

Preface

When, as a young Master's student in history, I first started researching the Great Council of Malines in preparation for my thesis work, I knew very little about this tribunal and was even less aware of the challenges that were lying ahead of me. In fact, at the time I was mostly interested in the history of crime, and I was looking forward to reading captivating defense pleas by seasoned criminals, gruesome details of torture scenes and harsh court sentences followed by descriptions of public executions. Unsurprisingly, I quickly discovered that many of my initial suppositions about the eighteenth century legal system were ill-founded and that a lot of work was needed to gain an even basic understanding of how to interpret eighteenth century judicial documents. Both the procedure used at the tribunal and the specific jargon employed in the sources were new to me and it was evident that I first needed to thoroughly familiarize myself with them in order to get a grasp on my subject.

Even though my interest in the subject had originally been sparked at least in part by the prospect of uncovering a colorful set of sensational stories—which eventually turned out to be the exception rather than the rule in the eighteenth century criminal case files of the Great Council—I gradually became fascinated by the institution itself and by its people. I even had to admit that I somewhat started to sympathize with the Great Council and its personnel, who during the eighteenth century were constantly fighting for the very survival of their tribunal, being engaged in endless conflicts of jurisdiction with other tribunals and with the government. As a result, the tribunal—and in particular the last century of its existence, as that was seemingly marked by decline and decay—continued to intrigue me even after my Master's thesis on the eighteenth century prosecution office of the Great Council was finished. Enough, in fact, to eventually devote five years of my life to writing its history.

The present book is the result of years of research and was originally written as a dissertation in the context of my Ph.D. work. Although it was at the outset conceived as a more or less purely institutional study of the eighteenth century Great Council of Malines, my budding interest in legal history and my growing understanding of procedure and other legal aspects connected to my subject eventually firmly placed this study at the intersection of law and history. Both of these aspects are present throughout the various chapters of the book.

After a first chapter consisting of a basic introduction to the history of the Great Council and an overview of the relevant historiography, the second chapter focuses on the personnel of the tribunal and analyzes the main prerequisites with which an eighteenth century councilor had to comply. It also discusses how both the incumbent members and the sovereign used their influence to advance their own interests. In addition, a profile of the councilors, their backgrounds and their careers is outlined, which is then compared to that of their predecessors of the late fifteenth, early sixteenth and seventeenth centuries.

In order to get an idea of how the tribunal functioned and how it interacted with other players in the society of the Austrian Netherlands, the third chapter examines the ‘framework’ in which the eighteenth century Great Council operated. In the first part of this chapter, some background information is provided on the jurisdiction of the tribunal and the procedure used. In addition, the inner workings of the tribunal are examined as well as the dynamics of the relations between the different members of the Great Council. Finally, the councilors’ financial sacrifices and rewards are studied. The second part analyzes the position the Great Council held in the eighteenth century Austrian Netherlands by looking at its interactions—and more specifically its conflicts—with other institutions, such as the Magistrate of Malines, the Church, the provincial tribunals and the Privy Council.

The fourth chapter examines the volume and nature of litigation handled by the Council. Literature on other, comparable, tribunals suggests that the eighteenth century was characterized by a ‘great litigation decline’, in particular at central courts. Was this also true for the Great Council? And if so, how did it manifest itself? Did it demonstrate itself both in appeals and first instance cases? Was there any connection to external, political or other circumstances? What were the possible causes and the consequences for the tribunal as an institution and for the councilors as individuals? And did they in any way attempt to overcome the repercussions—financial and otherwise?

Finally, the last chapter describes what happened to the Great Council in the years 1787–1797. The role of the Councils of Brabant and Hainaut in the resistance to Emperor Joseph II’s new judicial organization is notorious, but the literature is completely silent on the Great Council’s position in this debate. Moreover, little is known about what happened to the tribunal and its staff during the Brabant Revolution and the first French invasion. In addition, this chapter reconstructs the fate of the tribunal and the councilors in the years after the final take-over of the Austrian Netherlands by the French Republican army in 1794.

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Finally, I would like to express my heartfelt gratitude to my Ph.D. supervisor, Prof. Dr. Eddy Put, who sparked my enthusiasm about an eighteenth century tribunal that turned out to be a richer subject of research than I could ever have imagined and who has been the best guide I could have wished for. The same is true for Dr. Michel Oosterbosch, who showed me the way through the maze of the Great Council's archives. Although it would be difficult to overstate their contributions to this work, any errors that remain are the author's sole responsibility.

As for my wonderful husband, Geert Vermeulen, I hope he will forgive me the endless hours he spent helping me reorder my Excel sheets or as a sounding board for bouncing off ideas on the interpretation of my results. I cannot thank him enough for his support.

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