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## 'Hebbende privilegie van stede' De verlening van stadsrechtprivileges in Holland en Zeeland (13de - 15de eeuw)

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## Summary

Between 1213 and 1484, numerous towns came into being in the counties of Holland and Zeeland, resulting in the rapid transformation of Holland in particular, into a “landscape of towns” where a large proportion of the county’s population – well above the average for that period - came to live. The research forming the basis of this book aimed at establishing the effect of the granting of *town privileges* (or *city rights*) with regard to the creation of these towns from both a historical and a legal-historical perspective. This was done along three lines. First, the historical circumstances accompanying the granting of specific town privileges have been assessed. Secondly, it has been established whether the granting of town privileges had been used as an instrument for attaining certain political goals and if so, in what manner. The third line was to discover which party - either Count or citizens - could be seen as the main instigator behind the granting of these privileges. Our research subsequently focused on town privilege affiliations and on the hierarchical relations between town privileges. Finally, the contents of the town privilege charters were subjected to a legal-comparative analysis.

The time frame has been limited to the so-called *landsheerlijke tijd*, the period in which the Counts were factually sovereign Lords which, in this thesis, is from 1213 (marked by the oldest remaining town privilege charter in Holland) till 1484 (when the town of Purmerend was granted the right to impose by-laws). The geographical area has been limited to the counties of Holland (including West-Friesland) and Zeeland, within the county boundaries as they were around the year 1500. In addition, four Frisian towns have also been included. Those towns in particular, received town privileges - in 1292 and 1398/99 respectively - from the Count of Holland due to his claims of sovereignty over parts of Frisia. In the end, the research included 60 towns; each of them was systematically described, starting with their earliest known development as settlements – urban or rural.

*Chapter 1* offers a brief overview of the state of the art with regard to the scholarly study of town privileges in the Netherlands. The term *town privileges* has been defined as constituting: *an outline of rights and duties incumbent upon a town – which have been granted as a privilege by a respective territorial or town Lords, commonly conferred by means of a sealed town charter – entailing the essential consequence of rendering the beneficiary town both administratively and legally autonomous with respect to the adjacent countryside as well as semi-autonomous with respect to the town’s Lord; the inhabitants of the town also commonly receive the right to amend and adopt legislation in the form of by-laws.* Even though the criterion for legal and administrative autonomy, being essential for concluding that a town has obtained *town privileges* – is, as such, not decisive for the determination of being an actual *town* in accordance with the historiographical definition of the word *town*, the fact remains that an urban settlement which did not receive town privileges at one point would, neither during the Middle Ages nor after, be institutionally considered a *town*.

In this thesis the granting of town privileges by means of a sealed charter, effectuated by the Lord of that same town who was usually the Count himself, was considered a prerequisite for recognition as a town by contemporaries. After that formal deed, any place which might or might not already have been functioning as an urban settlement, was institutionally (and mentally) considered to be a *town*. Whether or not the oldest remaining town charters did indeed have that effect i.e. that a town was legally constituted by means of such a charter, has been a main aim of the current research.

Another essential element determining the extent to which a town could be considered autonomous, relates to the granting of the *keurrecht*, which is to be understood as *the right conferred upon the aldermen of a town both to amend existing local laws – in cooperation with the town’s Lord or his official representative, the bailiff – and furthermore to adopt new by-laws that were binding for all inhabitants of the town as well as for all foreigners present within the boundaries of the town’s jurisdiction.* The addition of the *keurrecht* as a co-decisive element must be considered essential in so far as it renders town

privileges an ever-changing scheme of rights and obligations as opposed to the essentially static rules encompassed by common customary law. The local government was thereby able to effect a continuous legal development because it was no longer dependent on the town's Lord to instigate further adaptation and completion.

Consequently, *stadsstichting* (literally *town foundation*) could be defined in general as the formal act, set down in a properly sealed charter, called *stadsrecht*, whereby a [rural or urban] settlement is legally constituted as a town by its Lord. An additional, but equally important, definition element entails the so-called *stedelijke recht*, the body of municipal law which developed over the course of time on the basis of town privileges, granted by other sources, in combination with the *keurrecht*, the autonomous authority to make new law in the form of local regulations called *keuren*, that were kept in so-called *keurboeken* or *stadboeken* ('municipal law books'). The original town charter can be seen as the town's constitution, while the *keuren* comprise the continuously developing municipal legal practice. This dissertation is essentially aimed at the analysis of town privileges (*stadsrechten*) in the two different meanings of that word ses (in Dutch, at least): firstly, as a town's institutionalized legal and administrative autonomy (e.g. 'Alkmaar enjoyed town privileges'); and secondly, as the physical charter that had objectively created this privileged position (e.g. 'The town privilege granted to Alkmaar in 1254 A.D').

*Chapter 2* outlines the development of the institutional framework relating to the notion of a *town* during the Middle Ages. Moreover, it describes the constitutional position of the town as it evolved from the earliest granting of town privileges in Holland and Zeeland up until the end of the sixteenth century. Emphasis is put on defining and contextualizing the privileged constitutional position of towns during that period. Central to this position was jurisdiction which was the basis of both public administrative authority and the administration of justice. Not only was each person within a town's legal border in principle subjected to its jurisdiction, but all members of the town's community also enjoyed the weighty *ius de non evocando*, i.e. the right to be brought to trial solely before their own aldermen. For a medieval town, the preservation of internal peace was essential; it was strictly enforced and, when breached, severe punishment followed. The rights granted and the duties imposed were numerous and of a highly varied nature serving, for example, judicial, financial-economic (including fiscal), military and political purposes. Apart from the obligation to preserve the *stadsvrede* or town peace, citizens had many duties: the duty to be resident in the town (most of the year); the duty to pay municipal taxes; the duty to perform armed defence services (*wapen- en weerdienst*) along with being obliged to perform public duties (e.g. extinguishing fires). On the other hand, citizens had many rights which would assure them of not only legal security but also of all kinds of economic, financial and political privileges, to be enjoyed not only within the town but also in the world outside. Legally speaking, therefore, medieval town rights were ambiguous: on the one hand, they tended to follow the territoriality principle within the town's jurisdictional borders; on the other hand, they were also valid for its own citizens outside the town boundaries.

The town privileges themselves inherently required the formation of new and comprehensive legal arrangements within the town. These comprised numerous elements which today would be understood as constitutional law, administrative law, private law, criminal law, procedural law, and fiscal law, even if most of these concepts would remain unknown during the Middle Ages. Over the course of the 13<sup>th</sup> century the Counts of Holland and Zeeland were responsible for granting town privileges to the most important urban settlements in both counties. In Zeeland, the town privileges of Middelburg fulfill an essential role in the granting of subsequent town privileges, while in Holland, the town privileges of 's-Hertogenbosch (imported from the Duchy of Brabant) had a similar function. The end of the 13<sup>th</sup> century marks a period in which not only the Counts but also lesser territorial Lords started to grant town privileges to key settlements in their area (examples are Schiedam 1275/Nieuwpoort 1283/Amsterdam 1300).

From early on, towns in Holland and Zeeland may have played a moderate (consultative) role in the counties' main political affairs. It was only around the middle of the 14<sup>th</sup> century that their political influence became really significant. Shortly after 1350 a *consilium Hollandie* and a *consilium Zelandie* came into being, which involved regular gatherings of the towns. As from 1428, the towns were structurally incorporated into the *Estates of Holland* and the *Estates of Zeeland*, in which the towns carried separate voting rights. From then on, the towns will play a constant and important role on the county level.

*Chapter 3* tries to answer questions relating to the factual circumstances surrounding the granting of town privileges in Holland and Zeeland by the Count or by any other town Lord. Questions such as whether the granting of town privileges was deliberately used as an instrument to attain certain political goals by the Count or Lord, or whether town privileges as such inherently entail a constituting effect or not; and also, whether the very existence of an urban development preceded the granting of town privileges. Particular attention is also paid to the matter of whose influence was predominant – the Count's (or other town Lord's) or that of the burghers – in gaining the status of being a town. The current results show that the overwhelming majority of town privileges that were obtained from the Count in the 13<sup>th</sup> century were granted in order to attain either strategic military goals or to acquire political power. In some instances, the granting of economic privileges can be discerned as a secondary objective, in order to strengthen the defences of the beneficiary town. During the 14<sup>th</sup> century, a clear move towards the granting of town privileges for the attainment of mainly financial and economic goals by the Count can be discerned. The 15<sup>th</sup> century marks the consolidation of two already existing situations (relating to the towns of Brouwershaven and Goes) and, furthermore, of solely administrative adjustments undertaken in West-Friesland by the establishment of *stederechten* (i.e. with the objective of an administrative reform and not of creating towns).

The granting of town privileges by local Lords in Holland and Zeeland does not occur until the end of the 13<sup>th</sup> century. However, a similar evolution in regard to the underlying goals can be seen; the town privileges which were not granted by the Count initially – up to the beginning of the 14<sup>th</sup> century – had the purpose of acquiring political power for economic reasons so, as such, they must be regarded as the main instigator behind the granting of town privileges up until the end of the 15<sup>th</sup> century. In almost all instances, town privileges, whether derived from the Count himself or from some local Lords had a constitutional effect. In other words, a specific village could be transformed into an official town by the granting of similar privileges (entailing a limited degree of autonomy with regard to administration and judiciary, within the borders of the specific entity). Another part of the research conducted in chapter 3 aimed at establishing whether a gradual increase in rights could be observed in consecutive charters that were granted to a specific town. That hypothesis had to be rejected; only the town privileges charters of Leiden and Brouwershaven are found to contain such a 'layered' substance.

The current research shows that subsequent Counts of Holland and Zeeland knowingly opted for a policy intended both to enhance the urbanization of their territories and to contribute to the economic growth of the towns. In order to do so, they resorted to the granting of specific privileges, among which *tolvrijdom* (toll exemption), the right to hold weekly and annual fairs along with the granting of town privileges. The reasons for pursuing such a policy can best be understood from a variety of motives, ranging from political and military-strategic to financial, economic and administrative purposes. However, such a policy should not be seen as being aimed at attaining long term goals, in the sense that the Counts (or local Lords) did not, during an extended period of time, and in accordance with a predetermined policy, grant town privileges to existing settlements within their territories, nor did they found whole new towns in areas where previously no form of settlement had been present. Rather, the granting of town privileges seems to have resulted often enough from pertaining circumstances, and thus aimed at attaining short-term goals. The main political goal pursued by the Counts of Holland in the 13<sup>th</sup> century

consisted of extending the county's territory, with the ultimate goal of consolidating the political power of the Count. As from the middle of the 14<sup>th</sup> century, the main aim of the Counts had shifted somewhat, and as they had become primarily concerned with financial and political benefits, the towns within the county had, at that point in time, developed into a substantial economic power which, in turn, was accompanied by political power. Taking into account all that has been said so far, it must be concluded that the granting of town privileges in Holland and Zeeland as such, acted as an effective political tool.

With regard to the granting of town privileges by town Lords other than the Count himself, a similar political purpose cannot be discerned so easily, among other things, due to the fact that the granting of privileges reflects other unconnected events. Nonetheless, it remains clear that different town Lords were aware of the importance of transforming the major settlement in their territories into a town for the attainment of any of the aforementioned goals (e.g. political power or financial or economic gain). In reviewing the significance of the granting of town privileges with respect to both the political policy and to the position of the Count, attention must also be paid to the importance of the right to impose tolls. According to the famous lawyer, Philips van Leiden, certain rights which are incumbent upon the ruler, are aimed solely at furthering the common good, and therefore, may not be renounced. Consequently, exemption from paying toll duties was only to be granted to towns, and not to individuals; furthermore, this regulation applied only to goods which had been purchased for one's own use. The significant financial and economic importance, inherent in the right to impose toll duties with regard to both towns and Lords, is made apparent by the specific covenants incorporated into the town charters. By granting toll exemptions, the Counts are thus able to achieve various objectives: economic activity is enhanced, urban growth is consolidated, and a significant increase in the Lord's revenue is realized (being derived from sources unrelated to toll duties). Therefore, all towns in Holland and Zeeland acquired – mostly simultaneously with the granting of town privileges – toll exemptions within the county.

Our next main question was whether the granting of town privileges had a constitutive effect (e.g. did it transform a village institutionally into a town)? This would appear to be the case with respect to all kinds of town privileges, whether derived from the Count himself or from other town Lords; virtually all acts whereby town privileges were granted must be defined as entailing such a constitutive effect. The crucial element of the definition of *town privilege* is autonomy: autonomy from both the surrounding countryside with its general law, the *landrecht*, and from the direct administrative interference by the town lord. However, in the latter sense, a town's 'liberty' was never absolute. There always was the lasting bond between the town and its Lord. The Count (or any other town Lord) initially – in some cases, even spanning a period of centuries – retained his direct influence over certain affairs concerning the town. His official representative, the schout (scultetus, or bailiff) always resided in the town - and he often retained the right to interfere with the appointment of aldermen or with the provision of by-laws, and in certain cases he reserved rights of superior jurisdiction. In my opinion, the resulting situation can be defined as comprising a quasi-feudal bond between town and Lord, almost identical to the relation between the feudal Lord and his vassal. In all instances, the town does acquire – subject to certain prerequisites – autonomous power, i.e. administrative power, to be exerted within the boundaries of its own territory. Upon the appointment of a new Count or Lord, the aforementioned bond is renewed; the town pledges allegiance to the Count or Lord, leading to a subsequent confirmation of the privileges to which the town is entitled by its Lord. Only the latter can declare the privileges obsolete, or can revoke them after a breach of that bond.

So, the autonomy of the town effectively consists of the town government's authority to conduct judicial and administrative affairs within the free territory of each town (*stadsvrijheid* – town freedom). Other elements which can be considered decisive in rendering a town (semi-) autonomous consist of first and foremost, the legislative authority and – to a lesser degree – the high jurisdictional authority ( the right to inflict capital punishment) along with the right to carry

a town seal. In the county of Holland, the granting of town privileges was, in the vast majority of cases, accompanied by a simultaneous granting of legislative authority. But this was not the case in either the county of Zeeland (during the 13<sup>th</sup> century) or in towns that had lords other than the Count. A keurrecht (legislative authority) was granted in fewer than half of them.

The town seal constituted the ultimate symbol of autonomy. It can hardly be surprising to find that the most powerful and significant towns started ‘sealing’ with their respective town seals at a very early stage. However, it turns out that most towns only started using a town seal in conducting official town matters many years after the actual granting of their town privileges; in just two of the town charters that we studied is a town seal is mentioned as such.

Whereas the vast majority of places that were privileged by the Count during the 13<sup>th</sup> century already betrayed significant signs of ‘urban’ development at the moment of their institutional transformation into a town, this was quite the opposite during the 14<sup>th</sup> century. Then, only a minority of the new towns had experienced prior ‘urban’ development. This marks a shift in the reasons behind the granting of town privileges from the attainment of political power and military strategic goals – whereby places which already had experienced significant urban growth now were officially regarded as beneficiaries (‘tenable towns’) – towards primarily financial and economic motives, whereby the places that received charters only experienced significant growth *after* the granting of privileges, if at all. With respect to the so-called *lordly towns* (i.e. towns deriving town privileges not from the Count but from local Lords), a similar development cannot be discerned. The extent to which the Counts – specifically in the county of Holland – were involved in the development of most of the *lordly* towns is striking. In most cases an enfeoffment by the Count had taken place, whereby it had been stipulated that the newly established town should never close its gates to the Count. Furthermore, with regard to most of these towns, privileges of toll exemption in Holland and Zeeland had been granted by the Count long before, simultaneously with, or directly after, the granting of town privileges. Viewed in this light, it can be said that it was possible in that in only a very limited number of towns for local town lords to operate without the consent of the Count.

In this chapter the generally accepted opinion of Jaap Kruisheer that the granting of town privileges in Holland and Zeeland was instigated in the majority of cases by the inhabitants of the (future) towns themselves and not, or very seldom, through actions by the Count, has been questioned. Kruisheer based his view on just four town charters from Zeeland and six from Holland, all of them dating from the 13<sup>th</sup> century and all granted by the Count(s) of Holland. Furthermore, his conclusions were based on formal rather than on substantive aspects related to the origins of these charters. And while any accurate appreciation of the exact circumstances in which the charters originated is hardly possible, it does pay off to take a more comprehensive look. It is obvious that negotiations between Count or Lord and inhabitants of the beneficiary town will always have taken place – in accordance with Kruisheer’s findings – and a codification of pertaining law and practice, partly instigated by the citizens, will have equally occurred in all instances.

However, our research, based on 61 charters, does show a different outcome. The crucial finding by Kruisheer that the granting of town privileges must ultimately be regarded as the outcome of a wholly independent initiative by citizens, whereas the town lord’s role was largely a passive one, reduced to negotiations on specific clauses of the charter or to the amount of the price that had to be paid can, in my opinion, and on the basis of historical circumstances not be justified. From our research it appeared that in most cases the granting of town charters was a game of give-and-take, the product of deliberation and negotiation. Consequently, the importance of pinpointing one party as the main initiator is questionable. The Count will, in any case, neither have ‘imposed’ town privileges upon ‘unwilling’ beneficiaries, nor will he have cooperated with the granting of ‘undesirable’ town privileges as a reaction to a request originating from (future) citizens. In my opinion, each granting of town privileges comprises a ‘contractual’ situation, instigated in order to pursue mutual interests of two parties that were not necessarily

equal parties. So, our conclusion would be that the granting of town privileges should not be caught in the dichotomy of either a lord imposing his will on an urban community or, vice versa, on a completely local initiative imposed upon a lord. Rather, in most cases we deal with a situation that was principally characterized by ‘mutual dependence’.

However, in a limited number of cases the aforementioned mutual, contractual relationship can not be discerned; all of them were linked to the actual institutional *foundation* of a ‘new’ town. Geertruidenberg, Westkapelle, Domburg, ’s-Gravenzande, Gouda, Nieuwpoort, Medemblik, Vlissingen, Ammerstol, Vianen, Weesp, Geervliet, Leerdam, and Heukelum answer this definition.

In *Chapter 4* the meaning of both the ‘stedenfiliatie’ (affiliation by those towns that received the same kind of town privileges) and the ‘hoofdvaart’ (judicial consultation of the court of the central town of the affiliation) have been outlined. In Holland and Zeeland, there were three such areas with mutually related town privileges:

- a. Kennemerland, West-Friesland and the Zeevang/Waterland are all beneficiaries to ‘Brabant-Holland’ town privileges derived from the town charter of Haarlem;
- b. Amstelland and Gooiland have been bestowed with ‘Utrecht’-type town privileges via Amsterdam;
- c. whereas the town privileges granted in Zeeland are generally derived from the town charter of Middelburg.

By contrast, in the core districts of the county of Holland, only ‘indigenous’ town privileges of diverse origin were found. A link to town privileges outside the county is either wholly absent, or such a link can only be partly proven to exist. This diversity is difficult to explain, the more so because at the same time *hoofdvaart* (the custom of going for a verdict to the judicial court of one’s ‘mother town’ in a legally problematic case) hardly ever occurs. Nor do we see any use of such alternatives as the personal interference by the Count himself or by aldermen *secundum conscientiam suam* (in accordance with his/their conscience).

In Zeeland, in which any form of *hoofdvaart* was lacking, the active interference by the Count, who acted there as the superior judge presiding over all disputes, was demonstrably instrumental. The significant role played by the Count constitutes a logical consequence of the modest autonomous jurisdiction held by both town and countryside in Zeeland. Even the two capital towns in Zeeland, Middelburg and Zierikzee were, during a substantial period of time, faced with a limitation of the right to administer high justice. It took the shape of a maximum fine, linked to certain offences, which could be autonomously adjudicated. Only over the course of the 15<sup>th</sup> century did both towns acquire the right to administer high jurisdiction, which most towns in Holland were entitled to from the moment they were granted their privileges. The aforementioned disputes arising in the county of Zeeland were to be adjudicated by the *Hoge Vierschaar* (High Court) of Zeeland, over which the Count himself presided. It is important to note that the latter jurisdiction did not uniquely relate to criminal cases. Civil disputes relating to property claims between citizens of Middelburg and countrymen, for example, were decided upon by the Count using the ‘truth’, i.e. the proof based on testimony, produced by the town aldermen. The essence of this section must be understood as entailing the observation that precisely in Zeeland, the Count had largely retained the authority to administer justice, not having opted for an effective decentralization. It needs to be said, however, that no actual decisions rendered by the Count in cases originating from town disputes have been preserved. The Count’s authority on this point is first mentioned in 1477, in the *Groot Privilege* (Grand Privilege). It explicitly outlines the need for a clarification of the provisions of the *Charter of Zeeland*, that are said to have become very old and unclear.

*Chapter 5* incorporates our substantive research into the actual content of the town charters. Their numerous provisions relate to such widely diverse subject matters as the granting of special,

mostly economic privileges, public duties incurred by the citizens – e.g. the obligation to go on *beervaart* (the military expeditions of the Count), the exaction of aids (*beden*, i.e. taxes the Count ‘asked’ for) and the payment of fines incurred in the town – the composition of the town’s administration, the administration of justice and delineation of jurisdiction incumbent upon the town, the extent of the jurisdiction of the town (the *stadsvrijheid* or town’s ban mile), the acquisition of citizenship and its related rights (*burgerrecht*), the legislative right (*keurrecht*), the concept of urban peace (*stadsvrede*), the enforcement of public order, prohibitions on organizing judicial duels, prohibitions on trespassing, the recognition and collection of debt and the right to seize property or to arrest persons in case of debt obligations, varieties of fines and punishments, and points of procedural law. Our charters are thus found to incorporate a mixture of ‘day-to-day’ constitutional law, administrative law, criminal law, procedural law and fiscal law. It is important to note that provisions stipulating local taxes are virtually absent, notwithstanding the fact that these are to constitute the majority of the income for any town at a later stage. According to our sources, towns received income from the pawning of land and from various trading activities which were conducted at the local meat, fish and linen markets, and from dues payable by weekly market traders and by the important annual fairs. In addition, towns generated income by the imposition of duties on the value of products sold at the market venues. All such ‘fiscal’ privileges were, as a rule, granted separate from the town charters, at a later stage in urban development.

By and large, the body of provisions in town charters constitutes an accurate reflection of day-to-day affairs. Only in the case of an (almost) verbatim borrowing of an existing body of provisions by one town from another – which was the case with most ‘members’ of the Brabant-Holland ‘town-family’ – is this observation less accurate. In that respect, the privileges of various port towns constitute a more interesting source, as these provide information on the continuous occurrence of disputes and on the necessity of specific legislation relating to matters of trade and shipping.

In Dutch historiography, the right to build town walls is generally considered to be part of most town charters. In fact, this was quite exceptional: it is mentioned only in the charter of Reimerswaal (1366, Zeeland) which entitled the citizens to fortify their town. In all other cases such a privilege was granted separately, and very much later; on average between 30 and more than a 100 years after the first granting of a charter. Another notable aspect is the delineation of a town’s territory – the so-called *stadsvrijheid* (lit. ‘town’s freedom’). The first instances can only be found in the charters of Gouda of 1272 and of the (unsuccessful) town of Ammerstol of 1322. In Holland, only from the charter of Naarden of 1353 are the exact contours of a town’s territory consistently mentioned in town charters. In Zeeland, only the charter for Flushing of 1315 has information on the delineation of the town’s territory.

The most common provision in town charters concerns the exemption of water tolls (i.e. river and seaport tolls) within the entire county of Holland (31 towns; 22 other towns were even granted toll exemption before they received their charter; the remaining towns will have acquired this privilege soon afterwards). Equally characteristic in the charters regarding towns in Holland (but not in Zeeland) is the privilege of a *jaarmarkt* (a fair – usually lasting for 8 days) or of a weekly market. In the course of the 13<sup>th</sup> century, Count and town always seem to have agreed upon a certain sum of money to be paid annually for the grant of the town’s privileges, and this amount is stipulated in the charter itself. In the course of the 14<sup>th</sup> century, however, this practice changed; from then on, the granting of town charters will be paid for in a single sum of money (sometimes a vast sum), paid in cash, since the Counts were usually in great need of money to finance their costly wars or their households. Also a characteristic element were provisions on the *beervaart* (military service in case of war), but again, only in the charters regarding Holland, and not Zeeland. The prerequisites for obtaining ‘burghership’ are oddly enough, rarely found in the charters themselves; it is something that must have been left to the rulings of the town government itself.



The division of the revenues of fines was usually set at 2:1 for Count and town respectively. In the course of time, most of these revenues were to benefit the towns themselves, and by then fines were also to be paid in the form of *steenboetes* (i.e. fines in bricks for the building or the maintenance of town walls). By far the most important element in town charters were provisions on the *stadsvrede* (lit. 'town's peace'). Scores of regulations can be found which show the great care bestowed upon a well-organised community with strict rules that had to be strictly observed. Regulations in regard to an orderly peace, a breach of the peace, the abolition of the judicial duel, banishment from the town, the sounding of the town bell (in case of alarm), the possession of forbidden weapons, disturbance of domestic peace, and arson were all elements of the 'town's peace'. With regard to criminal procedure, the well-known development from an accusatorial trial (based upon the accusations brought forward by private parties – no plaintiff, no process) to an inquisitional trial (based upon active inquiries made by aldermen) can be clearly followed. The ruling that only a citizen may act as a witness against a fellow-citizen is also important. A visiting stranger may not testify against a citizen, nor challenge him to a duel. Should he harm a citizen, his punishment will be more severe than normal.

We have established that there were substantial differences as to the granting of high jurisdiction to towns. During the entire period until 1433, when the Dukes of Burgundy came to power in both counties, it is remarkable that, in Holland, towns like Leiden, Gouda, Vlaardingén, Woerden and Rotterdam did not have the authority to judge capital crimes. In Zeeland, the two most important towns, Middelburg and Zierikzee, were only to acquire full authority in criminal justice in the course of the 15<sup>th</sup> century. In that respect, it is quite remarkable that the town of Goes had already been granted the same privilege as early as 1405 – something which was later questioned by the town of Middelburg and appealed against in the *Grote Raad* (High Court of Justice) in Brussels. But also in Holland, there were notable differences. All members of the Brabant-Holland town charter 'family' were authorized to dispense high justice. Consequently, the aldermen of the very modest town of Monnickendam (with no more than an estimated 1300 inhabitants in 1400) could decide on the life or death of criminals, whereas the aldermen of the far more important town of Leiden (an estimated 5000 inhabitants in 1400) were only allowed to give verdicts on infringements and not on serious crimes.

We could not find any fundamental differences between town charters granted by the Counts and those granted by other lords. The earliest *lordly* town privileges in our period were those of Schiedam (1275), Nieuwpoort (1283) and Amsterdam (1300); the first one was granted by the Count's aunt, the second one by two local Lords, and the third one by a brother of the Count in his capacity as the possessor of local lordship rights (and also based upon Utrecht law). There is no specific *lordly* town charter; town charters granted by lords other than the Count tended to be modelled in both form and substance on the examples set by the Count.

The contents of the town charters granted by the Count in Zeeland were very different from those granted in Holland. The following subjects were almost always dealt with in charters for towns in Holland, but absent in charters for towns in Zeeland: taxation (the Count's *bede* or request for taxes), toll exemption, burghership, *beervaat* (military service), the ruling that 'town air makes free' (i.e. emancipation of serfs), the permission to leave town for a certain period of time in order to sow and to harvest, the delineation of the urban territory, the responsibility for weights and measures, laws of intestate succession, the taking of oaths of innocence, the rights to administer 'high' jurisdiction, the division of money fines between Count (Lord) and town, and the *hoofdvaart*. The town privileges of Flushing in Zeeland are the one exception here: these resemble the town charters from Holland. The reason behind this difference may simply be that in our period all town charters granted by the Count were granted in his capacity as Count of Holland – never as Count of Zeeland. The charters granted by other lords were mainly granted in their capacity as lord of a single town, although in some cases the granters were feudal lords governing over a larger territory, such as the Lords of Voorne, of Putten and Strijen, and of

Arkel. Finally, we could not find any active engagement with, or systematic influence upon, the granting of town privileges by (members of) the Count's council.

#### *In conclusion*

In our thesis we did not take into consideration the granting of privileges to towns in the principalities that were bordering Holland, i.e. the duchies of Brabant and Guelders, and the prince bishopric of Utrecht. No doubt a structural comparison will be interesting and rewarding. In the Duchy of Brabant the initiative to provide towns with charters was taken predominantly by the duke, who obviously pursued a policy of founding new towns. As to their substance, the town charters of Brabant seem to have been much like the charters of Holland and Zeeland. In the Duchy of Guelders and the prince bishopric of Utrecht, on the other hand, town charters, at first sight, differed substantially from those granted in Holland and Zeeland, both with respect to their motives and their contents. In Utrecht, it was the prince bishop's task to take the initiative in founding towns although, in many cases, this was not successful. But on the whole there seem to have been many similarities in the town charters of these three neighboring principalities, due to a clear 'town privileges policy', advocated by their princes. Also essentially different from the situation in Holland and Zeeland was the presence of *mother towns*: These were 's-Hertogenbosch (Brabant), Zutphen (Guelders), Utrecht (Nedersticht; i.e. the southern part of the prince bishopric Utrecht) and Deventer (Oversticht, i.e. the northern part of the same prince bishopric). The town privileges of 'younger' towns were clearly based on the charters of these mother towns, where the former went for their *hoofdvaart* (judicial consultation). This is another proof of the imperious 'town privileges policy' in these areas, which was quite unlike the situation in Holland and Zeeland.

In Holland and Zeeland, the granting of town privileges essentially came down to the following: the Count, or another local town Lord, created by charter a jurisdiction for a specific area which was to become the town territory. He granted such a privilege without prejudice to his lordly rights and he demanded an oath of loyalty from the citizens. De facto this was a form of delegation: under certain restrictions, the Lord handed over a part of his sovereignty concerning local government, justice and legislation to this new public authority – the town. This delegation always included the 'lower' jurisdiction and sometimes also the 'higher' jurisdiction (capital punishment). Through his local sheriff, the Lord still had an important say in town matters. The inhabitants of the town became members of the *universitas*, the community of *burghers* within their own jurisdiction and with their own specific laws and regulations. In fact, one could speak of a contractual relationship: as long as both parties abided by it, no one was entitled to end the 'contract'.

Over time, most town privileges were repeatedly extended and enlarged (and sometimes also limited) but the charters that had been granted originally always remained inviolable – except after heavy breaches of the lord's sovereignty. An uprising might lead to the loss of the town charter or town charters. From his side, the town lord was obliged to respect the privileges he himself had granted. In the course of the 13th to the 15th century, the effect of providing towns with privileges changed in character. Initially meant to initiate or to reinforce a process of creating new towns – favourable to Count or Lord – the same towns gradually demanded more autonomy, wanting to reduce the influence of their lords in the affairs of the town. From that point on, town privileges started to take on a more conservational character. The towns began to view the town charter as their constitution. The growing number of towns, their increasing economic and financial power and, closely related to this, the growing dependency of the Count or Lord upon that power – led to a distinct role for the towns at the political stage of the county. In the course of the 15th century, no more town privileges would be granted and, therefore, no new towns were created. The granting of town charters was no longer used by the Counts of Holland and Zeeland as a political instrument.

Although not every town charter will have been applied in practice immediately after its having been granted, town charters in general would be upheld formally for many years to come. They had to be confirmed by every new sovereign and they were cherished by the towns as their most costly possession, as their constitution. The proud owners of these centuries-old charters kept them in their strongest chests in the safest place in town and every impact on, or doubt of, its validity was strongly opposed. Throughout the ages, right up to today, the town's privileges were considered to be an important token of its identity.