been contested between the Count of Flanders and the Count of Hainaut, a situation that remained unchanged until 1743.

4 The 'Other' category includes France, the Holy Roman Empire, Hungary, Ireland, Liege and the Northern Netherlands.

This, for example, happened after the death of councillor Jean Ferdinand Keyaerts in 1743. In an attempt to have their own nominee, Joseph Huwijn, appointed, the Estates of Flanders wrote a letter pleading the Privy Council to take the interest of their province into account.[5] After all, every Flemish town and castellany (*châtellenie*)[6] had its own particular, sometimes even conflicting, habits. Given that at that moment only two councillors of the Great Council were Flemish and one of them was barely present because of his illness, while – at least according to the Estates of Flanders – two thirds of all appeal cases emanated from Flanders, it was absolutely necessary to appoint another Flemish councillor. Nevertheless, this time the Estates did not get what they desired: Charles Henri Goubau, born in Antwerp and therefore of Brabant origin, received the nomination.

The following table demonstrates that Flanders was indeed responsible for the bulk of the appeal cases, handled at the Great Council in the eighteenth century. The table lists all the civil – but not the criminal – lawsuits that were treated by the Great Council in the period of almost a century, and that reached the point where one of the councillors was appointed as reporter of the case, the final stage before the actual judgment by the Court.

Even though – as the Estates of Flanders claimed – the province was not responsible for two thirds of the appeal cases, Flanders did provide almost sixty percent of the total number of appeals at the Great Council. Although it was theoretically not possible to appeal against criminal sentences, pronounced by provincial councils, Monballyu determined that this privilege became eroded in the late eighteenth century, at least as far as the Council of Flanders was concerned.[7] As a last remark, it is important to keep in mind that the Burgundian dukes had made it possible to appeal against sentences of a lower court to a higher court with the specific goal of reducing the autonomy and sovereignty of the local – and with regards to the Great Council – the provincial courts.[8]

---

5 Brussels, SA, PCAP, Cartons, inv.n° 443B: appointment file of Charles Henri Goubau (1744).

6 A *châtellenie* is an administrative unit, comparable to a district. See, amongst many others, the contribution of Sylvie De Smet in this volume.

7 J. Monballyu, 'De Raad van Vlaanderen, een soevereine justitieraad in strafzaken?', in: R. Huijbrecht (ed.), *Handelingen van het Tweede Hof van Holland symposium gehouden op 14 november 1997 in de Treveszaal te Den Haag.* Algemeen Rijksarchief Publicatiereeks, vol.7, The Hague, 1998, 76-90.

8 J. Monballyu, 'Van appellatiën en reformatiën: de ontwikkeling van het hoger beroep bij de Audiëntie, de 'Camere van den Rade' en de Raad van Vlaanderen, ca 1370-1550', *Legal History Review*, 1993, 237-275.

Table 2: Civil cases at the Great Council between 1700 and 1790[9]

	1700	1710	1720	1730	1740	1750	1760	1770	1780	1790	**Total**
First instance	677	744	843	745	449	470	322	254	185	49	4738
App. Flanders	424	629	597	512	270	321	253	306	327	141	3780
App. Luxembourg	76	130	287	236	208	175	173	132	71	5	1493
App. Namur	45	37	129	108	82	121	137	92	97	53	901
Refor. Malines	45	32	32	30	15	40	25	17	21	10	267
Revision	7	16	11	12	3	15	10	5	2		81
App. Tournai		3	3	2	2		1	26	20	2	59
App. *T. Débat*	12	8	16	14	3						53
Other	4	11	16	11	5	8	8	8	1	4	76
Total	1290	1610	1934	1670	1037	1150	929	840	724	264	11448

3. Conflicts between Flanders and the Great Council

Given the position of the Great Council with respect to the Council of Flanders, it should be no surprise that both councils often clashed. Nevertheless, the Estates of Flanders considered the possibility to appeal against sentences of the Council of Flanders not so much – or at least not always – as a burden but rather as a privilege that guaranteed the legal security of the Flemish citizens. For instance, in January 1714 the Estates of Flanders protested against an ordinance of the Council of State, which conferred on the Council of Flanders the right to judge by arrest in the case between Louis de Wulf, a merchant and former alderman of Ghent, and the English trader John Gatchell.[10] The lawsuit had been pending at the Council of Flanders since 1710. Wishing to end it as soon as possible and to prevent his bankruptcy, Gatchell had acquired two decrees – on November 5, 1711 and on May 16, 1713 – that granted the Council of Flanders permission to judge in last instance. As a result of these decrees, de Wulf was refused permission to appeal when the Council of Flanders finally condemned him. According to Gatchell (and the provincial council), de Wulf had at least tacitly agreed with the ordinances of the Council of State, which determined that the Council of Flanders in this case sentenced by arrest.

---

9 The data in this table have been derived from the distribution books of the Great Council: Brussels, SA, Great Council of Malines (GCM), inv.n° 617, 618, 619, 620, 629, 630, 631, 632, 633, 635, 636 and 637.

10 Brussels, SA, GCM, inv.n° 163 (18/01/1714).

Thereupon, de Wulf addressed the Estates of Flanders to defend his privilege to appeal against a sentence of the Council of Flanders. After all, the Council of State did not have the right to change the normal course of justice and every citizen of Flanders owned the incontestable right to protest the judgments of the provincial council. The Estates' remonstration finally reached the temporary government,[11] which requested the advice of the Great Council. Unsurprisingly, the latter defended the principle that every sentence of the Council of Flanders could be appealed against. Indeed, in March 1713 it had been decided that – despite the politically chaotic circumstances – the fundamental principles of justice would be maintained. For that reason, de Wulf should retain the privilege to appeal against the sentence of the Council of Flanders to the Great Council, no matter what the Council of State resolved. The government's decision is not known, but we have been able to determine that a possible lawsuit before the Great Council between de Wulf and Gatchell never reached the distribution phase. Chances are rather high that the government agreed with Gatchell and that the Great Council was not allowed to handle the case.

Nevertheless, not all parties appreciated the possibility to lodge an appeal against a sentence of the Council of Flanders. On several occasions, a party requested the right to have the Council of Flanders judge by arrest in order to prevent a lawsuit to drag on forever and generate enormous costs. This happened in 1758 in a case between several creditors of a recently deceased merchant.[12] One of the plaintiffs was a councillor of the Council of Flanders. At the time he initiated his lawsuit, his request to have the Council of Flanders judge by arrest was granted. At the moment the Council condemned him, he changed his mind and decided that he wanted to appeal against the sentence. The Privy Council, however, gave him tit for tat and made clear that he had to act accordingly to his own decisions.

In 1764 Gerlac Marius, as appellant of a sentence of the aldermen of Sint-Gillis, equally addressed the governor general with the request to have the Council of Flanders judge by arrest.[13] Although this right was not granted, the Council of Flanders protested against the letters of appeal conferred by the Great Council, not so much because of the appeal itself, as because of the clause that suspended the execution. The lawsuit in question dealt with the right of Marius, captain in the Austrian army, to marry the 73-year-old Marie Agnes Pierssens. Her relatives – who were also her inheritors – alarmed by the sudden interest of a young soldier in Pierssens, requested

11 At that time, the Netherlands were governed by an Anglo-Batavian conference.
12 Brussels, SA, PC, Registers, inv.n° 444.
13 Brussels, SA, PC, Registers, inv.n° 452.

the aldermen of Sint-Gillis to declare her legally incapable of acting and confine her to the convent of Velzeke.

Following this, Marius took his case to the Council of Flanders. In a first judgment, the Council decided that Marius could visit Pierssens as many times as he desired and that she had the right to sign any contract she wanted. The second sentence stipulated that Pierssens should be released from the convent and condemned the aldermen of Sint-Gillis to the payment of all costs. It was against this judgment that Pierssens' relatives appealed to the Great Council, which indeed provided them with the necessary letters of appeal. At the same time, the councillors decided to suspend the execution of the sentence. After all, if Pierssens regained her liberty, the probability that the couple would marry was rather high; consequently, the inheritors would not be able anymore to argue their case before a court.

The Council of Flanders, on the other hand, was convinced that in this matter the Great Council had no right to suspend the execution of the sentence. Nevertheless, the Privy Council not only put the Council of Flanders in the wrong, but also made clear in its advice that the councillors had seriously exceeded their jurisdiction. It was up to the superior court to decide on the suspension of the execution of a sentence, unless the law explicitly stated otherwise. Finally, the Privy Council also cleverly remarked that the Council of Flanders behaved in the exact same way towards the courts subdued to its authority.

During the entire eighteenth century these kinds of conflicts, in which the ability of the Great Council to suspend the execution of sentences from the Council of Flanders was debated, continued to erupt. Apart from these disputes, the two councils also disagreed on their respective jurisdiction. At several instances, in 1729, 1732, 1750 and 1751,[14] the control over the district and town of Dendermonde was contested. On March 20 1751, it was decided that – at least provisionally – the Great Council was competent for criminal cases, police matters and violations of ordinances, while the Council of Flanders judged civil cases.[15] Despite this ordinance,

---

14 Brussels, SA, GCM, inv.n° 166 (03/06/1729); Brussels, SA, GCM, inv.n° 167 (April 1732); Brussels, SA, PC, Registers, inv.n° 414 (25/02/1750); Brussels, SA, GCM, inv.n° 141 (24/03/1751).

15 Décret du prince Charles de Lorraine, statuant que les villes et pays de Termonde seront provisoirement sous le ressort du Grand Conseil de Malines pour les matières criminelles et de police, dans les cas que détermine ce décret, *Recueil des ordonnances des Pays-Bas (ROPB)*, series III, vol. 7 (20/03/1751).

the discussions on Dendermonde were opened again in 1763[16] and in 1775, in which the Great Council finally gained the upper hand.[17]

From the mid eighteenth century onwards, the central government consequently supported the Great Council in its confrontations with the Council of Flanders. In 1750, a conflict arose between the two institutions as a result of an appeal against a sentence of the magistrate of Tournai, in a case that in 1744 had been dealt with in Flanders, but that after the French conquest had been transferred to Douai.[18] When in 1750 the affair had still not been decided, the question arose which court should now be authorized to judge the lawsuit: the Council of Flanders or the Great Council? Even though eventually the Council of Flanders won the argument, the dispute had gradually turned more into a discussion of the haughtiness with which the Council of Flanders had treated the Great Council, than into a debate on the original matter of jurisdiction.

Instead of answering two different letters of the Great Council (dated September 5 and 25 1750), the councillors of Flanders merely informed the parties on September 30 that they had to continue their lawsuit before them, under the penalty of a fine of 100 silver coins. The Great Council considered this sort of behaviour as an assault on its jurisdiction, and as an attempt to rearrange the entire judicial hierarchy and to proclaim the Council of Flanders an independent and sovereign court. Therefore, the Great Council requested the governor general to take action. In his decision, the governor general made clear to the Council of Flanders that this behaviour was absolutely beyond the pale. On matters of justice, Flanders was completely subject to the Great Council, and, instead of acting haughty and arrogant, it should have responded to the Great Council's letters.

Still, this was not the end of the affair for Flanders. With two official ordinances,[19] Charles of Lorraine emphasized the subordination of the Council of Flanders to the Great Council. The Estates of Flanders tried to protest against these dispositions, fearing that the Great Council would abuse them and constantly infringe on the rights and privileges of their province. However, to no avail: Charles of Lorraine took a firm stand and made clear that Flanders had to comply with the orders of the Great Council.

---

16 Brussels, SA, GCM, inv.n° 104L, file 17: conflict of jurisdiction between the Great Council and the Council of Flanders on Ertbrugge (1763).

17 Brussels, SA, GCM, inv.n° 141 (10/05/1775).

18 Brussels, SA, GCM, inv.n° 168F (05/10/1750).

19 Décret du prince Charles de Lorraine concernant la subordination du Conseil de Flandre au Grand Conseil, *ROPB*, series III, vol. 7 (05/05/1752); Décret du prince Charles de Lorraine concernant la subordination que le Conseil de Flandre doit au Grand Conseil, *ibidem* (07/12/1752).

In the second half of the eighteenth century, the Great Council not only succeeded in firmly establishing its superiority in civil cases, it also managed to infringe on the Council of Flanders' authority in criminal trials. More specifically, the (im)possibility to appeal against criminal sentences became contested. The dispute dated back to the seventeenth century. In 1665, don Francisco de Moura y Cortereal, the new governor of the Habsburg Netherlands, had decided, by a provisional decree, that the Great Council was only competent to deal with appeals against criminal sentences of the Council of Flanders, if the punishment was limited to a simple fine. Additionally, the appeal could not suspend the execution of the sentence.[20]

Nevertheless, the disagreement resurfaced in 1774, when the Great Council issued letters of appeal against a sentence of the Flemish Council condemning Pieter Joseph Keppens, parish priest of Bavikhove, to being discharged and to a fine of 100 florins, because of his constant quarrels with the sacristan and other 'excesses'.[21] Not surprisingly, the Council of Flanders protested to the Privy Council against this course of events, invoking the decree of April 7, 1665. In its response, the Great Council did not contest the validity of the 1665 decree, but argued that it was not applicable in this case.

According to the Great Council, no conflict of jurisdiction was involved, since Keppens did not simply appeal to the Great Council, but resorted to a superior court in order to receive the nullification of a criminal sentence. In other words, the appeal was not directed against the substance of the case, but against procedural errors. The Great Council claimed that Keppens had been right to request for nullification, first of all because the Council of Flanders was incompetent to deal with the matter, since Keppens was a clergyman, secondly because there was no *corpus delicti*, and finally because Keppens had not been sufficiently interrogated. By granting the letters of appeal, the Great Council did not judge the merits of the case, but merely accepted that Keppens should have the possibility to explain why the trial before the Council of Flanders was invalid. Therefore, the Great Council was authorized to deal with the appeal and to order the suspension of the sentence, especially since the decree of August 14, 1753 stipulated that the Great Council was superior to all courts in its jurisdiction and responsible for supervising everything that happened in the provinces under

---

20 For more information on the seventeenth century conflict: Monballyu, *De Raad van Vlaanderen*, 76-90

21 Brussels, SA, PC, Registers, inv.n° 469, f° 407-409. Monballyu also extensively discusses this case in his already cited article *De Raad van Vlaanderen*, 76-90.

its control, especially in matters of criminal justice.[22] The governor general agreed to the arguments of the Great Council.[23]

Soon, it became clear that the governor general's decision of 1774 had established an important precedent. In 1782, a comparable dispute arose when Orbain Van Heulendoncq appealed to the Great Council against a criminal sentence of the Council of Flanders.[24] Originally, Van Heulendoncq had been arrested by the aldermen of Boekhoute. His complaints against this apprehension – according to Van Heulendoncq, the prosecutor had refused to interrogate witnesses 'à décharge' – resulted in the evocation of the trial by the Council of Flanders. However, the latter decided that the prosecutor of Boekhoute was above reproach and sent the case back to the aldermen, condemning Van Heulendoncq to pay the costs. It was against this sentence of the Council of Flanders that Van Heulendoncq appealed to the Great Council. When the Council of Flanders refused to accept the appeal, the Great Council brought the matter to the attention of the Privy Council.

Again, the Council of Flanders reverted to the decree of 1665 and again the Great Council argued that, as superior court of the Netherlands, it had the authority to deal with appeals aiming at the nullification of a lawsuit because certain formal rules had not been complied with. The Council of Flanders not only disputed the jurisdiction of the Great Council in these matters, but also questioned the usefulness of appealing against a sentence if it was not possible to judge the essence of the case. It would only further extend the duration of the trials and allow criminals to delay their punishment. It was obvious that the Great Council tried to introduce all kinds of innovations based on the example of the parish priest of Bavikhove.

The Privy Council acknowledged that the Great Council did not have the authority to deal with appeals against criminal sentences of the Council of Flanders. However, if the appeal attacked the sentence because of formal inconsistencies or errors, and therefore was aimed at receiving nullification of the procedure, the Great Council did have the competence to take up the case. Since Van Heulendoncq only appealed against the decision of the Council of Flanders not to consider his objections against his arrest and to refer him back to the aldermen of Boekhoute, it was obvious that this was not a criminal case, and that the Great Council – as superior court – could deal with the matter. Moreover, the analogies with the Bavikhove question of the previous decade were too striking to ignore. Therefore, the Privy Council as well as the central government agreed with the arguments of the Great Council and forced the Council of Flanders to send the file to

22 Brussels, SA, GCM, inv.n° 168G (1774).
23 Brussels, SA, PC, inv.n° 469 (05/12/1774).
24 SA, PC, Registers, inv.n° 479 (23/08/1783).

Malines. Even though it was not possible to actually appeal against a criminal sentence that did not merely condemn the suspect to a fine, it became feasible to demand the nullification of such a sentence, based on procedural technicalities, comparable to some sort of appeal to the court of cassation 'avant la lettre'.

4. The Council of Flanders' (lack of) sovereignty

Assessing that from the mid eighteenth century onwards, the central government sided ever more with the Great Council in its conflicts with Flanders does not yet answer the question why the Council of Luxemburg gained its sovereignty in 1782, while the Council of Flanders never succeeded in acquiring the same sovereign status. The ordinance of the first of August 1782 lists the official reasons why the Great Council lost its authority over Luxemburg: the possibility to appeal against sentences of the Council of Luxemburg was considered to be inconvenient, because of the distance to Malines, the need to translate case files originating from the German speaking part, the enormous delay and the export of capital from Luxemburg to Malines.[25]

In fact, the first two reasons did not apply to Flanders: Malines was much closer to Ghent than to Luxemburg, and translating case files was not necessary as the Great Council dealt smoothly – at least in principle – with lawsuits both in Dutch and in French. However, these negative reasons do not sufficiently explain why the Council of Flanders did not acquire sovereignty. When we revert to the sour remark of the councillors of Flanders questioning the motives of the sovereign to preserve the Great Council, it is clear that the Council of Flanders did wish to become independent from the Great Council. A hypothesis that might explain the Council of Flanders' lack of sovereignty can be found in the relationships between the Councils of Luxemburg and Flanders and their respective Estates.

In 1755, the Estates and not the Council of Luxemburg petitioned the Emperor to concede sovereignty to the Council.[26] That the Estates made this request – even though it was not granted – suggests that the relations between the Council and the Estates of Luxemburg were rather harmonious. In Flanders, the interactions seemed to have been much less cordial. We

---

25 Lettres patentes de l'Empereur érigeant le conseil de Luxembourg en conseil souverain, *ROPB*, series III, vol. 12 (12/08/1782).

26 Brussels, SA, GCM, inv.n° 165 (18/11/1727); Brussels, SA, GCM, inv.n° 167 (27/09/1731).

have already cited the 1714 case, when the Estates defended the privilege of the Flemish citizens to lodge appeal to the Great Council against a sentence of the Council of Flanders. In 1727, as well as in 1731, the Council and the Estates of Flanders were again directly opposed to each other.[27] In all those instances, the Estates contested the competence of the Council of Flanders to deal with cases concerning subsidies and aids.

In 1751, the Estates and the Council of Flanders even collided directly, when the latter condemned the former to reimburse the bargemen of Rupelmonde for their expenses made when transporting the army.[28] The Estates denied their responsibility and pointed to the *châtellenie* of the Waasland to pick up the check. Consequently, the Estates of Flanders requested the sovereign to grant them the possibility to appeal to the Great Council against this decision of the Council of Flanders, despite the fact that the ordinance of September 1, 1749[29] had conferred on the Council of Flanders the competence to judge these matters by arrest. It must be noted that it were exactly the Estates that had lobbied for this ordinance and, not surprisingly, their request was denied. Moreover, the distribution books demonstrate that at several times in 1719, 1762 and 1769 the Estates of Flanders appealed to the Great Council against a sentence of the Council of Flanders.[30] This is why it might be that the Council of Flanders' lack of sovereignty must be at least partially attributed to its bad relations with its Estates. In contrast to the Estates of Luxemburg, the Estates of Flanders did not seem to feel the need to request the sovereign to grant to the Council of Flanders independence from the Great Council's authority. On the contrary, at several times, they appealed to the Great Council against sentences of their provincial Council.

An alternative – or additional – explanation can be found in the relations the Great Council maintained with the Council of Luxemburg on the one hand and with the Council of Flanders on the other, and the need the sovereign felt to play off the different parties against each other. As far as the *mémoriaux* of the Great Council, the ordinances, and the advices of the Privy Council reveal, the relations between the Great Council and the Council of Luxemburg were not particularly bad. Even though the two councils had their conflicts,[31] in general the Great Council did not vigorously protest the ever growing competences the Council of Luxemburg received in

---

27 Brussels, SA, GCM, inv.nr° 631.

28 Brussels, SA, PC, Registers, inv.n° 410 (07/07/1751).

29 Ordonnance de Marie-Thérèse touchant les charges ordinaires et extraordinaires, les comptes, les levées des deniers et la direction interne des paroisses et communautés de la province de Flandre, *ROPB*, series III, vol. 6 (01/09/1749).

30 Brussels, SA, GCM, inv.n° 630, 632 and 633.

31 E.g.: Brussels, SA, PC, Registers, inv.n° 466 (14/03/1772).

the second half of the eighteenth century. We can presume, for instance, that the Great Council did not object when in 1768 the governor general granted the Council of Luxemburg the right to judge by arrest in matters concerning woodlands. By contrast, as we have already demonstrated by several examples, confrontations between the Council of Flanders and the Great Council were legion.

Furthermore, certain financial and political considerations might have come into play. Since Flanders was responsible for almost sixty percent of the appeal cases dealt with at the Great Council, conceding sovereignty to the Council of Flanders would probably be the final blow to the Great Council as a superior court. In that case, the competence of the Great Council as an appeal court would become restricted to the sole Council of Namur – of which we have already determined that its contribution was negligible – and the magistrate of Malines. Not only would this inevitably lead to questions about the usefulness of a superior court – all its jurisdiction could be taken over by the provincial councils –, but it would also result into a decrease in status and in serious financial losses for the councillors.

Apparently, the central government was not yet prepared to decide on the *de facto* abolition of the Great Council as a supreme court, possibly also because around the early 1780's the Emperor already played with the idea of a thorough redesign of the judicial landscape. Apart from that, an important evolution can be noticed in the attitude of the central government towards the Council of Flanders. If Flanders was able to secure a lot of power in the first quarter of the eighteenth century, the government tightened the reins again during the 1730s. Especially from the second half of the century onwards, the Great Council systematically gained the upper hand in its conflicts with the Council as well as with the Estates of Flanders; both were also often called to account on their conduct towards the Great Council. It is not unimaginable that, in the turbulent early eighteenth century, the central government experienced difficulties to get a firm grip on the provincial councils, while in the latter eighteenth century it used the Great Council as court of appeal to curtail the autonomy of the, from times immemorial, powerful Council of Flanders.

Given the large number of conflicts between Flanders and the Great Council, especially if compared to the Council of Luxemburg, it is reasonable to assume that the Council of Flanders had a much stronger desire than Luxemburg to achieve its independence. After all, in many of these confrontations, the Council of Flanders disputed the authority of the Great Council. The 'arguments of the sovereign to maintain the Great Council solely as an appeal court for Flanders' might have to do with what

the central government considered to be the far too dangerous ambitions of the Council of Flanders.

5. Conclusion

During the eighteenth century, the Council of Flanders and the Great Council of Malines maintained intense, but not always very cordial, relations. As a court of appeal, the main task of the Great Council was to keep an eye on the provincial councils and restrict their power. The role of the central government, however, is not unimportant. In the end it was not the Great Council as the supreme court of the Netherlands, but rather the central government that finally always settled the disputes between both councils. Especially from the middle of the eighteenth century on, the governor general sided ever more with the Great Council and again used this court to restrict the hunger for power of the Council of Flanders. The fact that the Estates of Flanders did not exactly support the Council of Flanders in its striving for sovereignty and independency probably did not really help its case.

In this regard, the eighteenth century Habsburg Netherlands offer an illustration of the concept of the 'composite state': a mosaic of heterogeneous countries and territories, most of which had their own administrative institutions, traditions and laws, for which they would stand up, against both the central government and the other provinces. Instead of choosing between one of two extreme options, i.e., or the entire integration into the Habsburg empire with a strong central government, or obliging to the internal organization and privileges of the various provinces, the Austrian sovereigns – at least up until Joseph II – preferred to take the 'third road'. By means of a supreme court, the Great Council, the central government controlled a powerful instrument to coordinate and control the different regions.

Nevertheless, we have not entirely been able to clarify the relations between the different courts, nor do we have a clear view on the role and power of the Great Council. Therefore, additional research is absolutely imperative. In that regard, it might be useful to know that the archives of the Great Council of Malines harbour a still largely uncultivated richness of information on the Council of Flanders. Several hundreds of running meter of dossiers 'Appeals from Flanders' contain the files of the first instance cases that were later dealt with at the Great Council in appeal. Although it is absolutely adamant that additional inventories be drawn up, there already have been some efforts to make this fund accessible to researchers with a

keen interest in the Council of Flanders. There should be no doubt that the archives of the Great Council can constitute a rich supplement to the archives of the Council of Flanders.

Abstract

Based on several case studies, this paper discusses the relations between the Great Council of Malines on the one hand, and the Council, as well as the provincial Estates, of Flanders on the other. The interest the (councillors of the) Council of Flanders had in the Great Council, the various confrontations between both courts and the role the central government played in these disputes, constitute the focus of this article. Finally, several hypotheses are formulated on the question why the Council of Flanders never gained sovereignty while many other large provinces were able to free themselves from the jurisdictional control of the Great Council.

THE *'BAILLIAGE ET SIEGE PRESIDIAL'* OF YPRES. A FRENCH INTERMEDIATE INSTITUTION IN 'FLEMISH FLANDERS' (1693-1713)

Laurie FRÉGER

1. Introduction

In march 1693, after having annexed one part of western Flanders, Louis XIV decided to create a royal court there, a *bailliage* based in Ypres (Ieper). According to the French monarch, this creation was made necessary by a deficient judicial organization. The same need prevailed on its elevation as a *présidial*[1] in 1704,[2] becoming the *bailliage et siège présidial de la Flandre flamingante*. But Louis XIV was also wishing to reinforce French influence, and to accelerate the centralization of royal institutions. Like Philip the Bold of Burgundy when he created the Council of Flanders in 1385, he was willing to cut down judicial fees in this newly conquered country. He had already made it his priority in the realm of France, with the *Code Louis*, i.e. the *Ordonnance civile de Saint-Germain-en-Laye* of april 1667.

Louis XIV assured the Flemish that local rights and identity would be protected, but he did not really hide his ambition to set up the French model. If the need for a better administration of justice, for the good of his new subjects, was the alleged vow,[3] there were financial considerations too :

---

1 The *bailliages* (name used mainly in the North of France, whereas they were often called '*sénéchaussées*' elsewhere) were created by the end of the twelfth century. At the begining, they refered to a circonscription (financial, judicial and administrative), but as they advanced, they only kept the jurisdictional part. They were the lowest royal courts. Appeals were lodged to the *Parlements*. In 1552, Henry III decided to create 60 *présidiaux*, officially in order to relieve the *Parlements* with an intermediate level of appeal. This explains why each présidial was settled where a bailliage or a sénéchaussée existed (32 in the resort of the *Parlement de Paris*). But the creation of *présidiaux* also aimed to bail out the royal treasury, thanks to the sale of new offices.

2 *Edit du roi du mois d'avril 1704 portant création et établissement d'un siège présidial et d'une chancellerie dans les villes d'Ypres et de Valenciennes*, Departemental Archives of the North (DAN), *Placards*, inv.n° 8173.

3 See, e.g., the preamble of the *Edit du roi portant règlement pour le présidial d'Ypres* of January 1705, reminding that '*notre intention n'a pas été de donner atteinte aux styles, procédures et usages observés jusqu'à présent dans la Flandre flamingante, dans lesquels ils ont été confirmés par notre déclaration du 9 décembre 1698*', DAN, *Placards*, inv.n° 8174.

the liquid assets provided by the judicial offices sold by the Treasure were surely welcome.

If it was off to be a bad start for the *bailliage*, because of some reluctance from other institutions, it was successfully established in December 1698.[4] Once the offices provided, the institution settled in a place as symbolic as prestigious : the former castle of the dukes of Burgundy, where the Council of Flanders had had its seat twice in the middle of the fifteenth century. Henceforth, Ypres had a royal court, the *bailliage*, a municipal court, the magistrate, and a specialised jurisdiction, a *maîtrise des eaux et forêts*.

By many aspects, the *bailliage et présidial* of Ypres offers a perfect scope to study intermediate institutions in (French) Flanders. From a judicial point of view, as a *bailliage*, later raised to the rank of *présidial*, this court was meant to be an intermediate jurisdiction.[5] It was closer to litigants and less expensive, above the local institutions and below the central power. From a geographical point of view, Ypres is situated on a border zone, the limits of which varied several times, the city even being retroceded to the Habsburg Netherlands after the treaty of Utrecht. The new frontier caused the court to move southwards to Bailleul, where it would remain until the French Revolution. Moreover, the border position of Ypres made the *bailliage* an intermediate institution from a cultural and even legal point of view. Indeed, Louis XIV fulfilled local expectations establishing the *bailliage* to the model of the Council of Flanders, a Flemish institution with

---

4 *Déclaration du roi qui attribue au bailliage d'Ypres la même jurisdiction qu'a le Conseil provincial de Gand, donné à Versailles le 9 décembre 1698, registrée au Parlement de Tournai le 25 janvier 1699*, DAN, *Placards*, inv.n° 8173.

5 '*Il nous parut nécessaire dans la suite pour l'utilité des nos juges desdites provinces d'établir un juge d'appel entre les juges ordinaires et notredit parlement, nous aurions par notre édit du mois de mars 1693 établi dans notre ville d'Ypres un notre bailliage et siège royal à l'instar de notre bailliage de Tournai et des gouvernances de nos villes de Lille et Douai, depuis lequel établissement l'appel de tous les jugements rendus par les juges ordinaires a été porté à ce tribunal mais comme le jugement de notredit bailliage est encore soumis en toute sort de cas à celui de notre Parlement de Tournai, il est souvent arrivé que nosdits sujets ont porté dans trois juridictions différentes des affaires qui mériteraient à peine de faire la matière d'un procès, et comme nous avons une attention continuelle à ce que la justice soit administrée dans toutes les provinces qui sont soumis à notre obéissance avec le moins de frais qu'il est possible et à procurer autant qu'il peut dépendre de nous le bien et l'avantage de nos sujets, nous avons jugé que rien ne leur pourrait être plus utile que d'établir dans notre ville d'Ypres un siège présidial dans lequel les affaires de médiocre importance seraient jugées en dernier ressort et de leur épargner par ce moyen un degré de juridiction*', *Edit du roi du mois d'avril 1704 portant création et établissement d'un siège présidial et d'une chancellerie dans les villes d'Ypres et de Valenciennes*, DAN, *Placards*, inv.n° 8173.

seat in Ghent.[6] Yet, the official language was French[7] and gradually the court tended to 'frenchify', turning to the French organisation. The Ypres *compagnie judiciaire* itself would insist on this particular legal situation, pointing it to the King.[8]

The short period of French domination could be qualified as a parenthesis in the history of this western part of Flanders, but it is a parenthesis worth studying. It will be examined here, focusing only on the period of the Ypres settlement, excluding Bailleul for several reasons. One is that in this period were laid the foundations of the institution. Its running wouldn't change anymore after, even once settled in Bailleul in 1713. In spite of its resort being almost reduced to the half, because of numerous losses on the French side, the composition and the competence of the *bailliage-présidial* remained unchanged. Another reason to exclude Bailleul takes its justification in the sources analysed for the present study.[9] The

---

6 '*Voulons que ledit bailliage connaisse par appel de toutes les sentences et jugements rendus tant par les juges des seigneurs particuliers, que par les magistrats et chefs collèges des villes et châtellenies de son ressort suivant l'usage qui s'observait audit conseil de Flandre établi à Gand*', declaration about the jurisdiction of the *bailliage* of Ypres (09.12.1698). The edict of 1704 pointed out again this judicial model: '*avant que partie des pays bas eût été par nous conquise les appellations des jugements rendus tant par les magistrats des villes que par les juges des seigneurs particuliers étaient portées au conseil de Gand et de là au parlement de Malines*'.

7 *'Voulons et ordonnons que les procédures et jugements dudit bailliage soient faits et expédiés en langue française seulement, suivant et conformément à notre déclaration du 20 janvier 1685*' (09.12.1698).

8 At the occasion of a *remontrance* presented to the king (asking for the *bailliage* to be allowed to mandate *réviseurs* in the revisions of the *Parlement de Tournai*), they reminded him of their relation to the council of Ghent and even the relation of the *Parlement de Tournai* to the Great Council of Malines: '*Les lieutenant général, conseillers et autres officiers de votre baillage et siège royal de la flandre flamingante étably en la ville d'Ipres remontrent très humblement à votre majesté que par votre déclaration du 9 décembre 1698 ils sont créés à l'instar du conseil provincial a Gand et en ont la même cour, jurisdiction et cognoissance excepté les causes domaniales, et comme le Parlement de Malines (sur pied duquel votre cour de Parlement de Tournai est erigée) a toujours observé de dénommer aux révisions pour adjoints ou reviseurs des conseillers des cours inférieures de son ressort, scavoir de Gand, Namur, Luxembourg etc*'.

9 The *bailliage* sources analyzed are those kept at the Departemental Archives of the North (Lille). The records are quite voluminous but disparate. On the one hand, one specific series is dedicated to the *bailliage-présidial* (classified inv.n° 16B). It is composed of about thirty big registers (partly analyzed some fifteen years ago by Raphaël Fermey in 'Le bailliage royal et siège présidial de Flandres : composition et activités (1693-1789)', *Revue du Nord*, 1998, 619-636). On the other hand, there are the case records in the archives of the *Parlement de Flandre* (classified inv.n° 8B1). They are mainly composed of the trials judged in appeal by the *Parlement*, i.e. those which were not to be tried in the last instance by the *présidial*. There are also two

analysis is based on the archives of the *Parlement de Flandre* under the rule of Louis XIV,[10] i.e. until 1715.

This article gives a modest account of the sources analyzed, and intends to show that if the *bailliage-présidial* managed to find its place in the local judicial system (3), its acceptance by other institutions was not straightforward (2).

2. Intermediate court facing competition and resistance

Louis XIV's design of implementing a French court besides the old courts of Flanders, while respecting Flemish interests,[11] was not an easy one. Because of its intermediate position, the *bailliage* met some resistance from other institutions, both upper and lower courts. A first resistance came from the Ypres magistrate in 1693, from the very beginning. If the town court was favourable to the creation of an intermediate court, it was at the condition that this court would be set up to the Flemish model. The magistrate expected it to be another council of Flanders, made to the image of the Ghent council,[12] where the local language would be protected, as well as the local privileges. In this perspective, the judges presented a memoir to chancellor Pontchartrain, insisting, with a historical overview of the Flemish justice, on the wisdom and benefits of establishing a Flemish court.

Louis XIV was well aware that using the French model in a foreign country supposed adaptation to local realities. When, for instance, he had

---

cases (not analyzed here) tried at first instance by the *Parlement*, submitted for disciplinary action and with committimus. They are dealing with a conflict opposing some officers of the *Présidial* to one of them (councillor Letten de Mosbeque) about judicial vacations, concomitantly with a criminal action against this very officer. He appears to have been a victim of cabal by his fellow judges.

10 This study was part of a research project on the *Parlement de Tournai*, undertaken by the *Centre d'Histoire Judiciaire* (University of Lille II) in association with the Departemental Archives of the North, aiming at better knowing the institution (its daily running, its procedure, its personnel...). It is based on a minute examination and report of the 30.000 case records of the archives and it represents an essential preliminary to its study by researchers.

11 Cf. edict of 1704 (preamble): '*à fin de rendre conforme autant que faire se pourra sans néantmoins toucher aux usages et coutumes du pays, les juridictions de nos provinces de Flandres et d'Hainaut à celles du reste de notre royaume nous avons jugé à propos de créer en chacun desdits sièges d'Ypres et de Valenciennes une chancellerie présidiale à l'instar des autres déjà établies dans nos provinces d'Artois franche comté et dans toute l'étendue de notre royaume*'.

12 It is interesting to see, in the sources, that the similarity to the Council of Ghent was pointed out both by opponents and proponents of its creation: the Ypres magistrate, the *Parlement de Tournai*, the King, and even the *bailliage* itself.

created a sovereign council of justice in Tournai in 1668, in the newly conquered southern part of Flanders, the French King accepted not to introduce the French oral procedure, and to keep the Flemish one. Considering that local customs were different from those of the French part of Flanders,[13] he provided the *bailliage* with the same jurisdiction as that of the Council of Flanders, from which appeals were lodged to the Great Council of Malines. Appeals of the *bailliage* judgements were attributed to the *Parlement de Tournai*, as this was now the higher court in French Flanders.[14]

The Ypres magistrate was not the only one to resist. Most probably under the magistrate's influence, locals seemed hesitant too to the 'import' of a French court in their province. One proof of this lack of popularity is the difficulty Louis XIV had in selling the 68 newly created offices. For a future officer, buying a charge meant an important investment, that supposed confidence and interest in the institution he was to enter. It was even more difficult, as, before the arrival of the French, the Flemish courts were not familiar with venality of offices, and were really not keen on such a system.[15] Officially, the application of the edict was delayed by the uncertainty of the limits of the *bailliage*.[16] Louis XIV couldn't publicly recognize that the extension of the *bailliage* jurisdiction aimed to help selling more offices (an increase of the number of trials meaning for the

---

13 '*Ayant reconnu que les usages qui s'observent dans le bailliage de Tournai, et dans les gouvernances de Lille et de Douai sont tout à fait différents de ceux de la Flandre flamingante*' (09.12.1698).

14 This is reminded in the edict of 1704: 'a*vant que partie des pays bas eût été par nous conquise les appellations des jugements rendus tant par les magistrats des villes que par les juges des seigneurs particuliers étaient portées au conseil de Gand et de là au parlement de Malines, pour y être jugées en dernier ressort, depuis ce temps l'appel des jugements rendus par les premiers juges a été porté recta en notre parlement de Tournai*'.

15 Indeed, exactly at the same moment, Louis XIV decided to introduce venality in the *parlement*, cf. *Edit du Roy de mars 1693 pour l'érection des charges de judicature du Parlement de Tournay, et des Sièges Royaux de son ressort, en titre d'Offices forméz et héréditaires*, in *Recueil des édits, déclarations, arrests et reglemens qui sont propres et particuliers aux Provinces du Ressort du parlement de Flandres, imprimé par l'ordre de Monseigneur le Chancelier*, Douai 1730, 216-222. It caused a real uproar. About the introduction of venality in the *Parlement de Tournai*, see F. Souilliart, *L'introduction de la vénalité au parlement de Flandre*, Master's thesis University Lille II, Lille, 2007.

16 '*La continuation de la guerre et des doutes qui restaient sur la qualité et sur l'étendue de la juridiction de ce bailliage ont retardé jusqu'à présent l'exécution de cet établissement si utile à nos sujets desdites châtellenies et si avantageuses à la justice, ce qui nous ayant obligé de nous faire représenter et examiner de nouveau l'édit de création dudit bailliage*' (declaration of December 1698).

judges an increase in their vacations) as well as he couldn't admit that those offices were necessary for his treasury. Nevertheless, it is important not to underestimate the fiscal implication of adding the *présidial* to the *bailliage*.

The creation of the *présidial* gave rise to some opposition from the *Parlement*. As it was asked about the opportunity of creating the two *présidiaux*, one in Ypres and one in Valenciennes, the *Parlement* sent a very significant report to the King.[17] This memoir develops mainly financial arguments. If the councillors insist on public good – no less than the royal discourse did –, in fact they are surely concerned by their own interest. The judicial aspect is brought up only subsidiarily, through the problem of putting a new degree of appeal in the course of trials. Yet, on the contrary, the *présidial* was meant to prevent lawsuits from dragging on, judging in last resort trials under a certain amount. The *Parlement* considered therefore the *présidial* as a rival, fearing it might lead its activity and prestige to decline, but most of all, the judges' income to reduce. Indeed, since the introduction of venal offices, the officers were in competition, because their income derived more from the activity of the court, by means of vacations, than from their wages (irregularly paid by the King). In 1705, the *Parlement* expressed its hope to get exempted of a contribution, putting forward that the creation of a fourth chamber in 1704 and the settlement of two *présidiaux* had lead their offices to lower that much in value, that their institution would not find the slightest sum on its credit. Moreover, soon there wouldn't be enough cases anymore to have normal ordinary sessions. According to the memoir, the majority of the magistracy only survived thanks to judicial profits and professional emoluments, that could barely cover the interests of the debts contracted to keep possession of their offices.[18]

Knowing that the *Parlement* used to have exclusive jurisdiction of appeal on the cities' councils, it is easy to figure out the contempt these officers felt. The other way around, it is rather surprising to see how favourable the magistrate was towards the *présidial*, if we consider it made them lose their last instance jurisdiction over bourgeoisie in criminal cases.

Throughout the arguments raised by each party, we can see clearly the difference of mentality and of concerns between the *Parlement*, where French venality had just been instituted, and the magistrate, a local Flemish court. The former spoke about money and profit, the latter about local

---

17 DAN, inv.n° 8B1/21145. This memoir is neither titled nor dated but its content leaves little doubt it was written by the *Parlement* after 1698. This is corroborated by what Pillot reports (*Histoire du parlement de Flandres*, Douai, 1849, vol. 1, 52): '*la demande en érection de deux présidiaux avec de semblables pouvoirs ayant été communiquée au Parlement de Flandres, il la combattit dans un mémoire développé*'.

18 DAN, inv.n° 8B1/21145.

customs and interests. Eventually, the King did not meet with the arguments of both opponents. Even if the *bailliage* was set on the model of the council of Ghent[19] and its resort was extended as the magistrate had expected, it was not given the name 'Council of Flanders' and especially the use of French language and the French judicial model made this victory very relative. As for the *Parlement*, it was a real defeat, not only because of the *bailliage* being created and soon raised to *présidial*, but also because of the creation of a fourth chamber. It just so happened that the *Parlement*'s members had always been strongly opposed to it, and had only proposed it as a stopgap solution to avoid the creation of the *présidial* ! The *Parlement*'s opposition never flinched, even when the Ypres *bailliage* ceased to exist and was transferred, although there were less trials judged in Bailleul.

After this brief report on the establishment of the institution, we shall now focus on what was its judicial activity throughout its twenty years of existence.

3. The judicial activity of the *bailliage et siège présidial*

3.1. Method

The procedure of the *bailliage et présidial* was organised by royal *règlement* of February 1705 (46 articles). It particularly meant to prevent conflicts within the *compagnie*, especially when it came to precedence and emoluments, two sensitive points. The *présidial* developed the procedural rules by several edicts.

As previously underlined, civil cases under 250 pounds in capital or ten pounds of annuity were judged at first and last instance by the *bailliage*, if coming to its jurisdiction. Cases about the King's rights and lands, even of little importance, were always brought in appeal before the *Parlement*. So were beneficial and ecclesiastical matters. As for criminal cases, the competence was larger. The edict of 1704 stated that all penal matters would be judged in last instance by the *présidial*, except those concerning people enjoying a privilege of jurisdiction before the *Parlement* or belonging *rationae materiae* to the *Parlement*.

In this third paragraph, I have no further ambition than laying down the premises of a study on the *bailliage* and sharing the results of my analysis, based on the sources investigated (220 case records, representing

[19] The title of the declaration of 1698 itself made it clear: '*déclaration du roi qui attribue au bailliage d'Ypres la même jurisdiction qu'a le Conseil provincial de Gand*'.

215 lawsuits).[20] To make the most of this result, it is important to keep in mind that only records of the *Parlement* were analysed, hence cases that were not to be tried by the *présidial* in last instance.[21] Litigants were – as today – free to appeal or not against a judgement. Thus, my corpus of analyse does not include lawsuits in which people chose not to lodge an appeal to the *Parlement* and those of which the amount or matter at hand prohibited appeal.

I have chosen to focus on four main criteria of analysis : the duration of trials, the date, the degrees of instance, and the type of dispute. For each criterion selected, the total number of cases may vary, because sometimes there are not enough documents to gather information, particularly regarding the object of litigation (for instance, for want of the writ served by the attorneys).

3.2. Degree of instance

Most of the time, cases were tried by the *bailliage* in first instance and the court was in session as a *présidial* for the appeal of lower courts. The sources show that two thirds of the appeals lodged to the *Parlement* were tried by the *bailliage-présidial* in first instance (143 trials). The remaining third (72 trials) was generally tried in second instance (and two in third instance).[22] This perfectly accounts for the intermediate position of the bailliage. The edict of 1704 insisted on the problems of multiple degrees of appeal, encouraged by a Flemish society enjoying bickering almost as much

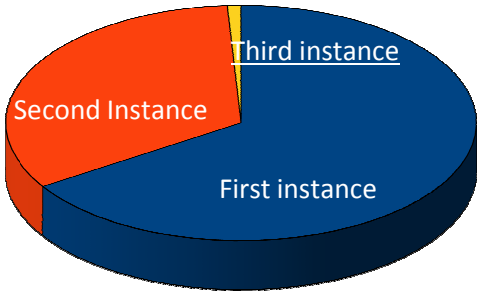
---

20 Unfortunately, some of the *Parlement*'s records were scattered and it happens that documents of the same trial end classified under different reference numbers (mainly in the 8B1 fund). This chaos was caused, either by the removal during the First World War, or by the way the records were added in the late 19th century. About the history of the *Parlement* archives, cf. *Petit guide à l'usage des personnes intéressées par les archives du Parlement de Flandre*, to be downloaded from the website of the *Centre d'Histoire Judiciaire of Lille 2*, http://chj-cnrs.univ-lille2.fr/spip.php?article313.

21 For the moment, it is not possible to determine the percentage that these 215 lawsuits account for, regarding those tried by the *bailliage/présidial*. To do so, it would be necessary to analyse all the registers classified in 16B (in his above-mentioned article, Raphaël Fermey only analysed the six last registers, concerning seizure and criminal judgements) plus the potential records that might have remained in Ypres, after the transfer of the présidial to Bailleul.

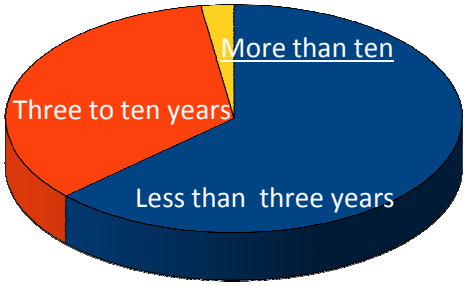
22 The first instance courts whose appeals were lodged to the *Présidial* in the cases I analysed are : the baronies of Esquelbecq and of Doulieu, the Magistrates of Rumbeque, Hondschoote, Roulers, Estaires, Furnes, Bergues-Saint-Winocq, Cassel, Bailleul, Ypres, Hazebrouck, Menin, Zuytschote and Noordschote, Poperinge, and Wevelgem, and the Feudal Court of Steenwercq.

as they did in France. Apparently the goal was reached since the two thirds of the trials only knew a single appeal.



3.3. Duration of trials

This criterion requires precaution because, as I pointed out, the cases analysed here are those tried before the *Parlement*. The problem is that, sometimes, the records only contains documents written during the appeal procedure, without any trace of the first instance procedure before the *bailliage*. Hence, it is not always possible to know exactly when the trial started. The same precaution prevails for the criterion of the dates (below). The figures show that 137 trials lasted less than three years, 75 between three and ten years, and only five at least ten years. In comparison to the first criterion, we notice that the two charts match all too logically.



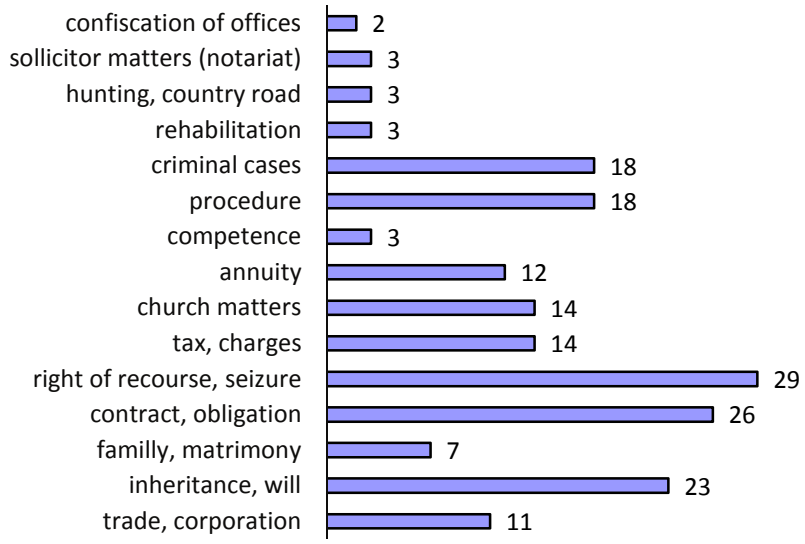
3.4. Dates of trials

The raising of the *bailliage* to a *siège présidial* did not lead to a rise in the amount of lawsuits tried. On the contrary, a slight decrease can be noticed. For the twelve first years, 133 cases were tried, whereas only 78 for the seven following ones. However, the figure to keep in mind is that of 126 for the 'true' seven first years, that is 1698 to 1704. The decrease kept going on, and the judges would sometimes complain about it.

3.5. Object of contention

Once again, it is important to remind that the cases analysed here are those of which the amount was too important to be judged in last instance at the *présidial*, so they don't account for the whole contention. The sources indicate that civil cases are quite representative of the society and the lifestyle of the times. The majority of the trials consist in material concerns of moderate importance and have been brought to the court by means of recourse. For some of them, it is not possible to know the exact basis of the claim (29). As for the rest, money is claimed for different reasons: inheritance and wills (22), execution of contracts (26), payments of annuities (12), taxes and feudal duties (13) etc. There are few commercial cases (11), which is easy to understand: the world of business required promptness and simplicity, incompatible with long trials. There are even fewer cases regarding family matters (7), since the competence belonged almost exclusively to the *officialités* (ecclesiastical courts). A few cases are based on conflicts of jurisdiction with the magistrate and the *officialité* (dealing with bourgeoisie and royal cases). The remaining cases are varied: hunting, reputation and honour, road maintenance...

There are also some criminal cases (18) but the object of prosecution is known only for half of them: violence for love rivalry, prevarication of a bailiff, rebellion at justice (with the kidnapping of a servant), embezzlement by a clerk, fraudulent bankruptcy. Three cases were tried in appeal by the *présidial*: theft of military horses, nightly disturbance of the peace by a youngsters gang and a stillborn child because of the ill-treatments inflicted by the father on the mother.



4. Conclusion

In this contribution was brought to light an underestimated source for the history of Ypres: the rich fund of the *Parlement de Flandre*. Its investigation certainly needs to be completed by the analysis of Flemish archives, before and after the French parenthesis. This article is a starting point for further study (particularly as for Bailleul), and an invitation to future comparisons. First, regarding the French institutions: was the Ypres court a *présidial* among others? Did its particular border situation, both historical and geographical, influence the institution? Moreover, there is no doubt that comparison to the Flemish judicial system, more precisely to the Flemish council of justice in Ghent, would also be full of learning.

By way of an epilogue, the treaty of Utrecht marked the end of the *bailliage et siège présidial de la Flandre flamingante.* The requests of the *présidial* councillors and of French diplomats did not succeed in saving the court. The House of Austria wasn't willing to keep any court of French origin. Hence, after the loss of Tournai, the *Parlement* itself moved to Cambrai (before it finally settled in Douai). The organisation got back to the *status quo ante bellum*, which means that appeals were lodged to the Council of Flanders, and then to the Great Council of Malines.

If the treaty of Utrecht decided that officers could keep on receiving money from their office, the town of Ypres was no longer French, thus the

future of the *compagnie* was at stake. Because of the drastic cut of the resort, they proposed that the *présidial* would be split in two: one chamber in Ypres and one in Bailleul. The King made no objection, as long as he did not have to pay the wages of the Ypres chamber. The opposition came from the Flemish authorities, particularly the Ypres magistrate, arguing that the *bailliage* was in breech with the customs of the province. They seemed to have little regard to the prosperity and the prestige of which the city had taken benefit for twenty years.

Abstract

In March 1693, French King Louis XIV created a royal court in the recently annexed *bailliage* of Ypres (Ieper), in order to improve the – in the eyes of the monarch – deficient judicial organization. In 1704 it was raised to the rank of *présidial*, becoming the *bailliage et siège présidial de la Flandre flamingante*. Although assuring the inhabitants of the newly conquered territory their local rights and identities, Louis XIV was also wishing to reinforce French influence, and to accelerate the centralization by royal institutions. This article gives a modest account of the preserved sources of this intermediate judicial institution and intends to show that, if the *bailliage-présidial* managed to find its place in the local judicial system, its acceptance by other institutions was certainly not straightforward.

THE UNIVERSITY OF DOUAI. FROM JUDICIAL INDEPENDENCE TO ASSIMILATION WITH ROYAL JUSTICE (1562-1749)

Sarah CASTELAIN

1. Introduction

The history of the jurisdiction of the University of Douai is the history of an anachronism. When in 1562 King Philip II establishes a university in Douai,[1] he endows it with a tremendous privilege of jurisdiction. This privilege, contained in the article IV of the erection charter of the university, states: '*Lesdits Recteur et Université auront l'entiere Jurisdiction, tant Civile que Criminelle sur lesdits Docteurs, Licentiez, Bacheliers, Estudians, Ecoliers & tous autres Suppôts d'icelle Université*'.[2] Such a practically unlimited privilege of jurisdiction is out of steps with the times, when other European universities, like Paris or Orleans, have been subjected to the authority of the French King for about two centuries, including on the judicial level.

The judicial autonomy of the university, which only represents a part of the general autonomy enjoyed by the same institution, can be explained by the particular circumstances of its foundation. Indeed, the University of Douai was imagined by Philip II as a means to fight against the spread of the Protestant Religion in the Low Countries[3] and more particularly as a stronghold dedicated to the education of local elites according to the Catholic orthodoxy. As a consequence, the King was inspired by former European universities, such as Cologne or Louvain,[4] which were fully

---

1 This lecture is based on the doctoral thesis, written under direction of Professor Véronique Demars (Lille II): S. Castelain, L'Université de Douai : son recteur et sa justice. Les vicissitudes d'une juridiction privilégiée (XVI^{e}-XVIII^{e} siècles), Lille, 2009.

2 Lille, Departemental Archives of the North (DAN), inv.n° D3$^{(C3)}$/106; Douai, Municipal Library (ML), GG, 'layette' 172.

3 About the spead of the Reformed Religion in the Low Countries, see G. Cardon, *La fondation de l'Université de Douai*, Paris, 1892; A. Lottin and Ph. Guignet, *Histoire des provinces françaises du Nord, de Charles Quint à la Révolution*, Paris, 1996; Ch. Dehaisnes, *L'histoire de l'Université de Douai d'après des documents inédits*, Douai, 1864.

4 Indeed, the statutes of Douai (Douai, ML, ms. 1301; Lille, DAN, inv.n° D3$^{(C3)}$/106) contain only minor differences with those of Louvain (A. Van Hove, "Statuts de

independent of the worldly power, when he chose to erect the University of Douai.

The question should be raised anyhow: practically speaking, does the University of Douai have efficient means to administer good justice? The study of the statutes of the University shows that, when Philip II erects the University, he seems to equip it with the necessary tools for a good justice (second paragraph). Yet, when French King Louis XIV conquers Flanders in the second part of the seventeenth century and establishes a *Conseil souverain* (which will become a *Parlement* a few years later), the presence of this high court of justice is soon going to emphasize the weaknesses of the justice of the University of Douai and the need for reforming it (third paragraph).

2. Under Spanish monarchy: an era of judicial independence

Ever since its founding, the University is equipped with a judicial apparatus working with its own rules, as described in the statutes. The first degree of jurisdiction is the rector's tribunal,[5] which has sessions twice a week.[6] The rector usually sits as a single judge in his tribunal. But sometimes, for particular cases such as sexual assaults or defloration, he is entitled to sit with the *notaire* and two deputies of the University, acting as his assessors.[7]

The rector is a professor, who is elected to this function.[8] In the beginning, elections were organized four times a year.[9] The rector was elected by a college composed of deputies of the university[10] for a three months mandate. Originally it was a rotation system according to which the rector had to be chosen successively in one of the five faculties composing the University: Theology, Canon law, Civil law, Medicine and Arts.[11] However, the mandate grew gradually longer, going from three to six

---

l'Université de Louvain antérieurs à l'année 1459", *Bulletin de la Commission royale d'histoire de Belgique*, 1907), which are themselves a litteral reproduction of those of older universities as Vienna or Cologne (L. Van Der Essen, *Une institution d'enseignement supérieur sous l'ancien régime, l'Université de Louvain (1425-1797)*, Brussels, 1921.

5 An entire chapter (II) of the statutes is devoted to this court of justice: *De officio et jurisdictione Domini Rectoris*.

6 Statutes, Ch. II, art. 4.

7 Statutes, Ch. II, art. 9.

8 An entire chapter (I) of the statutes is devoted to this election: *De electione novi rectoris.*

9 Statutes, Ch. I, art. 1.

10 Statutes, Ch. I, art. 3.

11 Statutes, Ch. I, art. 2 and charter of erection, art. II.

months[12] and was finally, at the end of the seventeenth century, fixed on one year.[13]

The conditions of the election of the new rector take into account the part he has to play as a judge. Indeed, the statutes rule that a monk is prevented from being elected as a rector,[14] such exclusion being mainly justified by the maxim '*Monachus non potest esse judex*'.[15] Yet, the statutes require no particular professional skills. As an illustration, though in the University of Bologna a future rector must have studied law for five years[16] (and is consequently prepared to rule judicial cases), in Douai, such a requirement does not exist.

Yet, when the new rector takes the oath at the start of his mandate,[17] he swears to deliver good justice[18] and to read, within the month following his election, the university statutes.[19] By this double commitment, the rector swears to act as a good judge. The statutes are indeed an important tool for the rector, as they describe the procedure to be followed in the university jurisdiction. They also state the rules the members of the University community have to abide by, and they stand as a kind of penal code, describing the penalties for each crime or offence. As a consequence, the statutes are very useful to the rector and may constitute some kind of remedy for his lack of judicial skills.

The mode of submission of a case to the court differs depending on the question whether the action is civil or criminal. In case of a civil procedure, the plaintiff submits his case to the court by filing a claim called '*libelle*'.[20] Once the rector has received the document, the defendant is summoned one, two or three times. If the defendant then still does not appear in court, he is declared '*contumax*' and the case is decided in his absence.[21] The defendant only learns about the charges against him when he appears in court.[22] The following step of the procedure, i.e. the instruction of the case,

---

12 X, 'L'Université de Douai et la bibliothèque des Jésuites en 1661', *Souvenirs de la Flandre Wallonne*, vol. 13, 137-144.

13 Douai, ML, ms. 1374 (*Journal de Monnier de Richardin*), vol. 1, 120-121.

14 Statutes, Ch. I, art. 4.

15 The presence of this provision in the statutes of the University of Douai is also explained by the fact that the Alma Mater had adopted the statutes of the University of Louvain, which had installed this requirement to prevent Dominicans and Augustinians from becoming rectors , see Cardon, *La fondation*, 223.

16 H. Rashdall, *The universities of Europe in the Middle Ages*, Oxford, 1936, 184.

17 Statutes, Ch. I, art. 6.

18 Charter of erection, art. X.

19 Statutes, Ch. I , art.9 (*Iuramentum Domini Rectoris*).

20 Statutes, Ch. XII (*De advocatis curia domini Rectoris*), art. 5.

21 Statutes, Ch. II, art. 7.

22 Statutes, Ch. XII, art. 5.

is written: the plaintiff and the defendant write down their arguments in various documents (‘*exceptions*’, ‘*répliques*’, ‘*dupliques*’ etc.), the number of which is limited, in order to ensure justice within reasonable delay.[23] Once this whole procedure is over, the rector passes the sentence.

The criminal procedure is totally different. It is not led by the litigants themselves, but by an important officer of the University: the ‘*promoteur*’.[24] The *promoteur* is charged with taking in delinquent students for questioning and leading them to jail, before launching his enquiry.[25] To find out the truth, he is entitled to question both the student under suspicion,[26] and all other witnesses.[27]. But this step of the criminal procedure is controlled by two precautions aiming at guaranteeing the defendant’s rights. According to the first precaution, the *promoteur* is prevented from questioning the defendant alone; he has to be assisted either by the rector or by the ‘*notaire*’ of the University.[28] According to the second precaution, the *promoteur* can’t use torture or food deprivation to get any confession.[29] Once the instruction of the cause is over, the defendant appears in court, where the rector decides the case after having heard him.

The statutes are very helpful as they detail many offences and describe the corresponding penalties. The harshness of the penalties depends on the gravity of the case. Studying the statutes list leads to the conclusion that a fine is the most frequently incurred penalty,[30] sometimes accompanied by jail[31] or deprivation of university privileges.[32] The archives, however, reveal that the rector is also free to sentence to any penalty unwritten in the statutes, such as public birching[33] or perpetual banishment of the University or even of the town or Douai.[34]

Against the rector’s judgments appeal can be lodged before the second degree of university justice, called ‘*tribunal des cinq juges de*

---

23 *Ibidem.*

24 A whole chapter of the statutes is devoted to this important officer: Statutes, Ch. XVII (*De officio clientum Universitatis et Promotoris*).

25 Statutes, Ch. X, art. 4, 9, 10 and 11.

26 Statutes, Ch. X, art. 1 and 4.

27 Douai, ML, GG, ‘layette’ 173 (1617-18: case Theodore Bochet).

28 Statutes, Ch. X, art. 12.

29 *Ibidem.*

30 Statutes, Ch. XX, art. 4, 5, 6, 7, 9, 10, 11, 12, 13 and 17.

31 Statutes, Ch. XX, art. 6, 7, 10 and 13.

32 Statutes, Ch. XX, art. 8 and 13.

33 Douai, ML, BB, inv.n° 14, f° 320 v°; Douai, ML, AA, inv.n° 200, f° 5 r°; M. de Saint Martin, ‘Relation d’un voyage fait en Flandre, Brabant, Hainaut, Artois, Cambrésis…en 1661’, *Souvenirs de la Flandre Wallone*, 107.

34 Douai, ML, GG, ‘layette’ 173 (1617-18: case Theodore Bochet).

l'Université'.[35] This court of appeal, composed of five professors, each of them elected in the different faculties composing the University,[36] handles the case the same day as the rector, who attends the hearing or is at least represented.[37] Against decisions of this appeal jurisdiction another appeal can be lodged before the Pope.[38] The statutes touch on this possibility however without describing the details of implementation.

What are now the main features of the justice of the University of Douai, not only as it is described in the statutes, but also as it works in practice? First, the rector and the five judges of the University both administer civil and criminal justice, and not only disciplinary justice. Second, these unprofessional judges are entitled to sentence parties to very harsh penalties. Third, as much power owned by professional judges would not be a problem, but the point is that university justice is administered by professors, i.e. unprofessional judges. Is a professor able to be a good judge, even when chosen in the law faculty? The problem is even increased by the rotation required for the election of the new rector, as this system prevents the rector in service to learn by experience, as he must resign only a few months after his election. Lastly, the university justice is problematic on another point of view: as the rector is used to working as a teacher, he may know the persons he has to judge, who can be either his students, or his colleagues… Moreover, what about the *tribunal des cinq juges*, made up of five lecturers who are supposed to try decisions given by one of their pairs? Can they seriously act as independent and impartial judges of appeal?

Anyhow, despite its many weaknesses, this court has operated throughout the period during which the city of Douai was under Habsburg rule. However, there was a change in the middle of the seventeenth century, when Flanders became French and Louis XIV erected a *Conseil souverain*, changed a few years later into *Parlement*.[39] Litigants pretty soon saw in the royal court of justice a remedy against the decisions of the University, and denounced before this institution the many abuses and miscarriages disturbing the well functioning of university justice.

---

35 Statutes, Ch. III (*De officio et jurisdictione D[omi]norum quinque judicum causarum appellationum*).

36 Statutes, Ch. III, art. 1.

37 Statutes, Ch. III, art. 2.

38 Statutes, Ch. X, art. 20.

39 About the Parlement of Flanders, read G.-M.-L. Pillot, *Histoire du Parlement de Flandres*, Douai, 1849; M. Pinault, *Histoire du Parlement établi en la ville de Tournay, contenant l'établissement et les progrès de ce tribunal avec un détail des Edits, Ordonnances, Règlemens concernant la justice y envoyez*, Valenciennes, 1701.

3. The French era and the connection to the royal court

As an illustration, as early as 1674, i.e. six years after the founding of the sovereign council, a student convicted by judges of the University to pay alimony to a young woman to keep his child, appealed to the royal court.[40]

In this same context, a conflict broke out in 1715.[41] The court files shed a light on how uninversity justice was percievd by the contemporaries. The conflict at hand opposed Peter Briffaut, who was both professor at the University of Douai and advocate at the *Parlement de Flandre*, to the heirs of Jean-Adrien Denis, a former rector, who also taught at the same university. Jean-Adrien Denis had leased a house to Peter Briffaut. When Denis died, his heirs decided to sale the house and Briffaut signed a commitment to leave the house on St. John the Baptist's day (June 24). However, once this day arrived, Briffaut refused to leave. The heirs of Denis assigned him before the court of the rector. The rector condemned him to leave the house, but Briffaut lodged appeal against this decision to the five judges. He did so not less than two months after the trial decision, whereas the statutes fixed the period for appeal to three days. Nevertheless, the five judges did not declare him foreclosed. They accepted his appeal and, after a very tedious procedure, decided the case to his advantage. The heirs of Denis lodged appeal against this last decision to the *Parlement de Flandre*. Before this court, they invoked the oppression they have suffered from the five judges of the University, forcing them to go and look for protection and authority at the royal court. This formula echoes the appellants' disapproval of the academic justice and their hope to find in the royal justice the legal security they had not found in the University.

Procedural acts exchanged before the *Parlement* sound like an indictment against the justice of the university, and especially against the court of five judges. Thus, they denounce in a language full of blame and resentment: '*l'Université de Douai n'a ni règles fixes, ni stil constant, ni rime, ni raison dans ses procédures et dans son administration de la justice. Ce mal vient de sa prétendue indépendance, parce que quelques fautes, quelques injustices qu'on y fasse, celui qui souffre de cette injustice aime mieux tout abandonner que d'aller plaider à Rome, ce qui n'arriveroit pas si l'Université avoit un juge supérieur d'appel assez voisin pour que les particuliers grevés par l'Université puissent se pourvoir d'abord et sans*

---

40 Douai, ML, GG, 'layette' 177 (1674-1717: case Delannoy versus Turbelin); Lille, DAN, inv.n° C 3634 (*Réflexions sur la jurisdiction prétendue par l'Université de Douai*); inv.n° VIII B 1/24676; inv.n° VIII B 2/549; inv.n° VIII B 2/556; inv.n° IX B 230; Paris, National Library of France, inv.n° F 21220 (8).

41 Lille, DAN, inv.n° VIII B 1/3890 (case Briffaut versus Denis).

remise'. Moreover, they denounce the lack of competence of the appeal judges and, in support of this statement, they relate the course of a hearing of the tribunal in which sat a professor of theology, two law professors, a professor of medicine, and another member of the university. According to the appellants, only one of the professors in law was competent to rule on the issue. The appellants add that, conscious of their incompetence to deal with this case, the judges called a lawyer to help, but this one, outraged by the maneuvers of the judges who were constantly challenging his opinion, left the meeting. Well aware that they had to find a solution to the case, the judges of the University then consulted several lawyers. Finally, they lined up behind the view of one who decided the case in the direction they wanted, i.e. one who gave Briffaut gain of cause.

The case related above is instructive for another reason, as it provides information on the functioning of the academic justice. It is true that, as the reported facts are stated by dissatisfied litigants, the description might be extremely subjective, even excessive and should therefore be watched carefully. However, some facts cannot be disputed: the act of appeal was formulated out of time and yet accepted by the court, the finding of incompetence of appellate judges, unable to decide a case, however simple.

Ultimately, the question arises: is it really incompetence, or is it corporatism? The point of law at hand is simple; it seems clear that Briffaut is in the wrong. So why request the opinion of several lawyers and finally retain only one who agrees with Briffaut? The example sheds light on the limits of judicial decisions of the University, in which judges and litigants know each other and rub shoulders… thus endangering the judges' impartiality and independence.

The case described took place in 1715-1716. In this very period, the University of Douai, undermined by financial and academic difficulties,[42] is in the sights of the French monarchy, that plans to reform it. Unsurprisingly, the justice of the University will also be affected by this wind of change.

Part of the preparatory work of the reform of the academic justice has come down to us. The main artisans of it were chancellor d'Aguesseau, the *Intendant de Flandre* Bidé de la Grandville, and the attorney general of the *Parlement de Flandre* Vernimmen. Their project offers a set of measures that tend to weaken the university justice.

In the first part of the project (1737),[43] Vernimmen proposes two main measures to reorganize the university court. First, to remedy the lack of

---

42 About this difficult period for the University, read G. Dehon, 'La fin du régime espagnol et le début du régime français à l'Université de Douai (1640-1680)', *Cercle archéologique et historique de Valenciennes*, 1971, 125-139.

43 Lille, DAN, inv.n° $D3^{(C3)}$/123.

competence of judges of the university, he recommends that the rector and the five judges should be obliged to take the advice of lawyers. He then mentions the possibility to grant appeal against decisions of the university justice to the bishop of Arras and the archbishop of Cambrai when the defendant is a clergyman, and to the *intendant* of the province when the defendant is a layman.

The project is then sent to the chancellor d'Aguesseau, who offers an alternative.[44] He is convinced of the need to remove the second degree of justice of the university, to comply with what is practiced at the University of Paris. Here the decisions taken by the court of the rector are directly appealable before the *Parlement de Paris*. From this perspective, the first chamber of the *Parlement de Flandre* would be empowered to hear appeals of decisions of the University of Douai. However, admitting that he does not want to offend too deeply the members of the University, he proposes to add to this chamber the five university judges, or at least three of them. According to d'Aguesseau, by opting for this alternative, the five judges would not only be compensated, but would somehow be bestowed with the honor of sitting next to members of the *parlement*. This would allow them to exercise their duties in a better skill. It seems the chancellor is considering that the loss of academic independence of the judiciary would cause an increase in quality.

The project of the chancellor is then passed to the *intendant* of Flanders, who believes that it is relevant to the *parlement* to become the bench of appeal of the University. However, he hesitates to bring the five appellate judges in, because of their lack of experience.

At that moment, this is end of July 1739, we lose track of the preparatory works. However, there is no doubt anymore that the university justice will be reformed… and, at the same time, distorted and amputated.

The reform finally follows ten years later, with Louis XV promulgating his *Déclaration sur la discipline à observer à l'Université de Douai*.[45] Although the title is not explicit at that point, the regulation dedicates several articles to the reorganization of the university justice. Regarding the first level of jurisdiction, article 27 states that the university court is composed of the rector and one member from each faculty composing the university. Under this provision, the first level of academic justice becomes collegial. Article 34 explains the change. It states that appeals of the sentences issued by the University will be brought before the first chamber of the *Parlement de Flandre*. The idea of Chancellor d'Aguesseau to add the appellate judges of the university to the judges of the

---

44 Lille, DAN, inv.n° D513/24.

45 Lille, DAN, Placards, inv.n° 8177, 349-444; inv.n° VIII B 1/18059; inv.n° $D2^{(C2)}$/24.

Parlement is abandoned, just like the appeal tribunal of five judges is abolished. However, probably to soften the measure, which is a serious blow to the university court, the appellate judges are joined to the president to try cases at first instance.

The new regulation also limits the university justice's scope. As far as civil law is concerned, article 30 excludes from the academic jurisdiction all real matters. As far as criminal law is concerned, article 32 limits the jurisdiction of the court to minor offenses and discipline within the university. The true jurisdictional competence of the University is replaced by a simple right of correction.

What happened after the text was published? Did the reorganized academic justice work satisfactorily? Files in the *Parlement de Flandre* archives make us doubt it.

When, in 1768, a teacher submits a request to the jurisdiction of the University, he meets the greatest difficulty to get a trial started.[46] In his notice of appeal before the *Parlement de Flandre*, he complains about how difficult it is to obtain a ruling by the jurisdiction, mainly because of the frequent lack of judges. He also explains how he got obliged to prefer royal jurisdiction to academic, in order to get a decision. The example illustrates that the university justice, even reformed, did still not work well. This is certainly the reason why the same year, another teacher directly addressed the *Parlement* instead of referring the case to the jurisdiction of the University.[47] In 1768, university justice is completely disavowed by the litigants, obviously for good reason.

4. Conclusion

The history of judicial independence of the University of Douai is not only the story of an anachronism, but also one of a utopia. Granting this institution a boundless privilege of jurisdiction, and trusting professors to serve its justice, was folly, and paved the way for many corporatist excesses. Archival sources show that in the late seventeenth and in the eighteenth centuries, the justice of the university was impaired by incompetence and partiality of its judges, while, at the same time, there was in the immediate neighborhood, first in Tournai and later in Douai, a court composed of professional judges. Litigants were not mistaken and went quickly to seek the professional jurisdiction as judges of the University could provide.

---

46 Lille, DAN, inv.n° VIII B 1/19947 and 30405 (1768-69: case Antoine Danville); Douai, ML, ms. 1020, vol. 3, f° 10-33; Douai, ML, GG, 'layette' 178.

47 Lille, DAN, inv.n° 424/6 and VIII B 1/11412 (1768: case Beghin).

It is clear that the motivation behind all these efforts was to place the University, through the brand new procedure of appeal, under the authority of the *Parlement de Flandre*. At the same time, it was as much an attempt to remedy the inability of the judges, and to align the status of the University of Douai with that of other universities in the realm. It was in line with the French King's dream to centralize all education institutions of the kingdom. It allowed him to control the general field of education on the one hand, and, on the other hand, it was perfectly consistent with the movement of subjecting competing justices to the royal justice, as observed in France since the sixteenth century. However, in view of the various examples reported, no one can deny that in the present case, the royal will was entirely consistent with the interests of litigants.

Abstract

In 1562, when part of what today is northern France, was still under Spanish reign, Philip II established a university in Douai. To the example of the universities of Cologne and Louvain, the institution was granted a proper jurisdiction. A study of the statutes learns that both the rector (at first instance) and the *tribunal des cinq juges* (in appeal) were very independent, but also very unprofessional judges. Corporatism seems to have been no unjustified critique. After the conquest by French king Louis XIV and the establishment of a royal jurisdiction in the very neighborhood, the *Parlement de Flandre*, first in Tournai, later in Douai, many parties lodged appeal against the university's judgments. It was a trigger for a complete reformation of the jurisdiction of the University of Douai.

THE AUTHORS

Frederik BUYLAERT received his doctoral degree in 2008 from Ghent University with a study on the Flemish nobility in the later middle ages, which dissertation was honoured with the Pro Civitate Award by the Royal Academy for Science and the Arts of Belgium. He is currently lecturer in late medieval and early modern history in Brussels (VUB). He publishes mainly on pre-modern elites.

Jonas BRAEKEVELT is a doctoral student and assistant at Ghent University. His research focuses on the princely legislation for the county of Flanders during the reign of Duke Philip the Good and the interactions between chancery and other state institutions and the ducal subjects.

Sarah CASTELAIN was, when participating in the conference, *ingénieur d'etudes au CNRS* at the *Centre d'Histoire Judiciaire* of the University of Lille. Meanwhile, she is barrister (*avocate*) at the Lille Bar. She published articles on the *Parlement de Flandre* and defended a PhD thesis on the jurisdiction of the university of Douai in the Early Modern Era.

Sylvie DE SMET (°Ghent, 1977) studied history at the University of Ghent (1999) and has also got a master in archive management (2000). She works in the State Archives in Beveren, where she is drawing up a PhD about the Chief College of the castellany of the Waasland.

Laurie FRÉGER received her doctoral degree in 2006 from Rennes 1 University with a study on the judicial fees and the royal judges' wages in the Early Modern Era. She has taught History of French institutions for seven years and has also been a postdoctoral researcher for three years at the *Centre d'Histoire judiciaire* (Lille 2 University). She published mainly on judicial history. She presented and traduced the Spanish civil procedure code (*Ley de enjuiciamiento civil*) of 1853 for a European project about European legal sources and codification.

Simon GROENVELD is professor emeritus of the University of Leiden in History and Culture of the Republic of the United Netherlands.

Laurent INGHELBRECHT studied agricultural engineer at Hogeschool Gent (1996), and teaches applied economy at the agriculture school of Torhout. He prepares an inventory of the civil lawsuits of the aldermen of the Liberty of Bruges. His research also focuses on the administration in the Liberty of Bruges in the Early Modern Era.

Klaas VAN GELDER is a Teaching Assistant in the History Department at the University of Ghent. He specializes in the political history of Early Modern Europe and is preparing a dissertation on the establishment of Austrian rule in the Southern Netherlands following the War of the Spanish Succession, roughly spanning the years between 1716 and 1725.

An VERSCUREN received her *Licentiaat* degree in History in 2005 at Katholieke Universiteit Leuven. Between 2006 and 2008 she continued her studies at Boston University (Boston, USA) with both a Fulbright Scholarship and a Fellowship from the Belgian American Educational Foundation. Returning to Belgium with an additional MA degree in Modern European History, she entered the Ph.D. program at KULeuven with a scholarship from the federal government and started to work as an *attaché* at the National Archives. In her doctoral dissertation, she discusses the impact and importance of the 18th century Great Council of Malines.