

## **“I’ll have my bond; I will not hear thee speak”: debt finance through bills obligatory in sixteenth-century Antwerp**

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### **Abstract**

This article discusses the use of private promissory notes in the sixteenth-century commercial metropolis Antwerp. Students of financial history tend to look for first instances of financial techniques and institutions such as the bill of exchange, share trading, sovereign debt and banks. However, financial innovation can also be situated in the piecemeal adaptation of an older, existing technique, institution or instrument as the result of changes in the market and of demands exerted by particular groups within that economy. This adaptation is determined by the structure of the economy in question and its institutional arrangements. Antwerp’s particular market trajectory from a fair-based seasonal market into a permanent, year-round market, its spectacular commercial growth – both measured in the number of merchants active in the city and in its imports and exports – and its institutional organization relying on a welcoming magistrate and regulations outlawing certain banking activities, shaped the transformation of the promissory note into a transferable and later a negotiable financial instrument. This article retraces this development and does so by not only looking at the laws governing the instrument and when the first instances of its particular characteristics came into use but by simultaneously drawing on a large collection of promissory notes or references to them in merchant documents and court records which evidence why, when and how merchants used this instrument.

Between November 4 and 8 1576 a horde of more than 5,000 mutinous Spanish and German soldiers descended on the city of Antwerp and plundered the city, a coldly-planned, methodical and brutal operation.<sup>1</sup> Trade was at a lull since many merchants had departed the city a few months earlier when their security was no longer guaranteed. Yet, there were still ample riches up for looting and destroying. Cash, jewelry and precious objects were of course the first item on their wish-list but the mutineers also searched for bills obligatory or IOU's. When extorting Antwerp's civilians, the unpaid soldiers accepted either existing bills or forced burghers to write up new ones, as happened to the governor of the English Merchant Adventurers Heton.<sup>2</sup> After the pillagers had left, a series of announcements of the city government signaled and cancelled IOU's stolen during the pillage of the city in the years 1576-1577. This procedure, something akin to an early modern Card Stop, had been installed in 1546; when IOU's had already long been common practice on the Antwerp market, the adjunct-sheriff, mayors and aldermen announced a lost bond for the first time. In this bill two English partners Philips Coqueran and Janne Aboro, promised to pay the Italian company of Bonaventura Michaeli or the bearer of the letter £ 251.95 gr. Fl. However, the bill in question could not be found and was thus considered null and void; the city ordered the bill to be returned to the city authorities. All these descriptions were registered in the *Gebodboeken*, together with all the other public announcements and city orders.<sup>3</sup> The obligations announced as lost were often declared missing by debtors who feared that they would be addressed by an unknown bearer, especially when the bill had already been paid. Because bonds were highly liquid assets, they were an easy target for thieves and mutineers. This underlines the fragile nature of these instruments. Financial innovation had created a highly flexible instrument of which the inherent dangers were exposed during a crisis, the Spanish Fury. This resembles the problems with credit default swaps and collateralized debt obligations during the 2008 financial crisis.

By the time of the Spanish Fury, the bill obligatory had already gone through an intensive transformation from an instrument used at the fairs into a circulating and complex asset. Before we proceed, a clear definition of what we understand as a so-called IOU (I Owe yoU) is needed, given the more specific terminology used in English language and law for different forms of such contracts.<sup>4</sup> The Antwerp sources use the terms *obligatie*, *obligasi*, *obligacie*, *obligation*, *schuldbekentnisse*, *schuldbrief*, and *hantschrift* to denote what we today understand to have been a contract between a debtor and a creditor, in which the debtor promised to pay the creditor a specified sum of money on a specified date. The sum had to be paid in local currency, in which a bill obligatory differed from a bill of exchange. The obligation was a credit instrument granting deferred payment and, when transferable, a means of payment, thus obtaining the status of currency. It could be registered by an authority, such as the city's aldermen or a notary, or it could be a private

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<sup>1</sup> On the Spanish Fury: Peter Arnade, *Beggars, iconoclasts, and civic patriots: the political culture of the Dutch revolt* (Ithaca, N.Y.: Cornell University Press, 2008), 212-259; P. Génard, "La Furie espagnole," *Annales de Académie Royale d'Archéologie de Belgique* 32(1876); Etienne Rooms, "Een nieuwe visie op de gebeurtenissen die geleid hebben tot de Spaanse Furie te Antwerpen op 4 november 1576," *Bijdragen tot de geschiedenis* 54 (1971)

<sup>2</sup> George Daniel Ramsay, *The Queen's Merchants and the Revolt of the Netherlands: The End of the Antwerp Mart*, vol. 2 (Manchester: Manchester University Press, 1986), 184.

<sup>3</sup> CAA, Gebodboeken, Pk # 913-929 (1439-1794). Published in: P. Van Setter, "Index der gebodboeken," *Antwerpsch Archievenblad* 1, no. 1 (1864). (1489-1620). Materné has also used these references and quantified the number of lost bonds, but nothing more. Materné, "Ter beurze", 62. 1582 Impressae (Costuymen) Deel 1 178 art 5 verloren obligaties, & titel 53 art 10.

<sup>4</sup> Postan, *Medieval trade and finance*, 28-40. J. Milnes Holden, *The History of Negotiable Instruments in English Law* (London: The Athlone Press, 1955), James Steven Rogers, *The Early History of the Law of Bills and Notes: A Study of the Origins of Anglo-American Commercial Law*, *Cambridge Studies in English Legal History* (Cambridge: Cambridge University Press, 1995), Eric Kerridge, *Trade and Banking in Early Modern England* (Manchester: 1988), 39-47 & 68-74.

instrument, signed only by the debtor. In England, only higher-value bonds were registered.<sup>5</sup> In the English context of the fourteenth to the sixteenth centuries a debt contract not registered by an authority was a bond (bill obligatory was a synonym), such that a registered IOU obtained the status of a legal recognizance or a covenant under seal.<sup>6</sup> In the Low Countries, and in Antwerp in particular, there was no linguistic difference between an IOU, whether it was registered or not. Legal historians distinguish IOU's and obligations from bills obligatory and bonds. The latter were automatically transferable (through a bearer clause and legal changes, as we will see); the former were not.<sup>7</sup> However, in sixteenth-century Antwerp sources no separate terminology was used to denominate the two types of debt. Therefore, this article will treat IOUs, bonds, promissory notes, obligations and bills obligatory as synonyms and distinguish between the transferable and non-transferable debt where necessary. It will deal with private IOU's only; city and provincial governments and the central government in the Low Countries could also issue obligations.<sup>8</sup> The trial proceedings concerning a bond between Coenraerd Schetz and Jan Spierinck in 1567 provide a full-text copy of a typical bond:

"I Jan Spierinck confess and declare by my own handwriting to owe the honourable lord Coenraerd Schetz the sum of four hundred pounds Flemish groat and this on the account of the equal sum I have received from him to my satisfaction. I promise to fully pay the aforementioned lord Coenraerd Schetz or the bearer of this on the fourth day of the forthcoming month of August without any delay, committing my person and all my possessions now and in the future. In the year 1565 June 11"<sup>9</sup>

Van der Wee succinctly situated northwestern Europe's contribution to financial history, and Antwerp's in particular, more in the instrumental rather than the institutional field.<sup>10</sup> The institutional developments were inspired by Italian procedures, relying on a bank-based financial system, and passed from Geneva-Lyons-Genoa to Amsterdam; instrumental innovation, more independent of Italian influence travelled from Antwerp to London.<sup>11</sup> Particularly the endorsement of obligations and later of foreign bills of exchange led to private circulation of such instruments without the intermediation of a public bank.<sup>12</sup> During the sixteenth and early

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<sup>5</sup> John H. Munro, "English 'backwardness' and financial innovations in commerce with the Low Countries, 14th to 16th centuries," in *International trade in the Low Countries (14th-16th centuries): merchants, organisation, infrastructure: proceedings of the international conference Ghent-Antwerp, 12th-13th January 1997*, ed. Bruno Blondé, Anke Greve, and Peter Stabel (Leuven: Garant, 2000), 243.

<sup>6</sup> Postan, *Medieval trade and finance*, 28-40. Holden, *The History of Negotiable Instruments in English Law*, Rogers, *The Early History of the Law of Bills and Notes: A Study of the Origins of Anglo-American Commercial Law*, Kerridge, *Trade and Banking in Early Modern England*, 39-47 & 68-74.

<sup>7</sup> De ruysscher, *Handel en recht in de Antwerpse rechtbank (1585-1713)*, 236-247.

<sup>8</sup> Van der Wee, *The growth of the Antwerp market*, II, 354-355; C. J. Zuijderduijn, "The emergence of provincial debt in the county of Holland (thirteenth-sixteenth centuries)," *European Review of Economic History* 14, no. 03 (2010).

<sup>9</sup> "Ick Jan Spierinck bekenne ende vercleere midts desen mynder eyghen hantschrift schuldich te zyne de eersame heer coenraerd schetz de somme van vier hondert ponden grooten vlems ende dat ter causen van gelycke somme die ick van hem tot mynen contentemente ontfanghen hebbe welcke voorscreven somme van vier hondert ponden vlems gelove ick den voorscreven heeren Coenraerd Schetz oft den brenger van desen wel ende duechdeluyck te betalen den vierden dach vander maent van augustus naestcomende sonder eenich langer vertreck dilay oft vuytstellinghe daer voore verobligerende mynen persoon ende alle myn goeden van wat qualiteyt die syn mochten/ present ende toecomende ... in den jaere 1565 Junio 11." CAA, Processen, 7 # 12144, Copye obligacie.

<sup>10</sup> Herman Van der Wee, "Monetary, Credit and Banking Systems," in *The Economic Organization of Early Modern Europe*, ed. Rich E.E. and Wilson C.H., *The Cambridge Economic History of Europe* (Cambridge: Cambridge University Press, 1977), 322.

<sup>11</sup> Herman Van der Wee, "Antwerp and the New Financial Methods of the 16th and 17th Centuries," in *The Low Countries in the Early Modern World*, ed. Herman Van der Wee (Aldershot: Ashgate, 1993).<sup>145</sup> This is a translation of Herman Van der Wee, "Anvers Et Les Innovations De La Technique Financière Aux Xvie Et Xviiie Siècles," *Annales: Economies, Sociétés, Civilisations* 22, no. 5 (1977). We will refer to the English translation in the remainder of this text.

<sup>12</sup> Ann M. Carlos and Larry Neal, "Amsterdam and London as Financial Centers in the Eighteenth Century," *Financial History Review* 18, no. 01 (2011): 24-25.

seventeenth century, bonds and bills developed into transferable and negotiable instruments. This process is fairly well-studied by both legal and economic historians, going back to Felix Hecht's 1869 *Ein Beitrag zur Geschichte der Inhaberpapiere in den Niederlanden*.<sup>13</sup> More recently, bills and other types of financial instruments figure in socially-stratified reconstructions of early modern portfolio's – either based on inventories or taxed assets – of sixteenth-century London merchants, sixteenth-century Holland households, seventeenth-century German Wildberg or seventeenth- and eighteenth-century Antwerp.<sup>14</sup>

Yet, despite the long-lasting historiographical attention for the instrument, we know surprisingly little beyond the first instances of a new trait of the instrument such as when the bond was discounted for the first time, when it was assigned to a third party or when it began to include a bearer clause.<sup>15</sup> It was implicitly assumed that, upon such a practice becoming established, that the practice would then have automatically gained importance and become used by ever more merchants. Little attention has been paid to the actual use of the instruments and the new techniques of handling them, and to the repercussions on the daily operations of merchants. This is all the more striking, since Van der Wee has argued that throughout the entire sixteenth century the financial instrument of the obligation continued to predominate in payments of commercial debts on the Antwerp market.<sup>16</sup>

Financial historians tend to favor new inventions and modernity in their analyses, while this article wants to demonstrate that existing and primitive instruments, practices and institutions can be adapted to match changes in the market and demands exerted by particular groups within the economy.<sup>17</sup> The bill obligatory as an old, yet versatile and adaptable instrument was able to solve old and new problems. As such, the bond had multiple functions, but merchants and other economic agents might well have used other solutions such as book transfers, giro banking, bills of exchange and cash payments to solve their payment and credit problems and to finance their trade. This observation corresponds with Frederic Lane's, and more recently Ogilvie's, Grafe and Gelderblom's, insight that merchants used more than one institution to solve their problems, while these institutions had multiple purposes at the same time.<sup>18</sup> Both private (reputation,

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<sup>13</sup> Felix Hecht, *Geschichte Der Inhaberpapier in Den Niederlanden* (s.l.: 1869). And for France: Heinrich Brunner, *Das Französische Inhaberpapier Des Mittelalters Und Sein Verhältniss Zur Anwaltschaft, Zur Cession Und Zum Orderpapier* (Berlin: Weidmann, 1879). The best summaries on the legal history of the bond in the Low Countries are: Dave De ruysscher, *Handel En Recht in De Antwerpse Rechtbank (1585-1713)* (Leuven: UGA, 2009), Dave De ruysscher, "Innovating Financial Law in Early Modern Europe: Transfers of Commercial Paper and Recourse Liability in Legislation and Ius Commune (Sixteenth to Eighteenth Centuries)," *European review of private law* 19, no. 5 (2011), Van der Wee, "Antwerp and the New Financial Methods, Raymond de Roover, *L'évolution De La Lettre De Change, 14e-18e Siècles* (Paris: Colin, 1953).

<sup>14</sup> John Oldland, "The Allocation of Merchant Capital in Early Tudor London," *The Economic History Review* 63, no. 4 (2010), Jaco Zuiderduijn and Tine De Moor, "Spending, Saving, or Investing? Risk Management in Sixteenth-Century Dutch Households," *The Economic History Review* 66, no. 1 (2013), Sheilagh Ogilvie, Markus Kùpker, and Janine Maegraith, "Household Debt in Early Modern Germany: Evidence from Personal Inventories," *The Journal of Economic History* 72, no. 01 (2012), Heidi Deneweth, "A Fine Balance: Household Finance and Financial Strategies of Antwerp Households, 17th - 18th Century," *Tijdschrift voor sociale en economische geschiedenis* 8, no. 4 (2011).

<sup>15</sup> Only the short article by Jeannin provides a few details on bonds used by Hanseatic merchants: Pierre Jeannin, "Les Instruments De Crédit Dans L'espace Hanséatique Au Xvie Siècle," in *Credito, Banche E Investimenti, Secoli 13-20: Atti Della "Quarta Settimana Di Studio" (14-21 Aprile 1972)*, ed. Anna Vannini Marx (Firenze: Le Monnier, 1985).

<sup>16</sup> Van der Wee, "Antwerp and the new financial methods", 150. For obligations in eighteenth-century Antwerp: Karel Degryse, *De Antwerpse fortuinen: kapitaalsaccumulatie, -investering en -rendement te Antwerpen in de 18de eeuw* (Antwerpen: Genootschap voor Antwerpse Geschiedenis, 2005); Willems, *Leven op de pof*, 108-112.

<sup>17</sup> For example: Lodewijk Petram, "The World's First Stock Exchange: How the Amsterdam Market for Dutch East India Company Shares Became a Modern Securities Market, 1602-1700" (PhD dissertation, University of Amsterdam, 2011).

<sup>18</sup> Frederic C. Lane, "Economic Consequences of Organized Violence," *The Journal of Economic History* 18, no. 4 (1958): 409-410, Sheilagh Ogilvie, "Whatever Is, Is Right? Economic Institutions in Pre-Industrial Europe," *The Economic History Review* 60, no. 4 (2007): 667-671, Sheilagh Ogilvie, *Institutions and European Trade: Merchant Guilds, 1000-1800* (Cambridge: Cambridge University Press, 2011), Oscar Gelderblom and Regina Grafe, "The Rise, Persistence and Decline of Merchant Guilds. Re-Thinking the Comparative Study of Commercial Institutions in Pre-

informational networks and ostracism) and public-order institutions (contract registration and enforcement by public authorities) underpinned the bill obligatory; its innovation spawned the adaptation of existing and creation of new supporting institutions.<sup>19</sup> Ideally, we would like to know when, for which type of transactions and under which conditions merchants used particular financial instruments. However, in the case of sixteenth-century Antwerp both sufficient masses of portfolio's and of flow data provided by detailed account books are lacking, which forces us to focus on the evidence that is sufficiently available for bills obligatory. By drawing on a large and varied collection of bills obligatory found in registers of the Antwerp aldermen, announcements of lost bonds, notarial acts, preserved merchant inventories, account books and correspondences and court sentences and files, the question about the when, how and why sixteenth-century Antwerp merchants used bills obligatory, which changed in character significantly throughout the century, can be answered meticulously.

In section II the local circumstances of the Antwerp market are scrutinized since developments in the financial sector are contingent on them; especially the transition of a fair into a permanent market and regulations on banking mattered.<sup>20</sup> Section III considers the legal changes structuring the bill as a financial instrument and the opportunities and constraints this created for merchants using it. The particular use and functions of the bill are dealt with in section IV.

## II

Antwerp's initial success and growth in the fifteenth century was closely intertwined with the annual Brabant fairs held in the city and in Bergen-op-Zoom, another Scheldt port.<sup>21</sup> The Antwerp fairs (Whitsun and St. Bavo (1<sup>st</sup> of October)) were established in the late 1310s and early 1320s; those of Bergen-op-Zoom were of a later date (1337-1359) and fell on Easter and All Saints.<sup>22</sup> The fairs and the city flowered for a short time, but the city was then captured by the count of Flanders, who enforced the market primacy of Bruges, much to the detriment of the

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Modern Europe," *Journal of Interdisciplinary History* 40, no. 4 (2010): 478, Oscar Gelderblom, *Cities of Commerce: The Institutional Foundations of International Trade in the Low Countries, 1250-1650* (Princeton University Press, forthcoming).

<sup>19</sup> This case has also been made for medieval colleganza contracts in Venice. Yadira Gonzalez de Lara, "The Secret of Venetian Success: A Public-Order, Reputation-Based Institution," *European Review of Economic History* 12, no. 03 (2008), Yadira González de Lara, "Self-Enforcing Public-Order Institutions for Contract Enforcement: Litigation, Regulation and Limited Government in Venice, 1050-1350," in *Political Economy of Institutions, Democracy and Voting*, ed. Norman Schofield and Gonzalo Caballero (Berlin: Springer, 2011).

<sup>20</sup> Hoffman et al. single out institutional context and van Bochoven adds economic geography and investment behavior as important pre-requisites of the configuration of financial markets. Philip T. Hoffman, Gilles Postel-Vinay, and Jean-Laurent Rosenthal, "What Do Notaries Do? Overcoming Asymmetric Information in Financial Markets: The Case of Paris, 1751," *Journal of Institutional and Theoretical Economics* 154 (1998), Philip T. Hoffman, Gilles Postel-Vinay, and Jean-Laurent Rosenthal, "Information and Economic History: How the Credit Market in Old Regime Paris Forces Us to Rethink the Transition to Capitalism," *American Historical Review* 104, no. 1 (1999), Philip T. Hoffman, Gilles Postel-Vinay, and Jean-Laurent Rosenthal, *Priceless Markets: The Political Economy of Credit in Paris, 1660-1870* (Chicago, Ill.: University of Chicago Press, 2000), Christiaan van Bochove, "Configuring Financial Markets in Preindustrial Europe," *The Journal of Economic History* 73, no. 01 (2013).

<sup>21</sup> This brief introduction of Antwerp's economic history is based on Herman Van der Wee's classic analysis of the Antwerp market: Van der Wee, *The growth of the Antwerp market*; and the more recent Jan Materné and Herman Van der Wee, "Antwerp as a world market in the sixteenth and seventeenth centuries," in *Antwerp, story of a metropolis, 16th-17th century*, ed. Jan Van der Stock (Gent: Snoeck-Ducaju, 1993); Van der Wee, "Handel in de Zuidelijke Nederlanden." Brulez, "De handel." and Limberger, "No town.;" see also Lesger, *The rise of the Amsterdam market*; for Antwerp's fair twin Bergen-op-Zoom: Cornelis J.F. Slootmans, *Paas- en Koudemarkten te Bergen-op-Zoom, 1365-1565*, 3 vols. (Tilburg 1985). and Yolande E. Kortlever, "The Easter and Cold fairs of Bergen-op-Zoom (14th-16th centuries)," in *Fiere e mercati nella integrazione delle economie Europee, secc. 13-18: atti della "Trentaduesima settimana di studi", 8-12 maggio 2000*, ed. S. Cavaciocchi (Firenze: Le Monnier, 2001); Gelderblom, *Cities of commerce*. provides the most up-to-date overview with references to the older literature as well.

<sup>22</sup> J.A. Van Houtte, "Les foires dans la Belgique Ancienne," in *La foire, Recueils de la Société Jean Bodin* (Bruxelles: Librairie encyclopédique, 1953), 189; Slootmans, *Paas- en Koudemarkten te Bergen-op-Zoom, 1365-1565*, I, 6-8; Kortlever, "The Easter and Cold fairs", 626-627; cited in Gelderblom, *Cities of commerce*, 38.

Antwerp fairs.<sup>23</sup> From 1405, the Brabant fairs started to flower again; during these fairs the produce of the young but dynamic Brabant textile industry was sold, as well as English wools and products from the nearby Rhineland. The fairs became an ever more attractive venue to international merchants – including Englishmen, Germans, and traders from the Mediterranean – and locals alike.<sup>24</sup> Only during the Flemish Revolt in the 1480s against Maximilian of Austria did Antwerp take over from Bruges.<sup>25</sup> All foreign merchants were ordered to leave Bruges for Antwerp in 1485 and 1488 and many remained in Antwerp after the Revolt ended.<sup>26</sup> Antwerp's ancient privileges for foreign merchants were reaffirmed and the city was granted the alum staple.<sup>27</sup>

The period 1490-1520 is characterized by what Herman Van der Wee has described as the “tripod of English textiles, South German metals and Portuguese spices” which fuelled the growth of the Antwerp market. Besides English, South German and Portuguese traders, Germans from the Rhineland, Italians, French merchants, Spaniards, and Dutch and Flemish traders were to be noticed in the city. Initially, transactions took place mostly during the fairs, where it was mainly transit products i.e. merchandise that was not produced in the Netherlands that changed hands. Thus during its first phase of growth the Antwerp market was a fair-based commercial system.

European political conflicts paralyzed international trade during the 1530s and triggered a financial and monetary crisis and a price rise of foodstuffs. Moreover, the Portuguese spice monopoly, one of the three major foundations of Antwerp's trade “tripod”, was enfeebled by Venice's and Marseille's (re-)entrances into the spice trade.<sup>28</sup>

The second growth phase, roughly from 1530 until 1566, was marked by the increasing importance of exports of Netherlandish products, the transit market being impaired by the crisis. Trade with Southern Europe, the Iberian colonies and the Levant especially grew in importance. Italy exported silk and bought English textiles and products from the Low Countries. Spain supplied agricultural products and bought various commodities for its colonies; the deficit was paid in American silver. This fertile international trade created opportunities for the sales of products from the Low Countries: tapestries, expensive cloth, jewellery, paintings and also manufactures from rural industries such as Hondschoote says. Antwerp became the top gateway for its strongly industrialized and urbanized hinterland, the Netherlands. By the middle of the sixteenth century Antwerp controlled more than 75 % of the international trade that flowed through the Low Countries (by sea and by land).<sup>29</sup> The economy of the Low Countries was highly dependent on international trade: one historian has estimated the total imports of the Netherlands at 7 guilders per capita in the middle of the sixteenth century.<sup>30</sup> Moreover, a quarter

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<sup>23</sup> Wim Blockmans and Walter Prevenier, *The promised lands: the Low Countries under Burgundian rule, 1369-1530* (Philadelphia, Pa: Penn, 1999), 54-56; Sloomans, *Paas- en Koudemarkten te Bergen-op-Zoom, 1365-1565*, I, 8-10 & 121-123; Van der Wee, *The growth of the Antwerp market*, II, 20-28 & 37-41; cited in Gelderblom, *Cities of commerce*, 38

<sup>24</sup> Gelderblom, *Cities of commerce*, 39-40.

<sup>25</sup> Jelle Haemers, ““Ende hevet tvolc goede cause jehghens hemlieden te rysene” Stedelijke opstanden en staatsvorming in het graafschap Vlaanderen (1477-1492)” (PhD, Ghent University, 2006); Jelle Haemers, *For the common good: state power and urban revolts in the reign of Mary of Burgundy (1477-1482)* (Turnhout: Brepols, 2009). Wim Blockmans, *Metropolen aan de Noordzee: de geschiedenis van Nederland, 1100-1560* (Amsterdam: Bakker, 2010), 520-531.

<sup>26</sup> Jos Marechal, “Le départ de Bruges des marchands étrangers (XVe et XVIe siècles),” *Handelingen van het Genootschap voor Geschiedenis: driemaandelijks tijdschrift voor de studie van geschiedenis en oudheden van Vlaanderen* 88(1951); John H. Munro, “Bruges and the Abortive Staple in English Cloth : An Incident in the Shift of Commerce from Bruges to Antwerp in the Late Fifteenth Century,” *Revue belge de philologie et d'histoire* 44, no. 4 (1966), 1150-1151.

<sup>27</sup> Munro, “Bruges and the Abortive Staple in English Cloth : An Incident in the Shift of Commerce from Bruges to Antwerp in the Late Fifteenth Century”, 1149; Soly, “De aluinhandel in de Nederlanden in de 16e eeuw”, 803.

<sup>28</sup> Florence Edler, “The Market for Spices in Antwerp, 1538-1544,” *Revue belge de philologie et d'histoire* (1938).

<sup>29</sup> Goris, *Etude sur les colonies marchandes méridionales*. 317-337 My own calculations in: Puttevils, “A servitio de vestri”, part 1.

<sup>30</sup> When compared to France and England (1.5 guilders per capita), the importance of these imports quickly becomes clear. Wilfrid Brulez, “The balance of trade of the Netherlands in the middle of the 16th century,” *Acta historica Neerlandica* 4 (1970).

of the industrial production of the Netherlands was destined for export. During this second growth phase, the Antwerp market achieved a permanent character and international trade in the city was conducted year-round, to the detriment of the Bergen-op-Zoom fairs which quickly faded in importance.<sup>31</sup> Besides its commercial and industrial primacy, Antwerp was also an important financial center. Charles V and his bankers, amongst them the Fugger, used the Antwerp capital market to loan large amounts of capital, thereby integrating Antwerp into the Habsburg financial system and becoming connected with the financial markets of Lyon, the Castile fairs and Genoa.<sup>32</sup>

The Iconoclasm of 1566 and the subsequent Dutch Revolt caused rising taxation, military destruction, blockades, etc. and gradually ended the Scheldt town's commercial hegemony. Population more than halved in a few decades; in 1585, when the city was reconquered by Alessandro Farnese, duke of Parma and the Spanish governor of the Netherlands, after a fourteen-months siege, the population had dropped to a mere 42,000 inhabitants. Antwerp became isolated, not due to the alleged full closure of the Scheldt, but through the erection of fiscal barriers on the river's trade.<sup>33</sup> A trade diaspora of Antwerp merchants was the result. The merchants initially spread all over Europe but gradually coalesced in Amsterdam.<sup>34</sup>

Four elements arising from the structure and development of the Antwerp commodity and financial market determined the subsequent changes in the legal rules and practical use of the bond. Firstly, Antwerp's Golden Age took off as a fair-based market, much like the thirteenth-century Champagne and Flanders fairs where bills obligatory or fair letters (*marktbriefven*) were frequently used and registered by public authorities.<sup>35</sup> From the beginning of the Antwerp fairs in the fourteenth and fifteenth centuries such instruments were present and were written by buyers and sellers for payment at the next fair in Antwerp or Bergen-op-Zoom (roughly every three months).<sup>36</sup> Hence, bills obligatory were a fundamental part of the fair system and would continue to do so after its transition into a permanent market. Second, with the growth of the market and consequently the growth of Antwerp's mercantile population with its many new entrants, a growing anonymity was created.<sup>37</sup> By the middle of the sixteenth century over 1,500 traders were active in the Scheldt city.<sup>38</sup> Bills could only circulate and be accepted by parties who did not know the original debtor anymore (increasing longer chains of interdependence) and thus could not accurately estimate the credit risk they were taking if there were additional legal and personal guarantees securing the bill. Third, Oldland has shown for London in 1535/6 that smaller or early-career merchants combined purchases and sales on credit and hence relied more on credit

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<sup>31</sup> Sloomans, *Paas- en Koudemarkten te Bergen-op-Zoom, 1365-1565*: 1556-70; Kortlever, "The Easter and Cold fairs.;" Van Houtte, "Les foires dans la Belgique Ancienne", 194-196.

<sup>32</sup> R. Ehrenberg, *Das Zeitalter Der Fugger: Geldkapital Und Creditverkehr Im 16. Jahrhundert* (Jena: Fischer, 1912).

<sup>33</sup> Victor Enthoven, "The closure of the Scheldt: closure, what closure? Trade and shipping in the Scheldt estuary, 1559-1609," in *North sea ports and harbours: adaptations to change: second North Sea History Conference, Esbjerg*, ed. Paul Holm and John Edwards (Esbjerg: Fiskeri- og Søfartsmuseet, 1992); and the special number of *Tijdschrift voor Geschiedenis*, (4), 2010. "Stad en stroom: Antwerpse identiteit(en) en vijf eeuwen discours rond de sluiting van de Schelde".

<sup>34</sup> Brulez, "De diaspora.;" Gelderblom, *Zuid-Nederlandse kooplieden*.

<sup>35</sup> Carlos Wyffels and Guillaume des Marez, *Analyses De Reconnaissances De Dettes Passées Devant Les Échevins D'ypres (1249-1291)* (Bruxelles: Palais des académies, 1991), Wim Blockmans, "Transactions at the Fairs of Champagne and Flanders. 1249-1291," in *Fiere E Mercati Nella Integrazione Delle Economie Europee, Secc. 13-18: Atti Della "Trentaduesima Settimana Di Studi"*, 9-12 Maggio 2000, ed. Simonetta Cavaciocchi (Firenze: Monnier, 2001), David Nicholas, "Commercial Credit and Central Place Function in Thirteenth-Century Ypres," in *Money, Markets and Trade in Late Medieval Europe: Essays in Honour of John H. Munro*, ed. Lawrin Armstrong, et al. (Leiden: Brill, 2007).

<sup>36</sup> Herman Van der Wee, *The Growth of the Antwerp Market and the European Economy (Fourteenth-Sixteenth Centuries)*, 3 vols. (Den Haag: Nijhoff, 1963), II, 338. Many of these bonds were registered, either as a certificate or an aldermen's letter, see Renée Doehaerd, ed., *Etudes Anversoises: Documents Sur Le Commerce International À Anvers, 1488-1514*, 3 vols. (Parijs: SEVPEN, 1962-1963).

<sup>37</sup> This argument of growing anonymity can also be found in Van der Wee, "Antwerp and the New Financial Methods," 151.

<sup>38</sup> Estimates to be found in Wilfrid Brulez, "De Handel," in *Antwerpen in De Xvide Eenn*, ed. Walter Couvreur (Antwerpen: Mercurius, 1975), 128-131, Gelderblom, *Cities of Commerce*.

for his business which they sought to compensate with their profits.<sup>39</sup> With an increasing number of local merchants operating out of Antwerp becoming active in that city's trade, such credit, whether embedded in bills obligatory or not, must surely have increased. Even to the extent that the ease with which Low Countries merchants acquired credit was considered by adversaries as a competitive advantage and a serious threat: in 1565 the English Merchants Adventurers wrote to the Privy Council that "the inhabitants thereof [of Antwerp] have crept into such credit that they rule all trades and moneys ... and will be able to sell the English commodities better cheap, and thereby get the whole into their hands; as they have already driven the most part of the merchants of Spain, Portugal, Italy, and other nations from their trade".<sup>40</sup> It is impossible to directly link this ascent of merchants from the Low Countries with the successful adaptation of the bill obligatory. Yet, a differing attitude of Low Countries merchants towards bonds can be noticed, as will be demonstrated.

Finally, the outlawing and subsequent disappearance of money changers who were also active in deposit and giro-banking at the end of the fifteenth century, put a premium on the development of bond transferability and negotiability.<sup>41</sup> This is a very different situation from the one in fourteenth-century Bruges, Antwerp's commercial predecessor, where local money-changers accepted deposits, performed giro transfers, co-operated with fellow money changers in transfers and worked with fractional reserves.<sup>42</sup> This obviated the need for flexible and transferable financial instruments in Bruges. The Low Countries did not witness the creation of a public bank prior to the beginning of the seventeenth century, so that institution could not centralize payments either. Some Antwerp money-changers also performed cashier services (holding merchants' money, executing payments and receiving money on behalf of their clients or employers) in the sixteenth century. Yet, they did not enter into deposit and giro-banking with these moneys.<sup>43</sup> Lacking a central institution for payments such as the southern-style banks or the Bank of Amsterdam, financial instruments circulated privately in sixteenth-century Antwerp, in some cases through the intermediation of money-changers and cashiers, as we will see.

### III

The development of the bond witnessed a continuous trade-off between flexibility and security. Traders could either opt for a transferable and unregistered bond at low costs but with the uncertainty of enforcement in court or they could choose a full-proof registered bond for which registration costs had to be paid but which was quickly enforceable in court; every time such a bond would be transferred new registration costs had to be paid. Recently, Rosenthal and Bin-Wong discussed a similar trade-off between enforcement costs and the pool of potential trading partners in their comparison of trade in premodern Europe and China. Formal contract

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<sup>39</sup> Oldland, "The Allocation of Merchant Capital in Early Tudor London," 14.

<sup>40</sup> Calendar of State Papers Foreign, Elizabeth, 1558-1589, vol. 7: 1564-1565, 70/81 f.62, Nov. 29 1565.

<sup>41</sup> Van der Wee and Materné, "Het kredietsysteem in Brabant", 72. Van der Wee, "Monetary, Credit and Banking Systems," 323-324, Erik Aerts, "The Absence of Public Exchange Banks in Medieval and Early Modern Flanders and Brabant (1400-1800): A Historical Anomaly to Be Explained," *Financial History Review* 18, no. 1 (2011), Els Vercouteren, "De Geldwisselaars in Brabant (1430-1506): Een Bijdrage Tot De Economische Geschiedenis Van De Zuidelijke Nederlanden," *Bijdragen en mededelingen betreffende de geschiedenis der Nederlanden* 100, no. 1 (1985). This point was also made for late medieval England John H. Munro, "The International Law Merchant and the Evolution of Negotiable Credit in Late-Medieval England and the Low Countries," in *Banchi Pubblici, Banchi Privati E Monti Di Pietà Nell'europa Preindustriale: Amministrazione, Tecniche Operative E Ruoli Economici*, ed. Dino Puncuh and Giuseppe Felloni, *Atti Della Società Ligure Di Storia Patria* (Genova: Società Ligure di Storia Patria, 1991), 66, John H. Munro, "The Medieval Origins of the Financial Revolution: Usury, Rentes and Negotiability," *International History Review* 25, no. 3 (2003): 549 & 562.

<sup>42</sup> Aerts, "The Absence of Public Exchange Banks," 94-95, Raymond de Roover, *Money, Banking and Credit in Mediaeval Bruges: Italian Merchant Bankers, Lombards and Money-Changers* (Cambridge: Mediaeval Academy of America, 1948).

<sup>43</sup> Aerts, "The Absence of Public Exchange Banks."

enforcement implied costs but allowed transactions with strangers while informal contract enforcement limited the pool of potential trading partners to known colleagues (often family members), but such transactions came at trivial transaction and enforcement costs. The choice for either formal or informal contract enforcement, according to these authors, was not dependent on cultural or societal differences; it was a function of the type of transaction (measured by the frequency of this transaction and the geographical distance covered).<sup>44</sup> This section argues that throughout the sixteenth century the legal characteristics of bonds were altered to increase the security of the instrument for the subsequent holders of the bond while at the same time leaving open the option whether to register the bond and its transfer or not. This legal change was the result of the embedment of the bond and its transfer in older legal figures and new-found solutions and of the ongoing discussion on the subject between different merchant groups, the city government and the central authorities.

The crux of the problem lay in the liability of the creditor who passed on the IOU: if this creditor remained liable, the new creditor would be able to call on both the original debtor and the transferring creditor for payment. Several legal figures and practices were available to enable a third party to collect the moneys owed in the bond and to increase the security of a circulating bond: a power of attorney, a bearer clause, a cession, an assignment, a surety or guarantor and endorsement. Already in the fifteenth century could a third party collect the proceedings of bill on behalf of the original creditor. A formal **power of attorney** was still needed for the authorized agent.<sup>45</sup> The situation was similar in fourteenth- and fifteenth- century England. English historians have argued that this practice may have hindered the transfer of IOU's. Postan countered such claims and notes how obtaining a power of attorney in fact became easier and cheaper.<sup>46</sup> An order clause could be inserted in the IOU itself, so as to allow the creditor to appoint an agent to collect the money.<sup>47</sup> Powers of attorney were often used to collect money from bonds in other regions and jurisdictions. Members of the Antwerp-based cloth merchant family Leydecker extended powers of attorney to merchants in England and France to collect dues from bills obligatory.<sup>48</sup> The practice of informing a debtor that an agent would collect the debt gave rise to the **bearer clause**, which entailed full legal rights of the document bearer. This usually concerned a mixed bearer clause: "payable to X (name of the creditor) or to bearer".<sup>49</sup> The bearer clause existed already in thirteenth-century Flanders; in these early documents the bearer clause merely indicates that an agent of the creditor would collect the debt.<sup>50</sup> The Antwerp certification books and aldermen's registers show that the bearer clause had already become an established practice by the 1490s: in fact, by this time there were more bonds with a bearer clause than without.<sup>51</sup> Such a clause converted the bond into a fully negotiable instrument. Interestingly, bonds with a bearer clause had a higher average and median value than bills without such a clause.<sup>52</sup> The higher nominal value may have increased the need to make the bond transferable. Merchants needed to be able to transfer the larger sums in case of liquidity problems, but transferring bonds also entailed sizeable risks for the new creditor. Hence, Antwerp merchants

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<sup>44</sup> Jean-Laurent Rosenthal and R. Bin Wong, *Before and Beyond Divergence: The Politics of Economic Change in China and Europe* (Cambridge: Harvard University Press, 2011), 68-97.

<sup>45</sup> de Smedt, *De Engelse natie te Antwerpen in de 16e eeuw (1496-1582)*, 568.

<sup>46</sup> Postan, *Medieval trade and finance*, 43 & 46-47.

<sup>47</sup> *Ibid.*, 52. See also the older Henri Brunner, "Les titres au porteur," *Nouvelle Revue historique de droit français et étranger* 10 (1886).

<sup>48</sup> CAA, Aldermen's registers, SR # 288, 15 April 1562. Courtesy of Irène Leydecker-Brackx.

<sup>49</sup> De ruysscher, "Innovating financial law in early modern Europe: transfers of commercial paper and recourse liability in legislation and *ius commune* (sixteenth to eighteenth centuries)", 505, note 1.

<sup>50</sup> Munro, "English backwardness", 133; Van der Wee, "Antwerp and the new financial methods", 151.

<sup>51</sup> Between 1490 and 1514 104 bonds had a bearer clause and 79 did not. Van der Wee, *The growth of the Antwerp market*, II, 141.

<sup>52</sup> Bond with bearer clause: mean £ 80.441 gr. Fl. or 155,454.3 grams of silver, median £ 53 gr. Fl. or 7,408.8 grams of silver (N=95), bonds without clause: mean £ 59.079 gr. Fl. or 18,707.28 grams of silver, median £ 24.625 gr. Fl. or 7,408.8 grams of silver (N=74).

did not wait to use bonds to bearer until the discussion between jurists and legislators had been settled.

The legal rights of the bond bearer were acknowledged by jurists such as Willem van der Tannerijen (in writings dating from 1474-1476), a former Antwerp city secretary, and Philip Wielant (in the early 1500s), who wrote that debt certificate holders could sue a debtor, were not obliged to submit a formal proof of a power of attorney and were allowed to transfer such instruments to others.<sup>53</sup> Another jurist and counselor of Charles V, Joos de Damhoudere, confirmed the legal rights of the bearer of the bond.<sup>54</sup> Van der Tannerijen's, Wielant's and de Damhoudere's opinions were completely at odds with those of some of their colleagues working for the Grand Council of Mechelen, the Netherlands' supreme court: the latter argued that unless the bearer could prove that the bond had been legally transferred unto him, he would not have any legal rights pertaining to the bill.<sup>55</sup> In March 1508 the Grand Council of Mechelen denied Jacop Casseleere, bearer of a bond of a debt owed by Aert Cloet to the Sicilian merchant Jehan Panthaleon, the right to sue the debtor Cloet.<sup>56</sup> Yet, less than one year before this sentence, the Antwerp city government ruled by a *turbe* – a declaration by jurists and lawyers on legal and commercial practice<sup>57</sup> – that a bearer had full legal powers without having to prove his ownership of the bond.<sup>58</sup> By doing so, Antwerp followed the precedents on the legal powers of bond bearers created in England (the *Burton vs. Davy*-case on a bill of exchange in 1436<sup>59</sup>) and in Lübeck (1499 and 1502).<sup>60</sup> The city governments of Bruges, Dordrecht and Utrecht followed the Antwerp practice after 1527.<sup>61</sup> A 1528 Antwerp *turbe* confirmed that a bearer had all legal rights to execute an amicable settlement with the original debtor and could even acquit the debtor of his debt.<sup>62</sup> The central government would issue an ordinance in 1537 establishing what had already been accepted in Antwerp much earlier.<sup>63</sup> This clearly indicates institutions moving at different speeds, such that the local government starkly outpaced the central authorities. The ordinances of the central government allowed for bearer rights in the entire territory of the Low Countries. The bearer clause in bonds did not become standard practice outside the commercial gateways of the Netherlands: in Liège the bearer clause was almost non-existent and the circulation of bonds remained limited.<sup>64</sup> The laws of the cities of Alost, Brussels, Louvain and Mechelen did not recognize the rights of a bond bearer.<sup>65</sup>

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<sup>53</sup> De ruysscher, “Innovating financial law in early modern Europe”, paragraph 1. De ruysscher, *Handel En Recht in De Antwerpse Rechtbank (1585-1713)*. 260-261

<sup>54</sup> Quoted in de Roover, *L'évolution De La Lettre De Change, 14e-18e Siècles*, 89.

<sup>55</sup> Alain Wijffels, “Business relations between merchants in sixteenth-century Belgian practice-orientated civil law literature,” in *From lex mercatoria to commercial law*, ed. Vito Piergiovanni, *Comparative studies in continental and Anglo-American legal history* (Berlijn: Duncker & Humblot, 2005), 267-268; de Smedt, “De keizerlijke verordeningen van 1537 en 1539”, 32-33. De ruysscher, *Handel En Recht in De Antwerpse Rechtbank (1585-1713)*, 260.

<sup>56</sup> de Smidt and e.a, *Chronologische lijsten van de geëxtendeerde sententiën*, II, 58.

<sup>57</sup> On *turben*: De ruysscher, *Handel En Recht in De Antwerpse Rechtbank (1585-1713)*, sections 2.2.2 & 2.6.

<sup>58</sup> CAA, Vierschaar, V # 68, 13r, 7 June 1507.

<sup>59</sup> Munro, “English backwardness”, 144-151. Although this is not undisputed: Stephen E. Sachs, “Burying Burton: *Burton v. Davy* and the Law of Negotiable Instruments,” (2002). Rogers, *The Early History of the Law of Bills and Notes: A Study of the Origins of Anglo-American Commercial Law*, xi-xiv, 1-11, 44-68.

<sup>60</sup> Munro, “English backwardness”, 151; Michael North, “Banking and credit in northern Germany in the fifteenth and sixteenth centuries,” in *Banchi pubblici, banchi privati e monti di pietà nell'Europa preindustriale: amministrazione, tecniche operative e ruoli economici*, ed. Dino Puncuh and Giuseppe Felloni, *Atti della Società Ligure di Storia Patria* (Genova: Società Ligure di Storia Patria, 1991), 821-822; De ruysscher, *Handel en recht in de Antwerpse rechtbank (1585-1713)*, 237. Michael North, “Hanseatic Merchants and Credit, 1300-1700,” in *Handbook of Key Global Financial Markets, Institutions and Infrastructure*, ed. Gerard jr. Caprio and et al. (Waltham: Elsevier, 2013), 163-164.

<sup>61</sup> Van der Wee, “Antwerp and the new financial methods”, 152; Munro, “English backwardness”, 152.

<sup>62</sup> De ruysscher, *Handel en recht in de Antwerpse rechtbank (1585-1713)*, 237.

<sup>63</sup> Laurent, Lameere, and Simont, *Recueil des ordonnances des Pays-Bas: 2e série, 1506-1700*, IV, 1537, 15-17.

<sup>64</sup> Jean Lejeune, *La formation du capitalisme moderne dans la principauté de Liège au 16e siècle* (Liège: Faculté de Philosophie et Lettres, 1939), 65.

<sup>65</sup> de Roover, *L'évolution De La Lettre De Change, 14e-18e Siècles*, 94.

Besides the juridical powers of the bond bearer, the liability of the transferring creditor was at stake. The transfer of a bond by a creditor to a new creditor could be executed through the legal concepts of transport, or “cession”, and through assignment, or “bewysinghe”. The older concept of transport definitively transferred all legal rights from the old creditor to the new one; the transfer dismissed the former from all claims by the latter.<sup>66</sup> The transport was needed for the new creditor to obtain all legal rights to pursue a debtor and was usually accompanied by a power of attorney.<sup>67</sup> Transports were often registered by notaries or by the aldermen; oral testimony on the transport was also considered as legal evidence.<sup>68</sup> When the transfer of a bill was not registered by a notary, it was not unusual for the assignee to ask the debtor whether he recognized the debt and whether he would pay on the bond’s maturity date.<sup>69</sup> In England bonds were transferred without transport; this lowered transaction costs, but also left the bond legally unprotected, causing a high potential risk of default.<sup>70</sup> In sixteenth-century Lyon transport was the only way to transfer a bond.<sup>71</sup>

In case of an assignment, the ceding creditor retained liability in case the debtor did not pay.<sup>72</sup> In the customary law edition of 1582 this principle was made explicit in the sentence “bewijsinghe is gheen betalinge en is” or “assignment is not a payment”.<sup>73</sup> For example: Daniel de Bruyne had ceded a bill obligatory owed to him by Jaspas Nijs to the Spanish merchant Francisco Rodrigues; Nijs did not pay the bill and de Bruyne had to pay the legal costs for arresting Nijs.<sup>74</sup> The ceding creditor was relieved from this liability only when the debtor had fully satisfied the new creditor. This assignment originated in the late medieval practice of a payment order.<sup>75</sup> The debtor was only acquitted from the new creditor’s claim when he could prove that he had already paid his due.<sup>76</sup> The practice of transferring bonds through assignment became quickly popular in the first half of the sixteenth century: in 1532 the Van Bombergen were awaiting reply from their Venetian client Vendramin about whether to trade his IOU; the Englishman Thomas Washington testified in a 1537 lawsuit about the circulation of bonds and assignment had expanded.<sup>77</sup> In 1539 François de Pape bought English kerseys from an English merchant and gave him a bond, but eventually paid to Thomas Balbani, who was perhaps a creditor of the English merchant.<sup>78</sup> In the same year the financier Erasmus Schetz wrote to the Antwerp pensionary in Brussels, Herbouts, insisting that “the central government would receive God’s blessing when it would legalize and regulate the practice of assignment and would equate paying

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<sup>66</sup> 12 transport en geen brengen clause, transporteerder kan niet meer aangesproken worden. Titel 64 Art 12 1582 Impressae (Costuymen).

<sup>67</sup> Van der Wee, “Antwerp and the new financial methods”, 151-152.

<sup>68</sup> Ibid., 155-156. Registration by the Antwerp city secretary of bond transport came at a cost of 7 stivers. (Vande secretarissen art 12. P 658)

In styl van procederen

<sup>69</sup> Brulez, *De firma Della Faille*, 403.

<sup>70</sup> Munro, “English backwardness”, 134 & 142.

<sup>71</sup> Gascon, *Grand commerce et vie urbaine au 16e siècle: Lyon et ses marchands (environs de 1520-environs de 1580)*, 277-279.

<sup>72</sup> Philippe Godding, *Le droit privé dans les Pays-Bas méridionaux du 12e au 18e siècle* (Bruxelles: Palais des académies, 1987), 420 sqq., 489-490; De ruysscher, *Handel en recht in de Antwerpse rechtbank (1585-1713)*, 242-244.

<sup>73</sup> Titel 64 Art 2 1582 Impressae (Costuymen)

<sup>74</sup> CAA, Insolvente Boedelkamer, IB # 788, Journal Daniel de Bruyne, 66r.

<sup>75</sup> Van der Wee, “Antwerp and the new financial methods”, 152-153; De ruysscher, *Handel en recht in de Antwerpse rechtbank (1585-1713)*, 233, 236, 242-244.

<sup>76</sup> In 1544 Peter Reyniers was sued by Lauwereys Martyn for the payment of 10.3 £ gr. Fl. Reyniers was asked if he could prove having paid the bill, within eight days. CAA, Vierschaar, Sentence books, V # 1239, 1544, 21v.

<sup>77</sup> Brulez, “Lettres commerciales”, 183-184 & 189; Van der Wee, “Antwerp and the new financial methods”, 153. The Antwerp civil sentences (1544 sample) show the popularity of assignment and circulation of bills obligatory. The civil court always considered a transfer as an assignment unless one could prove that the transfer was final and definitive. CAA, Vierschaar, Sentence books, V 1239, 1544, 14r, 29r, 97r, 6v and 192r; RAB, Council of Brabant, Sentence books, 589, 1544223r; Van der Wee, “Antwerp and the new financial methods”, 155.

<sup>78</sup> CAA, Insolvente Boedelkamer, IB # IB 776, Jaarmarktboek Frans De Pape, 1v-2r; and several other instances.

by assignment with paying in cash”.<sup>79</sup> The central government did so, convinced by Schetz’s request, in an ordinance in October 1541.<sup>80</sup> The 1548 Antwerp Antiquissimae Costuymen also regulated assignment: a debtor who fled or disappeared lost the right to perform assignments.<sup>81</sup> In the 1570 Costuymen the city government went a step further: even if the name of the original creditor was fictitious, the IOU remained a legally valid document.<sup>82</sup>

Hence, with every time an IOU was passed on, the security for the eventual creditor increased. This cascade of liability, enforced by city law, turned the obligation into legal tender. The 1608 Costuymen explicitly regulated these assignment chains and documented that a bond could be passed on to “four or five persons and more”; all ceding persons remained liable and linked to the original debtor of the bond.<sup>83</sup> The bills could change hands several times before their maturity. The sources, especially the merchant account books, abound with evidence of this high degree of circulation. Yet, it is hard to measure exactly and systematically how many times a bond was passed on, since only the original creditor and debtor are named.

Yet, in a growing group of merchants – as could be seen in sixteenth-century Antwerp – the final creditor might not always know the initial debtor or the transferring creditors. Hence, it might be difficult for him to gauge the credit risk involved in the bond. Moreover, how would the final creditor know who held the bond before the creditor who passed on the bond to him? In a climate where assignment was automatically assumed, it would seem that there was little need to prove an assignment, unless one wanted to prove the contrary, that the passing on of the bill constituted a final payment.<sup>84</sup> The series of transferring creditors could be recorded either on the bond itself, on a separate document or in a particular register administered by a public authority. Interestingly, none of these became really developed practices in Antwerp; this avenue towards more security was not taken. It was left to the discretion of every merchant to decide whether additional information and security was required or not depending on the transaction and the identities of the parties involved. Registering the assignment on the back of the bond itself happened quite late in Antwerp, in 1571.<sup>85</sup> The late arrival of *endossement* (“en dos”), or endorsement, can be explained by three reasons. First, in a system where obligations were circulating freely through the bearer clause and assignment and where the bearer was sufficiently protected legally, the extra guarantee of being able to identify the entire chain of assignees may well have been deemed superfluous. Second, merchants were already writing other information on the backs of the bills, such as the partial payments already executed on the bill (this was also called endorsement).<sup>86</sup> In 1555 the Antwerp aldermen publicized a lost IOU owed by two Spanish merchant to two citizens from Oudenaarde. The bill was worth £ 261.99 gr. Fl. and it

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<sup>79</sup> Van der Wee, *The growth of the Antwerp market*, II, 345; Van der Wee, “Antwerp and the new financial methods”, 153; de Smedt, “De keizerlijke verordeningen van 1537 en 1539”, 25-26. The original can be found in: CAA, Privilegiekamer, Engelse natie, Pk # 1052, 1 July 1537.

<sup>80</sup> Laurent, Lameere, and Simont, *Recueil des ordonnances des Pays-Bas: 2e série, 1506-1700*, IV, 329-331.

<sup>81</sup> Antiquissimae, title IV, arrestementen art 28;

<http://www.kuleuven->

[kortrijk.be/facult/rechten/Monballyu/Rechtlagelanden/Brabantsrecht/antwerpen/antiquissimae.html](http://www.kuleuven-kortrijk.be/facult/rechten/Monballyu/Rechtlagelanden/Brabantsrecht/antwerpen/antiquissimae.html)

<sup>82</sup> De ruysscher, *Handel en recht in de Antwerpse rechtbank (1585-1713)*, 239-240; de Smedt, “De keizerlijke verordeningen van 1537 en 1539”, 35.

<sup>83</sup> “Als ijmant bij sijnen schuldenaer op eenen anderen wort bewesen, om bij hem betaelt te worden, ende alsoo van handen tot handen voorts tot vier oft vijff persoenen ende meer, die de bewijsinge al aenveerden, indijen hij bij den lesten niet en wort betaelt, heeft tot sijne voldoeninge verbonden alle de gene daerop hij bewesen is.” Costuymen Compilatae 1608, part 4, § 14. Published in de Longé, *Coutumes du Pays et Duché de Brabant: Quartier d'Anvers*. IV, 380;

and online: <http://www.kuleuven-kortrijk.be/facult/rechten/Monballyu/Rechtlagelanden/Brabantsrecht/antwerpen/compil4.html>

<sup>84</sup> See page 266.

<sup>85</sup> Brulez, *De firma Della Faille*, 402; Van der Wee, *The growth of the Antwerp market*, II, 348; Van der Wee, “Antwerp and the new financial methods”, 158.

<sup>86</sup> Many examples of this practice in the account books of Plantin and Van Bell. Van der Wee, “Antwerp and the New Financial Methods,” 158.

was written on the back that 71 pounds had already been paid.<sup>87</sup> Third, the advent of endorsement was probably delayed by the practice of *borge principael*. A borge principael of principal surety was a third party who stood surety for the payment of the bond; the guarantors wrote their names on the bill. Such a borge principael was recorded for the first time in 1542. While initially the surety and ceding creditor were treated as different, after 1571 the distinction became less clear.<sup>88</sup> A second method to document assignment was to create a separate document to evidence the transfer of the bond through assignment. The English Merchant Adventurers in Antwerp were obliged to produce a document which proved that they were assigning the bond and not transferring it as a final payment.<sup>89</sup> In 1567 Daniel de Bruyne issued a similar “billet van assignatie” concerning a partially assigned bond owed by Anthoni Raedt.<sup>90</sup> Thirdly, an official and specific registry could be used to record bond transfers. In 1622 Gerard de Malynes mentions in his *Consuetudo, vel lex mercatoria* the existence of an official IOU transfer registry system in Rouen and Lisbon.<sup>91</sup> No such system existed in Antwerp. On the one hand, registering a transfer would have increased transaction costs, thereby hindering the flexibility offered by trading bonds. On the other hand, this registration would have increased the security of the final creditor who, in the Antwerp scenario, could only either hope that the debtor would pay or appeal to the person from whom he had received the bond. Merchants always had the option to have their bond or its transfer recorded by public authorities such as the city clerk or a notary. Jaspas van Bell, a merchant from ‘s-Hertogenbosch active in Antwerp, records several bonds in his account book which were registered “in libro Colen” or the book held by city secretary Gerard Colen in 1564.<sup>92</sup> The flexibility of the Antwerp assignment system did not go unnoticed throughout Europe: Tommaso Contarini described the assignment system in his proposal to the Venetian senate to erect a public bank. According to Contarini, the Antwerp market was successful due to abundance of trust and the scarcity of fraud which obviated the need for public books.<sup>93</sup> Gerard Malynes similarly stresses the informality and flexibility of the Antwerp system and laments why England has not adopted this commercial practice yet since it would have benefited the common good, aid new merchants, increase taxes and employment. He adds that the English government could install a registry system for the passing and transferring of bills to verify ex post if necessary and to block lost bonds.<sup>94</sup>

Assigning bonds was a flexible technique, but one that could imply risks as well. Therefore, goods could be used as collateral and third parties could stand surety to secure the bond. In most cases, the IOU was based on a commodity transaction and the underlying goods acted directly as a collateral; they could be returned or arrested when the bond was not paid.<sup>95</sup> In the first half of the sixteenth century, IOU’s were still intimately connected with the commodities trade. This is

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<sup>87</sup> CAA, Gebodboeken, Pk # 915, 120v.

<sup>88</sup> Van der Wee, "Antwerp and the New Financial Methods," 157.

<sup>89</sup> de Smedt, *De Engelse natie te Antwerpen*, II, 582-583; Van der Wee, “Antwerp and the new financial methods”, 155, note 53, & 157.

<sup>90</sup> CAA, Vierschaar, Sentence books, V # 1249, f 266v-267r. De Bruyne ceded several IOU’s by Anthonie Raes. CAA, Insolvente Boedelkamer, IB # 788, Journal Daniel de Bruyne, 42r & 65r.

<sup>91</sup> Gerard Malynes, *Consuetudo, vel lex mercatoria, or The ancient law-merchant : Diuided into three parts: according to the essentiall parts of trafficke. Necessarye for all statesmen, iudges, magistrates, temporall and ciuile lanyers, mint-men, merchants, marriners, and all others negotiating in all places of the world* (London: Adam Islip, 1622), 100. Such a system was also in place in medieval York: Pamela Nightingale, “The Rise and Decline of Medieval York: A Reassessment,” *Past & Present* 206, no. 1 (2010), 6.

<sup>92</sup> W.J. Formsma and L.P.L. Pirenne, *Koopmansgeest Te 'S-Hertogenbosch in De Vijftiende En Zestiende Eeuw: Het Kasboek Van Jaspas Van Bell, 1564-1568* (Nijmegen: Centrale Drukkerij, 1962), 76-77.

<sup>93</sup> Elia Lattes, *La Libertà Delle Banche a Venezia Dal Secolo Xiii Al Xvii* (Milan: Arnaldo Forni Editore, 1869), 122-123.

<sup>94</sup> Gerard Malynes, *Consuetudo, Vel Lex Mercatoria, or the Ancient Law-Merchant : Diuided into Three Parts: According to the Essentiall Parts of Trafficke. Necessarye for All Statesmen, Iudges, Magistrates, Temporall and Ciuile Lanyers, Mint-Men, Merchants, Marriners, and All Others Negotiating in All Places of the World* (London: Adam Islip, 1622), chapters XII-XIV.

<sup>95</sup> See the story of Schetz and Olivera on page 275.

evidenced by the implicit contingency clause that the IOU was valid only when the goods were delivered to the buyer. In 1540 Augustijn Baroir from Lübeck had drawn up a notarial deed that he would not pay a £ 102.9 gr. Fl. obligation to Willem de Buys, an Antwerp merchant, since the goods in question (Mediterranean sweet wine and capers from the Barbary Coast) were not delivered.<sup>96</sup> If the quality of the goods did fall short of expectations, this could invalidate the underlying bond. In 1544 Jan Baron, an Antwerp grocer, had bought English cloth from the Englishman Abraham Cordewaen and had provided Cordewaen with an IOU. When Cordewaen demanded payment of the bond, Baron argued that, because the cloth was substandard, he should not have to pay.<sup>97</sup> The collateral of a bond was a general one; it involved the pledging of person and goods, now and in the future. This could raise potential problems, since liquidation of a bad debt could be problematic with such general collateral.<sup>98</sup> Even this general collateral disappeared from the bonds: in 1569 the city lawyers of Antwerp declared that the clause of obligation of person and goods was no longer needed, since it was always implied by law.<sup>99</sup> Merchants sometimes supplied additional and specific security measures. Deeds to real estate and annuities could be offered<sup>100</sup>; Herman Janssens lent money to shipmasters through an IOU with their *waterbrief* (ship-ownership deed)<sup>101</sup> as surety; and Daniel de Bruyne accepted five fine silver dishes as bond collateral.<sup>102</sup> Moreover, bonds could act as security for new letters obligatory. Segher Peeters, a linen-weaver from Oudenaarde, owed money to the Antwerp merchant Joos van den Steene; the notary wrote an IOU and van den Steene received two other obligations as surety, which exactly equalled the value of the new bond.<sup>103</sup>

Besides collateral, natural persons could stand surety for the value of the bond. A borge principael, or principal surety, was a third party who stood surety for the payment of the bond; the guarantors wrote their names on the back of the bill.<sup>104</sup> The 1570 In Antiquis Costuymen bolstered this custom.<sup>105</sup> The guarantors were often family members and compatriots: in 1540 a French merchant transported a £ 787.5 gr. Fl. IOU to a merchant from Navarra. The original debtor, Jehan Koenen, a citizen of Maastricht, was backed by two family members and two other Maastricht citizens.<sup>106</sup> The surety was not always written on the bond itself; a separate act could attest it and could be made up after the original IOU.<sup>107</sup> Daniel de Bruyne recorded in his account books bonds for which he himself or others acted as guarantors; Jan Gamel's inventory also mentions several guarantors on bonds.<sup>108</sup> Bonds signaled as lost carrying such a guarantor name were worth more on average.<sup>109</sup> The relationships between the guarantors and the debtors were

<sup>96</sup> CAA, Notarial archives, notary Willem Stryt, N # 3133, 61v-62r.

<sup>97</sup> CAA, Vierschaar, Sentence books, V # 1240, 6v-7r.

<sup>98</sup> Gelderblom, "The Golden Age of the Dutch Republic", 167.

<sup>99</sup> CAA, Second Turbeboek, V # 69, 69r-v.

<sup>100</sup> A brewer borrows from a colleague and gives the deed of his brewery as surety. CAA, Notarial archives, notary Adriaan Zeger 's-Hertoghen, N # 2071, 94v-95r. Jan Gamel got a dyeworks close to the Hoochbrug and a piece of land as collateral for two bonds. De Smedt, "Antwerpen en de opbloei". Christoffel Pruynen offered Herman Janssens an English warehouse, which Pruynen had constructed together with Jan van Asseliers and Anna Janssens (Herman's sister), as collateral. MPM, Manuscripts, Arch. 681, Journal Herman Janssens, 1570, 108r.

<sup>101</sup> MPM, Manuscripts, Arch. 681, Journal Herman Janssens, 1570, 97v.

<sup>102</sup> CAA, Insolvente Boedelkamer, IB # 788, Journal Daniel de Bruyne, 2v.

<sup>103</sup> CAA, Notarial archives, notary Willem Stryt, N # 3133, 255v-256r.

<sup>104</sup> Van der Wee found the first instance of this practice in a 1542 document. Van der Wee, "Antwerp and the New Financial Methods," 157.

<sup>105</sup> In Antiquis, page 598, § XXVII.

<sup>106</sup> CAA, Notarial archives, notary Adriaan Zeger 's-Hertoghen, N # 2071, 205v-206r.

<sup>107</sup> de Smedt, *De Engelse natie te Antwerpen*, II, 566-567.

<sup>108</sup> CAA, Insolvente Boedelkamer, IB # 788, Journal Daniel de Bruyne, 14r, 36r & 52r. Gamel inventory 2 x 1572, and nr. 157. De Smedt, "Antwerpen en de opbloei", II.

<sup>109</sup> The database of lost bonds shows that the 20 bonds with a borge principael were worth relatively more (as expressed in grams of silver) than the lost bonds without a guarantor. Median values = 9893.3 grams (with surety)/ 8938.8 (without surety) grams of silver and 5 % trimmed mean = 13183.0 (with surety) / 11432.6 (without) grams of silver. The identity of the debtor and/or creditor did not have an effect on whether a surety was needed or not. A

strong: I found eight bonds between a native guarantor and a native debtor, nine relations between a foreign guarantor and a foreign debtor, and two instances of a native debtor and a foreign guarantor and one case of a foreign debtor and a native guarantor.<sup>110</sup>

Not all merchants were convinced by the advantages of the bond assignment system; especially foreign traders active in sixteenth-century Antwerp had different attitudes towards assignment and transport. Italian and Spanish traders were often suspicious of IOU assignments.<sup>111</sup> In looking at the notarized transports in 1540, it becomes clear that they almost exclusively concern French and Spanish merchants.<sup>112</sup> Native merchants were using notaries as intensively as these merchant groups but registered fewer transports. Hence, French and Spanish merchants seem to have preferred the definitive transport over the assignment. Pietre de Villasana, a Spanish merchant, transported twenty IOU's to his countrymen Arnoul de Planco and Pietre de Suaso and supplied them with powers of attorney; the names and whereabouts of the debtors, the amounts involved and the payment terms were meticulously recorded in the notarial deed.<sup>113</sup> In 1565, when the Antwerp magistracy, in an attempt to benefit its own secretaries, tried to curtail the practices of notaries in the city, the nation of Lucca argued in favour of the notaries, whose services they used to record powers of attorney and transports.<sup>114</sup> The nation explicitly condemned assignment, or, as they called it “transportz privez de main a main”: they claimed it caused collusion and fraud involving substantial sums and had ruined several merchants.<sup>115</sup> But native merchants also continued to make use of a formal cession: Jan Spierinck had executed a formal transport of a bill owed to him by Jacques Comperez to his creditor Wouter Seroye; this transport was registered by the Antwerp aldermen.<sup>116</sup> Powers of attorney were still deemed necessary in specific cases. Henricus Dryes, an Antwerp cloth merchant, granted powers of attorney to his brother Jaspas to collect £ 120 gr. Fl. from Joachim Gruysman, even though the obligation specifically contained a bearer clause.<sup>117</sup>

The English practice of assigning bills within the community of Merchant Adventurers differed from Antwerp customs: when a member of the Merchant Adventurers transferred a bond to one a colleague, he was acquitted fully and could not be held liable anymore.<sup>118</sup> The 1555 legal case of Thomas Nichols vs. Gianbattista Gondi in which this custom became clear, offers insight into the risks involved in transferring bonds. Both parties were influential figures: Nichols was then secretary of the Fellowship of Merchant Adventurers in London; Gondi had been a *consigliere* of the Florentine nation in Antwerp. A few years earlier Nichols had sold Gondi a number of woollens. Gondi had paid for the merchandise with a IOU of another Merchant Adventurer, Hamlet Bracy. Afterwards, it came to light that Bracy was bankrupt. Gondi, however, refused to provide Nichols with a new and valid IOU, because, according to English practice, Nichols had accepted the IOU as full and definitive payment in case the debtor was a member of the Merchant Adventurers. Gondi also argued that Nichols should have known about Bracy's reputation and claimed that Bracy was not bankrupt when he had transferred the bill to him. Nichols, on the other hand, told the court that Gondi knew about Bracy's compromised situation and wanted to dispose of this toxic asset. Nichols also claimed that others of Gondi's

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crosstable with the identity of debtor and creditor (All foreign, mixed, all native) and whether or not there was a borg principal was drawn. A very low Cramer's V was found (.036).

<sup>110</sup> Gebodboeken

<sup>111</sup> Van der Wee, *The growth of the Antwerp market*, II, 343.

<sup>112</sup> 14 in total.

<sup>113</sup> CAA, Notarial archives, notary Adriaan Zeger 's-Hertoghen, N # 2071, 74v.

<sup>114</sup> Stadsarchief Antwerpen Pk 1079 4 July 1565. Goris, *Etude sur les colonies marchandes méridionales*. 111 & 339 See also: Oosterbosch, ““Van groote abuysen ende ongeregeltheden””.

<sup>115</sup> “Laquelle est pretexte notoirement de infinies simulations et collusion voires aussy de tant importantes sommes que soubz ombre d'icelle clause plusieurs deviennent à ruyne” Goris, *Etude sur les colonies marchandes méridionales*, 111.

<sup>116</sup> CAA, Processen, 7 # 12144, inventory of Jan Spierinck.

<sup>117</sup> CAA, Notarial archives, notary Adriaan Zeger 's-Hertoghen, N # 2071, 4 March 1540, 45r-v.

<sup>118</sup> de Smedt, *De Engelse natie te Antwerpen in de 16e eeuw (1496-1582)*, 583.

countrymen had used Bracy's bills obligatory to swindle other Merchant Adventurers, that the Florentines had colluded upon learning of Bracy's financial travail and that they had foisted his toxic assets onto others. The Antwerp court ruled that Nichols had taken the obligation in assignment and not as "fynalycken ende absoluut"; Gondi had to provide a new bond or pay Nichols in cash.<sup>119</sup> This practice of dumping "toxic assets" before the problems became public was widespread. In 1556 the Antwerp merchant Augustijn Mariscal encountered financial problems, but one of his creditors, Herman Janssens managed to offload his obligations onto the unsuspecting Augustijn Bene.<sup>120</sup>

Flexibility did not signify a total lack of rules and enforcement. Both at city level and at the central level of government new contracting rules and procedures were developed and structures of enforcement were installed, often at the request of the mercantile community. One episode clearly illustrates this and also demonstrates how changes in the structure of the market (from a fair-based market to a permanent one) affected mercantile practice and rules. The exact periodization of the fair payments became a matter of contention several times throughout the sixteenth century. In the 1521 ordinance the emperor declared that the presentation days of bills obligatory with a fair as maturity date would commence on the twenty-seventh day of the freedom of the fair and would last through the thirtieth. Payments had to take place from the thirty-first day to the thirty-seventh.<sup>121</sup> Sixteen years later, Erasmus Schetz consulted the most important Antwerp merchants and asked the Antwerp pensionary to address the Council of Brabant on the issue of the payment periods. This investigation was prompted by the English Merchant Adventurers who complained about the procrastination of merchants from Antwerp, Bergen-op-Zoom, Brussels and other cities in Flanders who told their creditors that they would pay during the next fair in Antwerp or Bergen.<sup>122</sup> Agents of the Adventurers had to stay longer in the Low Countries, just to collect their debts owed. Often more than three hundred creditors could not collect a single penny because their debtors had shifted their payments to the next fair and excused themselves through the unclarity of the regulation of the payment dates. While previously a merchant could collect money three or four times a year, this was now reduced to one time. The Adventurers even threatened to leave the Low Countries, which would have significantly harmed the "Common Good of the Realm". They suggested that the emperor urge all debtors to pay their debts on time, adapt the court procedure and force recalcitrant debtors to at least a *namptisatie* – transferring the moneys involved to the court who would keep it in custody for the duration of the trial – of the debt owed.<sup>123</sup> Schetz and the other Antwerp merchants agreed that payments should commence after the six weeks of fair freedom and end within fourteen days; debtors should pay with assignments or in cash.<sup>124</sup> This policy was confirmed in the 1539 ordinance. During this two week payment period debtors were still protected from their creditors; only after the expiration of the payment period could they be sued. Because several of the fairs (Easter and Pentecost) were structured around shifting holy days, the exact dates of the fairs and their payment periods differed from year to year. This was remedied in October 1541: the four payment periods were to last ten days and started on 31 October, 31 January, 1 May and 1 August.<sup>125</sup> This brought an end to the shifting fair periods linked to changing holy days. From then on, payment periods were at three-month interval. The development of fixed payment

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<sup>119</sup> Ibid., 583-585.

<sup>120</sup> MPM, Manuscripts, Arch. 681, Journal Herman Janssens, 55r; RAB, Council of Brabant, Lawsuit files Council of Brabant of private individuals, 263, 1557.

<sup>121</sup> Laurent, Lameere, and Simont, *Recueil des ordonnances des Pays-Bas: 2e série, 1506-1700*, IV, 329-331. In 1520 (27 September) it was declared that the freedom of the fair lasted for six weeks. Ibid., II, ???

<sup>122</sup> Text reproduced in H. J. Smit, *Bronnen tot de geschiedenis van den handel met Engeland, Schotland en Ierland* (s-Gravenhage: Nijhoff, 1928), II, 1, 592-594, n° 594.

<sup>123</sup> For a discussion of this request, see: de Smedt, "De keizerlijke verordeningen van 1537 en 1539."

<sup>124</sup> CAA, Privilegiekamer, Engelse natie, Pk # 1052.

<sup>125</sup> Laurent, Lameere, and Simont, *Recueil des ordonnances des Pays-Bas: 2e série, 1506-1700*, IV, 329-331.

periods mirrors the growing permanence of the Antwerp market throughout the year. While the fairs of Bergen-op-Zoom were still mentioned as payment dates, it was implied that the debts would be paid in Antwerp. The central government was forced several times to extend the payment periods so as to be able to pay its own debts.<sup>126</sup>

Subsequent editions of the city customary laws in 1572, 1582 and 1608 saw an increase of the number of articles on bonds from seven to seventeen.<sup>127</sup> The governments' role was not limited to legislation, both the both the city (or aldermen's) court and the highest sovereign court, the Council of Brabant, also enforced bond payments and handled legal cases on them. Table \* shows the number of legal cases on bonds handled by both courts in a number of sample years.

| Year                                      | Civil sentences by aldermen |          | Council of Brabant |          |
|---|-----------------------------|----------|--------------------|----------|
|   | 1504                        | 1505     | 1544               | 1544     |
| <b>Number of cases</b>                    | 94                          | 92       | 583                | 47       |
| <b>Cases on bills obligatory</b>          | 12                          | 5        | 50                 | 4        |
| <b>%</b>                                  | 0,12766                     | 0,054348 | 0,087479           | 0,085106 |
| <b>Number of observations on duration</b> | /                           | 2        | 24                 | /        |
| <b>Average duration in days</b>           | /                           | 2028,5   | 533                | /        |

These numbers may seem low at first sight, given the wide variety of cases dealt with by these courts, bond disputes constituted an important aspect of their jurisdiction. The number of disputed bond cases grew quickly as a result of the growing market and increased litigation over credit transactions, which is also document for England.<sup>128</sup> The only available proxy to verify the courts' efficiency of handling such cases is the duration of the case (the difference in days between the final sentence and a clear starting date). This duration is not always calculable for every case; only the 1544 sample of the aldermen's court sentences offers enough data. It took one year and a half on average for the court to reach a decision in 1544 in these obligation cases.<sup>129</sup> This duration did not differ from that of the other court cases (N=126; 566 days on average). Unfortunately, the lack of comparative data makes it impossible to judge whether Antwerp's court was quick or slow for its time. Yet, one and a half year for a case on a bond, a fairly simple issue, does seem quite long. This may not really have affected the plaintiff since he could already hold the money of the bond when the debtor acknowledged signing the bond due to the *namptisatie* procedure, legalized in the central ordinance of 1537.<sup>130</sup> One way to speed up the proceedings was to curtail the legal rights of a debtor. According to the 1507 *turbe* a debtor had rights of defence but had to testify immediately when the trial started, regardless of whether or not he had signed the IOU. The 1537 ordinance ordered that any debtor, when sued, had to produce the money in question which would be held by the court for the remainder of the trial.

<sup>126</sup> de Smedt, "De keizerlijke verordeningen van 1537 en 1539", 22-31; de Smedt, *De Engelse natie te Antwerpen*, 574-581.

<sup>127</sup> Van der Wee, "Antwerp and the New Financial Methods," 161.

<sup>128</sup> In the sixteenth century disputes about bills handled by the London mayor's court, the London sheriff's court, the Court of Requests, Chancery and the Admiralty grew. George Daniel Ramsay, *The City of London in International Politics at the Accession of Elizabeth Tudor* (Manchester: Manchester University Press, 1975), 58, Kerridge, *Trade and Banking in Early Modern England*, 72. On the general increase in civil litigation: Christian Wollschläger, "Civil Litigation and Modernization: The Work of the Municipal Courts of Bremen, Germany, in Five Centuries, 1549-1984," *Law & Society Review* 24, no. 2 (1990), Craig Muldrew, "Credit and the Courts: Debt Litigation in a Seventeenth-Century Urban Community," *The Economic History Review* 46, no. 1 (1993).

<sup>129</sup> Range: 63 to 1682 days.

<sup>130</sup> Ch. Laurent, J. Lameere, and H. Simont, *Recueil Des Ordonnances Des Pays-Bas: 2e Série, 1506-1700*, 6 vols. (Brussels: Goemaere, 1893-1922), IV, 15-16.

The creditor could have the money at his disposal if he provided surety. If the debtor denied that he had signed the bond and it could be proven otherwise, he lost all rights of defence. The Costumeyn of 1570 stipulated that a debtor had no rights of plea against a creditor, even a bearer, unless he had already paid the bill to the ceding creditor. Only in case of fraud did a debtor have substantial rights of defence, and fraud and forgery could always be just around the corner. YEAR? Maarten Della Faille had received three bonds owed by an English merchant, Aldersey, from his London agent, Nicolas Jones, as payment. Della Faille contacted Aldersey, who told him that the IOU's were forged. Della Faille had Jones secretly arrested in London; Jones confessed that he had forged the bonds to obtain credit and had wanted to provide Della Faille with the money when the bills fell due. Jones found some friends to vouch for him and to repay Della Faille. Della Faille demanded that Jones contact all the other merchants he had cheated and keep quiet about the affair.<sup>131</sup> The plaintiffs in the legal cases of 1544 were mostly the original creditors suing their debtors (74%); a quarter of cases concerned a bond which was passed on.<sup>132</sup> Judges could not rely on an official registry of the bonds, but there was more than just the bond itself which could serve as evidence. Judges or arbiters inspected account books and correspondences and by doing so they accepted private documents as legal proof.<sup>133</sup> By doing so, both formal registered and informal contracts could be enforced when necessary. The city government, relying on city law and central ordinances provided a framework for contract enforcement.

#### IV

No systematic analysis of the use of bonds and its characteristics has been undertaken because of the assumed triviality of bonds, the absence of a public registry bundling all data and (as a result of this absence) the dispersal of data on bonds in a multitude of sources. Five different types of Antwerp sources have been scrutinized in search of bills obligatory: the Antwerp certification books and aldermen's registers (1490-1514)<sup>134</sup>; civil sentences pronounced by the Antwerp aldermen in cases of litigation (1504-1505 and 1544)<sup>135</sup>; notarial acts by Zeger Adriaan 's

<sup>131</sup> Brulez, *De firma Della Faille*, 386-387.

<sup>132</sup> A sample of 639 trial files for the period 1585-1713 contains 45 references to a bond. In half of those cases it was the original creditor who sued the debtor. De ruysscher, *Handel En Recht in De Antwerpse Rechtbank (1585-1713)*.267

<sup>133</sup> Gelderblom, *Cities of Commerce*.

<sup>134</sup> The Antwerp magistracy produced certificates (written declarations) on behalf of private persons, often local and foreign merchants, concerning various commercial and/or juridical issues. I used Renée Doehaerd's publication of the certification books (1488-1513). She summarized all certificates with references to "international trade" and I have selected all "lettres obligatoires," which provided 189 cases between 1479 and 1514. Doehaerd, *Etudes anversoises*, 17-18. Doehaerd's selection criteria are: 1) all certificates with references to foreigners doing business in Antwerp (from abroad); 2) all certificates with references to Low Countries merchants active abroad; 3) documents with references to distribution and consumption of foreign goods in the Netherlands; and 4) documents with references to distribution and consumption of Low Countries products abroad. See also Van der Wee, "Doehaerd (Renée). Etudes Anversoises. Documents sur le commerce international à Anvers, 1488-1514." Some "mandats et procurations" contain quantitative information on debts but Doehaerd's abbreviated notes specify whether the debt is in fact a bill obligatory. The Antwerp aldermen's registers are integrally preserved from 1394 to 1797. All transactions concerning immovable goods had to be registered in these ledgers. A large variety of other contracts could also be registered by the aldermen's clerks. The sheer size of these ledgers (roughly between 2,000 and 4,000 deeds per year) renders this source problematic for an individual historian. Frans Blockmans et al., *Inventaris der schepenregisters, "Collectanen", "Certificatieboeken" en "Coopers en comparanten"* (Antwerpen: Stadsarchief Antwerpen, 1948); Soly, "De schepenregisters" Fortunately, Doehaerd also recorded all aldermen's deeds concerning international trade. Moreover, I have used a database constructed by Tim Bisschops and his students, in which they digitalized written summaries of the aldermen's registered for several years in the period 1490-1493. I would like to express my gratitude to Tim Bisschops for letting me use his data. All bonds have been extracted from the Doehaerd and Bisschops records; these have been double checked to eliminate double entries. In total, I found 342 bonds.

<sup>135</sup> In 1488 the bench of aldermen adopted a written procedure for registering its sentences in civil cases. Litigants could request a copy of the sentence, which was then reproduced in a *vonnisboek*. Not all of these ledgers have been preserved. Hence, I have chosen three sample years: 1504 (94 sentences), 1505 (92 sentences) and 1544 (583 sentences). In 1504, 12 % of all pronounced sentences concerned bills obligatory; 5.4 % did so in 1505 and 9 % in

Hertoghen and Willem Stryt (1540)<sup>136</sup>; a post-mortem inventory (Jan Gamel 1572)<sup>137</sup>; a bankrupt merchant's inventory (Jan Spierinck 1565)<sup>138</sup>; account books (Frans de Pape 1539-1547)<sup>139</sup>, Herman Janssens (1551-1570)<sup>140</sup>, the famous printer and bookseller Christophe Plantin (1559-1589)<sup>141</sup>, Daniel de Bruyne (1561-1568)<sup>142</sup>, Jaspas Van Bell (1563-1566)<sup>143</sup> and the nephews Jehan and Mathieu Moriel (1567)<sup>144</sup>; and the proclaimed lost obligations (1546-1587).<sup>145</sup> Bond values and information on the identities of the debtors and creditors could be collected for 1276 bonds, which were collected from this rather heterogeneous collection of sources. To account for currency differences and for sixteenth-century inflation, which account for IOU's having higher nominal values as the century proceeded, nominal values were recalculated and deflated to their value in the weight (grams) of silver.<sup>146</sup>

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1544. In total, these sentences yielded a total of 87 bonds. CAA, Vierschaar, Sentence books, V 1233, 1504-1505 and V1238-1240, 1544. De ruysscher, *Handel en recht in de Antwerpse rechtbank (1585-1713)*, 22-27 & 101.

<sup>136</sup> Merchants frequently used the services of notaries to register their obligations and operations concerning these obligations (transports, procurations, receipts). Oosterbosch, "Het openbare notariaat in Antwerpen tijdens de late middeleeuwen"; Oosterbosch, "'Van groote abuysen ende ongeregelheden'"; Van den Nieuwenhuizen, "Antwerpse maatregelen voor het notariaat in het Ancien Régime"; Van Roey, "Notarissen en schepenen te Antwerpen in de 16de eeuw" I have selected 1540 as a sample year; the deeds of two notaries have been preserved for that year. 74 acts (9.8 %) of all the notarial acts recorded by Adriaen Zeger 's Hertoghen and Willem Stryt in 1540 mentioned a bond. These 74 acts contained information on 108 bills obligatory. N 2078 & N 3568.

<sup>137</sup> According to the inventory of a textile trader and financier, his estate was owed more than £ 20,000 gr. Fl. in bonds and half of his wealth consisted of obligations (N=59). Registered on 11 August 1572 by notary Henrick van Uffele. Published in: De Smedt, "Antwerpen en de opbloei", part II; see also the summary article of this thesis: De Smedt, "De Antwerpse koopman"; on Gamel's bonds: De Smedt, "Antwerpen en de opbloei", 79-84.

<sup>138</sup> In 1565 the merchant Jan Spierinck was sued by his creditor Coenraerd Schetz over a £ 400 gr. Fl. obligation and imprisoned. Spierinck wished to prove that he was not insolvent and thus could not be detained as a bankrupt. He argued that he was "not so godless that he wanted to deny his debt" and had an inventory made up to prove that he was still creditworthy. CAA, Processen, 7 # 12144, dupliek.

<sup>139</sup> Cloth trader Frans de Pape bought most of his merchandise from English or Antwerp merchants. He organized his account book around the four fairs, noting from whom he had bought the textiles, providing specific details (description and price) and the credit terms (usually payable at the next fair or the following). He also noted the bonds he had drawn up ("hantschrift") (N=121 in 1539-1547). CAA, Insolvente Boedelkamer, IB # 776, Jaarmarktboek Frans De Pape.

<sup>140</sup> Herman Janssens co-operated with his sister Anna and several of his brothers in the trade with England, Portugal, Spain and the Canary islands. His daybook in which he recorded costs and yields of his enterprises documents his operations between 1551 and 1570 (N=54). MPM, Manuscripts, Arch. 681, Journal Herman Janssens, 1550-1570. Soly, "De Antwerpse ondernemster"; also: Van der Wee, *The growth of the Antwerp market*, II, passim.

<sup>141</sup> Christophe Plantin migrated to Antwerp in 1549 and started his own printing company in 1555. On Plantin's finances: Robert M. Kingdon, "Christopher Plantin and His Backers, 1575-90. A Study in the Problem of Financing Business During War," in *Mélanges D'histoire Économique Et Sociale En Hommage Au Professeur Antony Babel* (Genève: 1963), Leon Voet, *The Golden Compasses: A History and Evaluation of the Printing and Publishing Activities of the Officina Plantiniana at Antwerp* (Amsterdam: Vangendt, 1969). In two bundles of Plantin's accounts, several bonds can be found. MPM, Manuscripts, Arch. Arch 98 & 116.

<sup>142</sup> Daniel de Bruyne was a jeweller and was also active in real estate speculation, maritime insurance and organizing lotteries. His double-entry journal has been preserved because it was confiscated when de Bruyne and his patron, Christoffel Pruynen were implicated in a large-scale government fraud case. De Bruyne noted fifty-five bonds in this journal. CAA, Insolvente Boedelkamer, IB # 788, Journal Daniel de Bruyne.

<sup>143</sup> The 's-Hertogenbosch merchant Jaspas van Bell sold locally-bleached linen, pins and knives to Antwerp merchants and in Spain. Formsma and Pirenne, *Koopmansgeest Te 'S-Hertogenbosch*.

<sup>144</sup> The two nephews traded in textiles and grain and had agents in Lyon and Danzig. Nick Van Den Brulle, "De Commerciële Praktijk in Het Zestiende-Eeuwse Antwerpen Aan De Hand Van Registers Uit De Insolvente Boedelskamer" (Master, Universiteit Gent, 2010).

<sup>145</sup> CAA, Gebodboeken, Pk # 913-929 (1439-1794). Published in: P. Van Setter, "Index der gebodboeken," *Antwerpsch Archievenblad* 1, no. 1 (1864). (1489-1620). Materné has also used these references and quantified the number of lost bonds, but nothing more. Materné, "Ter beurze", 62.

<sup>146</sup> Using the gold and silver values of a d. gr. Fl. from Verlinden, *Dokumenten voor de geschiedenis van prijzen en lonen in Vlaanderen en Brabant*, II, xxxvi-xxxix and Robert C. Allen's Antwerp wage data: <http://www.iisg.nl/hpw/data.php#europe>

| Source                          | Period    | Number of bonds | Mean   | Median | Std. Dev. |
|---------------------------------|-----------|-----------------|--------|--------|-----------|
| <b>Aldermen's register acts</b> | 1479-1514 | 339             | 6,335  | 2,551  | 12,547    |
| <b>Certificates</b>             | 1479-1514 | 44              | 12,517 | 6,133  | 15,653    |
| <b>Civil court sentences</b>    | 1495-1544 | 87              | 13,168 | 4,195  | 27,864    |
| <b>Lost bonds</b>               | 1546-1587 | 304             | 18,462 | 9,491  | 863,835   |
| <b>Merchant account books</b>   |           |                 |        |        |           |
| - <b>Frans De Pape</b>          | 1539-1547 | 120             | 6,225  | 5,645  | 3,474     |
| - <b>Herman Janssens</b>        | 1551-1570 | 54              | 5,618  | 3,070  | 7,995     |
| - <b>Christophe Plantin</b>     | 1559-1589 | 26              | 13,108 | 1,649  | 23,204    |
| - <b>Daniel De Bruyne</b>       | 1561-1568 | 55              | 18,254 | 7,776  | 31,490    |
| - <b>Jaspar Van Bell</b>        | 1563-1566 | 29              | 8,562  | 4,050  | 12,001    |
| - <b>Moriel</b>                 | 1567      | 16              | 3,017  | 3,270  | 2,030     |
| <b>Merchant inventories</b>     |           |                 |        |        |           |
| - <b>Jan Spierinck</b>          | 1565      | 35              | 12,858 | 2,502  | 39,608    |
| - <b>Jan Gamel</b>              | 1572      | 59              | 32,551 | 10,109 | 65,017    |
| <b>Notarial acts</b>            | 1540      | 108             | 13,603 | 6,067  | 25,193    |
| <b>Total</b>                    |           | 1276            | 12,615 | 5,184  | 36,018    |

The above table demonstrates that there was remarkable variety in bond values which points to a diversified market for such instruments: IOU's could be drawn up for both small and large amounts of money and for very different ends. The valuable bonds of Jan Gamel were mainly financial assets while those of Frans De Pape and Herman Janssens emanated from commodity transactions; Christophe Plantin was owed small amounts of money by his workers which were registered as bonds and was indebted for substantial sums to his financiers. One would expect bonds registered by the aldermen (register acts and certificates) and by notaries to worth more since a cost had to be paid for registration. The sample does not entirely corroborate this finding: the aldermen's register acts contain bonds with values in grams of silver which are well below the rest of the sample. The notarial acts, on average, registered bonds in the upper segments of the market, yet also smaller bonds could be registered by a notary. Not surprisingly, the bonds signaled as lost, were relatively valuable.

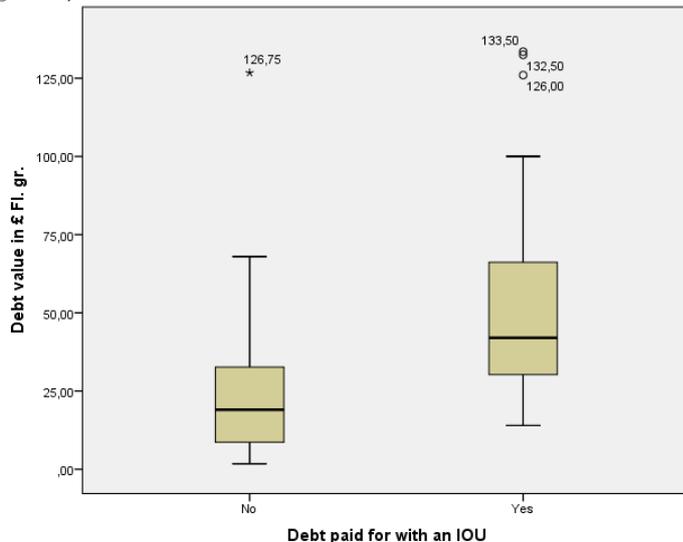
Sources with sufficient data on the identities of the creditor and debtor mentioned in the bonds (aldermen's register acts (Doehaerd), civil court sentences, lost bonds and notarial acts) reveal details about the interaction between the groups of foreign and native traders active in sixteenth-century Antwerp. In the period 1491-1514 foreign and native traders had their bonds registered by the secretaries of the aldermen more often when their counterparty was respectively a native or a foreigner.<sup>147</sup> Merchants turned more quickly to the civil court to dispute bonds between

<sup>147</sup> N=145, Cramer's V= 0,371.

either foreigners or natives or the aldermen to have a lost bond blocked.<sup>148</sup> A similar pattern is true for the registration of bonds by a notary in 1540.<sup>149</sup> This points to an increased need to either formalize or formally dispute a bond when one crossed the boundaries of their own merchant group.<sup>150</sup> Neither the group of foreigners or the group of native traders emerges as the most capitalized creditors; every source gives a different weight to both of them.<sup>151</sup>

\*\*\*totale markt: De Pape\*\*\*

The primitive account book of Frans de Pape, a trader in English and Flemish textiles, provides detailed data on how and when bonds were used in practice in a period (1539-1547) when, as shown above, the legal rules on bonds were changing quickly. The book records all de Pape's purchases (N=274) at the Brabant fairs and how he would pay them (in cash, with an IOU or in goods).<sup>152</sup>



Frans de Pape paid his larger debts (starting at £ 30 Fl. gr.) mostly paid with an IOU. 69 of the bonds were paid out to de Pape's original creditor; in 52 cases the beneficiary was not the original creditor and hence de Pape's bond was transferred. In one case, de Pape explicitly noted he paid the bond to the bearer.<sup>153</sup> Assignment was precisely put into laws in these years. Unregistered debts were much less likely to be paid out to a third party.<sup>154</sup> De Pape also paid his own debts with bonds owed to him.<sup>155</sup> Another effect of legal change is evident in how de Pape dates his debts: in the beginning of the period covered by the account book all debts are structured according to the fair where they were contracted; in the later 1540s he writes down precise calendar dates. This change was most likely effected by the 1541 ordinance on the precise dates of the fairs and their payment periods. De Pape's foreign creditors, mostly English Merchant Adventurers, preferred to receive a bond from de Pape rather than an unregistered debt; his native creditors were less discriminatory.<sup>156</sup> This preference for bonds by the foreign creditors was not due to a higher value of the debts owed to them.<sup>157</sup> Because de Pape meticulously noted

<sup>148</sup> Civil court sentences N=87, Cramer's V= 0,437; lost bonds N=304, Cramer's V=0,15.

<sup>149</sup> N=106, Cramer's V=0,289.

<sup>150</sup> On cross-cultural trade: Philip D. Curtin, *Cross-Cultural Trade in World History* (Cambridge: Cambridge University Press, 1984). And the more recent: Francesca Trivellato, *The Familiarity of Strangers: The Sephardic Diaspora, Livorno, and Cross-Cultural Trade in the Early Modern Period* (New Haven: Yale University Press, 2009).

<sup>151</sup> Measured by average bond value in grams of silver in crosstabs on creditor and debtor identity.

<sup>152</sup> 120 purchases were paid for by a bond, 154 were settled in another way.

<sup>153</sup> CAA, Insolvente Boedelkamer, IB # 776, Jaarmarktboek Frans De Pape, 50v.

<sup>154</sup> 125 payments to the original creditor vs. 28 to a third party.

<sup>155</sup> CAA, Insolvente Boedelkamer, IB # 776, Jaarmarktboek Frans De Pape, 50v.

<sup>156</sup> Foreign creditors: 73 bonds & 46 unregistered debts; native creditors: 44 bonds & 99 unregistered debts.

<sup>157</sup> Average bond owed to a foreign creditor = £ 55.2 Fl. gr. opposed to average bond value owed to a native creditor = £ 53.3 Fl. gr.

the payment dates (both the ones written in the bond and the actual payment dates), we can investigate the relation between the timing of the debt, whether it was embedded in a bond or not, and its value. The average expected duration of debts paid for with a bond was 27 days longer on average than non-bond debts.<sup>158</sup> No relation could be observed between both the expected and the real duration of the payment and the value of the debt and between the duration of delays and the value of the debt.<sup>159</sup> The number of payments executed was positively correlated with the value of the debt.<sup>160</sup> De Pape did not need more time for larger debts but he did adopt different payment policies for them. For 334 bonds the expected duration is known: 88.6 % of the bonds had to be repaid within a year, 70.7 % within six months.<sup>161</sup> Hence, IOU's were used mostly to structure short-term debt. Not all creditors and debtors were punctual in payment of their bonds: in 1585 a widow discovered a small silk bag containing an IOU owed to her late husband which was six weeks in arrears.<sup>162</sup> For 95 bonds from the mercantile account books of de Pape, Moriel, Plantin and Van Bell, the difference between the stipulated payment deadline and the actual last payment could be calculated.<sup>163</sup> 16.8 % of the bonds were paid before the specified deadline, 46.3 % with one month delay and 80 % with two months delay. On average, bonds were paid within 41 days.<sup>164</sup> Malynes wrote in his *Consuetudo* "if within one month after, it is accounted very good payment".<sup>165</sup> In some cases there was no deadline: Jacob van Valckenborch was to repay the money he had received whenever he could.<sup>166</sup> Explicit terms were more advantageous than such open-ended contracts because a merchant was always aware of upcoming bond payments; however, open-ended loans, often extended by family members, could be withdrawn on quick notice.<sup>167</sup> It has been shown for late sixteenth- and early seventeenth-century Amsterdam that merchants allowed for bills to roll over on expiry for a period of up to two years.<sup>168</sup> Such practice could not be found in the account books of any Antwerp merchant.<sup>169</sup> This does not mean that IOU conditions could not be renegotiated. Herman Janssens allowed his debtor Henric van Paessen to pay his bill in March 1559, even though it should have been paid in July 58.<sup>170</sup> Renegotiation could also be an excuse for late payers: Jeronimus de Cock argued that he had been granted an extension by his creditor, but the latter formally denied that and de Cock was sentenced to pay forthwith.<sup>171</sup> Surprisingly, the de Pape account book does not offer any indication of interest rates paid on the debts; the purchase price always matches the amount paid afterwards. Interest rates on bonds were mostly hidden in the value of the bond or covered up as a fee for not paying immediately in cash. The central government set the legal maximum interest at 12 %; all interests above this

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<sup>158</sup> Expected duration of bond-debts = 134.6 days, non-bond-debt = 107.8 days. Real duration of bond-debts = 174.2, non-bond-debts = 144.4.

<sup>159</sup> All measured in days. Linear regressions on the de Pape data. The relation between the specified duration of the debt in the bond and its value is equally weak for the entire sample of bonds (not significant,  $R=0.041$ ).

<sup>160</sup>  $R=0.528$ .

<sup>161</sup> 6 months (N=63), 3 months (N=50) and 4 months (N=48) were the most frequent terms.

<sup>162</sup> CAA, Gebodboeken, Pk # 216, 1585, 464r.

<sup>163</sup> Number of days: actual final payment prior to expected final payment is a negative number, actual payment after expected payment is a positive number.

<sup>164</sup> Minimum = - 65 days; max. = 340 days. Std. Deviation = 61.82. There is no significant correlation between the value of the debt and the delay of final payment.

<sup>165</sup> Malynes, *Consuetudo, Vel Lex Mercatoria, or the Ancient Law-Merchant : Divided into Three Parts: According to the Essentiall Parts of Trafficke. Necessary for All Statesmen, Judges, Magistrates, Temporall and Ciuile Lawyers, Mint-Men, Merchants, Marriners, and All Others Negotiating in All Places of the World.* Chapter XII

<sup>166</sup> CAA, Gebodboeken, Pk # 216, 1580, 244r

<sup>167</sup> Gelderblom, "The Golden Age of the Dutch Republic", 166-167.

<sup>168</sup> Gelderblom and Jonker, "Completing a financial revolution", 647. Also for roll-over over loans: Kole and Van Bochove, "The private credit market of eighteenth-century Amsterdam", 11.

<sup>169</sup> Mostly because Janssens., De Bruyne, De Pape etc. only seldom mention IOU's with themselves as debtors in their account books.

<sup>170</sup> MPM, Manuscripts, Arch. 681, Journal Herman Janssens, 1558, 70r.

<sup>171</sup> CAA, Vierschaar, Sentence books, V # 1239, 1544, 113v.

ceiling were considered usurious.<sup>172</sup> In 1582 city law declared that creditors were free to set the interest rates on bonds, provided they were not usurious.<sup>173</sup> In a few cases I was able to find implicit interest rates on bonds. For example, Franchois van Lare had borrowed £ 100 gr. Fl. from Daniel de Bruyne in January 1561 and had to pay £ 106 gr. Fl. back six months later (12 % per annum). The inventory of Melchior Schetz and his wife shows interest rates on bills obligatory owed by Schetz between 5.5 and 8 %.<sup>174</sup> The account books of Van Bell, Moriel and Plantin provide explicit interest rates between 6 % and 16.6 %.<sup>175</sup> the Moriel received 108.5 guilders which they paid back after 75 days with a 3 % interest, which would be 14.5 % on an annual basis, which was above the legal ceiling.<sup>176</sup> This goes to show that interest rates depended on the person and the required term. The 1582 Costuymen specified that the rate for bonds specifying the maturity date was 6.25 %.<sup>177</sup> The text also explicitly stated that everyone, not only merchants, could make use of the instrument. Herman Van der Wee has stressed the psychological effect on investments caused by the falling interest rates throughout the sixteenth century: smaller merchants used short-term bonds to finance their enterprise.<sup>178</sup> In Amsterdam interest rates on IOU's dropped from 8 % to 6.75 % between 1596 and 1612 and to less than 5.5 % in 1620.<sup>179</sup> The Antwerp expat trader Hans Thijs funded a large part of his enterprise with bills obligatory in the period 1600-1610.<sup>180</sup>

In late-sixteenth-century Amsterdam the letter obligatory developed a means to finance enterprise and became detached from actual commercial transactions in commodities.<sup>181</sup> Hence, the bill evolved into a full financial instrument. Early signs of this detaching of bonds from commodity transactions are already visible in Antwerp: a 1559 ordinance refers to "lettres d'obligations, tant de finances, changes que marchandises". IOU's could thus be used for both commodity transactions and for pure finance.<sup>182</sup> In that same year, Valerius Rutz wrote two fictive obligations of £ 1,261 and 1,350 gr. Fl., respectively, neither of which pertained to commodity transactions. He gave these to a broker, Jacob van Valckenborch, who was to try to raise money with the obligations as collateral. Jacob van Valckenborch promised to return the bonds but fell into financial difficulties and gave the bonds to one of his creditors, who in turn sued Rutz for payment.<sup>183</sup> Jan Gamel started his career as a silk cloth trader but shifted to pure finance at the end of his life. He supplied fellow merchants with loans in the form of bills

<sup>172</sup> Laurent, Lameere, and Simont, *Recueil des ordonnances des Pays-Bas: 2e série, 1506-1700*, IV, 4 October 1540. See also: Van der Wee, *The growth of the Antwerp market*, II, 352-354.

<sup>173</sup> **1582 Impressae (Costuymen)** Titel 51 artikel 13

<sup>174</sup> De Groote, "De vermogensbalans", 238-239.

<sup>175</sup> 19 observations. Average interest rate = 7.76 %, median interest rate = 6.25 %.

<sup>176</sup> Van Den Brulle, "De Commerciële Praktijk".101

<sup>177</sup> Costuymen Impressae 1582, II, 13. Also quoted in: Oscar Gelderblom and Joost Jonker, "Completing a Financial Revolution: The Finance of the Dutch East India Trade and the Rise of the Amsterdam Capital Market, 1595-1612," *The Journal of Economic History* 64, no. 03 (2004): 647.

<sup>178</sup> Herman Van der Wee, "Das Phänomen des Wachstums und der Stagnation im Lichte der Antwerpener und süd-niederländischen Wirtschaft des 16. Jahrhunderts," *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte* 54, no. 2 (1967), 230-232. Van der Wee provides sparse data on interest rates on commercial deposits from fair to fair for the period 1561-1584 and on short-term loans to the authorities in the period 1511-1555. Annual interests on commercial deposits ranged between 4 % and 12 % (average of 7.16 %): Van der Wee, *The growth of the Antwerp market*. I, 525-528. Discussions on the importance of falling interest rates in the late middle ages and the early modern period can be found in: Epstein, *Freedom and growth*, 17-29; Gregory Clark, *A farewell to alms: a brief economic history of the world*. (Princeton: Princeton University Press, 2007), 167-171; Jan Luiten van Zanden. *The long road to the Industrial Revolution: the European economy in a global perspective, 1000-1800*. (Leiden: Brill, 2009), 22-23.

<sup>179</sup> Gelderblom, "The governance", 629-630; Gelderblom and Jonker, "Completing a financial revolution", 663.

<sup>180</sup> Oscar Gelderblom, "The Governance of Early Modern Trade: The Case of Hans Thijs, 1556-1611," *Enterprise & Society* 4, no. 4 (2003): 628.

<sup>181</sup> Gelderblom, "The governance", 627-628; Gelderblom and Jonker, "Completing a financial revolution", 647-648.

<sup>182</sup> Laurent, Lameere, and Simont, *Recueil Des Ordonnances Des Pays-Bas: 2e Série, 1506-1700*. V, 30.

<sup>183</sup> CAA, Vierschaar, Sentence books, V# 1249, 52v.

obligatory, which explains the relatively high values of the bonds recorded in his inventory.<sup>184</sup> Bills obligatory were pivotal to (re-)start mercantile companies: during the 1576 Spanish Fury Christophe Plantin had to pay a large ransom and afterwards he needed to repair his printing enterprise; for this he required new capital which he got from his former partners Charles, Daniel and Frans van Bombergen on April 6 1577. Hence, Plantin turned to bills obligatory to finance the continuation of his firm. In October 1582 none of £ 1600 Fl. gr. was repaid to the Van Bombergen and a new and complex IOU contract was drawn up: Plantin was to repay the Van Bombergen or third parties to whom parts of the debt were assigned in installments of six months at the Frankfurt fairs (where the Van Bombergen were active). Besides a general collateral, specific houses in Antwerp were specified as surety for the bond. All capital was paid back by September 1588.<sup>185</sup>

Since bills obligatory were mostly a means of suppliers' credit (and not a formal loan) and postponed payment between a buyer and a seller, one would not expect financial intermediation as was provided by seventeenth-century London deposit bankers and eighteenth-century Parisian notaries.<sup>186</sup> While it is impossible to assess the overall importance of intermediaries on the Antwerp market for bonds, we do find several instances of the presence of brokers and cashiers working as intermediaries.<sup>187</sup> Cashiers looked after their clients' money, ensured they had access to reliable coins, performed book keeping duties and executed payments on behalf of their clients; cashiers could work independently and as employees.<sup>188</sup> Besides handling and passing on bonds, brokers, cashiers and other intermediaries were also involved in the discounting of bonds, i.e. buying a bond before maturity at a price (premium) lower than the bond's nominal value. Such discounting of debts originated in the medieval practice of creditors who, when in need of cash, requested an earlier payment from their debtor in exchange for a rebate.<sup>189</sup> Van der Wee discovered the earliest reference (1536) of discounting a bill obligatory in Antwerp in the papers of the English merchant Thomas Kitson. Kitson had sold a bill owed by a Lübeck merchant for cloth, payable at the Bamis fair, during the earlier Pentecost fair to the Antwerp merchant Aert van Dale. The premium was £ 5 gr. Fl. in every hundred pounds minus 5 s., or a 4.9 % premium.<sup>190</sup> In 1560 the Antwerp city secretary Alexander Grapheus reported to the Council of Brabant how several cashiers and brokers were buying up bills obligatory during the Easter fair at a 1 or 1.5 % premium instead of assigning a bill. Grapheus suggested that the Council forbid such practice.<sup>191</sup> Unfortunately, it is unclear how the Council reacted to this request. Merchants such as Daniel de Bruyne or Jan Spierinck turned to discounting when they needed ready cash.<sup>192</sup> For wealthy merchants or "moneyed men" according to Malynes, discounting could even

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<sup>184</sup> Helma De Smedt, "Antwerpen En De Opbloei Van De Vlaamse Verhandel Tijdens De 16e Eeuw. Rijkdom En Inkomen Van De Antwerpse Koopman Jan Gamel Volgens Zijn Staat Van Goed, 1572" (Katholieke Universiteit Leuven, 1970), 80 & 95.

<sup>185</sup> MPM, Manuscripts, Arch 98 f° 463.

<sup>186</sup> Stephen Quinn, "Goldsmith-Banking: Mutual Acceptance and Interbanker Clearing in Restoration London," *Explorations in Economic History* 34, no. 4 (1997); Peter Temin and Hans-Joachim Voth, "Banking as an emerging technology: Hoare's Bank, 1702–1742," *Financial History Review* 13, no. 02 (2006); Hoffman, Postel-Vinay, and Rosenthal, "What do notaries do?"; Hoffman, Postel-Vinay, and Rosenthal, *Priceless markets*; Hoffman, Postel-Vinay, and Rosenthal, "Information and economic history."

<sup>187</sup> The 1541 ordinance on bonds also indicates the handling of bonds by brokers: brokers who had received a bond owed to their client should quickly hand over the bond and they were allowed to transfer the bond to someone else only with explicit permission of their customer. *Recueil des ordonnances des Pays-Bas: 2e série, 1506-1700: 2de reeks, 1506-1700*, (Brussel), IV, 331.

<sup>188</sup> Aerts, "The Absence of Public Exchange Banks", 101-102.

<sup>189</sup> Van der Wee, *The growth of the Antwerp market*, II, 349; Kohn, "Bills of exchange and the money market to 1600", 27.

<sup>190</sup> Van der Wee, "Sporen van disconto te Antwerpen tijdens de XVIe eeuw."

<sup>191</sup> de Smedt, *De Engelse natie te Antwerpen*, 573-574.

<sup>192</sup> CAA, Insolvente Boedelkamer, IB # 788, Journal Daniel de Bruyne, 29. The discount rate is unknown. CAA, Processen, 7 # 12144, inventory of Jan Spierinck.

become a lucrative activity.<sup>193</sup> Jan Gamel even organized the purchasing of commercial paper into a partnership. Caspar Crop put in one third of the capital with which Gamel bought several bonds from Jacob van Valckenborch owed by Valerius Rutz.<sup>194</sup> It remains impossible to evaluate, based on the presented source material, how common the practice of discounting bills obligatory was. Most of the references concern the 1560s and only a few examples of discounting could be found in the mercantile account books. Because most bonds were short-term debt (no significant risk of the death or insolvency of the debtor in the long run) and because they could be assigned to a third party (recouping the full value of the bond), it is probable that discounting was not a common choice for merchants.<sup>195</sup> Yet, they always had the option, when in need of cash, to discount the bond.

The IOU payment system was a decentralized structure without strong intermediaries or institutions such as banks. This system had a potential for decentralized clearing through *rescontre*, a periodical meeting, often embedded in a fair, where all merchants cleared mutual debts and organized clearing chains so that only the net amounts of money needed to be settled.<sup>196</sup> However, no signs of organized *rescontre* sessions involving large groups of merchants could be found for sixteenth-century Antwerp. There is only evidence for the mutual clearing of merchant-to-merchant debts<sup>197</sup>

## V

Shakespeare chose Venice and the Doge court as the scene for his play “The Merchant of Venice” in which a Jewish moneylender Shylock insisted on being paid by his Venetian noble creditor Antonio, uttering the words mentioned in the title of this article.<sup>198</sup> Though less scenic, sixteenth-century Antwerp could have been another option for the play to take place, for Antwerp’s trade and finance relied on similar legal institutions and financial instruments. Lawmakers in the city and the central government stepped in to secure the private-order, reputation-based bond system, partly at the request of the mercantile community. They provided registration, if necessary, legislation on and contract enforcement of privately circulating pieces of paper. Lost bonds were signaled and cancelled. The courts accepted private writings as evidence in court cases and tried to improve its efficiency by new procedures such as the *namptisatie*. Legal guarantees were installed for bonds which created a responsibility cascade: the assigner was remained liable for the bond if the assignee could not obtain payment from the original debtor. The authorities and the merchant community alike sought to balance the flexibility of private obligations with legal guarantees. It is striking that they did not take the step of establishing central registration, such as the compulsory registration of annuity sales concerning Antwerp real estate. In other cities, such as Rouen and Lisbon, registration of bonds did take place in special registers. Antwerp merchants could choose to register their bonds, for example through a notary, but were not obliged to do so. Hence, merchants could base their decision to formalize the bond or not on the identity of the debtor, transferring creditors and the characteristics of the transaction underlying the bond.

Antwerp merchants’ and lawmakers’ selection of a particular financial instrument depended on the commercial city’s starting position as a fair and on the peculiar absence of banks or

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<sup>193</sup> Malynes, *Consuetudo, Vel Lex Mercatoria, or the Ancient Law-Merchant : Divided into Three Parts: According to the Essentiall Parts of Trafficke. Necessary for All Statesmen, Iudges, Magistrates, Temporall and Ciuile Lanyers, Mint-Men, Merchants, Marriners, and All Others Negotiating in All Places of the World.* Chapter XII

<sup>194</sup> De Smedt, “Antwerpen en de opbloei”, II, bonds nr. 163 en 217.

<sup>195</sup> Brulez, *De firma Della Faille*, 403-404; Van der Wee, *The growth of the Antwerp market*, 351. Van der Wee, “Antwerp and the new financial methods”, 163.

<sup>196</sup> Lars Boerner and John William Hatfield, “The economics of debt clearing mechanisms,” (Free University Berlin, School of Business & Economics, 2010).

<sup>197</sup> Van der Wee, “Antwerp and the new financial methods”, 151.

<sup>198</sup> William Shakespeare, *The Merchant of Venice*, Act III, Scene III, c. 1596-1598.

intermediaries performing banking functions. With the growth of the merchant population came the need to tweak the bond so that it could continue to function as a prime means of payment. Hence, economic and legal structure influenced the institutional selection process and the subsequent transformation of the bond as a financial instrument. As a result of that process, an archaic debt instrument evolved into a highly flexible contract to underpin many commodity and, later on, purely financial transactions. It was a versatile instrument which could solve both old and new problems. Yet, the innovation of the bond was not quickly picked up by every city in the Low Countries (assignment was not recognized in many Low Countries cities); this shows that Antwerp and its circle of traders might match Fernand Braudel's bell jar of preindustrial capitalism. However, the 1582 Costuymen stipulated that non-merchants in Antwerp could equally rely on bonds at reasonable interest rates, making the instrument accessible to broader layers of society. Drawing on the heterogeneous set of bonds from different source types demonstrated that the bills obligatory market was a variegated one, where traders could structure their contracts on an individual basis, whether the bond was formalized or not. The micro-analysis of the de Pape's and other traders' accounts has shown how merchants used bonds in day-to-day transactions. Bonds were but one of several instruments which merchants could use to fund their businesses; future research should look into mercantile documents to determine why merchants used one or the other financial instrument or technique and why authorities came to develop certain institutional arrangements governing trade.

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