CHAPTER FIVE

“ORDER AND OBEDIENCE”:
THE OLIVAREAN REFORM OF MILITARY JUSTICE

It seems that many of the most damaging consequences of Olivares’ training, appointment and structural reforms might have been avoided had the Army of Flanders possessed an effective system of military justice that could enforce discipline and professional standards. However, in this field too Olivares’ policies weakened the army’s leadership structure. The valido, who once declared “order and obedience” to be one of his highest priorities for military reform, did not provide adequate support for the army’s system of justice.1 His actions were instead determined first by his single-minded drive for financial efficiency in the Army of Flanders, later by his support of his friend Peter Roose and the Privy Council as an alternate instrument of justice and always by his falta de cabezas thesis on army affairs.

Olivares inherited the military justice system introduced by Philip II to counter the mutinies of the 1580’s and 90’s. Essentially it consisted of strong civilian oversight for the officer corps. A Superintendent of Military Justice, an Auditor General and dozens of tercio and garrison auditors supervised the professional conduct of the corps and applied military law with the approval of the Captain General. Under the Archduke Albert the system had achieved considerable success in ending mutinies and prosecuting high ranking members of the general staff.

The relative effectiveness of the system did not spare it from Olivares’ budget cuts in the 1620’s. One of the Count-Duke’s major goals in the 1620’s, and especially in the years 1627 to 1633, was the reduction of the cost of running the Army of Flanders. In 1628, his General Reformation deprived the Superintendent of the thirty escudos a month this official had received to buy stationery and supplies and accompany the army on campaign.2 But this was only a minor cut, compared to the draconian economies that the valido imposed on the military

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1 Elliott, Memoriales, II, 154.
justice system in 1633. Archduke Albert had placed auditors in almost
every major garrison in the Low Countries. These officials earned only
forty-eight escudos a month, a paltry sum, especially compared to the
large maintenance grants that the elite of the high command enjoyed.
Nevertheless, the Junta, in keeping with Olivares’ nationalist policy,
resented the fact that many of them were natives with authority over
Spaniards. Thus, in April of 1633 the Junta for the Reformation of
the Army of Flanders advised and the valido approved, the dismissal
of all garrison auditors except those of the major presidios or military
districts: Antwerp, Ghent, Bruges, Namur, Cambrai, Breda, Dunkirk
and Luxembourg and a cut of more than half in the pay of those who
remained, to twenty escudos a month. Finally, also around this time,
the pay of the Superintendent was drastically reduced from 4000 to
2560 escudos a year.

In addition to cutting the budget of the Superintendent’s office,
Olivares allowed local judicial authorities to challenge his law enforce-
ment monopoly in the Army of Flanders. During the crisis of 1632,
the Estates General, reacting to the loss of Maastricht and Rheinberg,
demanded the punishment of the Army of Flanders’ chief officers,
whom they accused of having endangered the “fatherland” and the
Catholic religion through negligence and corruption, and asked the King
to allow provincial and municipal magistrates to intervene in the enforce-
ment of military law. They also alleged that the army’s auditors were
generally too lenient on officers accused of abusing or exploiting the
local population, an accusation likely to carry more weight after the
budget cuts. In October of 1633 the valido, probably to compensate
for the impact of his other pro-Spanish measures, acquiesced in this
demand and authorized the publication of a placard that granted
local judges participation in the investigation and punishment of the
military’s misdeeds.

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3 AGS E 2047, 70, JREF 29–4–33 and AGS E 2241, Philip IV to Infanta Isabella,
21–11–34.
4 Several times the Cardinal-Infante asked the King to restore the Superintendent’s
pay. Philip always denied the petition: AGR SEG 220, 351, the Cardinal-Infante to Philip
IV, 22–11–38, AGR SEG 223, 13, the Cardinal-Infante to Philip IV, 26–8–39.
5 AGS E 2151, Copia de carta que los Stados Generales obedientes han scrito a Su
Magestad, 4–12–32, and BRB Ms. 16149, 93, Aytona to Philip IV, 7–2–33.
6 For the text of the placard see AGR TM 2, Placcart et Ordonnance du Roy nostre
sire sur le redressment des desordres des gens de guerre, 31–10–33.