



Missing/Misfiled Deceased (& Other) Estate Papers in the TEPC /

**Transcription of Estate Papers from the Orphan Chamber at the Cape of Good Hope
(www.tanap.net)**

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The transcription project for **TANAP (Towards A New Age of Partnership)** sponsored by the Royal Netherlands Government known as the **Transcription of Estate Papers from the Orphan Chamber at the Cape of Good Hope (TEPC)** together with the accompanying booklet *Household Inventories at the Cape: A Guidebook for Beginner Researchers*¹ is a welcome addition making *archivalia* more readily accessible via internet and by computer. Certain shortcomings and caveats are pointed out hereunder in the hope that some of these may be remedied in the future.

The project's guidebook and the cd-rom can be misleading. Not all estates are being / have been transcribed: only **extant solvent deceased** estates administered by the Master of the Orphan Chamber (MOOC) which records are housed in the Cape Archives. Insolvent estates or divorce/separation or division of estates in general – what would have been termed *boedelscheijding* (literally ‘separation of estates’) - have not been included in the project, nor have any other estates that may have been judicially attached. Also, the term ‘household’ *sensu stricto* is too limiting as it excludes all other (also landed) property inventorized in these particular *archivalia*. Furthermore, it appears that many of the earlier known solvent deceased estates no longer exist, *inter alia*:

1. Frederick Verburgh
2. Maria aux Brebis (from Wesel)
3. Pieter Hackius
4. Catharina Steens (from Husum)
5. Barbara Geems (from Amsterdam)
6. Evert van Guinea
7. Anna van Guinea
8. Geertruyd Mentings (from Hasselt)
9. Pieter Meerhoff (from Copenhagen)
10. Eva Meerhoff (born Krotoa)
11. Hendrik Lacus (from Wesel)
12. Pieter van Clinckenberg (from Middelburg)
13. Joannes Coon (from Sommelsdijk)
14. Wouter Cornelisz Mostaert (from Utrecht)
15. Roelof de Man (from Culemborg)
16. Geertruyd Meeckhoff (from Steenwijk)
17. Catharina van Paliacatta
18. Cornelis Claesz: (from Utrecht)
19. Thielman Hendricks (from Utrecht)
20. Wijnand Leenderts: Bezuidenhout
21. Hans Ras (from Angeln)

Anybody researching estates, deceased or otherwise, for the early colonial period needs to bear in mind that estates were prepared by at least *three* separate legal institutions:

- The *Wees Camer* [Orphan Chamber] - records resorting under *archivalia* series (ref: **MOOC**) [Master of the Orphan Chamber] housed in the Cape Archives



- The *Raet van Justitie* [Council of Justice] - records resorting under the series (ref: **CJ**) housed in the Cape Archives
- The *Schepenbank* [Court of Alderman or Magistrate's Court] - records resorting under the *Transporten en Schepenkennisse* archival series housed at the Cape Town Deeds Office but available on microfilm (ref: **CTD**) at the Cape Archives

Margaret Cairns² initially alerted researchers to the fact that the first deceased estates processed by the Orphan Chamber only commence in 1673 - and even then only one deceased estate seems to have survived (that of Francois Champelaer).

Significantly, this was in the year of the so-called massacres at *Moordkuil* where seven free-burgers (including Champelaer himself) went on a hunting expedition into the interior and were killed by indigenes (later attributed to a sub-grouping of the Cochoqua known as *Gonnema's Hottentots*) and which devastating and singular event effectively brought about the formation of the Orphan Chamber (*Wees Camer*) and the appointment of an Orphan Master (*Wees Meester*) following an unanticipated abundance of free-burgher widows and orphans in the virgin colony:³

Colin Graham Botha was of the opinion that records preserved have, in some cases, now disappeared and he cites the instance of the estate of Dirk Verwey and his wife, Tryntjie Theunis(sen) dated 15.6.1673 which appears in the index but is not to be found in the bound volume. This is unlikely to be an isolated case. [Note: C.G. Botha, *A Brief Guide to the various classes of documents in the Cape Archives for the period 1652-1806*, Cape Times, 1918, p.45 and note. Since Botha wrote this booklet, estates for as early as 1670 have been filed in the MOOC series namely vol. 23/5, 1670-1701. Whether these papers have been correctly assigned to the Orphan Chamber is debatable for two reasons, namely their date and the body handling them. According to Botha the Orphan Chamber came into being 'about 1673' (p.45). Tennant, quoting appropriate sources, gives the date as 1691 p. 45, note). The earliest preserved *venduroolls* for this body commence in 1691 (MOOC 10/1) and the inventories (excluding those in MOOC 23/5) in 1692. MOOC 8/1 if the index is to be believed, but there are two in the volume that predate 1692 namely that of Francois Champelaer indexed for 20.10.1673 but according to a marginal note 'filed 1.1.1675'. The second inventory is that of Elbert Diemer dated 29.8.1685. Studying the inventories filed in MOOC 23/5 reveals that they were handled by the Council of Policy by the secretary Hendrik Crudorp and NOT by the Orphan Chamber. This entire issue seems to require some investigation.

The surviving *archivalia* - especially from the Dutch colonial period - are ostensibly so comprehensive that researchers are quick to assume that all or most records survived.

However, the Smallpox epidemic of 1713 which decimated a major proportion of the Cape of Good Hope's colonial population (not to mention the lesser recorded indigenous Khoe/San population) appears to have been at least one calamity that impeded official record-keeping.

For example, the volumes CJ 2598 (1702-1714) and CJ 2650 (1709-1715) which both cover wills filed in 1713 were not prepared by the same legal body. The former was prepared by the Council of Justice while the latter drawn up by the Council of Policy showing that a division of labour of sorts had to be provided for to cope with the deluge of work. Even so, many deceased estate of 1713 appear to have never been legally processed and further research is necessary in order to ascertain how many deceased estates never came to be formally administered.

To illustrate further complexities arising from the above-mentioned unfortunate bureaucratic trinity, more examples can be mentioned:

1. Occasionally some wills and inventories were filed together - rather than separately



which one accepts to have been the norm. An interesting example:

- MOOC 7/1/61, no. 63 (Will: Johanna Catharina Alexanders, wed:e Godfried Smitsdorpp / Smitsdorff van dezen uithoek geboortig; her son: Andries Ernst Smitsdorff, dated 10 June 1811)
- MOOC 7/1/61, no. 64 (Inventaris: Johanna Catharina Alexanders, de wed:e Godfried Frederik Smitsdorff, dated 10 June 1811):
 - 1 Huis
 - 2 Slaven Jongens
 - 1 Kleere Kast
 - 1 Ledekant
 - 2 Tafels

2. In the MOOC-series there exist certain volumes containing misfiled, ‘unfiled’ and miscellaneous estate papers. These were probably collected from papers that had fallen out of previous bound volumes and indications are that some may have been removed for exhibition purposes but never put back in their original volumes.

MOOC 14/2 (Miscellaneous Estates) – the index of which the writer has transcribed and follows, hereunder:

Michiel Ley : Engela Breda wed. M.L.	132
Helena Francina	129
Maria Visser	128
Frederik van Santen	125
Jan Groenedijk	124
Bartholomeus France	120
Adriaan van der Oever	101
Gerrit Meyer	110
Manuel van Macasser	111
Adam Leendert van Nieuwenbroek	116
Lous [<i>sic</i>] Corbon	----
[Note: Actually Helena Douw Wed:e van den Onder Coopman Jacob Verhaik]	
Theunis Dirksz van Schalkwyk	117
Michiel Basson	119
Hans Casper Gerringer	115

MOOC 14/212: Miscellaneous deceased estate papers of Anthonij Jansz: van Bengale

These appear to be remnants of a testate deceased estate for the free-burgher and free-black Anthonij Jansz: van Bengale. These have all been transcribed *verbatim* by the writer and will feature in a separate work by the same writer: ‘*Groote Catrijn Cape Mother* (c. 1631-1683) featuring Beyers, Snijman, De Savoye & Viljoen Genealogies’.

MOOC 8/75 (Unbound Inventories)

The earliest inventory dates back to 1673 and is that of Heinrich Everts: Schmidt (from Ibbenbueren), partner (*compagnon*) of Thielman Hendricksz: (from Utrecht) who was massacred in 1673 at Moordkuil.

MOOC 23/5 (Inventaris ofte Boedelscheijdingh) – the index of which the writer has transcribed and follows, hereunder:



	A	
Albert van Brence [Breughel?]	inventaris	35
Anthonij Meijer C:[ompagnon]s	verclaring	14
Anthonij van Bengale	vercoopinge	53
	B	
	C	
Cornelis Jansz: Botman	inventaris	30
Cornelis van Mispen	scheepenkennis	51
	D	
Daniel Froymanteau van Leijden	inventaris	23
Daniel Froymanteau van Leijden	inventaris	29
De Goes	notitie	39
	E	
	F	
François Schanpelaar	obligatie	2
	G	
	H	
Hugo de Goiker [Goyer]	verzoek verschrift	58
Hesterje Koesermans	inventaris	1
Hilletje Redox	staat en inventaris	3
Hilletje Redox	verclaaring	4
Hendrik van Zuijrwaaarden	staat en inventaris	19
Hendrik van Zuijrwaaarden	taxatie	21
Hendrik Bruijn	inventaris	34
Hendrik Crudop C:s	obligatie	12
Hendrik Evertsz Smit mit [<i>sic</i>] C:s	verclaaring	13
	I	
	J	
Jacob Kloeten	liquidatie	9
Jacob Kloeten C:s	verclaringh	6
Jan Pietersz: van Hoesum	inventaris	10
Jan Pietersz: van Hoesum	inventaris	11
Joris Jansz	Staat en Inventaris	17
Jannetje Gerrarst C:s	verclaaringh	18
Jan van Renven [<i>sic</i>]	inventaris	26
Jan Pretorius	vercopingh	27
Jan Valkenburgh	inventaris	29
Jan Veeling	inventaris	31
Joan Wittebol	inventaris	32
Jan Verbeek	inventaris	36
Jan Verbeek	inventaris	37
Joost Gousz: van Lippinge	inventaris	38
Jan Beijts	inventaris	44
J:b Cruse	venditie	45
Joannes Pretorius	inventaris	47
Joannes Pretorius	inventaris	48
J:b Cruse	obligatie	50
J:b Cruse	obligatie	52
Jacob Claasen Blokdijk c:s	onderhandse obligatie	33
Jan Pietersz Hoesum	obligatie	15
Jacob Klaasen [<i>sic</i>]	notitie	16
[this is Jochum Marquaert & Jan Pietersz van Hoesem]		
	K	
	L	
Loijs Francois C:s	obligatie	49



	M	
Margaritha Frans Meekhoff	verclaaring	20
Marten Leendertsz:	inventaris	28
Martinus van Banghem [Banchem]	ventitie	56
	N	
	O	
Oeloff Bergh	obligatie	54
	P	
Pieter de Neijn	notitie	29
Paij Moosoo [<i>sic</i>] [Moor]		57
Prins Willem	inventaris	46
Pieter Pomer	inventaris	59
	Q	
	R	
Rapport van gecomm:s [re Maijken van den Bergh]		42
	S	
	T	
Thilman Hendrix [actually his widow]	inventaris	41
	U	
	V	
	W	
Wouter Oostewijk	inventaris	40
Willem van Dieden	huwelijken voorwaarde	22
Wouter Cornelisz: Mostaart C:s	verclaaringh	7
Wouter Cornelisz: Mostaart C:s	verclaaringh	8
	X	
	Y	
	Z	

Transporten en Schepenkennis

Anna Böeseken and Margaret Cairns were the first researchers to consult and publish the earliest of these records housed in the Dees Office in Cape Town. These, however, were generally construed and retrieved only in terms of being *deeds of sale* relating to slaves.⁴ Thus only slave registrations, transfers and manumissions came to be published so that these remain unappreciated and untapped sources regarding wills, deceased estates, inventories, sales in execution, antenuptial contracts, etc.

Many deceased estates and inventories were administered in Batavia by the *Schepenbank* (court of Aldermen or magistrate's court). Jim Armstrong refers to the *Heeren Schepenen*.⁵ Little has been written locally about this legal body. Eric Jones explains the *raison d' être* for a *schepenbank* ('magistrate's court' or 'court of alderman') as opposed to the *Raet van Justitie* (Council of Justice):⁶

Under Batavian law, there were two kinds of people: those inside the Company, and those outside the Company, those contributing directly to Company coffers, and those whose financial contribution was only roundabout. Individuals turning a profit for the VOC were given preferential treatment, including their own court system. For VOC personnel and their families and slaves, a separate court system was formed, the *Raad van Justitie* (Council of Justice) with the *Advocaat-Fiskaal* acting as chief prosecutor. This court served as a *forum privilegiatum* for the Company-class and was chaired by a member of the *Raad van Indië* and staffed, in theory, by ranking Company men with legal training. As



for the *burgerbevolking* (civilian population), European or Asian, their cases were heard together in the *Schepenbank* (Court of Aldermen). Though still under the Governor-General, this court was not necessarily staffed by legal professionals and served double duty by running the local police force. Of utmost importance, the *Raad van Justitie* was much better equipped than the *Schepenbank* to try complicated questions of inheritance and complex civil and criminal proceedings. Although important, the non-Company population, whether they were native, foreign Oriental, or European, was not given access to the Company courts. In many cases this put Asians, especially Asian women married to Company men, ahead of non-Company Europeans.

Böeseke states that the name *schepenbank* refers to the courts which were administered in the Netherlands by a *schout* and *schepenen* and in Batavia [present-day Jakarta in Indonesia] administered by 3 officials and 4 free-burghers under the chairmanship of a president. The origin of these courts is said to date back to the Germanic tribe, the Franks, when the *schepenen* or *scabini* administered justice in the cities under their control. The oldest *schepenbanken* date back to the 12th century in the Netherlands and were first found in Brabant. No *schepenbank* as such existed at the Cape. Instead the work of the *schepenen* was done by the commander (later governor) and two officials in lieu of a *schepenbank*. What was done in this capacity was termed *schepenkennis* or *schepenkennisse* which included the drawing up of legal documents involving land transactions (grants, transfers, mapping and registration) and transactions in connection with the sale, transfer and manumission of slaves, wills, inventories, ante-nuptial contracts, notarial agreements, etc.⁷

Endnotes

¹ Carohn Cornell & Antonia Malan, *Household Inventories at the Cape: A Guidebook for Beginner Researchers* (Historical Studies Department, University of Cape Town 2005).

² Margaret Cairns, 'Slave Transfers, 1658-1795. A Preliminary Survey', *Kronos* (1983), vol. 6, p. 26.

³ Mansell G. Upham, 'Making a moordkuil of our Hearts: The Moordkuil Massacre of 1673 and its manifestations' (9 March 1996); M. G. Upham, 'The VOC's Legal Dis/possession of the Cape of Good Hope' (2002).

⁴ These appear transcribed in *Addendum 2* in Anna J. Böeseke, *Slaves and Free Blacks at the Cape 1658-1700* (Tafelberg, Cape Town 1976), pp. 121-194. More transcriptions by J. Leon Hattingh and Rob C.-H. Shell have followed subsequently.

⁵ James C. Armstrong, 'The Chinese at the Cape in the Dutch East India Company Period 1652-1795' (Slave Route Project Conference, Robben Island, 24-26 October 1997), p. 13.

⁶ Eric Jones, 'Wives, Whores, and Concubines: Early Modern Dutch Marriage Law and the Transmission of Family Wealth in Asia' (UC Berkeley).

⁷ Anna J. Böeseke, *Slaves and Free Blacks at the Cape, 1658-1700*, p. 1.

