

## Chapter 2

# The Face of Justice: A Career Analysis of the Eighteenth Century Members of the Great Council

### 2.1 Introduction

“Le souverain établit, réforme ou supprime des institutions. Dans le quotidien, ses ‘très obéissants et fidèles serviteurs et sujets’ les forgent, les portent par leur action ou les abandonnent à la léthargie.”<sup>1</sup> In the introduction to his biographic dictionary of the civil servants in the central institutions of the eighteenth century Austrian Netherlands,<sup>2</sup> C. Bruneel highlighted the importance of the people populating an institution. R. Mousnier argued that it is even possible to wholly identify an institution by its people.<sup>3</sup> Both authors asserted that to gain a better understanding of any institution of the Ancien Régime, a biographic—and social—study of its members is essential. Indeed, while all administrative bodies were established by the sovereign—and almost all without exception, are regulated by fixed decree—it is indisputable that the human factor molds the institution, gives it its own character and is ultimately responsible for its reputation.<sup>4</sup> Or, as Mousnier stated, we can only speak of an institution if its procedures are incorporated in the men who put them into practice, make them compulsory and thereby impose actions on other people.<sup>5</sup>

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<sup>1</sup> Bruneel, Claude and Hoyois, Jean-Paul. 2001. *Les grands commis des Pays-Bas autrichiens: dictionnaire biographique du personnel des institutions centrales*. Brussels: Algemeen Rijksarchief, 5.

<sup>2</sup> Conspicuously, Bruneel does not count the members of the Great Council among the *grands commis*. Only those councilors who continued their career in the Privy Council, the Council of State, the High Council of the Netherlands in Vienna or anything alike figure in his biographic dictionary.

<sup>3</sup> Mousnier, Roland. 1970. *La plume, la faucille et le marteau: institutions et société en France du moyen âge à la Révolution*. Paris: PUF, 8. “Mais le groupe d’hommes est partie intégrante de l’institution. En simplifiant et en forçant les termes, l’on pourrait presque dire qu’une institution, c’est un groupe d’hommes.”

<sup>4</sup> Bruneel, Claude and Hoyois, Jean-Paul. 2001. *Les grands commis des Pays-Bas autrichiens: dictionnaire biographique du personnel des institutions centrales*. Brussels: Algemeen Rijksarchief, 5.

<sup>5</sup> Mousnier, Roland. 1970. *La plume, la faucille et le marteau: institutions et société en France du moyen âge à la Révolution*. Paris: PUF, 8.

Employing Bruneel's and Mousnier's writings, we composed an image of the councilors of the Great Council of the eighteenth century. During the final century of the tribunal's existence, 94 councilors and eight presidents administered justice in Malines. In theory, at any given time in the eighteenth century, the Great Council counted, divided over two chambers, one president, who was responsible for the smooth running of the tribunal, and 16 councilors, 14 laymen and two clergymen.<sup>6</sup> In general, the *procureur-général* (procurator-general) and *avocat-fiscal* (advocate-fiscal) were selected from the lay councilors and made up the 'prosecution', designed to protect and defend the sovereign's interests.<sup>7</sup>

The appointment records—preserved in the archives of the Privy Council, the Council of State, the Royal Council of Philip V and the *Conseil du gouvernement général*<sup>8</sup>—constitute the primary source for this chapter. As these files were 'confidential' documents, not meant to be distributed outside the small circle of government officials, they allow a privileged view into the inner workings of the administration. The members of both the Great Council and the advising Council—in *casu* predominantly the Council of State (before 1725) and the Privy Council—did not shy away from venting their uncompromising opinions about the candidates in their reports. The 'private' character of these comments—which were always meant to influence the decision-making process—makes it possible to reconstruct the motives and decisive arguments which led to the appointment of a certain candidate. At the same time, they lay bare certain issues connected to the appointments, such as the difficulties surrounding the nomination of fiscals or of clerical councilors.<sup>9</sup> In addition to these files, biographical descriptions of the presidents and councilors of the Great Council resting in the *Manuscrits divers* are used.<sup>10</sup> Even though it is not evident why these short biographies were recorded<sup>11</sup> and experience has proved that they are not always entirely reliable, they do provide vital supplementary information.

<sup>6</sup> Wijffels, Alain. 1994. Grote Raad voor de Nederlanden te Mechelen (ca. 1445–1797). In *De centrale overheidsinstellingen van de Habsburgse Nederlanden*, ed. Erik Aerts e.a., 448–461. Brussels: Algemeen Rijksarchief.

<sup>7</sup> Two registrars and about four to six secretaries completed the main body of the Great Council. However, the procedures used for their appointment and their backgrounds are outside the scope of this work.

<sup>8</sup> Brussels, ARA, GRO, Kartons, 442A, 443A, 443B; Brussels, ARA, RvSt, 651, 653, 654, 655 and 656; ARA, Regenschapsraad van State, 286; Brussels, Koninklijke Raad van Filips V, 1702–1711, 19; Brussels, ARA, ARR, 857, 858, 974.

<sup>9</sup> Cf. *infra*, 2.2.2.2 Personal merits and 2.2.4 Recruiting *l'oeil et le bras du Roi*.

<sup>10</sup> Brussels, ARA, MD, 860/A, 860/B and 432. The last entry in MD 432 is the biographic portrait of Antoine Reniers; he was appointed in 1789. Therefore, this document does not provide any information on Denis Baujoz, Jean Bernard de Guchteneere, François d'Hoop and Guillaume Van Cutsem.

<sup>11</sup> We are not exactly sure who composed these prosopographic sketches of the councilors of the Great Council or why this was done. Possibly, it was destined to underline the importance of the Council. Since the last four councilors are not included, we can presume that it is an original eighteenth century compilation.

In this chapter, we first look into the appointment process, describing the procedure and discerning which elements may have motivated the decision to prefer one candidate to another. Outside attempts to influence the procedure are also touched upon. Secondly, we sketch a profile of the councilors as a professional group, taking into account their social background, geographical origin, career path, family ties and education. Throughout, we confront our findings with the characteristics of the members of the Great Council in earlier centuries<sup>12</sup> as well as with the social portrait of councilors in other, more or less comparable institutions.<sup>13</sup>

## 2.2 The Right Man for the Job: The Appointment Procedure<sup>14</sup>

### 2.2.1 The Process

The procedure for appointing a councilor to the Great Council is touched upon briefly in the general ordinance of 1559.<sup>15</sup> Article 8 established that the Great Council enjoyed the *droit de terne*, the right to suggest three ‘capable and honor-

<sup>12</sup> Kerckhoffs-De Hey, A.J.M. 1980. *De Grote raad en zijn functionarissen, 1477–1531*. Amsterdam: s.n.; Thomas, Cathérine. 2013. Hommes d’Etat, hommes de loi. Les conseillers du Grand Conseil de Malines au XVIIe siècle. In *Gouvernance et administration dans les provinces belges (XVIe–XVIIIe siècles)* (Archives et Bibliothèques de Belgique 99), Eds. De Morbeau de Gerbe-haye e.a., 155–177. Brussels: Archives et Bibliothèques de Belgique.

<sup>13</sup> Alix, Flore. 2009. Les critères de sélection des hauts fonctionnaires des Pays-Bas méridionaux (1700–1725). *Belgisch tijdschrift voor filologie en geschiedenis* 87: 297–348; Hempenius-Van Dijk, Barendina e.a. 1999. *De Heeren van den Raeden: biografieën en groepsportret van de raadsheren van het Hof van Friesland, 1499–1811*. Hilversum: Uitgeverij Verloren; Gaillard, Arthur. 1898–1902. *Le Conseil de Brabant: histoire, organisation, procédure*. Brussels: Lebègue; Van Poelgeest, L. 1888. *De raadsheren van de Hoge Raad van Holland, Zeeland en West-Friesland in de achttiende eeuw. Bijdragen en mededelingen betreffende de geschiedenis der Nederlanden* 103.1: 20–51.

<sup>14</sup> Lefèvre published several documents concerning the recruitment of civil servants in both the Spanish and Austrian Netherlands: Lefèvre, Joseph. 1975. *Documents concernant le recrutement de la haute magistrature dans les Pays-Bas, sous le régime espagnol, 1555–1700*. Brussels: Palais des Académies; Lefèvre, Joseph. 1939. *Documents concernant le recrutement de la haute magistrature dans les Pays-Bas autrichiens au XVIIIe siècle*. Brussels: Palais des Académies. He also wrote an article on the appointment of judicial officers during the French occupation of the mid-1740s: Lefèvre, Joseph. 1934. Les nominations faites dans la magistrature pendant l’occupation française, 1746–1747. *Revue belge de philologie et d’histoire* 13: 697–711.

<sup>15</sup> *ROPB*, 2ième série, t. 7, pp. 461–492. For the Dutch translation, see: Bolsée, Jean. 1969–1970. L’ordonnance du 8 août 1559 réglant le statut, le style et la manière de procéder du Grand Conseil de Malines (texte néerlandais). *Handelingen van de Koninklijke Commissie voor de uitgave der Oude Wetten en Verordeningen van België* 24: 77–152.

able' nominees to fill each vacancy for a councilor, fiscal or registrar position.<sup>16</sup> The sovereign was committed to appointing one out of those three. Furthermore, none of the candidates was allowed to present gifts or promise favors in order to be selected. The information gathered from the appointment records makes it possible to put this theory on trial and describe how the nomination and selection occurred in practice.

### 2.2.1.1 The Droit de Terne

The appointment records confirm the habit of selecting three nominees. When a councilor died or was promoted—only once during the eighteenth century did a councilor resign without having another position organized<sup>17</sup>—the Great Council announced the vacancy and invited potential candidates to come forward before a pre-determined date. After the term expired, each councilor had to select three applicants during a joint session of both chambers, ranking them in preference. The nominee with the highest total of ballots behind his name—who, coincidence or not, also always assembled the highest number of first-choice votes—figured first in the ranking, followed by his two closest contenders. In 1759, the procedure was slightly modified: instead of merely hierarchically listing the nominees, the sovereign required the Great Council to specifically state the number of votes each had obtained.<sup>18</sup> The appointment record of Diu as deputy procurator-general proves that these regulations needed time to filter through in practice: in 1763, the Privy Council had to remind the Great Council of this regulation.<sup>19</sup>

Possibly, the Great Council was not very eager to apply the rule. The Council of Brabant, at least, had severe reservations and even refused to comply because it would certainly cause trouble: a newly appointed councilor only had to leaf through the recommendations to know who had voted for another candidate. The consequences of this to the collegial harmony would certainly be disastrous. Moreover—the chancellor of Brabant noted—this formality was useless as the government always appointed the nominee it favored most and completely disregarded the number of votes received!<sup>20</sup>

<sup>16</sup> Other courts of justice were equally granted this privilege. One example is the Council of Brabant. Cf. Gaillard, Arthur. 1898–1902. *Le Conseil de Brabant: histoire, organisation, procédure*. Brussels: Lebègue, p. 232.

<sup>17</sup> This was the case of councilor Robert Happart. His resignation was not exactly entirely voluntary. Cf. infra, 2.2.3 The 'Result' of the nomination procedure.

<sup>18</sup> *ROPBA*, t. 8, p. 339, October 18, 1759.

<sup>19</sup> Brussels, ARA, GRO 442A, 1763: appointment record of Henri Diu as deputy procurator-general.

<sup>20</sup> Gaillard, Arthur. 1898–1902. *Le Conseil de Brabant: histoire, organisation, procédure*. Brussels: Lebègue, 237: "Du reste, ajouta le chancelier, cette formalité est inutile, car le gouvernement général choisit toujours, parmi les candidats présentés, celui qui lui est le plus agréable, sans se préoccuper du nombre de suffrages qu'il a obtenu." In order to remedy at least the first problem,

It is unclear if the members of the Great Council shared the chancellor's concern that the new regulation would cause internal quibbles. At any rate, the appointment records of Melchior Goubau and Jean Louis Pouppez seem to suggest that at least in the late eighteenth century, the candidates for membership in the Great Council, even before their actual appointment, very well knew how they were ranked.<sup>21</sup> However, they were probably not aware of which councilors had not voted for them. While the central government certainly did not completely disregard the Great Council's rankings, the tribunal may have shared some of the Council of Brabant's frustrations. Indeed, the Great Council's preferences were followed as often as not. Somewhat remarkably, especially in the late seventeenth and early eighteenth centuries, the Great Council's ranking was often disregarded, while in the latter part of the eighteenth century, its advice was usually followed.<sup>22</sup>

Regardless, the tribunal attached great importance to the privilege of pre-selecting three candidates. In several instances, the councilors claimed that they considered the *droit de terne* a 'duty' rather than a prerogative, a matter of conscience, thereby unburdening the sovereign's, and assuring the independence of the procedure.<sup>23</sup> However, while there is no denying that the councilors regarded their right of presentation as an important responsibility, their main motives for defending this privilege were of course of an entirely different nature: the *droit de terne* gave them the opportunity to propose candidates they preferred, not necessarily because of their competence, but rather because of personal reasons, networking concerns, because they needed (to return) a favor etc. There should be no doubt that every nomination involved considerable lobbying.

Only once during the eighteenth century was the Great Council not allowed to compose a *terne* and instead was forced to accept a candidate imposed by the central government. In July 1789, after the promotion of Jacques Joseph de Stassart to the presidency of the Council of Namur, the *Conseil du gouvernement général* (Council of General Government) informed the tribunal in Malines that—due to 'special circumstances'—councilor de Stassart would be replaced by the *pensionnaire* of the city of Leuven Antoine Reniers.<sup>24</sup> As far as is known, the members of the Great Council did not protest this infraction of their much cherished privilege. Was it because they had been assured that this was exceptional and would not be considered a rule for the future? Indeed, the next nomination went by the book. Or was this exception tolerated because they had only very recently been awarded the jurisdiction of the abolished Council of Brabant?<sup>25</sup>

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governor Charles of Lorraine decided that the nominations had to be recorded into a separate register to be personally kept by the chancellor.

<sup>21</sup> Brussels, ARA, ARR 857, petition of Jean Louis Pouppez, January 13, 1788: "C'est avec le plus profond respect que le soussigné ose représenter à votre excellence qu'il est nommé le premier dans le terne des sujets que le grand conseil vient de proposer..."

<sup>22</sup> Cf. Excel database: Councilors of the eighteenth century Great Council.

<sup>23</sup> Brussels, ARA, RvSt 653, 1693: Advice of the Council of State on the petition of Ehrmans.

<sup>24</sup> Brussels, ARA, ARR 857, 1789: appointment record of Antoine Reniers.

<sup>25</sup> Cf. *infra*, Chap. 5.

### 2.2.1.2 The Advising Council's Opinion

After the Great Council had nominated three, or if there was an equality of votes, four candidates, it sent its list with some accompanying remarks—about the nominees' personal background, their university studies, their former career, etc.—to the governor, who in turn forwarded it to the advising council. The nominees must somehow have been notified that they were shortlisted. Indeed, after the Great Council's selection—and not before—many of them petitioned the governor<sup>26</sup> to publicize their personal accomplishments, and those of their family members, their loyalty to the Austrian government—this was especially so during or right after a revolt or period of foreign rule<sup>27</sup>—their careers, the number of nominations already received etc. As the Council of State and the Privy Council usually indiscriminately copied these requests into a summarized version, without checking the assertions of the petitioners and without mentioning the source of the information, these could be a powerful tool in promoting one's candidacy.

Yet, overstating one's abilities and accomplishments could backfire. For example, Jean Baptiste Van der Fosse did not shy away from exuding self-importance when writing to the governor in 1776. Not only did he mention his brilliant career at the University of Leuven, he also boasted of his further accomplishments, characterizing them as 'essential' to the sovereign. According to him, his ancestors had even sacrificed their liberty, fortune and their lives for the sovereign, both in the army and in the administration, thereby further proving his dedication and worth. Furthermore, he claimed that his personal successes had earned him the praise and esteem of many distinguished families and important people. Finally, he had been nominated twice for a seat on the Council, with distinction and applause, but he acknowledged that there had been external circumstances which had prevented his appointment so far. He was convinced that this was the moment for his promotion.<sup>28</sup> Van der Fosse's self-aggrandizement gave the Privy Council a rather negative impression of him. In the end, he did receive the appointment, but only because he apologized and told the Privy Council that the letter had filled him with aversion

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<sup>26</sup> To name only a few which have been preserved: Jacques Stalins (Brussels, ARA, RvSt 653, 1685: appointment record of Jacques Stalins); Auguste de Steenhault (Brussels, ARA, Regentschapsraad van State 285, 1711: appointment record of Jean Alphonse de Coloma; 1712: appointment record of Auguste de Steenhault); Joseph d'Olmen (Brussels, ARA, RvSt 654, 1723: appointment record of Pierre Claude de St Vaast); Charles Thomas Caimo (Brussels, ARA, GRO 443B, 1738: appointment record of Charles Thomas Caimo); Gilles François Streithagen (Brussels, ARA, GRO 443B, 1741: appointment record of Gilles François Streithagen); Jean Jacques Marci, Pierre André du Trieu and Jean Wouters (Brussels, ARA, GRO 443B, 1742: appointment record of Jean Jacques Marci); Jean Baptiste Van der Fosse (Brussels, ARA, GRO 442A, 1776: appointment record of Jean Baptiste Van der Fosse); Martial de le Vielleuze (Brussels, ARA, GRO 442A, 1777: appointment record of Martial de le Vielleuze); Melchior Goubau, Jean Louis Pouppez and François de Steenhault (Brussels, ARA, ARR 857, 1787–1788: appointment record of Melchior Goubau and Jean Louis Pouppez), etc.

<sup>27</sup> This was especially true in the late 1780s. For example: Brussels, ARA, ARR 857, 1787–1788, appointment record of Melchior Goubau and Jean Louis Pouppez.

<sup>28</sup> Brussels, ARA, GRO 442A, 1776: appointment record Jean Baptiste Van der Fosse.

as well. In fact, he claimed that the only reason he had signed it, was ‘because his agent<sup>29</sup> had told him that such a request was the norm at the Great Council’.<sup>30</sup>

In at least one case, the personal opinion of the president of the Great Council was requested. When in early 1789 the position of advocate-fiscal was vacated after the nomination of Jacques Joseph de Stassart to the presidency of the Council of Namur, the Great Council advanced three candidates: Jean Louis Pouppez, Melchior Goubau and François Alexandre de Steenhault, not coincidentally, the three most recently nominated councilors.<sup>31</sup> Given the ‘special circumstances’—the reforms of Joseph II, most notably those of 1787, had caused a revolutionary mood throughout the Austrian Netherlands<sup>32</sup>—the *Conseil du gouvernement général* considered it important to appoint *un officier que le gouvernement pût employer avec confiance dans les différents commissions qu’il serait dans le cas de lui donner*.<sup>33</sup> Therefore, president de Fierlant’s opinion was confidentially requested; he identified Melchior Goubau as the ‘most active’ man.

After all the necessary information had been gathered, the advising council finally sent its opinion, including a new ranking—not necessarily corresponding to the Great Council’s preferences<sup>34</sup>—to the governor, or, in his absence, to the minister plenipotentiary. He was the one who held the final decision. In general, only very little is known about the motives of the governor(s) or of the minister plenipotentiary to appoint one or another candidate. Especially in the first three decades of the eighteenth century, the governor often did not follow the ranking suggested by the Great Council and/or the Council of State. We can assume that loyalty certainly figured high on the list, as well as family relations.<sup>35</sup>

Only in certain particular circumstances, Vienna would be consulted. For example, after the death of councilor Philippe Rogez in 1776, minister plenipotentiary Starhemberg asked Chancellor Kaunitz’ opinion—and his blessing—on a special

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<sup>29</sup> Agents or ‘lobbyists’ were very common in the eighteenth century Austrian Netherlands and functioned as an intermediate between rulers and the ruled. When submitting a petition to the central government in the eighteenth century, the petitioning party often had it edited, signed and presented by an agent. See: Vermeesch, Griet. 2012. Professional lobbying in Eighteenth-century Brussels: The Role of Agents in Petitioning the Central Government Institution in the Habsburg Netherlands. *Journal of Early Modern History* 16: 96–97.

<sup>30</sup> Brussels, ARA, GRO 442A, 1776: appointment record of Jean Baptiste Van der Fosse: “Nous proposons en second lieu l’avocat Vanderfosse, ... La requete ci-jointe qu’il a présentée a V.A.R. pour demander la preference sur ces concurrents, n’est pas modeste, il y exalte son merite d’une maniere, qui ne pouvait que laisser une impression desavantageuse sur son jugement et sa delicatesse, s’il n’avait prevenu le rapporteur, qu’il ne s’etoit porté a cette demarche et a signer cette requete telle que son agent la lui avoit présenté, qu’avec repugnance, et sur ce que cet agent lui avait assuré que c’était l’usage.”

<sup>31</sup> Cf. infra, 2.2.4 Recruiting *l’œil et le bras du roi*.

<sup>32</sup> Cf. infra, Chap. 5.

<sup>33</sup> Brussels, ARA, ARR 857, appointment record of Melchior Goubau as advocate-fiscal, March 1789. Goubau was originally only provisionally appointed in March. In May, he received his permanent patent letters.

<sup>34</sup> Cf. Excel database: eighteenth century councilors of the Great Council.

<sup>35</sup> Cf. infra, 2.2.2.1 Family matters.

arrangement.<sup>36</sup> The Great Council had requested to appoint two councilors for the same position. Not only Rogez' seat was empty, but by 1776 councilor Daniël Servaes had been absent on 'sick leave' for more than 18 months. While the latter could not be officially replaced—he never resigned—the Council suggested to appoint an additional councilor to remedy the inconveniences caused by his absence. Since there was indeed no chance that Servaes would ever return,<sup>37</sup> Starhemberg took on the suggestion of the Great Council and asked Kaunitz if he would agree to have Jacques Joseph de Stassart and Jean Baptiste Van der Fosse share the seat left empty by the death of Rogez. In that case, de Stassart would be the one to actually replace Rogez while Van der Fosse would take Servaes' place until the latter died or another position became available. Because there was no funding for an additional councilor and Servaes continued to enjoy his salary, Van der Fosse and de Stassart had to share the income of one seat between the two of them. As far as the *épices* were concerned, the former would receive half of the amount granted to the latter. Kaunitz approved the arrangement and agreed to compensate both councilors for their temporary 'loss', by demanding only half of the *médianate* usually paid for a councillorship at the Great Council until both could be fully employed.<sup>38</sup>

### 2.2.1.3 The Patent Letters and the Oath

After the final decision was made and the appointee had paid the *médianate*,<sup>39</sup> *lettres patentes* (patent letters) were awarded in name of the sovereign. These letters named the person who had to be replaced, enumerated the new appointee's virtues—his sharp mind, his cautiousness, his literary qualities, and his experience in judicial questions—and consequently established him as councilor in order to defend and guard the rights, honors and justice of the sovereign. Furthermore, the letter stated that the new appointee had to vow that he had never made any gifts—except for the usual charges—in order to receive his councillorship. Finally, the sovereign ordered the collector of East-Flanders to pay the accustomed salary in name of the appointee.<sup>40</sup> In order for the councilor to be paid, the patent letters also needed to be registered by the Accounts Chamber.

The appointment procedure ended with the councilor-elect pledging an oath administered by the president or, in his absence, by the senior councilor. This ceremony usually took place a few days up to a month after the issuing of the patent letters. Sometimes a councilor was not admitted to the oath because he had not fulfilled all conditions. Lamosnier for example, had troubles reimbursing the family of Charles

<sup>36</sup> Brussels, ARA, collectie microfilms Wenen, II995-II996 (Vienna, HHStA, Berichte 71, August 10, 1776).

<sup>37</sup> Servaes died in fact in April 1777.

<sup>38</sup> Brussels, ARA, GRO 442A, 1776: appointment record of Jean Baptiste Van der Fosse.

<sup>39</sup> Cf. *infra*, 3.2.2.4 Financial means.

<sup>40</sup> All patent letters went along established lines, only names and dates were changed. For example: Brussels, ARA, GRO 443B: patent letters of Dominique Joseph Vriesen, June 27, 1759.

Philippe de Waepenaert—the councilor whose place he would occupy at the Great Council—for the charges with which the seat was burdened.<sup>41</sup> It was only after he had fully repaid the loan, that he could take his oath and occupy his place on the Council.<sup>42</sup> In general, it was the date of the oath and not of the *lettres patentes* that determined the seniority of a councilor. Exceptions could be made, but needed to be explicitly registered.<sup>43</sup>

At least three councilors—Jean Alphonse de Coloma, Pierre Van Volden, and Philippe de Beeckman—were awarded a dispensation of the ‘grand oath’. It is probably no coincidence that all three paid a large sum on top of their *médianate*.<sup>44</sup> Therefore we have reason to assume that the exemption of the oath-taking must be regarded as some kind of reward for their contribution. Alternatively, it could be possible that it was needed to avoid perjury. In fact, those councilors could not vow that they had not made any inappropriate contributions on top of the regular charges without forswearing themselves.

Alexandre de Burlen and Guillaume Gielis Hujoel—who had both taken their oath in April 1706—apparently had to take it a second time in 1720. The records show that they both received new patent letters on April 30, 1720 and pledged a new oath on June 28 of the same year.<sup>45</sup> While the reasons for this renewal of their appointment are not explicitly stated, they probably have to be looked for in the War of the Spanish Succession. In fact, Alexandre de Burlen, Guillaume Gielis Hujoel and Christophe-Ernest de Baillet are the only three councilors appointed by Philip V.<sup>46</sup> Chances are that the Austrian government, once it was more or less firmly in charge of the Southern Netherlands, refused to acknowledge the legality of Philips’ ‘French’ regime and therefore also of the patent letters he had awarded. Since de Baillet had by 1720 already pledged a new oath to the House of Habsburg—in 1716 as president of the Great Council—de Burlen and Gielis Hujoel were the only re-

<sup>41</sup> Cf. *infra*, Chap. 3. Every councilor had to take over a ‘loan’ from his predecessor to the government. As the government never reimbursed the loan, it was constantly transferred from one councilor to another.

<sup>42</sup> Brussels, ARA, GRO 443B, 1738: appointment record of Jean François Lamosnier.

<sup>43</sup> For example, when Pierre Timmermans, due to his absence from town, took his oath ten days after Jacques Ghison and Jacques Douglas—although his patent letters were issued on an earlier date than those of Ghison and Douglas—it needed to be explicitly stated that Timmermans was senior to Ghison and Douglas. Brussels, ARA, GRO 442A, 1783: appointment record of Jacques François Douglas.

<sup>44</sup> Cf. *infra*, 2.2.2.4 Financial means. This was also the case for de Lindicq, de Steenhault and Keyaerts but since the appointment records do not contain their patent letters, we have no way of knowing if they had been exempted as well.

<sup>45</sup> Brussels, ARA, GRM 4, f.99r–100v: second patent letters of Alexandre de Burlen; f.101r–102v: second patent letters of Guillaume Gielis Hujoel.

<sup>46</sup> Philips V was sovereign of Malines between roughly late 1700 and May 1706, when after the battle of Ramillies he lost the authority over the province of Brabant, the seigniorship of Malines and a major part of Flanders. De Schryver, Reginald. 1987. *De Oostenrijkse aanspraken op de Spaans-Habsburgse erfenis. De Zuidelijke Nederlanden tijdens de Spaanse Successieoorlog. 1700–1716. In Oostenrijks België 1713–1794. De Zuidelijke Nederlanden onder de Oostenrijkse Habsburgers*, ed. Hervé Hasquin, 11–36. Brussels: Gemeentekrediet van België, 16.

maining holders of ‘invalid’ appointment letters. While dismissing them was probably somewhat problematic—and not necessarily desirable—awarding them new patent letters and having them pledge a new oath to the Austrian emperor might have been a relatively easy solution.<sup>47</sup>

In general, a couple of months elapsed between the death or promotion of one councilor and the appointment of his replacement. However, at certain times in the history of the Great Council, a seat rested empty for one to several years. During the 1720s and the middle to late 1730s a lack of candidates continually postponed the nomination of a new councilor. For example, after the death of Alexandre de Burlen in 1721, it took more than a year to appoint a suitable replacement.<sup>48</sup> When Norbert Van Voorspoel died in 1722, the same problem occurred.<sup>49</sup> In 1735, it proved again difficult to find a decent candidate after the death of Charles Philippe de Waepenaert. According to the Great Council, only nine persons applied, several of whom were very young or not well renowned. Considering that it would be impossible to make a list of three suitable candidates, the Great Council requested and received approval to differ the procedure another month.<sup>50</sup> In the end, it took almost two and a half years before Lasmosnier was appointed as a replacement for de Waepenaert.

While we do not know exactly why it was difficult to find suitable councilors in the 1720s and 1730s,<sup>51</sup> we may assume that the postponement of the appointment of new councilors was often attributable to political circumstances. For example, in the 1740s, it took more than two years to find a decent substitute for Claude Joseph Soteau and Ambroise de Smet. This can however be perfectly explained by the invasion of the French and the corresponding exile of the Great Council to Echternach. The year 1781 can be identified as another bottleneck, when more than a year elapsed between the successive deaths of André Kerens, Pierre Deudon and Hyacinthe de Partz and the appointment of new councilors. The latter case can be attrib-

<sup>47</sup> Councilor Jacques Douglas also had to swear his loyalty to the sovereign a second time in January 1791. This however, was due to the fact that he had taken an alternative oath during the Revolution of 1789–1790. Cf. *infra* Chap. 5. Brussels, ARA, GRM 5.

<sup>48</sup> Alexandre de Burlen died in November 1721. Jean Henri Kahnn took his seat at the Great Council at the very end of January 1723. Cf. Excel database: 18th century councilors of the Great Council.

<sup>49</sup> Gaillard, Arthur. 1900–1903. *Inventaire des mémoriaux du Grand Conseil de Malines*. Brussels: Weissenbruch, t. 2, p. 371, n°255: “Malines le 24 septembre 1722. Consulte du Grand Conseil au sujet de la pénurie des candidats à la place vacante par le décès du conseiller Norbert Voorspoel.”

<sup>50</sup> Brussels, ARA, GRO 442: letter of the governess to the Great Council, November 9 1735. Maria-Elisabeth did not attempt to urge the Great Council to rapidly appoint a new councilor; on the contrary, she fully approved of the Council’s attitude in the matter.

<sup>51</sup> Financial reasons might have come into play, but the Austrian government was almost always behind on the councilors’ salaries and certainly not only in the 1720s and 1730s. Cf. *infra*: Chap. 3. On the other hand, the councilors might have had their own reasons to postpone the appointment of a new member. First of all, less colleagues meant that the income the councilors received from the *épices* relatively increased as it had to be divided among less people. Secondly, the councilors also undoubtedly let particular considerations come into play: if they were not able to find a suitable applicant within their own network, they might have deemed it necessary to wait somewhat longer until such a candidate presented himself.



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