

Utrecht University Repository

Title	Plane nostris moribus: customary financing on future salary by the Dutch East India Company
Authors	van Bochove, Christiaan; Milo, Michael; Van Velzen, Ton
Published in	Legal History Review
Publication Date	2023
Link	https://dspace.library.uu.nl/handle/1874/432620
Citation	van Bochove, C, Milo, M & Van Velzen, T 2023, 'Plane nostris moribus: customary financing on future salary by the Dutch East India Company', Legal History Review, vol. 91, no. 1-2, pp. 143-169. https://doi.org/10.1163/15718190-2023xx07
Versions / License	Publisher version
Rights	https://www.uu.nl/en/university-library/license-and-reuse-conditions



BRILL
NIJHOFF

TIJDSCHRIFT VOOR RECHTSGESCHIEDENIS 91 (2023) 143–169

REVUE D'HISTOIRE DU DROIT 91 (2023) 143–169

THE LEGAL HISTORY REVIEW 91 (2023) 143–169



brill.com/lega

Plane nostris moribus: customary financing on future salary by the Dutch East India Company

*Christiaan van Bochove**

Dr C.J. van Bochove, Associate Professor of economic and social history,
Utrecht University, Faculty of Humanities, Department of History and Art
History, Economic and Social History Section

c.j.vanbochove@uu.nl

Michael Milo

Dr mr J.M. Milo, Associate Professor of law, economics and governance,
Utrecht University School of Law, The Molengraaff Institute for Private Law

j.m.milo@uu.nl

Ton van Velzen

Drs A.J.M. van Velzen, formerly Dutch National Archives

ajmvvelzen@gmail.com

Summary

Transferring claims has traditionally been a dogmatic near impossibility in the civilian institutional tradition. In practice, however, contractual creativity provided space to develop a variety of mechanisms for transferring claims. Our paper explores such a mechanism, which financed the seamen of the Dutch East India Company (voc), on the basis of their claims to future salary. The associated document, the so-called *transportbrief*, started from a seaman's debt, which by mandate the Company accepted to pay to the bearer of the document, if conditions as performance of labor obligations were met. Payment practice itself was carefully orchestrated by resolutions of the voc board, the *Heeren XVII*, thereby tailoring market and law according to the various interests involved.

* The authors would like to thank the many colleagues who valuably commented on various occasions where this research was presented as well as Pleun Hendrixx for copy editing.

Keywords

Transportbrief – claim – obligation – wages – transfer – cession – assignation – bearer bonds – Dutch East India Company

1 Introduction

Plane nostris moribus – clearly, according to our customs – Voet declared in his *Commentarius ad Pandectas*: all the *cedens*'s actions end by cession, and no longer the *cedens*, but only the cessionary may compel the debtor to pay¹. Custom may have been clear in itself, learned law was less clear in transactions with claims and customary practice of financing on the basis of transferring claims².

This paper concerns one of these customs in financing on the basis of claims to future salary, as it came to be developed by the Dutch East India Company (VOC), using so-called *transportbrieven* or transport-letters³. This instrument enabled seamen of all ranks to use part of their future salary in financing their present needs. It developed step by step fueled by practical necessities, came

1 J. Voet, *Commentarius ad Pandectas*, 6th ed. Hagae-Comitum 1734, 18,4,15.

2 On the difficulty of transferring claims, see M. Kaser, *Römisches Privatrecht*, München 1970, I, par. 153, p. 652; K. Luig, *Zur Geschichte der Zessionslehre*, Köln 1966, p. 2; R. Zimmermann, *The law of obligations, Roman foundations of the civilian tradition*, Oxford 1990, p. 58; R. Anderson, *Assignation*, Edinburgh 2009, chapter 4. On early modern practice of financing on the basis of claims and the confusion in the terminology (p. 403), see W. Druwé, *Loans and credit in consilia and decisiones*, Leiden 2019, particularly chapter 4. On customary contractual constructions, see D. De ruysscher, *Innovating financial law in early modern Europe, Transfers of commercial paper and recourse liability in legislation and ius commune (16th–18th centuries)*, *European Review of Private Law*, 19:5 (2011), p. 505–518. For reasons of clarity in terminology the term cession or transfer is used, and not the term assignation or assignment regular in common law jurisdictions, as this term needs to be reserved for the meaning given by Grotius.

3 P. van Dam, *Beschryvinge van de Oostindische Compagnie*, by F.W. Stapel (ed.), Den Haag 1927–1954 used the term *schuldbrieven*, or simply *transport*. The latter term is also found in documents dealing with the transfer of our document. Amsterdam, Stadsarchief Amsterdam (from now on SAA), Collectie Stadsarchief Amsterdam: koopmansboeken (entry number 5060) (Koopmansboeken from now on), inv.nr. 170. C. van Bochove and T. van Velzen, *Loans for salaried employees, The case of the Dutch East India Company, 1602–1795*, *European Review of Economic History*, 18:1 (2014), p. 19–38 analyzed this document from the perspective of economic history.

to be standardized in 1658⁴ and was widely used until the VOC's demise in the 1790s. It is not mentioned in legal literature⁵.

Early modern financing on risky and long terms becomes visible in high detail in the practice and development of the transport-letter. Customary norms thus come alive, illustrating the practical creativity possible within the domain of Roman-Dutch law, dealing with new challenges of risks in long-distance trade⁶. Probably these documents embody the first, widely-used financial instrument that relied on future salary. Transport-letters are known in maritime history literature, but have – until recently – been qualified merely as a seaman's promissory note, a payment obligation, with a negative connotation⁷. This payment obligation was, however, also a necessary foundation to make personal claims to payment an easily transferable asset, by combining late medieval and early modern concepts of bills of exchange, assignation and bearer bonds.

A collection of individual transport-letters, seamen's labor contracts, resolutions of the VOC's governing board, as well as the perspective of the civilian tradition of learned law, enable us to revisit this customary legal construction on financing a specific, but relatively large part of the seafaring poor. The precise arrangement reveals a pragmatic as well as socially embedded attitude in finding a road to financing seamen on the basis of a transfer of a restricted and conditional part of their future income. It was embedded in and colored by the parties' intentions and autonomy, more than by the principled signposts of learned Roman law. After all, the interests involved appeared in a playing field of commercial and contractual freedom in an early modern European market facing new challenges, and thus vividly color the concept of customary financing practice.

We embark by discussing the historical and legal context of the VOC and the various conditions that made seamen want to access their future income (2), which led to the drafting of the *transportbrief* (3). We then take a closer look at the conditions for payment on the *transportbrief* (4) and at what happened to the claims for payment after the death of a seafarer (5). This allows us to give this instrument in financing its customary place in the framework of Roman-Dutch law as it stood (6). Finally, we conclude (7).

4 By resolution of 12 April 1658; Van Dam, *Beschryvinge* (*supra*, n. 3), I.1, p. 620.

5 Not in legal historiography, nor in contemporary legal literature, scholarly (as Voet's *Commentarius ad Pandectas*) nor practical (as, for instance, J. Phoonsen, *Wissel-Styl tot Amsterdam*, Amsterdam 1676).

6 On these challenges, see F.S. Gaastra, *The Dutch East India Company, Expansion and decline*, Zutphen 2003, p. 177.

7 Van Bochove and Van Velzen, *Loans to salaried employees* (*supra*, n. 3) provide a more positive view.

2 The voc and financing its employees

2.1 *Law and practice in the voc's East India trade*

The VOC grew out of earlier trading companies and was formally established by the Dutch States General on 20 March 1602. It was given a monopoly to trade to the east of the Cape of Good Hope and received administrative and judicial powers in that area⁸. The VOC conducted its operations within the framework of learned law as well as an already long-established seafaring practice, which both fitted well in the systematic place within the law as it stood, Roman-Dutch law⁹. The rules which normatively shaped our particular transactions and instrument may be found in legislation¹⁰, exposés of scholars¹¹, and particularly in so-called *artikelbrieven* – rules for employees working outside the Republic, drafted by the States General for the VOC¹² – as well as in various *reglementen* (regulations) and *resoluties* (resolutions) of the VOC board, the *Heeren XVII*. Practice was of importance: resolutions to change payment practices by the VOC's chambers were issued often. Advocates trained in learned law – including Hugo Grotius himself – were involved in shaping the VOC's administration and transactions from the beginning¹³.

Grotius dealt with the seaman's contractual relationships and obligations in his *Inleidinge* (published in 1631, but written around 1620) and set the system-

8 Gaastra, *The Dutch East India Company* (*supra*, n. 6), p. 20–23.

9 H. Grotius, *Inleidinge tot de Hollandsche Rechts-Geleerdheid*, Arnhem 1631, I,2 (as translated by R.W. Lee, *Grotius, Jurisprudence of Holland, Text and translation*, Oxford 1926). The VOC board issued an order on 4 March 1621, that the law of Holland needed to be observed in East India. See A.N. de Wilde, *Levend compagniesrecht*, *Rechtsgeleerd Magazijn*, 54 (1935), p. 355–384.

10 Formal statutory rules of importance were the ordinances of Charles V (1551) and Philip II (1563). See C. Cau, *Groot Placaet-Boek* (from here on *GPB*), Den Haag 1658, I, p. 782 ff. and 796 ff.

11 On hiring between shipmasters and crew, see Grotius, *Inleidinge* (*supra*, n. 9), III, 20; S. van Leeuwen, *Het Rooms-Hollands Regt*, Amsterdam 1664, IV, 22,3; J. van der Linden, *Regtsgeleerd, Practicaal en Koopmanshandboek*, Amsterdam 1806, IV, 4, 1–5, p. 484–495. The latter both referred to Grotius.

12 H. Hoogenberk, *De rechtsvoorschriften voor de vaart op Oost-Indië 1595–1620*, Utrecht 1940, chapter 5 mentioned an early version from the 1520s and found a tradition in substance.

13 Van Dam, *Beschryvinge* (*supra*, n. 3), I.1, p. 270 ff.; I.2, p. 304–305 and 310; M.J. van Ittersum, *Profit and principle, Hugo Grotius, natural rights theories and the rise of Dutch power in the East Indies, 1595–1615*, Leiden 2006; P. Borschberg, *Grotius and the East Indies*, in: *The Cambridge companion to Hugo Grotius*, by R. Lesaffer and J.E. Nijman (eds.), Cambridge 2021, p. 65–87.

atic institutional standard – for our topic as well – in Roman-Dutch law¹⁴. It was a quite extensive exposé, the largest of the 52 parts of the *Inleidinge's* law of obligations, and quite understandably so, *since the well-being of Holland consists principally in its shipping*¹⁵. It dealt with the contracts between freighters and the captains of ships, as well as between captains and their crews¹⁶. The seaman's contract found a systematic place in the third book on obligations (*inschuld*) as a specific type of consensual contract, *locatio-conductio* or letting and hiring – of someone's service, labor against payment¹⁷. The most important obligation following from these general rules was that the seaman needed to be up to his task. If this did not happen to be the case, the seaman was barred from claiming the money earned, with a fine of half as much¹⁸. Grotius could more or less copy from the law as it stood concerning these contractual relations at sea. The rules of the sea were an already long-existing corpus of customary, local rules which evolved into a more extensive geographical application, moving northward along the Atlantic coast from Oleron to Damme, Westkapelle, and Holland¹⁹.

The seaman's specific obligations during VOC employment were described in detail in *artikelbrieven*. These were initially drafted separately for sailors and soldiers as well as for each individual fleet or ship, until from 1634 onwards a general version for all chambers became the standard. Major revisions were made in 1658 and 1742 and minor ones in 1672 and 1747. These *artikelbrieven* demanded all on board to promise by oath (the text of which was included in an annex) to perform all obligations, be servient and trustworthy in performing their service, and to adhere to all kinds of more practical rules (such as attending daily service and not selling wine rations)²⁰.

Unlike the more implicit hierarchical relationships in the contractual arrangements described by Grotius, the *artikelbrieven* made the hierarchical or-

14 Grotius, *Inleidinge* (*supra*, n. 9), III, 20.

15 With which words Grotius, *Inleidinge* III, chapter 20 begins.

16 Grotius, *Inleidinge* (*supra*, n. 9), III, 20, 1. This is not the only place in the *Inleidinge* where the sea may be found coloring the various norms. See Grotius, *Inleidinge* (*supra*, n. 9), II,5,16; II,48,5, 19 & 20; III,1,32,33; III,22, 23, 29; III,37,7-8; III,38, 9 and 15-18.

17 Grotius, *Inleidinge* (*supra*, n. 9), III,19,1.

18 Grotius, *Inleidinge* (*supra*, n. 9), III,1,10; III,19,1; III,20,37.

19 On a detailed analysis of the developments in laws of the sea, see E. Frankot, *Of laws of ships and shipmen, Medieval maritime law and its practice in urban northern Europe*, Edinburgh 2012; M.T. Goudsmit, *Geschiedenis van het Nederlandsche Zeerecht*, Den Haag 1882, p. 52; A. Verwer, *Nederlands see-rechten*, Amsterdam 1711, p. 35; A. Korthals Altes, *Ons oudste zeerecht*, Zwolle 1976, p. 9.

20 Artikelbrief 1658, articles 18 and 58.

der very explicit in a detailed sequence of articles²¹. Although capital delicts were dealt with by, or under the auspices of, the high authority in East India, justice was administered on board by a council consisting of the merchant as president, captain, junior merchant, navigator and first boatswain²².

2.2 *The seaman's salary and need for credit*

VOC employees were supposed to spend three (higher ranks) to five (lower ranks) years in Asia, excluding travel to and from²³. They were entitled to a monthly salary and, as a regular and traditional obligation, received accommodation and food. When one needed to be hospitalized, the payment of wages continued but one had to pay for expenses oneself²⁴. In case of permanent bodily harm, employees were also eligible for a standardized compensation²⁵. Private trade could substantially increase the income and was by tradition accepted²⁶, considered a traditional necessity in Grotius' exposé, in order 'to make young people and others more inclined to seamanship'. But private trade came to be limited by the States General, as Grotius described²⁷. The VOC likewise regulated and later prohibited private trade and replaced it in 1742 by a compensatory payment after the voyage (the *douceur*), causing riots in Amsterdam in 1742 and 1743²⁸.

21 Artikelbrief 1658, articles 1-3.

22 Artikelbrief 1658, articles 9-10.

23 Artikelbrief 1658, article 27. Earlier returns were not impossible, though, and happened more often in the later years of the VOC as finding crew was increasingly difficult. See K. Davids, *Maritime labour in the Netherlands*, in: 'Those emblems of Hell? European sailors and the maritime labour market, by P. van Royen, J. R. Bruijn and J. Lucassen (eds.), Liverpool 1997, p. 41-71, particularly at 56-59; C. van Bochove, *From Nijmegen to Asia in the eighteenth century*, in: Building bridges, Scholars, history and historical demography, A Festschrift in honor of Professor Theo Engelen, by P. Puschmann and T. Riswick (eds.), Nijmegen 2018, p. 118-134.

24 Article 27 of the 1551 ordinance only discontinued pay in case of fighting or drunkenness ('vechten, droncken drincken of anderszins by syne schulde' – 'fighting, drunkenness, or otherwise by his fault'). See Cau, *GPB* (*supra*, n. 10), I, p. 790.

25 Oleron, art. 17; Westkapelle, art. 19; Grotius, *Inleidinge* (*supra*, n. 9), III, 20, 24 and 43. Artikelbrief 1658, article 40. The latter specified compensations for the loss of limbs and eyes (for instance, left arm 500 guilders, right arm 800 guilders; both eyes 1,200 guilders) but demanded proof of the bodily harm as a condition.

26 Korthals Altes, *Ons oudste zeerecht* (*supra*, n. 19), p. 11.

27 Grotius, *Inleidinge* (*supra*, n. 9), III, 20, 25.

28 Artikelbrief 1658, article 22. Davids, *Maritime labour in the Netherlands* (*supra*, n. 23), p. 41-71, particularly at 69. J. de Hullu, *De matrozen en soldaten op de schepen der Oost-Indische Compagnie*, Bijdragen tot de Taal-, Land-, en Volkenkunde, 69 (1914), p. 68 (Reglement op het meenemen van recognitiegoederen; 15 November 1742), 348 ff.; R. van

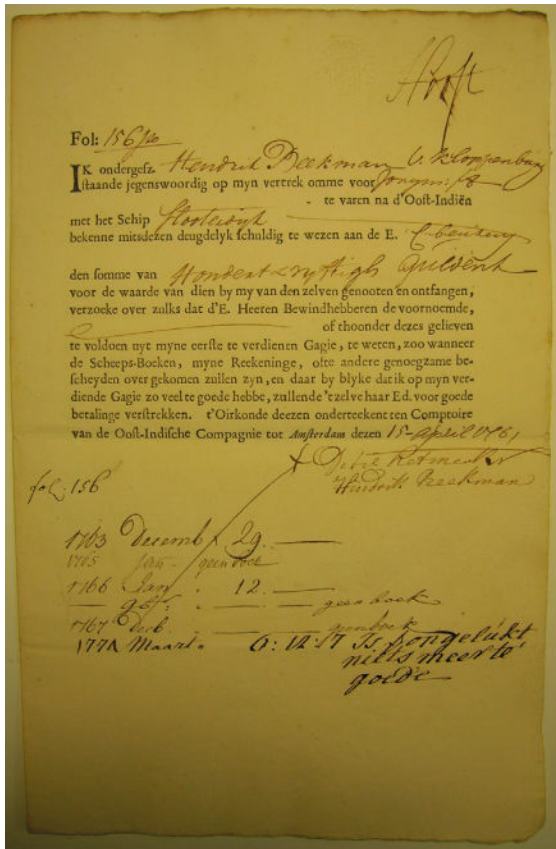


FIGURE 1 The transport-letter of Hendrik Beekman, 1761.

Source: Amsterdam, SAA, Koopmansboeken, inv.nr. 170.

Important for our instrument was that, in conformity with traditional rules²⁹, payment of the largest part of an employee's salary would take place after the full performance of the labor obligations, on return in the Netherlands³⁰, until 1628 centralized in the Amsterdam Chamber³¹. As seamen typically incurred

Gelder, *Naporra's omweg, Het leven van een voc-matroos (1731–1793)*, Amsterdam 2003, p. 407.

29 Oleron, art. 19; Westkapelle, art. 21 – in order to reduce the risk of desertion. That payment was to be afterwards is in the general rules on the labor contract (hire, *locatio-conductio*). Grotius, *Inleidinge* (*supra*, n. 9), III, 19, 11.

30 Artikelbrief 1658, article 34. Payment could be made to wife, children, friends or others who were able to show 'schriftelijcke last oft procuratie', by 'written form of mandate or agency'.

31 Van Dam, *Beschryvinge* (*supra*, n. 3), I.1, p. 704.

all kinds of expenses prior to departure, however, this created a challenge of how to bridge this gap in time³². The VOC provided three solutions itself. First, it paid a small amount of daily money (*loopgeld*) for the time between day of enrollment and the start of the voyage. Second, it paid two months' salary in advance. Third, it provided certain necessities – such as a chest or clothing – on credit³³. Alternatively, employees could turn to Holland's private credit market. This indeed happened quite frequently, but excesses were common. To curtail indebtedness and to be able to muster the rising numbers of increasingly foreign employees during the 1630s and 1640, for whom it may have been more difficult by lack of property serving as security to take out private loans secured by a (general or specific) hypothec³⁴, the VOC had to address these excesses, and thereby did actively shape a highly specific additional credit market for their seamen³⁵. What was needed was an optional but orchestrated transfer of future salary and the *transportbrief* introduced in 1658 allowed for this, building further on the seamen's already outstanding debts.

Ik, ondergesz. [ondergeszegde] Hendrik Beekman v. Kloppenburg staande jegenswoordig op myn vertrek omme voor jongm: f8 [jongmatroos 8 guldens] te varen na d'Oost-Indiën met het schip Slooterdijk bekenne mitsdezen deugdelyk schuldig te wezen aan de E. (Edele) C. Beukens den somme van hondert & vijftigh guldens voor de waarde van dien by my van den zelven genooten en ontfangen, verzoeke over zulks dat d'E. [d'Edele] Heeren Bewindhebberen de voornoemde, ————— of thoonder dezese gelieven te voldoen uyt myne eerste te verdienen Gage, te weten, zoo wanneer de Scheeps-Boeken, myne Reekeninge, ofte andere genoegzame bescheyden over gekomen zullen zyn, en daar by blyke dat ik op myn verdiende Gage zo veel te goede hebbe, zullende 't zelve

32 Van Bochove and Van Velzen, *Loans to salaried employees* (*supra*, n. 3), p. 19–38.

33 Artikelbrief 1658, article 33; Van Dam, *Beschryvinge* (*supra*, n. 3), I.1, p. 558.

34 On the general hypothec, see V.J.M. van Hoof, *Generale zekerheidsrechten in rechtshistorisch perspectief*, Nijmegen 2015; J.M. Milo, *Floating charge in civiele traditie*, in: Tweehonderd jaren codificatie van het privaatrecht in Nederland, by J.H.A. Lokin, J.M. Milo and C.H. van Rhee (eds.), Groningen 2010, p. 73–96. On its use in early modern Holland, see C. van Bochove and H. Kole, *Uncovering private credit markets, Amsterdam, 1660–1809*, *The Low Countries Journal of Social and Economic History*, 11:3 (2014), p. 39–72.

35 During the nearly two centuries of its existence, the VOC shipped around one million people to East India. Gaastra, *The Dutch East India Company* (*supra*, n. 6), p. 81–85; H. Ketting, *Leven, werk en rebellie aan boord van Oost-Indiëvaarders (1595–1650)*, Amsterdam 2002, p. 15, 41, 61 ff.; De Hullu, *De matrozen en soldaten* (*supra*, n. 28), p. 332; J. Lucassen, *A multinational and its labor force, The Dutch East India Company, 1595–1795*, *International Labor and Working-Class History*, 66 (2004), p. 12–39.

haar Ed. [Edele] voor goede betalinge verstrekken. t'Oirkonde deezen onderteekent ten Comptoire van de Oost-Indische Compagnie tot *Amsterdam* dezen 15 april 1761.

I, the undersigned Hendrik Beekman v. Kloppenburg presently standing to depart as junior ordinary seaman at 8 guilders to sail to East India on the ship Slooterdijk acknowledge through this to rightfully owe to the honourable C. Beukens the sum of one hundred and fifty guilders the value of which I enjoyed and received from the aforementioned, requests concerning that very sum the Honourable Heeren XVII to pay to the aforementioned, ——— or to bearer of this to kindly pay from my first to be earned wages, precisely, when the ships ledgers, my account, or other sufficient documents will have been returned, and from that it shows that I am owed so much in earned wages, shall her Honourables supply that for rightful payment. This charter was undersigned at the Chamber of the East India Company in *Amsterdam*, 15 April 1761³⁶.

3 The *transportbrief*

The voc's governing board introduced a standardized *transportbrief* (or simply *transport*)³⁷ during its meeting on 12 April 1658³⁸. With the exception of some minor spelling changes, the transport-letter's text remained unaltered throughout the voc's existence³⁹. As the board spoke of a form (*formulier*) it is likely that the transport-letter was a pre-printed document right from 1658 onwards⁴⁰. Lender and borrower only had to add some relevant details (see Figure 1): the seaman's name (*Hendrik Beekman*), place of origin (*Kloppen-*

36 In the Dutch transcription of the transport-letter we have written abbreviations in full in brackets. The spaced fragments were added in handwriting to the otherwise pre-printed document.

37 The words *obligatie* (obligation) and *schuldbrief* (debt-letter) were also used, both drawing attention to the seaman's initial debt and his obligation to repay.

38 By resolution of 12 April 1658; Van Dam, *Beschryvinge* (*supra*, n. 3), I.1, p. 620.

39 Van Dam, *Beschryvinge* (*supra*, n. 3), I.1, p. 620; Den Haag, Nationaal Archief (from now on NA), Archief van de Verenigde Oost-Indische Compagnie (VOC), 1602–1795 (1811) (entry number 1.04.02) (from now on VOC), inv.nr. 104, folio 321 (scan 307); Amsterdam, SAA, Koopmansboeken, inv.nr. 170.

40 This is difficult to establish conclusively, however, as few transport-letters have survived. The earliest example of a pre-printed form that accidentally survived in the voc's salary ledgers seems to be a 1699 month-letter from the Enkhuizen Chamber. See Den Haag, NA, VOC, inv.nr. 14639, scans 198 and 249.

burg or Cloppenburg), rank (*jongm.*, *jongmatroos* or junior sailor), and salary (ƒ8 or 8 guilders), ship (*Slooterdijk*) as well as the lender's name (*C. Beukens*) and the amount of debt (*Hondert & vijftigh guldens* or 150 guilders). Interest rates were not referred to or recorded on transport-letters, and thus had to be included in the loan sum⁴¹. The folio number (156) referred to the page in the ship's ledger on which the seaman's salary account was kept⁴². Finally, the transport-letter was dated and signed by the seaman with a name, cross, or mark. Above the text, a stamp accompanied by a town secretary's signature (*Hoof*t) signified that the provincial stamp tax had been paid over the transaction⁴³. Underneath the text, details about payments by the (since 1628 the chambers of the) VOC (date and amount) and reasons for not paying (any-more) were recorded over time.

A transport-letter entitled its order or bearer (*thoonder*)⁴⁴ to the cumulative payment, by the VOC, up to the amount specified on the transport-letter (150 guilders in the case of Beekman). With the exception of boys and personnel hired through recruitment officers, all employees going to Asia could obtain transport-letters at the six VOC chambers⁴⁵. They were allowed to sign multiple transport-letters, but only up to a combined sum that was maximized by rank. For most employees this meant 150 guilders, but amounts could go up to 300 guilders⁴⁶. The salary ledgers, which have been preserved in great numbers, show that around 85% of employees who sailed from Amsterdam during the period 1678–1794 signed a transport-letter. There thus existed a strong demand

41 See Van Bochove and Van Velzen, *Loans to salaried employees* (*supra*, n. 3) on this practice and the height of annualized percentage rates.

42 The ledger with Beekman's account can be found at Den Haag, NA, VOC, inv.nr. 6400, folios 155v and 156r (scans 404–405).

43 Following the analysis of pre-printed (and stamped) loan contracts in Van Bochove and Kole, *Uncovering private credit markets* (*supra*, n. 34), we assume that the VOC also purchased blank sheets of stamped and certified (through the signature of a town secretary) paper from the provincial government and printed the transport-letter text on it itself.

44 As lost-and-found advertisements in eighteenth-century newspapers show, transport-letters were regularly lost by these bearers. In such instances they could apparently ask the VOC to only make payments to the rightful bearer. See *Amsterdamse courant*, 17 May 1735, 10 April 1749, 19 January 1769, 6 November 1773, 26 August 1775, 14 August 1777, 18 December 1779, 3 February 1780, 12 August 1783, 16 August 1783, 31 July 1784, 17 March 1789, and 12 December 1795.

45 Van Dam, *Beschryvinge* (*supra*, n. 3), I.1, p. 620 ff.

46 By resolution of 24 February 1682; Van Dam, *Beschryvinge* (*supra*, n. 3), I.1, p. 620–621. As transport-letters were registered in employees' salary accounts, the maximum sum could not be exceeded and repayments could be made proportionally to the size of transport-letters. On the latter, see Den Haag, NA, VOC, inv.nr. 5343, folios 96v (scan 74), 97v (scan 76), 102v (scan 86), 103v (scan 88), 155v (scan 194), and scans 478–479.

for transport-letters and – given that the VOC developed and carefully kept a salary administration that monitored debts and payments of salary – substantial numbers of people were willing to accept them⁴⁷.

Despite this wide reliance on transport-letters, the instrument has long been perceived negatively by historians, because they thought that VOC employees of foreign origin were exploited by this instrument. Many of these foreigners arrived in VOC ports close to empty-handed and had to rely on innkeepers for receiving lodging and shipping gear on credit. According to the negative interpretation, the transport-letter that seamen had to sign embodied an IOU or promissory note, which grossly inflated the value of the goods and services received. In this view, innkeepers thus exploited vulnerable immigrant seamen by ruthlessly overcharging. As their own expenses forced innkeepers to quickly sell their transport-letters to specialized buyers they became known as soul-sellers, *ziel-verkopers*, alluding to the word *cedul* or *ceel* for document⁴⁸. These specialized buyers would then from time to time collect payments from the VOC in bulk.

This interpretation has been shown to not tally well with evidence. Excesses surely occurred at inns, but rather as exceptions; in part because foreign seamen often possessed references to trustworthy innkeepers⁴⁹. Transport-letters were widely used by employees of local origin as well and a much more positive interpretation of transport-letters has been identified too⁵⁰. Trade in

47 T. van Velzen, *Uitgevaren voor de Kamers; 700.000 mensen overzee*, in: *Uitgevaren voor de Kamer Zeeland*, by J. Parmentier (ed.), Zutphen 2006; Van Bochove and Van Velzen, *Loans to salaried employees* (*supra*, n. 3).

48 See Van Bochove and Van Velzen, *Loans to salaried employees* (*supra*, n. 3) for an elaborate discussion concerning the negative view and an analysis of the emergence of and trades on the secondary market (including annualized percentage rates). Qualifying *transportbrieven* as 'debt repayment', but with a well-balanced description is K.J. Ekama, *Courting conflict, Managing Dutch East and West India Company disputes in the Dutch Republic* (Doctoral thesis Leiden 2018), chapter 4, also with conflicts arising out of (non-)payment issues.

49 M. Hell, *De Amsterdamse herberg 1450–1800, Geestrijk centrum van het openbare leven*, Hilversum 2017. This study also critically reassessed Jacob Bicker Raye's eighteenth-century diary, which contributed substantially to the negative view on the innkeepers of VOC employees. Also see Van Bochove and Van Velzen, *Loans to salaried employees* (*supra*, n. 3); C. van Bochove, *Seafarers and shopkeepers, Credit in eighteenth-century Amsterdam*, *Eighteenth-Century Studies*, 48:1 (2014), p. 67–88; K. Bouwer, *Ronselen voor de VOC*, *Nijmeegs Katern*, 16:4 (2002), p. 50–54.

50 Van Bochove and Van Velzen, *Loans to salaried employees* (*supra*, n. 3). See J. Lucassen and M. van Rossum, *Smokkeloos en zilverstromen, Illegale export van edelmetaal via de VOC*, *The Low Countries Journal of Social and Economic History*, 13:1 (2016), p. 99–133 for the very profitable practice of smuggling silver coins to Asia.

transport-letters, moreover, took place in fairly competitive and specialized markets, with adequate pricing. Implicit interest rates were high because risks and transaction costs were high, not because buyers of transport-letters made extreme profits⁵¹. Finally, the negative interpretation does not follow from the contract and the conditions under which payments on *transportbrieven* were made. We take a closer look.

4 Conditions for payment

Transport-letters were cast in the form of a request by the seaman to the VOC to pay to a named person or to bearer ('*verzoeken over zulks dat d'E. Heeren Bewindhebberen [...] gelieven te voldoen [...] zullen 't zelve haar Ed. voor goede betalinge verstrekken*'). Bearers could not collect payment at will. Two preliminary conditions had to be met. First, the arrival of salary account updates, meticulously compiled in Asia and regularly sent to the Republic ('*wanneer de Scheeps-Boeken, myne Rekeninge, ofte andere genoegzame bescheyden overgekomen zullen zyn*')⁵². Second, these updates had to demonstrate the presence of earnings in the salary account ('*en daar by blyke dat ik op myn verdiende Gagie zo veel te goede hebbe*')⁵³. Before payments on transport-letters could be made, the VOC's bookkeepers thus had to establish through the salary accounts to what extent employees were entitled to salary.

The seaman's obligations were generally described in the labor contract, the *artikelbrief*, and performance was enforced through punishment and fines⁵⁴. This therefore determined whether money accrued in employees' salary accounts and as such it was of great importance to the bearers of transport-letters⁵⁵. Notes which VOC clerks scribbled on the transport-letter are also highly

51 Van Bochove and Van Velzen, *Loans to salaried employees* (*supra*, n. 3).

52 For instance the resolution of 20 November 1683 – if there were no books, no payment was to be made. See Van Dam, *Beschryvinge* (*supra*, n. 3), I.1, p. 709.

53 According to resolutions of 20 October 1673 and 4 November 1673 payment was only to be made if there was a positive balance. Apparently advance payments in East India needed to be made with more caution to secure a positive balance. See Van Dam, *Beschryvinge* (*supra*, n. 3), I.1, p. 709.

54 Hoogenberk, *De rechtsvoorschriften* (*supra*, n. 12); N.S. Efthymiou, *De organisatie van regelgeving voor Nederlands Oost-Indië, Stelsels en opvattingen* (1602–1942), Amsterdam 2005.

55 Hoogenberk, *De rechtsvoorschriften* (*supra*, n. 12) provides an almost complete overview of the (un)published *artikelbrieven*. J.K.J. de Jonge, *De opkomst van het Nederlandsch gezag in Oost-Indië* (1595–1610), *Verzameling van onuitgegeven stukken uit het oud-koloniaal archief*, Den Haag – Amsterdam 1862, I, p. 204–212; J. Keuning, *De tweede schipvaart*

illustrative⁵⁶. These show well why partial or no payments were common and why payment frequently came to a full stop.

The notes demonstrate a strict adherence to the first condition: the arrival of salary updates. When the required books had not arrived, as happened three times in the case of Beekman, VOC clerks recorded 'no book' (*geen boek*) on transport-letters and made no payment⁵⁷. When books did arrive, it was not at all evident that employees' accounts would meet the second condition: the administrative presence of sufficient wages earned. Payment over time by multiple small payments was the standard, and it would have taken several years for transport-letters to be fully repaid⁵⁸. The *artikelbrief*, resolutions and the reasons recorded on transport-letters for non-payments show in detail that obtaining funds in the salary account depended on a rich variety of conditions.

Evident as it may be, employees had to be qualified for and capable of working⁵⁹ and had to actually leave for Asia⁶⁰. The obligation to pay salary would

der Nederlanders naar Oost-Indië onder Jacob Cornelisz. van Neck en Wybrant Warwijck 1598–1600, Journalen, documenten en andere bescheiden uitgegeven en toegelicht, Den Haag 1938, I, p. 152–162; W.S. Unger, *De oudste reizen van de Zeeuwen naar Oost-Indië 1598–1604*, Den Haag 1948, p. 116–122, 132 (not listed by Hoogenberk); J.A. van der Chijs, *Geschiedenis der stichting van de Vereenighde O.I. Compagnie en der maatregelen van de Nederlandsche regering betreffende de vaart op Oost-Indie, welke aan deze stichting voorafgingen*, Leiden 1857, p. 175–189; J.P.G. Schmitz, *Rechtshistorische bijdragen tot de kennis van het materiele en formeele strafrecht van toepassing op de dienaren van de Vereenigde Oost-Indische Compagnie, voornamelijk betrekking hebbende op het delict van desertie*, Utrecht 1938, Appendices I (p. 331–341), III–VI (p. 345–389); J.A. van der Chijs, *Nederlandsch-Indisch plakaatboek, 1602–1811*, Batavia – Den Haag 1885–1900, I, p. 309–361; II, p. 253–299, 560–561; IV, p. 547–576; V, p. 493 (not listed by Hoogenberk).

56 Amsterdam, SAA, Koopmansboeken, inv.nr. 170. Only a handful of transport-letters have survived in the salary ledgers, so this collection of almost 100 transport-letters – signed during the period 1734–1788 and dating mostly from the 1750s and 1760s – provides a unique insight into the daily practices of the transport-letter.

57 This procedure was prescribed by the Chamber of Amsterdam in 1669 (Den Haag, NA, VOC, inv.nr. 238, 4 February 1669). When updates had not arrived for several years, enquiries were sometimes sent to Asia. Amsterdam, SAA, Koopmansboeken, inv.nr. 170, 31 December 1778 ('Hierover zal naar Indie geschr: worden' – 'On this will be written to East India').

58 Van Bochove and Van Velzen, *Loans to salaried employees* (*supra*, n. 3).

59 Grotius, *Inleidinge* (*supra*, n. 9), III,20,37; Amsterdam, SAA, Koopmansboeken, inv. nr. 170, 18 November 1748 ('Uijt Texel als onbekwaam opgezonden' – 'Sent from Texel, incapable') and 26 March 1781 ('Is als onbequaam thujs niets meer te goede' – 'Is at home, incapable, nothing owed').

60 Amsterdam, SAA, Koopmansboeken, inv.nr. 170, 6 January 1748 ('Op dit schip niet te vinden' – 'Not to be found on this ship'), 29 October 1759 ('Absent'), 16 August 1757 ('In Texel niet aan boord gekomen' – 'Did not come on board in Texel'), and 6 April 1761 ('Absent in Texel').

only arise when the seaman would be on the ship, in full sea⁶¹. The importance of performing the employment obligations for the value of the transport-letter is illustrated by a clause in standardized and pre-printed transfer forms for selling and transferring transport-letters to new bearers on the market for transport-letters. These transactions often took place prior to embarkation and the clause aimed at holding the seller liable for the selling price in case the seaman did not embark⁶². Statutory law of the States General had been issued early on as well to prevent non-performance and seamen disappearing with their advance payments⁶³.

Once on their way to Asia, punishment and fines for non-performance of the seaman's obligations could reduce the sums flowing into the seaman's salary account⁶⁴. Seamen lost their wages when their ship sank or when it was captured – which happened to around 3% of the outward voyages and 5% of homeward voyages – as the ship and its cargo, except the cannons that belonged to the government, served as collateral for all types of payments by the VOC to its employees⁶⁵. Their ship causing damage to another ship did also cause proportional liability, which thus led to a deduction of salary payment⁶⁶.

While the seamen were in Asia, salary could be withdrawn in two ways. If needed, the seamen themselves could take out six months of salary, but only

- 61 Artikelbrief 1658, article 34 ('De bedongen maendt-gelden sullen ingaen ende haren aanvangh nemen, als de schepen buyten gaets in zee, om hare reyse te vervorderen gheseylt [...] sullen syn' – 'The negotiated monthly wages will due once the ships will be in the open sea under sail to continue their voyage').
- 62 'En bevrye den Kooper van het bovengenoemde Transport voor alle hinder en schade, tot dat bovengenoemde De laatste Monsteringe is gepasseert en in Zee gelopen [...] – 'And exempt the buyer of the abovementioned transport from all encumberments and damages, until the mentioned inspection has been done and the ship has sailed'. Amsterdam, SAA, Koopmansboeken, inv.nr. 170, transfers on 18 August 1755, 18 November 1756, 1 September 1758, 29 October 1759, and 14 April 1761.
- 63 Ordinance States General 30 May 1625 in Cau, *GPB* (*supra*, n. 10), I, p. 559-560. Mentioned are the general financial interests at stake: detrimental to Dutch residents and commerce.
- 64 Artikelbrief 1658 specified, for instance, fines of 0.5 guilders for cursing (article 15), 1 guilder for being absent from daily prayers (article 18), and one month's pay for throwing food overboard without consent (article 61).
- 65 Artikelbrief 1658, article 40; Artikelbrief 1742, articles 41, 42, 45; already in Charles V's ordinance of the sea – Cau, (*supra*, n. 10), I, p. 783-784 ff.; J.R. Bruijn, F.S. Gaastra and I. Schöffner, *Dutch-Asiatic shipping in the 17th and 18th centuries*, Den Haag 1987, I, p. 75, 91. Amsterdam, SAA, Koopmansboeken, inv.nr. 170, 26 December 1739 ('Dit schip is verongelukt' – 'This ship has crashed'), 28 May 1743 ('Op d'uitreijse gezonken' – 'Sunk on the outward voyage').
- 66 See J. Coren, *Observationes rerum in eodem senatu judicatarum*, Amsterdam 1633, case XLI, p. 420, with several expert reports on the existence of customary law in this respect.

three when married. The reason explicitly given is that payment of two to three months' salary to the seaman's family at home needed to be secured – these payments and those to the other creditors would be particularly made possible on the basis of a transport-letter⁶⁷. Furthermore, family members could collect up to three months' salary in the Republic when a so-called month-letter (*maandbrief*) had been agreed upon. The protection of family at home went even further: when a month-letter was not provided by a seaman, the voc board allowed the seaman's wife – upon presentation of sufficient proof of marriage – to have a month-letter written in her interest. Bearers of a month-letter were to be paid in preference to holders of a transport-letter, as ordered by repeating resolutions of the voc board⁶⁸.

Those who left Asia early without the voc's approval, or those who deserted altogether, forfeited all wages in their salary account⁶⁹. Yet the financial consequences in case of desertion or death penalty were mitigated for the family by resolutions of 1617 and 1633⁷⁰. Employees also stopped earning wages when they had returned to the Republic with approval before their contract had officially run out⁷¹. This only seems to have worked out negatively for bearers of transport-letters, however, when employees returned before having reached the Cape of Good Hope. Only then would they have earned insufficiently for

67 Artikelbrief 1658, article 36; Van Dam, *Beschryvinge* (*supra*, n. 3), III, p. 226.

68 By resolutions of 20 August 1670, 15 May 1671, 19 August 1671, 25 February 1682, and 5 April 1697; Van Dam, *Beschryvinge* (*supra*, n. 3), I.1, p. 620, 622; Ketting, *Leven* (*supra*, n. 35), p. 52–54.

69 Leaving Asia early: Artikelbrief 1658, article 28; Artikelbrief 1742, article 29. Desertion: Artikelbrief 1658, article 32; Artikelbrief 1742, article 33. Amsterdam, SAA, Koopmansboeken, inv.nr. 170, 21 March 1746 ('Is op Porto Praijo abzent gebleven niets te goede' – 'Has remained absent in Porto Praijo, nothing owed'), 28 July 1753 ('Is vermist, niets meer te goede' – 'Is missing, nothing owed'), 21 March 1760 ('Is weggelopen' – 'Has run away'), 1 December 1760 ('Is gefugeert' – 'Has fled'), 12 March 1761 ('Is absent niets meer te goede' – 'Is absent, nothing owed'), 13 March 1761 ('Is gedeseerteert' – 'Has deserted'), and 6 April 1761 ('Is absent gebelven op St Jago niets te goede' – 'Has remained absent on St Jago, nothing owed'). Apparently payments were sometimes made, hence a resolution of 26 October 1699 preventing these payments; Van Dam, *Beschryvinge* (*supra*, n. 3), I.1, p. 622.

70 Resolution States General 3 November 1617: in case of desertion or death penalty the remaining wages fall to the voc, yet wives, children and heirs will qualify for half of the remaining salary. See resolution of 14 September 1633 for the application of this rule. The mitigation did not apply in case of confiscation on the ground of private trade. See Van Dam, *Beschryvinge* (*supra*, n. 3), I.1, p. 712–713. Also see M. van Rossum, 'Working for the Devil', *Desertion in the Eurasian Empire of the voc*, in: *Desertion in the early modern world, A comparative history*, by M. van Rossum and J. Kamp (eds.), London 2016, p. 127–158.

71 Amsterdam, SAA, Koopmansboeken, inv.nr. 170, 13 October 1761 ('Is thuisgekomen niets meer te goede' – 'Arrived at home nothing owed').

full payment on transport-letters. The VOC's archival sources suggest, though, that the VOC protected the interests of the bearers of *transportbrieven* by trying to limit the number of early returners. The employees on board of the *Astrea*, which set sail for Asia in 1721, may serve as illustration. Due to unforeseen conditions of the Asian fleet that was sailing back to the Republic, some of *Astrea*'s employees were transferred to that fleet at the Cape of Good Hope and consequently arrived home much earlier than expected. From the data available in the ship's ledger it is clear that the VOC disproportionately selected employees without transport-letter for this. Thus it must have followed a conscious policy of selecting sailors without a transport-letter in order not to hurt the interests of transport-buyers⁷².

The right to salary would stop when an employee died because of natural causes or an accident, as was recorded on Beekman's transport-letter in 1774: '*Is verongelukt niets meer te goede*'⁷³. The seaman's creditors, among these holders of a *transportbrief*, had recourse on the seaman's estate, though.

5 Dealing with death

As the average mortality rate of VOC employees exceeded 4% – and went up to 15% around 1690–1700, 1730–1750 and 1760–1780 – bearers of transport-letters inevitably had to deal with unredeemed sums of money⁷⁴. The literature has so far been based on the assumption that the bearers of transport-letters had no further recourse. Our examination of the resolutions of *Heeren XVII* now demonstrates, however, that bearers of transport-letters did claim from the deceased's estate and over time the VOC even came to facilitate this in certain circumstances⁷⁵.

72 Den Haag, NA, VOC, inv.nr. 13921; Den Haag, NA, Database VOC Opvarenden (<https://www.nationaalarchief.nl/onderzoeken/index/nt00444>). From the 105 sailors who made it to the Cape of Good Hope alive, 60 had not signed a transport-letter and 20 of these were chosen to sail back home. Randomly selecting these 20 sailors from the population of 105 sailors only produces this outcome with a chance of 0.0003%.

73 Artikelbrief 1658, articles 34 and 37. Amsterdam, SAA, Koopmansboeken, inv.nr. 170, 28 September 1759 ('*Is overleden niets meer te goede*' – 'Has passed nothing owed'), 21 April 1761 ('*Is dood, niet meer te goede*' – 'Is dead, nothing owed'). This was more restrictive than follows from the ordinances of the sea (1551, article 29 and 1561, article 17), and from Grotius, *Inleidinge* (*supra*, n. 9), III,20,44. Heirs were entitled to half the wages if the crewmember died on the outward voyage, to the full wage if he died homeward bound.

74 Bruijn, Gaastra, and Schöffner, *Dutch-Asiatic shipping* (*supra*, n. 65), I, p. 163.

75 The VOC had arranged the administration of matters concerning succession, testate as well as intestate, as becomes clear from Artikelbrief 1658, articles 70–76. Seamen who

Upon an employee's death the VOC paid the bearer of a transport-letter until the employee's salary account ran out of wages. The revenues from auctioning his possessions accrued directly to the estate⁷⁶. When the employee died testate these funds would be handed over to the curator he had specified himself⁷⁷, but in all other cases the VOC dealt with the deceased's creditors⁷⁸. The VOC sources demonstrate unequivocally that this included bearers of transport-letters. According to resolutions of *Heeren XVII* and Chamber Amsterdam a formal, albeit relatively costly, route existed for those bearers of transport-letters to claim from the estate: obtaining a warrant at the local court⁷⁹. During *Heeren XVII*'s meeting on 11 March 1718, however, Chamber Zeeland pointed out that it was common in some Chambers to also pay in the absence of war-

returned home early might also have only partially redeemed their debt as noted in the transport-letter. As pursuing this group of people will largely have taken place outside the VOC, we do not explore this group here further.

76 Artikelbrief 1669, article 73 deals with the sale of part of the deceased's property on the ship ('t gene tot des afgestorvens lijve behoort sal hebben' – 'that what has been found on the deceased'), whether he was testate or not. Wages not yet paid were also transferred to the estate, but the case of Jurgen Hendriksz from Hamburg shows that with solid evidence one could intervene in this process. Hendriksz joined the VOC in Amsterdam in 1729 and signed a 150-guilder transport-letter to Anthonij Carstens. As he did not actually embark his ship, Carstens received not a single guilder from the VOC. Next year, however, Hendriksz joined the VOC in Delft under the name of Hendrik Matthijsz and again signed a transport-letter. This time Hendriksz / Matthijsz did sail to Asia, where he eventually died after having fully repaid his second transport-letter. About 40 guilders remained in his salary account, however, and Carstens had somehow found out about this and had two people record before a notary that Hendriksz and Matthijsz were one and the same. Before the Company moved the remaining wage to the estate of Hendriksz / Matthijsz it consequently decided to (partially) redeem his first transport-letter to Carstens. See Den Haag, NA, VOC, inv.nr. 5912, scan 14; inv.nr. 13947, folio 90r and 91v (scans 238-239); Amsterdam, SAA, Archief van de Notarissen ter Standplaats Amsterdam (entry number 5075), inv.nr. 7037, deed 226, 31 May 1738.

77 As above, we do not explore this particular group here either.

78 The *artikelbrief* arranges the registration of the testaments as well as the administration of the deceased's property. See Artikelbrief 1658, article 37; Artikelbrief 1669, articles 70-72; Van Dam, *Beschryvinge* (*supra*, n. 3), I.1, p. 84-86. See A. Schmidt, *Overleven na de dood, Weduwen in Leiden in de Gouden Eeuw*, Amsterdam 2001, p. 80-83 for a discussion of legal practice concerning intestates.

79 A series of such payments was made on 20 February 1727 and the clerk explicitly recorded in the salary ledger that this happened after a decision of Amsterdam's court ('volgens vonnis vande edele heeren van der gerechte en stad Amsterdam' – 'according to decision of the court and city of Amsterdam'). These examples also show that the VOC held priority to the estates as it had advanced salary, chests, etc. See Den Haag, NA, VOC, inv. nr. 13911, folio 278 (scan 683).

rants. This practice was rejected and it was decided that uniform procedures should henceforward be followed⁸⁰.

During its meeting on 13 July 1719, Chamber Amsterdam pointed out that this rigid procedure meant that bearers of transport-letters could choose from two options: either not to claim the remainder or to obtain a costly warrant for collecting a payment from the VOC. As the transaction costs of obtaining a warrant often exceeded the amount to be claimed from the estate, bearers of transport-letters would frequently refrain from claiming. On this ground Chamber Amsterdam therefore proposed to *Heeren XVII* that after six to eight months small sums could be paid from estates to all competing creditors without such a warrant. A few days later, on 21 July 1719, Amsterdam's proposal was already discussed by *Heeren XVII*. They stuck to their decision of 1718 and, disregarding the transaction costs argument, emphasized that the bearers of transport-letters should still obtain a warrant⁸¹.

The foregoing seems to have settled the matter until *Heeren XVII* received a petition from the most important Amsterdam bearers of transport-letters in 1742⁸². In addition to requesting a change in the wording of the transport-letter, something that was firmly rejected by *Heeren XVII*, they requested the VOC to make transport-letter payments from the estates of deceased seamen in the absence of court-issued warrants. The rejection of *Heeren XVII* made sense, as the salary account had run dry, and the remaining claim was on the seaman's estate. But since the wages on the salary account had run out, the claim they had on the deceased's estate had no preference⁸³. *Heeren XVII* did propose a practical solu-

80 Den Haag, NA, VOC, inv.nr. 116, 11 March 1718 (scan 452).

81 Den Haag, NA, VOC, inv.nr. 250, 13 July 1719 (scans 182-184); inv.nr. 116, 21 July 1719 (scan 596).

82 Den Haag, NA, VOC, inv.nr. 259, 3 December 1742 (scans 310-317). Also see Den Haag, NA, VOC, inv.nr. 123, 16 November 1742 (scans 659-660); inv.nr. 168, 16 November 1742 (scans 320-322). The petition may have been motivated by increasing mortality rates, on board (Van Bochove and Van Velzen, *Loans to salaried employees* [supra, n. 3]) as well as in Asia (P.H. van der Brug, *Malaria in Batavia in the 18th century*, Tropical Medicine and International Health, 2:9 (1997), p. 892-902), and thus decreasing repayment rates on transport-letters.

83 '[...] dat een varentsgezel zig in den dienst dezer Compagnie begevende, bij het maken van een transport alleenlijk, tot securitijt van den genen, ten wiens behoefte hij het zelve passeert specialijk verbind en verhiypothequeert zijne te verdienene maandgelden en gagien dog geenzints zijne verdere reets hebbende ofte nog te verkrijgene goederen [...]'. '[...] de te goedstaande gagie en maandgelden, waar op hij boven al en iijgelijck is gepraeferiert [...]' – 'a sailor entering into service of this company, at the passing of the transport, for security of those for whom he binds himself specifically and hypothecates all his monthly wages and salary, but in no way his other property or future other property [...]'. '[...] he has preference over all other creditors on the outstanding wages and monthly

tion, though, aware as they were of the important role transport-buyers played in recruiting employees⁸⁴. If no other creditors had come forward after a number of months, VOC clerks would hence be allowed to pay bearers of transport-letters from estates even without warrant, but only in case they would provide surety⁸⁵.

These examples illustrate two things. First, that the VOC – again in practice – carefully balanced the interests of all relevant parties while managing the assets of its (deceased) employees. Second, that the qualification of the transport-letter as an instrument in which employees' wages alone served as security, is in fact inaccurate. Employees remained fully liable for the sum they had not been able to redeem with their wages and bearers of transport-letters could hence pursue payments from the curators of their estates⁸⁶.

Despite their right to claim repayments from estates not managed by the VOC, it remains to be seen though whether bearers of transport-letters actually exercised this right. Doing so obviously required them to be able to locate employees' estate curators or heirs. While knowing an employee's address would be a good starting point for this, addresses were recorded only once on the available transport-letters⁸⁷. Addresses were in fact recorded in three out of the five available trades on the secondary market that took place prior to embarkation. The addresses were those of the sellers of the transport-letters, however, not those of the employees, as the specialized buyers could hold the sellers liable until employees had embarked⁸⁸. It thus seems that recording

salary [...]. Strikingly, the language of the specific hypothec is used, but it looks like these words just address the *transportbrief* and its effect itself.

84 '[...] maar om even wel gem: negotie, als zeer noodzakelijk voor onze zeevaart zijnde, zo veel mogelijk te faciliteren [...]' – '[...] but in order to facilitate the mentioned commerce, since it is very necessary for our maritime trade [...]'.

85 See, for instance, Den Haag, NA, VOC, inv.nr. 13911, folio 279 (scan 683).

86 Note that this very much resembles the practice of mortgaging in the Dutch Republic: ownership of and encumbrances on real estate were recorded with the aldermen and this gave lenders preference on the specific piece of real estate. Unlike the aldermen, however, the VOC was in a unique position to facilitate the underlying payments. See C. van Bochove, H. Deneweth and J. Zuijderduijn, *Real estate and mortgage finance in England and the Low Countries, 1300–1800*, Continuity and Change, 30:1 (2015), p. 9–38.

87 Amsterdam, SAA, Koopmansboeken, inv.nr. 170. The only reference to an address ('met-tie petaniestraat' on 11 January 1734) presumably referred to Metje van Velsen. She was responsible for four of the available secondary market purchases: under her own name in 1755 and 1756 and as the widow of Jan van Velsen ('de weduwe Jan van Velsen' – 'the widow of Jan van Velsen') in 1759 and 1761. On 3 February 1735 the marriage of Metje and Jan had been recorded in the marriage banns (Amsterdam, SAA, Archief van de Burgerlijke Stand: doop-, trouw- en begraafboeken van Amsterdam (entry number 5001), inv. nr. 576, p. 464), which listed 'Petanjest.' (Bethaniënstraat) as their address.

88 Amsterdam, SAA, Koopmansboeken, inv.nr. 170.

addresses could matter, but that it did not in case of the employees. This may have been so because the estates of most non-local employees were probably managed by the VOC. Bearers recouped payments there and likely did not bother about non-locals' estates not managed by the VOC because the costs of retrieving payments from these will have been small relative to the deficits at stake. Costs for collecting payments from local estates were not as prohibitive, but addresses were not recorded on the nine transport-letters of eight local employees either. This could point to a high degree of familiarity between employees and bearers of transport-letters, but it can also not be precluded that locals died later and less frequently and thus had smaller and fewer deficits.

While recourse to estates mitigated the financial risks of transport-letters, it remains to be seen whether that actually added up to much. It probably remained so that seamen could offer fairly little security and predictability to the bearers of transport-letters and this consequently translated into long terms and numerous partial payments. Only by accepting substantial discounts – that is: recording on transport-letters a sum larger than the value of the goods actually received – could credit therefore be obtained through transport-letters⁸⁹. High borrowing costs thus had nothing to do with exploitation of VOC employees, but logically followed from the wording of and practices related to transport-letters. Our transactions – the document itself, its transfers to subsequent holders, as well as the incremental payments – provide us with an accurate view on life and law as it stood for the financed seamen.

6 The transport-letter in Roman law, *ius commune* and Roman-Dutch law

6.1 Roman law and *ius commune*

This standardized instrument may be positioned in the law as it stood at that time, Roman-Dutch law, particularly as systematized since Grotius's *Inleidinge*, building further on Justinian law, its concepts and its rules, within an institutional systematization, where introductory paragraphs on law, justice and the sources of law, precede a systematic framework of persons, things and obligations. Customary and statutory law were accepted sources of law and of importance in our transaction. The obligations involved, and thus our claim to payment of future salary, sprang forth from the specific contracts concluded as *locatio-conductio* (letting and hiring) which came to be also specifically developed at sea in cus-

89 This was aggravated further by the small loan sums and transaction costs involved. See Van Bochove and Van Velzen, *Loans to salaried employees* (*supra*, n. 3).

tomary practice, as we have seen above. The following aspects from the learned civilian tradition deserve attention, as Roman-Dutch law draws upon this.

Is the transport-letter indeed a ‘transport’, a transfer of a (conditional part of a) claim? Transferring claims came to be accepted, but this was far from easy. A firm foundational principle has set the stage in the development of civil law, prohibiting third parties into an obligational – personal – relationship: *alteri stipulari nemo potest* – no-one may stipulate for another. This principle did logically prohibit an outright transfer of a claim as well⁹⁰. Yet already in Roman law itself, practical needs resulted in functional transfers of claims⁹¹. The route to a similar result as transfer was through an amalgam of constructions from the law of obligations. *Novatio* made it possible to renew the obligation through a stipulation⁹²; *delegatio* enabled the creditor to allow his debtor to pay the ‘new’ creditor⁹³. A (contract of) mandate furthermore enabled the ‘cessionary’ to claim from the debtor as ‘*procurator in rem suam*’, to acquire the proceeds for himself, in his own patrimony⁹⁴. Hence the concept *cedere* – meant to signify the procedural change as the *cedens* ‘leaves’ the cessionary to proceed. The *cedens*, however, remained creditor, which led to the gradual and casuistic development of providing the cessionary with an *actio utilis*⁹⁵, while the *cedens*’ *actio directa* was barred⁹⁶. A late Justinian decision on transferred claims makes the development complete: ‘we hereby abolish that perplexing rule?’⁹⁷. Justinian law functionally allowed the transfer of claims. Moreover, antique practice reveals the construction whereby the creditor was mentioned as ‘to whom it may concern’, *ad quem ea res pertinebit*, which makes transfer a reality as well⁹⁸.

90 I. 3,19,4 and D. 45,1,38,17.

91 Kaser, *Römisches Privatrecht* (supra, n. 2), I, par. 153. p. 652; Luig, *Zessionslehre* (supra, n. 2), p. 2; Zimmermann, *The law of obligations* (supra, n. 2), p. 58.

92 G. 11,38; On novation in Justinian law: D. 46,2.

93 Kaser, *Römisches Privatrecht* (supra, n. 2), I, par. 152, p. 650 – *delegatio solvendi*.

94 G. 11,39; Kaser, *Römisches Privatrecht* (supra, n. 2), p. 653.

95 D. 2,24,16pr. (Ulpian) on the sale of an heritage; C. 4,10,2 – on the sale of an individual claim; C. 4,10,1 (on a donation); C. 6,37,18 (on a claim being legated); C. 8,53,33 (on a donation). See Luig, *Zessionslehre* (supra, n. 2), p. 2-9; J.C. van Oven, *Leerboek van Romeinsch Privaatrecht*, Leiden 1948, p. 414-415.

96 See, for instance, D. 2,15,17. Unlikely by an *exceptio doli*, argues Van Oven, *Leerboek* (supra, n. 95), p. 415-416; more likely by a *denuntiatio* or *significatio* to the debtor, referring to C. 8,16,4 and C. 8,41,3. Luig, *Zessionslehre* (supra, n. 2), p. 6-7, provides both options as possibilities; Kaser, *Römisches Privatrecht* (supra, n. 2), p. 653-654.

97 C. 8,54,3.

98 L. Goldschmidt, *Inhaber-, Order- und executorische Urkunden im classischen Alterthum*, Zeitschrift der Savigny-Stiftung, Romanistische Abteilung, 10 (1889), p. 352-396.

This casuistic and practical leniency is in sharp contrast to the strict application of the principle of untransferability in the early ages of reception of Roman law⁹⁹. The action is as strongly connected to the person of the creditor, as the soul to its body, it cannot be separated from it: *nomina adeo ossibus hominum inhaerent, ut nunquam separentur, non possunt separari a domino, sicut nec anima a corpore* – claims therefore cling to the bones of the person, never to be separated, nor can they be separated from their owner, just like a soul from its body¹⁰⁰. The glossators proceeded alongside the mentioned examples in the Justinian corpus, as exceptions to the principled rule of untransferability, of the mandate and *procuratio in rem suam* and brought the *cedens's actio directa* exercised by the cessionary in the name of the *cedens*. Next to this there is the variety in providing the cessionary with an *actio utilis*, which has the *actio directa* remain with the *cedens*¹⁰¹. Indeed, local statutory and customary law did allow these transactions, as can be seen signaled by scholars early on. Bartolus remarked that the notary public sought to mobilize all concepts in order to have transferred all actions needed to the cessionary – *actio utilis* as well as *actio directa*¹⁰². Furthermore, the parallel to things and their transfer was made: where things were transferred with a *traditio*, the claim could be seen as transferred with a cession¹⁰³.

6.2 Roman-Dutch law

Practice, custom as well as statutory laws did receive a more prominent place in Roman-Dutch law, in Grotius' *Inleidinge* and in subsequent authors. Systematically claims were qualified as an object of property¹⁰⁴. The normative

99 In general on the developments see Luig, *Zessionslehre* (*supra*, n. 2); Zimmermann, *The law of obligations* (*supra*, n. 2), p. 58-67; Anderson, *Assignment* (*supra*, n. 2), chapter 4.

100 Glossa *In nominibus ad D.* 15,1,16. The untransferability is very clearly stated in Gaius' Institutes; it may be concluded from various fragments in the Justinian Codex and Digest.

101 Azo on the first technique: '*Cessione autem actionem facta utetur emptor directis actionibus competentibus venditori*' – 'once the *cessio* has been done the buyer will make use of the *actio directa* of the seller'. And a little bit further on the second: '*haec tamen cessio nihil videtur proficere emptori cum et sine cessione habeat utilem actionem* [...]' – 'the *cessio* does not bring anything to the buyer if it is not granting the *actio utilis* [...]', Azo, *Summa Codice* 4,39,4 (ed. Speyer, Peter Drach 1482).

102 'et sic notarii in instrumento cessionum apponunt omnia ista verba, dedit, cedit, concessit et transtulit, atque mandavit ut ex hoc competant utiles et directae' – 'and thus the notaries added to the deed of cession all these words as: he has given, ceded, allowed and transferred and mandated such that from these the *actiones directa* and *utilis* would follow'. Bartolus *ad C.* 4,10,1, nr. 10; Luig, *Zessionslehre* (*supra*, n. 2), p. 14.

103 Bartolus *ad C.* 4,10,1, nr 8.

104 In Grotius' concept of *toebehoren*, which could be either *beheeringe* (ownership) or *in-schuld* (the active side of the obligation: the claim).

substance concerning claims was to be found in the law of obligations, as well as the rules on their ‘transfer.’ Hence the same options that were received in learned law – *novatio*, *delegatio* and mandate – continued to be of relevance, but they came to be explicitly accompanied by new concepts, taken out of statutory and customary law.

Novatio (renewing claim) or *delegatio* (renewing debtor) was not at all what was aimed at in the transport-letter. Grotius underlined the importance of parties’ autonomy concerning their obligations¹⁰⁵. If there is any doubt as to parties’ intention, novation *nor* delegation will be concluded to have taken place¹⁰⁶. This does make sense, as both concepts result in extinguishing the old obligation. Neither the VOC nor the seamen’s creditors would discharge the seamen’s contractual liability that easily¹⁰⁷. The transport-letter rather points to the VOC assuming the payment obligation on the basis of a mandate.

Additional elements, grown in trade practice, and provided and developed by Grotius’ *Inleidinge* are bills of exchange, assignation as well as bearer bonds, which perfectly fit our document. The traditional contractual concept of mandate is: ‘an agreement whereby one person confides to another some lawful thing to accomplish for him, or for another, and the other accepts the burden gratuitously’¹⁰⁸. The VOC would upon request pay from the seaman’s salary account. Our mandate is agreed upon in the context of the seaman’s labor contract¹⁰⁹. Acceptance can be unconditionally or conditionally¹¹⁰, and

¹⁰⁵ Grotius, *Inleidinge* (*supra*, n. 9), III,44,1-5: ‘1. Under the head of novation comes delegation. 2. Delegation takes place when a debtor is released, substituting another in his place, with his consent. 3. We say ‘with his consent’: for although a man may sell a debt without the consent of the debtor, all the same no one can compel another to render performance to a person with whom he has not contracted. 4. With us delegation is never understood to take place unless it is quite clear that the intention was that the first debtor should be discharged. 5. And therefore assignation, even though accepted, does not involve delegation.’

¹⁰⁶ Grotius, *Inleidinge* (*supra*, n. 9), III,43,4: ‘Maer als van de meeninghe der handelaers werd getwijfelt, zoo werd by ons niet verstaen schuld-vernieuwing geschied te zijn [...]’ – ‘But if there is any doubt as to the intentions of the contracting parties, in our law novation is not deemed to have taken place [...]’. Similarly by Voet, *Commentarius ad Pandectas* (*supra*, n. 1), 46,2,2; 22,2,5 – concerning bills of exchange: ‘*Non tamen ulla in hoc negotio novatio contingit*’ – ‘This arrangement does not imply any *novatio*’.

¹⁰⁷ ‘*Nulla per litteras cambii novatio sit*’ – ‘There is no novation by bills of exchange’, Voet states clearly in *Commentarius ad Pandectas* (*supra*, n. 1), 22,2,5.

¹⁰⁸ Grotius, *Inleidinge* (*supra*, n. 9), III,12,2.

¹⁰⁹ This combination of two types of contracts distinguishes a bill of exchange from an assignation, as D.G. van der Keessel, *Theses Selectae*, Lugduni Batavorum 1800 remarks (offering an illustration: mandate and sale), nr. 841 – referring to J. Savary, *Le parfait negociant*, Paris 1675.

¹¹⁰ Grotius, *Inleidinge* (*supra*, n. 9), III,12,7.

the result is that the mandatary is bound 'to carry out the mandate, according to the mandator's directions, without deviating from them at all [...]'¹¹¹. These directions are here restricted to the bare minimum: to pay to person mentioned or bearer, if conditions are met. Conditions flowing from the seaman's contract, framed by the mandatary, the VOC, are manifest in the transport-letter.

Grotius followed Roman law in his treatment, and consequently, R.W. Lee remarked, mainly highlighted the relation between contracting parties, mandator and mandatary, and not the consequence of third parties involved – 'inadequately treated by the Dutch jurists, who had not completely thrown off the shackles of the Roman law'¹¹². The end paragraph on mandate, however, made clear that Grotius did realize the importance of the third party in contemporary trade practice, as mandate included 'the signing of a bill of exchange, which is in common use amongst merchants: but since this has acquired from usage and law certain peculiar characteristics, it is proper that it should be considered separately'¹¹³. And so Grotius dealt with what he considered the most important species of a mandate, bills of exchange: 'A bill of exchange is a written mandate whereby one person charges another with paying a certain sum of money to a third party for the mandator's account'¹¹⁴. Charging can be understood as accepting a request – just as in our *transport-brief*. The general definition of mandate encompasses this: 'giving or acceptance of a mandate.' The conditions mentioned in the *transportbrief* fell within the definition of mandate as well as within the definition of bills of exchange – even though no mention was made of conditions in the latter's definition by Grotius¹¹⁵.

Bills of exchange were the instrument from customary practice for which Grotius needed to incorporate yet another more general concept next to *novatio* and *delegatio*, where the original obligation was not extinguished and the debtor would remain liable: *assignatio*: 'assignation takes place when a debtor requests a person who is indebted to him to pay the debtor's creditor on the debtor's account'¹¹⁶. Grotius drew upon Antwerp and Amsterdam

111 Grotius, *Inleidinge* (*supra*, n. 9), III,12,8.

112 R.W. Lee in his comment on Grotius' *Inleidinge: Jurisprudence, Commentary*, III,12, p. 282 (Vol. 2, Oxford 1936). Roman law concerning mandate: I. 3,26; D. 17,1.

113 Grotius, *Inleidinge* (*supra*, n. 9), III,12,13.

114 Grotius, *Inleidinge* (*supra*, n. 9), III,13,1.

115 Grotius, *Inleidinge* (*supra*, n. 9), III,13,6.

116 Grotius, *Inleidinge* (*supra*, n. 9), III,45,1: 'Aenwijzing gheschied wanneer een schuldenaer sijne schuldenaer verzoekt aen sijne inschulder betalinghe te doen van zijnent wege' – 'assignment is done when a debtor asks his debtor to pay to the former's creditor'. The

customary rules of the late sixteenth and seventeenth centuries¹¹⁷. Bills of exchange were documents, which already had proved to be very helpful instruments in having claims as an easily transferable asset, being order, even bearer bonds¹¹⁸. Yet the risk of non-payment on bearer documents in general was real, and hence local rules would prohibit or strictly regulate bearer documents from time to time, such as happened in Amsterdam in the early seventeenth century¹¹⁹. This has been brought forward as the rationale behind the development of *assignatio* by Grotius. The *cedens*'s remaining liability served to safeguard the economic value of the document¹²⁰. Our deed of transport was also a bearer claim, different from a standard bill of exchange¹²¹ in two respects. First, it was a document very specifically tailored, according to the specific intentions of the involved parties. Second, the VOC was a large and trustworthy debtor, and non-performance of the payment obligation was not likely to happen, that is, if the conditions were fulfilled;

paragraph continues with assigning bills of exchange. Van der Keessel, *Theses Selectae* (*supra*, n. 109), p. 838-871.

- 117 Unveiled and analyzed by De ruysscher, *Innovating financial law* (*supra*, n. 2), p. 505-518. Visible also in an eighteenth-century manuscript comment on Grotius' *Inleidinge* (by S. Groenewegen (ed.), Amsterdam 1667, III,13,1): 'daaruijt is het meesten deel van dit Articul genomen' – 'most of this article has been taken there from' (Utrecht, University Library, JB RAR FOL.146).
- 118 On the earlier developments on payment-orders see, for instance, B. Geva, *The payment order of antiquity and the Middle Ages, A legal history*, Oxford – Portland [Oregon] 2011, particularly chapter 3 for antiquity, in chapter 8 (p. 377 ff.) on the late medieval developments from notarial promise to pay towards it becoming a negotiable instrument (p. 401 ff.). The habit of mentioning the creditor, or '*ad quem ea res pertinebit*' – 'whom it will concern', made transfer an early classic reality. Goldschmidt, *Inhaber-, Order- und executorische Urkunden* (*supra*, n. 98), p. 352-396.
- 119 '[...] dat voortaan niemant ghehouden en sal wesen/ alhier ter Stede eenighe Assignatien te ontfangen/ hoedanigh die oock souden moghen wesen/ maer sal een yeghelijck schuldigh sijn / selve sijne schulden inne te halen/ ende sijne Wissel-Brieven/ overghemaecte Penninghen/ ende andere wederschulden met betaelinghe te voldoen/ volghende den besproken ende inhouden der selver/ ende als naer rechte behoort' – '[...] that henceforth nobody will be held in this city to receive assignments in whatever form but everybody will be held to collect their own debts and to effectively pay their bills of exchange, given sums and other debts according tot heir contents and in conformity with the law'. *Hand-vesten, privilegiën, handeligen, costuymen ende willekeuren der Stadt Amsterdam* (1624), p. 110.
- 120 De ruysscher, *Innovating financial law* (*supra*, n. 2), p. 505-518.
- 121 'Nothing is more common among merchants than for them to stipulate for payment not only to themselves, but also to another, for instance to the holder of a promissory note or a bill of exchange [...]. Voet remarks in *Commentarius ad Pandectas* (*supra*, n. 1), 45,1,4 – '*Nihil inter mercatores frequentius esse [...]*'.

the VOC issued these documents itself in a predictable and stable market it had largely created itself¹²².

For our transport-letter this seems to have been a quite workable blueprint. The seaman's potential remaining liability for (part of) the original debt behind the standardized promise is illustrated by cases where the original creditors took recourse on the seaman, his property or his inheritance. The conditions for payment as appeared in the notes reveal the close connection of conditionality between the VOC's payment obligation towards the holder of the document with the labor contract. It is a connection intended by the parties involved. The freedom in contracting found financing on credit markets, which could be incorporated in a framework of the Roman-Dutch law of obligations, rationally ordered – through custom.

7 Conclusions

Transportbrieven illustrate a successfully standardized use of future salary as a means to finance in the context of the Dutch East India Company. It came to be constructed primarily by customary practice, initiated and further developed by VOC's lawyers, using the elements and concepts in the Grotian institutional systematization of the learned Roman-Dutch law, finetuned by resolutions of the VOC board. No traces of this standardized transaction have remained in legal historiography.

Through the transport-letter the seaman's debt became visible and standardized at a maximum, which by mandate the VOC accepted to pay to bearer. External financing thereby was made possible more easily, tapping into an already existing private market for financing seaman in the Republic. Payment on the document was made conditional on the VOC's obligation of the seaman's salary becoming payable. This depended formally on the VOC's own administration and substantially on the performance of the seaman's obligations. The dynamics in this transaction become visible in the administrative resolutions of the VOC's board concerning transport-letters in general as well as clerks' annotations on individual transport-letters. As became clear from

¹²² That transport-letters were only issued at VOC chambers is inferred from the fact that they were signed there ('t'Oirkonde deezen onderteekent ten Comptoire van de Oost-Indische Compagnie' – 'As recognition of this undersigned at the administrative office of the East India Company') and that advertisements that commercial sellers of loan forms printed on their forms' headers were lacking on transport-letters. See Van Bochove and Kole, *Uncovering private credit markets* (*supra*, n. 34).

the resolutions and its payment practice, the VOC prioritized family members holding a month-letter over holders of a transport-letter.

The transport-letter was thus made to serve all interests involved, and – contrary to what was often thought in historiography – not just the interests of the seaman's creditor, the innkeeper and the subsequent specialized buyer of the transport-letter. It served the interest of the VOC, as it safeguarded the influx of employees as well as the work relationship, and it first and foremost seems to have been in the interest of the seamen and their families themselves. Our customs reveal an early modern practice of transferring claims to future salary that was highly successful for nearly two centuries. It represented an eclectic combination of tradition and innovation, in which rules and concepts of received Roman law as well as the customary law of the sea and customary payment systems provided the basis and building blocks for a creative originality in which these *transportbrieven* were wrought as transferable bearer bonds, thus making the seaman's future salary conditionally payable to bearer.