

Entails in the urban economy

Long-term strategies for asset management in Antwerp and Amsterdam, 16th-18th centuries

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In the past, marriage often was a complex event. The union of man and woman also brought together two lineages – and particularly their assets. Marriage thus created a conflict of interest: the short-term goals of parents was to support the new household, the long-term goal was to support the lineage. To prevent that assets would eventually go to the other lineage, parents included legal constructions in marriage contracts and testaments. These constructions affected marriage patterns and household formation, and hence also economic development – points that have been made in the abundant literature on the dowry.

This paper is about that *other* legal instrument parents used to secure long-term goals with respect to asset management: the entail or *fideicommissum*. Someday, children would inherit from their parents, and how could one be sure that the family-business would not be destroyed by a no-good slacker of a son, or worse, son-in-law? This is why parents often created legal constructions that reduced the leeway children had with inheritances. The downside of this was, of course, that this also affected the decision-making process of households – something that features so prominently in Jan de Vries' *The Industrious Revolution*.¹

Entailment allowed heirs the usufruct of inherited goods, which they had to pass on – usually unaltered – to the next in line. Nobles often used this technique to protect assets which they deemed crucial for the survival of their lineage, such as castles, landed property and fixed incomes. Entails were probably the closest people came to long-term asset management, and therefore they must be considered as a major element affecting marriage strategies, household formation and economic growth.

With respect to the latter, scholars have suggested that entailment hindered the mobility of assets, and thus reduced possibilities for economic growth. Particularly

¹ J. De Vries, *The Industrious Revolution*.

historians of the nobility have made this point, for instance Lukowski, who called the entail 'a millstone around posterity's neck'.² He and others have pointed out that entailment robbed an economy of its flexibility: it prevented asset management, and left heirs with no possibilities to respond to possibilities and threats.

We also encounter these entails also featured in urban economies. Hunecke writes that since the second half of the sixteenth century in Venice '*fideicommissum* and primogeniture became common phenomena' even to the extent that in the seventeenth and eighteenth centuries 'wealthy families had hardly any goods not burdened by *fideicommissum* and freely alienable'.³ This paper looks at the use of entails in two other commercial cities: Antwerp and Amsterdam. To what degree did their inhabitants use entails for long-term strategies? And what effect did entailment have on marriage strategies, household formation and economic development?

As it turns out, entails were scarce in Antwerp, but much more common in Amsterdam. Here, the entail was relatively sophisticated: it allowed testators to protect the lineage, but still allowed heirs to make adjustments. This suggests that parents wanted to provide heirs with a certain flexibility in asset management – and that they probably realized that strict settlements could jeopardize future generations. The paper starts with an introduction to asset management (section 1), then discusses the sources from Antwerp and Amsterdam (sections 2 and 3), and finally explores what this means for asset management (section 4).

1. Usufruct constructions

With the introduction of the testament in Europe, in the Middle Ages, every testator had the freedom to provide over at least a part of his or her estate. This may be regarded as an important step toward full property rights: parents could make use of primogeniture to prevent the scattering of landed property or family businesses. However, testators could also opt to reduce property rights of heirs, particularly by means of usufruct constructions. Heirs were only entitled to make use of inherited goods, and had to pass

² J. Lukowski, *The European nobility in the eighteenth century* (Hampshire/New York 2003) 103.

³ Hunecke, *Der venezianische Adel am Ende der Republik 1646-1797*, 267, 269 [translation CJZ]. Cf. a few examples of entails and usufruct constructions in Venice in the sixteenth and seventeenth centuries A. Bellavitis, *Identité, mariage, mobilité sociale. Citoyennes et citoyens à Venise au XVIe siècle* (Rome 2001) 205-206; M. Chojnacka, *Working women of early modern Venice* (Baltimore/London 2001) 29-30.

these on to their own descendents. The deceased reigned from their graves, restricting property rights of one or more generations.⁴

Usufruct constructions do not only appear in testaments, but also in marriage contracts, where they served to prevent that goods from one of the spouses would end up in hands of the other or the family-in-law. Thus, usufruct constructions were some of the most important instruments to be used for asset management. They helped people to sort out the often complicated movements of goods brought about by marriage.

We are well informed of usufruct constructions among nobles, who used the entail (or *fideicommissum*, *majorasco*) to safeguard the lineage. These could span two generations – the first being only entitled to the usufruct, the second having full property rights – but also more generations. They reduced property rights to castles, land and financial assets, to make sure descendents would not experience social descent.⁵ However, although there are some indications that entails were also used by townsmen and peasants, we know only little about their use among other social groups.⁶ Studying the diffusion of entails in towns would improve our understanding of asset management, for instance by showing how urban elites tried to guard their socio-political positions, and how middle classes managed to survive. Furthermore, this would also help increase our understanding of economic processes, for instance because usufruct constructions had an effect on property rights and the volume of markets for land, houses, capital and financial assets. They also helped create a class of people who could make a living off inalienable property that had been passed on by their ancestors. Both elements have been discussed by historians of the nobility, who stressed that entails had a paralyzing effect on the economic and social position of nobles, and who have linked these to reduced possibilities to improve agrarian production.⁷

2. Entails in the Low Countries

Studies into *fideicommissa* in the relatively urbanized Low Countries are scarce. This comes as no surprise considering that usufruct constructions are usually ascribed to the nobility. Indeed, the most elaborate study available, by Paul Noomen, is concerned with

⁴ Cohn, *The cult of remembrance*, [p-p].

⁵ Cf. general surveys: J. Lukowski, *The European nobility in the eighteenth century* (Hampshire/New York 2003); R.G. Asch, *Nobilities in transition 1550-1700. Courtiers and rebels in Britain and Europe* (London 2003); J.P. Cooper, 'Patterns of inheritance and settlement by great landowners from the fifteenth to eighteenth centuries' in J. Goody et al (eds.) *Family and inheritance* (Cambridge 1976) 192-328.

⁶ G. Delille, *Famille et propriété dans le royaume de Naples (XVe-XIXe siècle)* (Rome/Paris 1985) 121-122; Lukowski, *The European nobility*, 103.

⁷ J.C. Davis, *The decline of the Venetian nobility as a ruling class* (Baltimore 1962) 68-71; Lukowski, *The European nobility in the eighteenth century*, 103, 106.

the predominantly agrarian province of Frisia, in the north of the Dutch Republic.⁸ Noomen used testaments from the fifteenth and sixteenth centuries to reconstruct how the people of Frisia used *fideicommissa* to keep the goods of the family intact. He did this to investigate to what degree entails contributed to the emergence of inequality – a claim made earlier by S.J. Fockema Andreae.⁹

Noomen's approach to the subject is probably most straightforward. However, to do the same and investigate testaments from more urbanized areas is very time-consuming, since these are scattered across notarial archives. However, there are some registers of *fideicommissa* available for a few regions in the Low Countries, and the same goes for registers of requests to cancel *fideicommissa*.

In 1611 the Archdukes of the Southern Low Countries issued their *Eeuwig edict*, prescribing among others that contracts involving nonalienation clauses were to be held null and void, unless they were registered properly.¹⁰ This measure fits right into a more general policy that started under the Habsburgs in the 16th century, which was aimed at registering all sorts of transactions, including sales, mortgages and gifts. Usually, the sovereigns justified registration by referring to several types of abuse that could be countered by allowing local authorities to monitor transfers of real estate.¹¹ Equally important, but usually not mentioned in the decrees, was the possibility to use registers to improve taxation.

This is not to say that abuses did not occur. To a certain degree we may take the problems indicated in the decrees at face value: some people may have found out that a piece of land they bought or accepted as a mortgage was not the property of the seller or mortgager, but merely something the latter held as usufruct.¹² In the sixteenth century the accumulation of several rights on assets, such as mortgages, had reduced transparency in markets and *fideicommissa* most certainly added to the confusion.¹³

Fideicommissa in Antwerp

⁸ P.N. Noomen, 'Consolidatie van familiebezit en status in middeleeuws Friesland' in J.A. Mol (ed.) *Zorgen voor zekerheid: studies over Friese testamenten in de vijftiende en zestiende eeuw* (Leeuwarden 1994) 73-175.

⁹ S.J. Fockema Andreae, 'Voordeelsgoederen in Friesland', *De vrije Fries* 46 (1964) 62-69.

¹⁰ ...egheene clausulen raekende fideicommis, substitutien, verbiedynghen van te laineeren, oft ghelyckelasten gheordonneert by testamenten, donatien of contracten en zullen hebben eeffect van realisatie oft affectatie van recht, ten zy dat de voors. clause van testamenten, donatie oft contracten, inhoudende zulcken last, zy ghemotificeert ende gheregistreert by de Rechteren oft Wetten, daer zulck goeden ghelegghen zyn... (Decree of July 12 1611) (A. Thijs, 'Klapper op het Antwerpse "fidei-commis-boeck"', *Vlaamse stam* II (1966) 325-330, pp. 325).

¹¹ Cf. the 1586 decree issued by Philip II: idem and Zuiderduijn, *Medieval capital markets*, [p-p].

¹² This abuse is mentioned in a decree of December 6 1586 (Thijs, 'Klapper', 325).

¹³ Brand, *Over macht*, [p-p].

Although registration was mandatory in the Dutch Republic and the Southern Low Countries, there are only few of these registers available today. In Antwerp, the *vierschuur* complied with the decree of 1611 and registered *fideicommissa* since then. This provides us with the possibility to get an impression of the use and impact of this technique. Officials recorded *fideicommissa* that came into effect because the testator passed away and this is why the register contains some contracts from before 1611, going back as far as 1560. Furthermore, not all *fideicommissa* mentioned in the register were contracted in Antwerp: the authorities also included contracts recorded elsewhere, but affecting real estate in Antwerp.¹⁴

Figure 1 provides the general trend of *fideicommissa* that were registered. Only two contracts were recorded before the 1610s, which is a bit puzzling because we would expect already existing *fideicommissa* to have come in effect after 1611. Perhaps this lack of data was caused by problems enforcing the decree of 1611? Between the 1610s and 1680s the register has c. 5-10 contracts per decade, but then there is a peak in the 1690s (30 contracts) and 1700s (22 contracts). Afterwards the number of contracts gradually drops, although here we must consider the possibility that the fact that Antwerp stopped recording somewhere after 1758 means that an increasing number of contracts from the first half of the century may never have been recorded in our register.

Women were as likely to record a *fideicommissum* as men (table 1). In three instances we encounter couples creating entails in marriage contracts, for the rest they were created by testators. We have additional data about social status (nobility or clergy) and occupation for 71 out of 168 testators. Only for a few of them this additional data points at a lower social status (for instance the beguine Sara Bacheler, daughter of a baker). For the rest we encounter government agents active in the Council of Brabant, an Archbishop, (former) civil servants of Antwerp and merchants. So based on the additional data the registers provide about social status and occupation it would seem that *fideicommissa* were predominantly contracted by wealthy people. This should not surprise us, since large parts of urban populations simply did not have anything to pass on. Also, people of lower classes probably could not afford to create *fideicommissa* without creating immediate problems for heirs. On the other hand, it seems that in Antwerp middle classes did not create entails either, this in contrast to what happened in Amsterdam (next section).

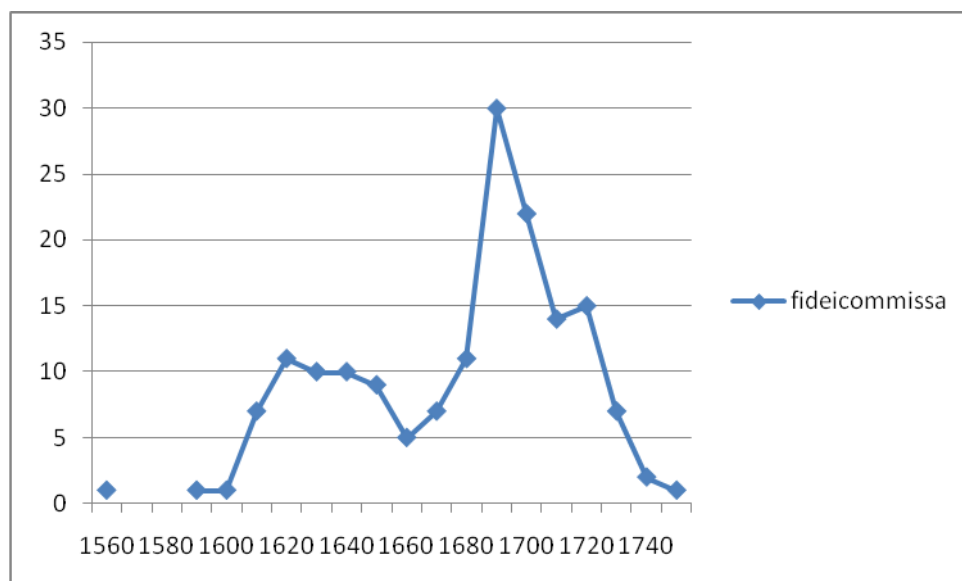
The most striking conclusion of the register from Antwerp surely must be the relatively small number of *fideicommissa* recorded since 1611, on average little over one per year. Elsewhere in the Low Countries we encounter much higher figures, for instance

¹⁴ Thijs, 'Klapper', 325-326.

in the north of the Dutch Republic, in the province of Frisia, where a register much similar to that of Antwerp, covering 1654-1811, includes nearly 2600 *fideicommissa*. Bearing in mind the fact that Frisia (c. 161.000 inhabitants in 1795) was larger than Antwerp (c. 50.000 inhabitants in 1800), it still seems that these financial instruments were much more popular here.¹⁵ Another remarkable element would be that in Frisia, being an agrarian province, only 9% of the *fideicommissa* were created by nobles.¹⁶ Furthermore, we will see shortly that in Amsterdam the number of *fideicommissa* recorded may have been much larger as well.

All of this seems to indicate that the use of *fideicommissa* could differ markedly, even within the Low Countries. One reason for this could be that testators in Antwerp had another option to protect the lineage. Degrijse, in his study into asset management in Antwerp, mentions the possibility to ask permission to appoint custodians who would handle the asset management of descendents who were deemed too unreliable to entrust with assets.¹⁷ This may well have offered parents an alternative to the *fideicommissum*.

Figure 1. Nr of *fideicommissa* recorded in Antwerp per decade



Source: Thijs, 'Klapper'.

Table 1. Testators of *fideicommissa* in Antwerp (N=168)

	N	%
Gender		
Male	84	50

¹⁵ J. de Vries and A. van der Woude, *Nederland 1500-1815. De eerste ronde van de moderne economische groei* (Amsterdam 1995) 80-81.

¹⁶ Kuijper, *Adel in Friesland*, 196-197.

¹⁷ Degrijse, *De Antwerpse fortuinen*, 356-358.

Female	81	48
Couple	3	2
Social status		
Noble	18	11
Noble relative	8	5
Clergy	11	7
Clergy relative	1	1
Occupation		
Civil servant	14	8
Trade and industries	7	4
Lawyer	2	1
Occupation relative		
Civil servant	9	5
Lawyer	1	1
Trade and industries	2	1

Source: Thijs, 'Klapper'.

Fideicommissa in Amsterdam

Compared to the Antwerp and Frisia sources, the Amsterdam register we use here recorded the opposite: requests to have *fideicommissa* cancelled. Customary law prescribed the right to have entails cancelled. The bylaw goes that: '[testators creating a *fideicommissum*] cannot prevent that the heirs... ..would sell or alienate the goods, either for profit or out of necessity, to use the profits in trade or to redeem debts...'.¹⁸ Apparently people looking to terminate a nonalienation clause could file requests with the Amsterdam court. These were then recorded in a register, which also includes other requests, such as those to get the custody of orphans. However, nearly all requests in these registers deal with *fideicommissa*.

The number of requests to have *fideicommissa* terminated is large, c. 2.000 from 1685-1800. It is difficult to use this figure to estimate the number of entails that was in fact created in Amsterdam, but a figure of at least 5.000 – and probably much more – does not seem unreasonable. There are two reasons to arrive at these estimates. First of all, it is hard to imagine that every descendent would have felt the need to have an entail terminated. Many must have been quite content living in an entailed house or reaping the profits of land and obligations, and did not file requests. Second, if the

¹⁸ G. Rooseboom (ed.) *Recueil van verscheyde keuren en costumen* (Amsterdam 1656) 219. The source indicates that this was already practice in the second half of the sixteenth century.

majority of entails would have been terminated, testators inevitably would have ceded creating *fideicommissa*: they would not have taken the trouble to create legal constructions that were likely to be cancelled by descendents. However, judging on the continuity of requests in the registers, testators remained confident that descendents would respect their legacy throughout the eighteenth century.

Getting entails cancelled was not easy. One requirement seems to have been to get permission from other family members involved.¹⁹ This involved dealing with relatives, who might have asked favours in return for cooperation, and who could also bluntly refuse to cooperate and thus obstruct the request.²⁰ To have *fideicommissa* that dealt with orphans cancelled, requestors required admission from the administrators of their orphanage (*weesmeesters*).²¹

It is our impression that the aldermen that handled the requests investigated whether the future possessors of the entail (*expectanten*) did not object to cancellation: all requests contain two dates, one presumably referring to the day the request was filed, and one referring to the day the aldermen had verified there was no opposition. In most cases there were 1-2 weeks in between, but some investigations could take more than a year.²²

Why did people file requests to have *fideicommissa* terminated? Although the vast majority of the requests was admitted without any motivation, our source mentions a few reasons. Some heirs wanted to rearrange the *fideicommissum* without terminating it. For instance, one request was to sell land in the Beemster land reclamation and use the proceedings to buy real estate in Amsterdam, which would be part of the *fideicommissum*.²³ Other requestors wanted to sell real estate and use the profits to invest in government debt, which was to be part of the *fideicommissum*.²⁴ These rearrangements were probably aimed at making the *fideicommissum* more profitable, or reducing the troubles having usufruct of real estate involved.²⁵

Another reason to have *fideicommissa* cancelled was to be able to pay the transfer tax levied on inheritances. So, Jacobus de Raet asked permission to mortgage fl. 900 on two entailed houses, to be able to pay the 100th and 200th penny taxes he had to pay

¹⁹ Cf. SA 5061 inv. nr. 1308, 7-2-1686.

²⁰ Cf. SA 5061 inv. nr. 1308, 7-2-1686, 14-12-1686.

²¹ Cf. SA 5061 inv. nr. 1308, 1-8-1686, 21-1-1688.

²² Cf. the investigation SA 5061 inv. nr. 1308, 13-2-1690 (*...rapport gedaen en favorabel receptis affgegeven...*). Cf. the timeline involved SA 5061 inv. nr. 1308, 12-5-1690 (request still not concluded upon after nearly two years, and handed over to two other aldermen on 16-4-1692).

²³ Cf. SA 5061 inv. nr. 1308, ?-?-1688.

²⁴ Cf. SA 5061 inv. nr. 1308, 2-10-1685, 18-4-1686.

²⁵ The latter is perhaps visible in a request to sell land in the land reclamation project Beemster and invest the proceedings in houses in Amsterdam (SA 5061 inv. nr. 1308, [1688]).

over the same houses. Marten van Loon cs asked permission to sell enough to cover the taxes he had to pay over a sum of fl. 14.130.²⁶

Most applicants wanted to have the *fideicommissum* terminated though. A few told the aldermen of Amsterdam their reasons to do so: Lodewijk Egbertsz. wanted to 'start something', presumably some sort of business venture.²⁷ Another applicant wanted to use the proceedings to start an apothecary.²⁸ Others had more stringent motives: quite a few were looking to sell the entailed assets to pay debts. One Evert Claesz. asked permission to use an entailed sum of 1000 guilders 'to make ends meet'. The couple Aernt and Margaretha van Westerhof wanted to use 6000 guilders of a *fideicommissum* to pay their debts and a dowry for their daughter.²⁹

Assets

It may be worthwhile to try to get an impression of the assets that were entailed. Table 2 mentions four general categories: real estate, 'goods' (referring to inheritances), obligations and cash. Nearly 50% of the entails consisted of real estate, usually one or two houses with yards.

To make out what the value of entailed goods was is not easy, because the bulk is either not specified ('goods') or specified but not valued ('real estate'). However, values of obligations and cash sums are recorded (table 2). The column 'entails' shows the value of obligations and cash. Although values range from fl. 250 to more than fl. 10.000, most were between fl. 2.000 and fl. 5.000.

Another way to estimate the size of entails would be to look at requests to extract a certain sum from entailed goods, for instance by selling part of the entail or extracting part of a cash sum. Similarly, heirs could request to use entailed real estate as collateral for a loan – something that was usually not allowed, because creating a mortgage carried the risk of expropriation. When we assume that the sum that was mortgaged could not exceed the value of the entail, we get another indication of its minimum value. The column 'extractions/mortgages' in table 3 shows the sums involved. Overseeing these data, it seems that most entails were worth several thousands of guilders.

Entailed houses and yards were to be found all over town, but since detailed data on the location of real estate is often missing, it is difficult to estimate its value. There

²⁶ SA 5061 inv. nr. 1308, 26-11-1686, 30-5-1691.

²⁷ ...teen of ander bijder hant te nemen... (SA 5061 inv. nr. 1308,

²⁸ SA 5061 inv. nr. 1308, 17-1-1690.

²⁹ SA 5061 inv. nr. 1308, 10-10-1685, 30-5-1686.

are a few indirect methods that may help us to get an impression though. Houses that were relatively valuable often carried a name. In our sample nine names of houses appear, such as *Vergulden Valck*, *Sint Jans Hooft* and *De Drie Cruysen*.³⁰ At the other end of the spectrum we also encounter houses in a dismal condition,³¹ as well as houses in neighbourhoods characterized by low rents. For instance, three requests to have *fideicommissa* cancelled involved houses in the Vinckestraat. This was a low-rent area where the *Diaconie van de Hervormde Gemeente* leased a lot of property to the poor.³²

Table 2. Composition of entails

Entailed asset	N	%
Real estate	61	48,8
Goods	36	28,8
Obligations	8	6,4
Cash	20	16
Total	125	100

Based on 123 entails. Some entails cover several categories.

Table 3. Value of entails

Value	Entails	Extractions/mortgages
<500	2	1
500-1000	3	6
1000-2000	6	7
2000-5000	11	9
5000-10.000	5	2
>10.000	4	-
Average	4.564	2.000

People

³⁰ SA 5061 inv. nr. 1308, 2-10-1685, 18-6-1686, 1-10-1686.

³¹ ...seecker bouwvallich huys... (SA 5061 inv. nr. 1308, 5-6-1685).

³² SA 5061 inv. nr. 1308, 2-7-1686; 11-2-1687; 17-10-1687; C. Lesger, *Huur en conjunctuur. De woningmarkt in Amsterdam, 1550-1850* (Amsterdam 1986) 119. The same goes for houses at the Leliedwarsstraat (SA 5061 inv. nr. 1308, 2-10-1686; Lesger, *Huur en conjunctuur*, 99)

Our sources mention applicants and testators. Who were the people that had created these entails in the first place? Here, we are presented with a problem: our source mentions the testators that had passed the entailed goods on to descendents, but these were not necessarily the people that had created the entails. After all, testators may very well have been passing on already entailed goods. Only in a few cases does the source explicitly mention that testators had also created the entail (table 4). A few things may be commented upon. First of all, heirs did not hesitate to have entails created by parents or parents-in-law cancelled – and apparently the aldermen of Amsterdam allowed them to do so, at least in several cases.

This does not help us a great deal in getting an impression of the social background of people involved. Another, admittedly indirect way of tackling this problem, yields some more results though. Of some of the applicants we know some more details. Of course, descendents may not have been able to attain the same status their ancestors had, even in spite of entailed goods. Still, this approach will give us an idea of the social groups affected by *fideicommissa* and may thus also by and large tell us something about the testators that created them.

Unlike what we have seen for Antwerp, in Amsterdam the correlation between entails and excessive wealth was not very strong. We do not encounter nobility, and names of wealthy families are rare.³³ Among the testators mentioned only the surname Bicker seems to indicate that creators may have been very wealthy.³⁴ And although only a few applicants stated their occupation, some of these do cover lower social classes: *slepersknecht*, *ballastvoerder*, *hoepelsmit* and *meester metselaar*. A lawyer, preacher, former alderman and silversmith are likely to have been better off.³⁵

There are also some other indicators that at least some of the applicants were poor: seven of 123 requests were labeled 'pro deo', indicating that the applicants were deemed so poor that they did not have to pay a legal fee to have the *fideicommissum* cancelled. This happened when Margaretha de Cocq, widow of Harmen Keyser, filed to have a *fideicommis* on ¼ house and yard cancelled. The applicant asked permission to mortgage the real estate to borrow a mere fl. 300.³⁶

Perhaps the best way to get an impression of the wealth of applicants is to link these to tax records. To this end, we have linked the applications to cancel *fideicommissa* from 1740-1742 to the registers of the *Personele quotisatie* tax of 1742. This tax was

³³ Cf. SA 5061 inv. nr. 1308, 17-1-1688 (Frederick Danckerts, former alderman).

³⁴ SA 5061 inv. nr. 1308, 5-6-1685.

³⁵ SA 5061 inv. nr. 1308, 21-5-1686, 2-7-1686, 20-2-1687, 12-10-1687, 17-1-1688.

³⁶ SA 5061 inv. nr. 1308, 22-6-1691.

levied from every household with an income exceeding 600 guilders.³⁷ The results are processed in table 5. Even though this is only a small sample of 40 applicants, it provides a clear image: applicants came from middle and also upper classes. This is for instance visible in the occupations: six merchants, five rentiers, two *makelaars*, a professor, a former alderman, but also a *sloopersbaas* (demolition contractor), *koekenbakker* (pastry-cook), *kuiper* (cooper) and *papierkoper* (paper salesman). The data on income and rent suggest that these were wealthy people, but not at all excessive: quite a few earned less than 1000 guilders and lived in houses with rents below 501 guilders.

It is difficult to make something of the 19 people we do not encounter in the register of the *Personele quotisatie*: did these not meet the 600 guilders barrier? Had they moved to another town or passed away? Or were they recorded under another name? The data for people who do not appear in the tax register are processed in table 6. The table does not suggest that the applicants we did not encounter in the register of the *Personele quotisatie* were relatively poor: where we were able to calculate the (minimum) value of entails, they received relatively valuable assets. There are only a few elements that hint at (relative) poverty of these applicants: they asked for entails to be cancelled to borrow or repay debts more often (two to one) and did not own mansions and estates (zero to two).

What does this leave us at then? The applicants not mentioned in the *Personele quotisatie* do not seem to have received entails that were of relatively little value. Surely, the absence of most of them cannot be ascribed to poverty. On the other hand, it is also hard to imagine that the tax records leave out nearly 50 per cent of the people that *did* meet the 600 guilders benchmark. At least a couple of these 'missing persons' are therefore likely to have earned less than 600 guilders.

This is not to say that lower social classes are very likely to have created entails. Clearly all people involved were relatively well off, if only because they had assets they could pass on to future generations. However, the Amsterdam data is not as much skewed towards higher social classes than that of Antwerp. Instead, it points at a relatively broad use of *fideicommissa*, a conclusion that is also warranted when we consider the sheer number of requests to have entails terminated.

Table 4. Creators of entails

³⁷ L. Ravensbergen, 'De personele quotisatie van 1742 in de dorpen onder het quartier van Leyden' in *Rijnland. Tijdschrift voor sociale genealogie en streekgeschiedenis voor Leiden en omstreken* 1966-1967 371-580; W.F.H. Oldewelt, *Kohier van de personele quotisatie te Amsterdam over het jaar 1742* (2 vols. Amsterdam 1945); Sickenga, *Geschiedenis der belastingen in Nederland*, 445.

Family member	N
Husband	2
Father	4
Father-in-law	1
Mother	1
Mother-in-law	1
Parents	1
Grandmother	1
Unknown	8

Table 5. Tax assessments of applicants 1740-1742

Income	N
600-1000	5
1001-2000	4
2001-5000	8
5001-10.000	2
>10.001	2
Rent	
<501	10
501-1000	7
1001-2000	1
>2001	2
Servants	
0	2
1	7
2-5	9
>5	3
Capitalist	
No	10
Yes: 0,5	5
Yes: 1	6

Table 6. Applicants 1740-1742

	Mentioned in <i>Personele quotisatie</i>	Not mentioned in <i>Personele quotisatie</i>
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Av. value of fideicommisum	2200 (1)	3379 (6)
Av. min. value of fideicommisum	1000 (1)	2000 (2)
Request to mortgage assets	1	2
Type		
Real estate	13	9
Mansion	2	-
Goods	4	6
Obligations	2	3
Cash	-	5
Unknown	1	

3. Asset management in Antwerp and Amsterdam

What do these findings tell us about asset management in Antwerp and Amsterdam? Townsmen made use of *fideicommissa* to give shape to asset management: just like nobles, they immobilized mansions and houses. However, particularly the data from Amsterdam show that long-term strategies were not restricted to elites: urban middle classes could also afford to immobilize part of the inheritance in an attempt to govern future generations. The things they immobilized could either be used by descendents (real estate), or provided an income (real estate, obligations and cash sums).

Social implications

When we assume that the majority of *fideicommissa* was not cancelled, testators managed to create some sort of long-term asset management. Surely, this had some social consequences.

The evidence from Amsterdam makes clear that entailment created collective property structures: cancelling a *fideicommissum* was only possible when everyone agreed. This prevented that individuals – for instance the eldest son in a system of primogeniture – would be able to take decisions against the interest of the family or lineage. Perhaps this is why entails were so popular in Amsterdam: the possibility to have them cancelled allowed testators to create structures that combined insurance and liquidity. It solved an agency problem – who was to be in charge of the inheritance? – by

creating collective property, but it also allowed descendants space to adjust, provided that all family members would agree to this.

Thus, testators had a flexible instrument at hands to protect descendants from social descent. If successful, they reduced the risk of future downward social mobility, providing descendants with the means to maintain social status.

Entailment also forced descendants to cooperate. Instead of individuals or households, families became relevant units of asset management, deciding whether to maintain or cancel the entail, and in case of cancellation whether to rearrange or divide the yields.

Economic implications

Thus, the system of entails we encounter in Amsterdam provided testators with a specific type of contract that combined long-term asset management with a degree of flexibility. On the other hand, from the perspective of property rights, entailment created some problems. What testators did was insure the well-being of descendants by preventing them from entering the market. Real estate and obligations could no longer be sold, and cash sums no longer invested or spent. Surely this had an effect on the market because the (potential) volume and dynamics of markets declined.

From a Smithian point of view, entailment stood in the way of (efficient) allocation by means of the market.³⁸ Reallocation was only possible when there were no family members who objected, for instance because they were more risk-averse, or because their personal circumstances made usufruct more attractive, or simply because they sentimentalized about the asset in question. To put it another way: while strict necessity may have been a sufficient reason to have an entail cancelled, merely playing the market may often have met with more resistance from family members.

To what degree did entails hinder market exchange? The best evidence available comes from the way contemporaries reacted to entailment. In the sixteenth and seventeenth centuries we already encounter attempts to restrict entailment, for instance by King Philip II in 1586. He was not alone in denouncing *fideicommissa*: restrictions emerged all over Europe, for instance in Italy.³⁹ In the eighteenth century the intellectual movement of the Physiocrats, which advocated free trade, spoke out against entailment

³⁸ Cf. De Soto, *The mystery of capital*, 199; Davis, *The decline of the Venetian nobility as a ruling class*, 68-71; Lukowski, *The European nobility in the eighteenth century*, 103, 106.

³⁹ Cooper, 'Inheritance and settlement by great landowners' 286; Lukowski, *The European nobility in transition*, 103-104; Hunecke, *Der venezianische Adel am Ende der Republik 1646-1797*, 122.

because it reduced trade in real estate.⁴⁰ In the Dutch Republic, lawyers, such as Kramp and Lijbreghts, also objected to this legal instrument, the latter posing the question: 'what is the usual motivation of testators to bequeath their goods using the odious or hateful *fideicommiss*?'⁴¹ Finally, governments objected to the effects entailment had on the volume of markets – and hence on transfer taxes.⁴²

Entails also obscured property rights to real estate, thus contributing to fraud; we already encounter this objection in the 1586 decree issued by Philip II, and both in the Dutch Republic and the Southern Low Countries this continued to be a cause of concern in the seventeenth and eighteenth centuries.⁴³

7. Concluding remarks

Urban testators with the ambition to manage the assets of future generations could make use of the *fideicommissum*. However, it seems that they did not want to make it impossible for heirs to make adjustments: in Antwerp, the entail was only incidentally used, and in Amsterdam its popularity must surely be ascribed to the relative flexibility the government added to entails. Thus, whereas historians of the nobility have painted a rather bleak image of the effects of entailment, it seems that long-term asset management in towns was less devastating. This was particularly the case in Amsterdam, where we have encountered a relatively flexible solution to the conflict between short-term and long-term goals of parents: by giving all heirs a say in the cancelling or adjusting of entails, the Amsterdam government created an institution that gained a considerable popularity. As it turns out, it was possible to adjust to an urban environment one of the few structures capable of restricting marriage patterns and household formation, and thus also economic growth.

⁴⁰ Eckert, *Der Kampf um die Familienfideikommission*, 132, 139, 144; Fischer, 'De publicatie van fideicommissen', 160.

⁴¹ Van der Ploeg, *Testamentair bewind*, 15; Fischer, 'De publicatie', 237. Cf. De Blécourt & Fischer, *Kort begrip*, 361.

⁴² Santos & Vicente Serrão, 'Land policies and land markets', 3-4.

⁴³ Fischer, 'De publicatie', 186.