

## Transcripts and Translations Matter: Rethinking the Practices of Editors of Legal Documents in Response to the Concept of the ‘New Philology’

Eef Dijkhof and Kate Lynch<sup>1</sup>

In 1989 Bernard Cerquiglini wrote a highly polemical book on the way literary scholars were editing medieval literary works. In his *Éloge de la variante; histoire critique de la philologie*, a small book containing a minimum of notes, he brought a clear but disturbing message: the entire philological tradition of vernacular literature since Romanticism was based on a sad misunderstanding.<sup>2</sup> Cerquiglini criticized renowned philologists such as Karl Lachmann and others for ignoring the fact that their editorial practices were based on their contemporary concepts of author, text and language. Thus, they pressed medieval literature in a modern straightjacket. Where the process of printing guarantees an authorized text in identical copies, it was common before 1450 to adapt the sample text, depending on the genre, more or less radically, leading to endless variance. While editions since the nineteenth century suggest an original ‘standard text’, preferably with an author’s name on the title page, the medieval literary reality consists mainly of anonymous text in infinite variety.

In 1990 a special issue of the authoritative American journal *Speculum* was dedicated to what since then has become known as ‘New Philology’.<sup>3</sup> Actually it is not a well-chosen name since it implicitly indicates any opponents as old or old fashioned. Later the more neutral term ‘Material Philology’ prevailed.<sup>4</sup> Interestingly enough, a central program or a common starting point isn’t formulated in any of the articles. Yet the influence of Cerquiglini is obvious. Variation isn’t seen as a difficult obstacle on the road to uniformity, but as a phenomenon, characteristic of the manuscript period, that just deserves special attention. The traditional philology, which was often by scholars outside the humanities regarded as a craft, had to make way for a mature scholarship that looks for new questions; a seeking to associate living theories and ideas from other disciplines.

It was a start of a rather harsh and often unpleasant discussion between literary editors for some years. The emotions ran high in the medieval studies and extended into the personal sphere. Critics of the ‘New Philology’ were often angry at the condescending way philology old-style was typified and ostracized. But despite annoyances and criticism at the same time, some wondered whether the ‘New Philology’ at some points was not compatible with the more traditional professional practice. ‘Towards a Synthesis?’ was the title of a collection of responses to the ‘New Philology’ that appeared in 1993.<sup>5</sup> More attention to text variation and the manuscript tradition could count on friend and foe on a positive reception.

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<sup>1</sup> This is a slightly annotated version of a paper delivered by Eef Dijkhof on the conference of the Society of Textual Scholarship and the Association of Documentary Editing, held on 18 June 2015 in Lincoln, Nebraska. It is based on research by Kate Lynch, independent researcher and recent fellow at the Reformed Seminary at Rutgers in New Jersey, and Eef Dijkhof, researcher at the Huygens Institute for the History of the Netherlands in Amsterdam.

<sup>2</sup> Bernard Cerquiglini, *Éloge de la variante: Histoire critique de la philologie* (Paris 1989). There is an English translation by Betsy Wing, *In praise of the variant: A critical history of philology* (Baltimore 1999).

<sup>3</sup> ‘The new philology’, *Speculum: A journal of medieval studies* LXV, nr. 1 (January 1990).

<sup>4</sup> It is here not the place to give an extensive survey of the literature; see the summary article by M.J. Driscoll, *The words on the page: Thoughts on philology, old and new* (<http://www.driscoll.dk/docs/words.html> ; visited 12-09-2016).

<sup>5</sup> *Towards a Synthesis? Essays on the new philology*, Keith Busby (ed.) (Amsterdam-Atlanta 1993).

This paper has not the intention to restart or revive this discussion, neither to defend nor attack any approach, especially given the fact that the literary scholars have seemingly buried the hatchet. Besides that, we consider ourselves less competent to start a new battle. Nevertheless it seems interesting to investigate whether and to what extent some of the ideas of ‘New Philology’ might be useful in analyzing and editing legal historical documents.

The discussions between literary editors were not restricted to the United States. Vehement debates on the editorial consequences of the ideas of Cerquiglini also took place in France, Germany and England.<sup>6</sup> Editors of historical documents such as charters, letters or accounts seem never to have been involved in these discussions, at least in Europe. They seem to be quite ignorant what the discussions could mean to their editorial work. I didn’t find any references of the ideas in the editorial practice for instance in the introductions of editions of historical documents. And in reviews, you find no references either. Even in the articles on or editions of cartularies and registers, that are books with a great amount of transcriptions of legal documents, we hardly find any ideas of the ‘New Philology’. And if you find them, for instance in some articles in *Les Cartulaires* edited by the *Ecole des Chartes* in Paris there are no references in the footnotes to the relevant literature.<sup>7</sup> Researchers of cartularies and registers were and are more interested in handwriting, dating, and selection of the texts and what that all could say on the identity of the institutions where these books were produced.<sup>8</sup> And, of course, there has always been much attention on the quality of the transcriptions, but only in order to reconstruct the original as best as possible, not to research the changes introduced in the text in later periods.

The questions arise whether editors of medieval legal documents in Europe missed an important discussion that might be interesting for them as well, or are the ideas of ‘New Philology’ of no concern for them?

For many editors of medieval documents these ideas might be of minor importance for the simple reason that there are no transcriptions or translations ever made of the original documents. Historians are all happy with the few urban accounts that came down to us from the fourteenth and fifteenth centuries, and they don’t have to bother reconstructing them based on different copies. On the other hand, in the tradition of legal documents, especially charters, transcriptions and translations play a major role. On average, of every hundred charters, there are only 45 in original available. Of the remaining 55 charters, we know the text only from copies and/or translations. Few texts have survived in just one copy or translation. In most cases there are several copies, sometimes even more than a dozen. And if an original charter survives the centuries, this doesn’t mean that such documents came down to us completely intact. Look at the picture of a charter for the town of Dordrecht: only a third part is left of this document (Illustration 1). Editors will consider themselves fortunate if copies are available. Therefore, it might be clear that in the process of editing charters transcriptions and even translation played

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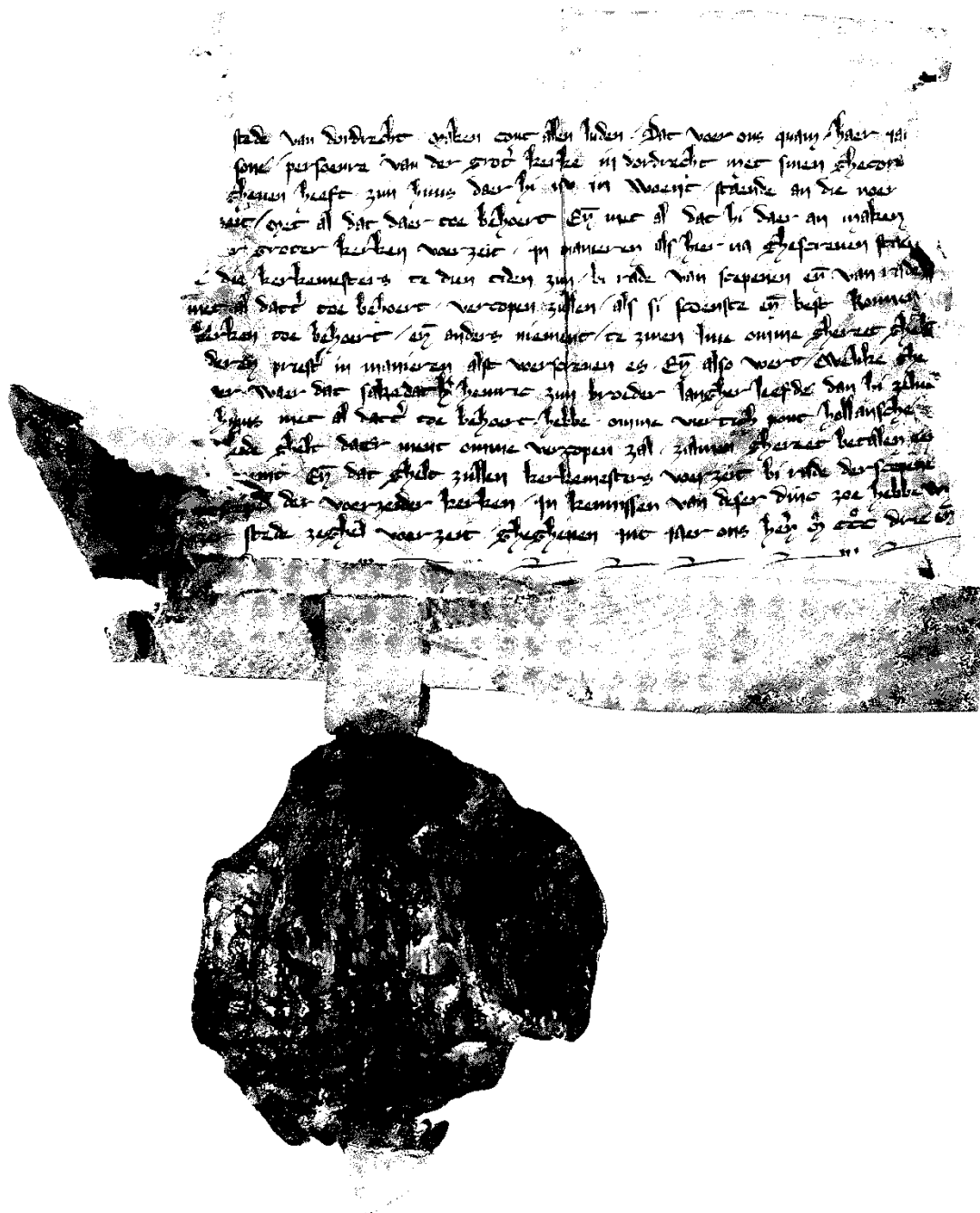
<sup>6</sup> For instance, Karl Stackmann, ‘Neue Philologie?’, in: Joachim Heinze, (ed.), *Modernes Mittelalter: neue Bilder einer populären Epoche* (Frankfurt a. M.-Leipzig 1994) 398-427; see also the contribution from several European countries in Frédéric Duval (ed.), *Pratiques philologiques en Europe. Actes de la journée d’étude organisée à l’École des chartes le 23 septembre 2005* (Paris 2006).

<sup>7</sup> Cf. Michel Parisse, ‘Les cartulaires: copies ou sources originales?’, in: *Les cartulaires. Actes de la Table ronde organisée par l’École nationale des chartes et le GDR I 2 I du CNRS (Paris, 5-7 décembre 1991)* (Paris 1993) 507-508.

<sup>8</sup> Two recent examples are A.T. Smith, ‘Rethinking medieval cartulary production through an exploration of forgery in the Kelso Abbey cartulary’, and T. Van Gassen, ‘City cartularies in late medieval Ghent: a sign of urban identity?’ both forthcoming in E.C. Dijkhof, in collaboration with A. Berteloot et alii, *Medieval documents as artefacts. Interdisciplinary perspectives on codicology, palaeography and diplomatics*.

and still play a prominent role. Therefore the ideas of the 'New Philology' might seem of importance.

Illustration 1: Regulation by the town magistrate of Dordrecht for the Old Church of Dordrecht, 11 June 1323.<sup>9</sup>



<sup>9</sup> Municipal Archive of Dordrecht, Remaining records of churches, monasteries and chapels nr. 1; picture and transcription in E.C. Dijkhof, *Het oorkondewezen van enige kloosters en steden in Holland en Zeeland, 1200-1325*, 2 vols. (Leuven 2003) II, nr. 1164, picture IIIo.

Editors of historical documents, however, showed little or none interest in these ideas. Probably they found it irrelevant, since there are two fundamental differences between medieval literary works and charters.

In the first place, we may establish that of most of the medieval literary works there are no autographs or apographs. Of many of them an original version never existed and no assignable author either. On charters, however, we can be pretty sure that an original version once existed or still exists. In principle, for each charter there was an original version, namely the piece of parchment or later paper endorsed with the seal or the sign of the person or institution who promulgated it. There might be some exceptions. We know examples of forgeries that never existed in the form of an original charter. Other examples are pious donations for instance from the tenth century in simple notes written in a Bible or missal and in the twelfth century re-fashioned in the form of the text of a charter. Sometimes the text of an original charter contains sentences of an earlier privilege or the favorite style flowers of the officiating clerk, for example from the papal chancery. Sometimes most of the text is adapted from another privilege. We will see this phenomenon hereafter in the case of the town charter of Delft. In all those cases, however, we may conclude that we are dealing with original charters and with original texts.

In the second place, we may point at the fact that literary works and charters are essentially different. A story written for instruction and entertainment is hard to compare with a text to serve as written proof. A copyist of a literary work seems to be free to adapt the story to a new public, in another place, in another time. A copyist, for instance of the rules and regulations of the town of Haarlem in the Netherlands, laid down in a charter promulgated by Count William II of Holland in 1245, that remained in force till 1795, is not considered to have that freedom. Presumably unspoken, editors of legal documents have assumed that copyists of charters because of the nature of the texts made more careful copies.

This is, however, without doubt a prejudgment. Between 1950 and 2005 all charters concerning the former county of Holland and Zeeland were published.<sup>10</sup> For this edition not only were the originals gathered from the archives all over Europe, but even all transcriptions and translations that were produced up to the end of the eighteenth century. What we see in all those copies and translations is variance. This is not only the case in the vernacular charters emerging from the sixties of the thirteenth century, but to the same extent in the Latin charters. Those divergent texts were used for centuries since the secured and well-preserved originals were inaccessible and hardly seen or referred to. That was, for instance, the case with the town charters of Haarlem and Delft from 1245 and 1246 respectively, according to precise study of these documents.<sup>11</sup>

We may now take a look at the town charter for the inhabitants of Delft issued by their ruler Count William II of Holland in 1246. Through this award the residents of Delft received their own law separate from the surrounding countryside. In 62 articles the future governance and law was arranged for them. This set of regulations remained valid until 1795. The original charter still can be found in the municipal archive of Delft. As you can see, it has been considerably damaged over the course of centuries (Illustration 2). Some parts of the text are no longer readable, the seal of Count William with which the charter was endorsed, is lost and any notes on the backside are no longer visible. There are more severely damaged charters in the

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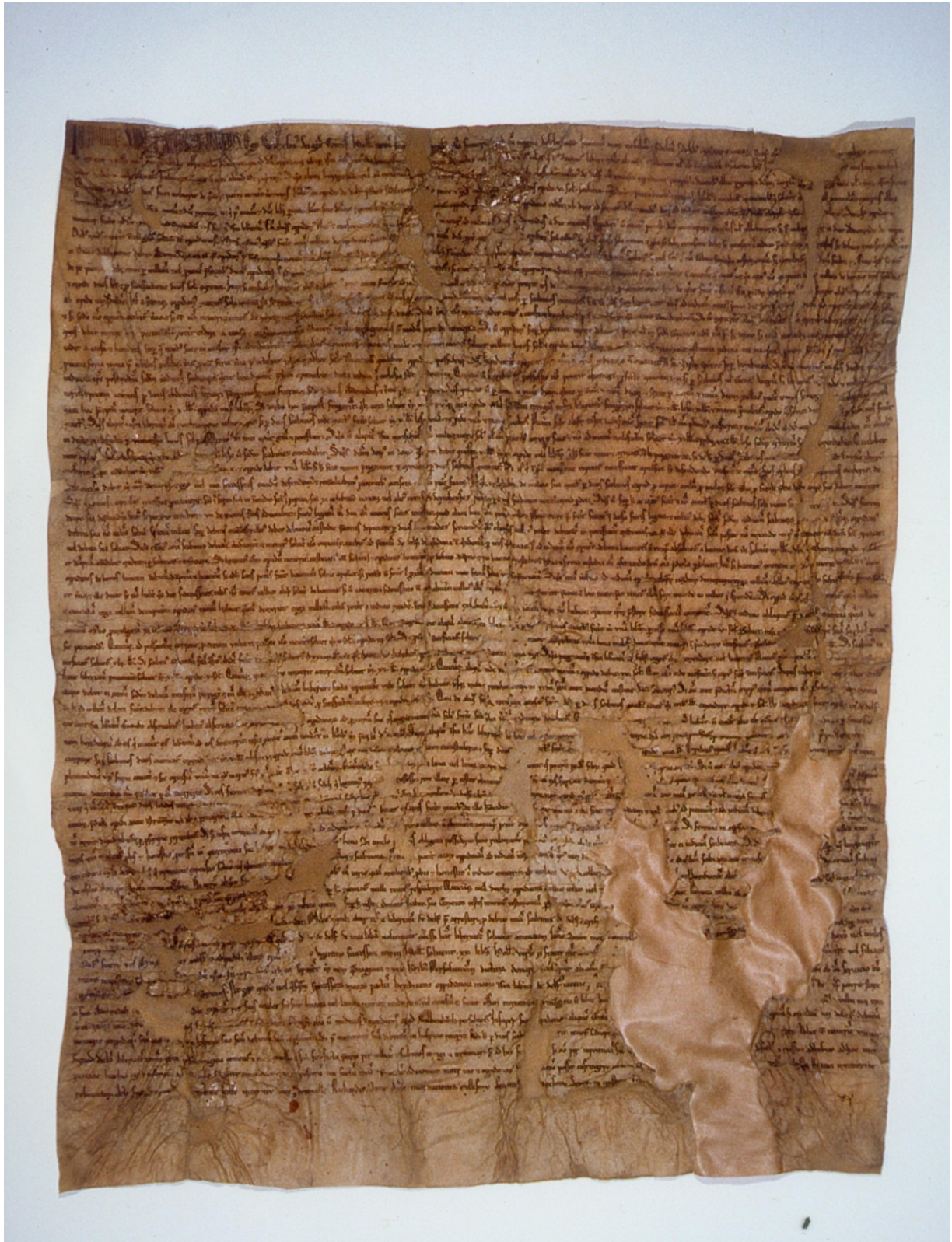
<sup>10</sup> *Oorkondenboek van Holland en Zeeland tot 1299*, A.C.F. Koch, J.G. Kruisheer, E.C. Dijkhof (eds.) 5 vols. (Assen/Maastricht-Den Haag 1971-2005).

<sup>11</sup> J.G. Kruisheer, *De stadsrechtorkonden van Haarlem, Delft en Alkmaar* (Amsterdam 1985).



archive which seems to indicate that the town's archive have endured many disasters over the centuries.

Illustration 2: Town charter of Delft, 15 April 1246.<sup>12</sup>



<sup>12</sup> Picture from the collection of the Apparatus of Oorkondenboek Holland en Zeeland at Huygens Institute for the History of the Netherlands at Amsterdam; edition: *Oorkondenboek van Holland en Zeeland tot 1299* II, nr. 680.

The charter for Delft is written by the chaplain of the aunt of Count William who resided in Delft.<sup>13</sup> The 62 articles in which the rules and regulation were laid down were much older. The townsmen of Delft actually fetched a copy of the town charter of Haarlem from 1245 and adopted the text to their own situation and wishes. The inhabitants of Haarlem, in their turn, derived the text from the town Bois le Duc in the duchy of Brabant. Even the latter didn't thought out the regulations themselves. They used a copy of the town charter of Louvain drafted circa 1160. Eventually, in the course of the centuries dozens of city dwellers received rules and regulations according to the Louvain charter.<sup>14</sup>

In addition to the Delft original 40 transcription and 33 translations came down to us, dating from the beginning of the fourteenth to the end of the eighteenth century. The four oldest transcriptions seem to be written independently of each other. The other 36 are copies of copies. Remarkably enough none of these four oldest transcriptions goes back to the surviving original. Their variants are often better and closer to the Haarlem town's charters (from which the text of the town charter of Delft was derived) than the original in the municipal archive of Delft. Probably they were copied from the draft of the charter of Haarlem. The translations were derived from one of the just mentioned four transcriptions. The oldest translation dates from the second quarter of the fifteenth century and was many times copied and therefore widely used instead of the Latin version. Comparing the Latin text of the original charter with the translation we found in half of the articles significant differences in text. We can distinguish three kinds of deviations. In the first place, in twenty articles a translation of a word or a phrase does not reflect the Latin original. It makes, for instance, a rather great difference whether a townsman who is summoned to court, should appear within a fortnight (according to the translation) or after that period (Latin original). In the second place, in fourteen articles some words or even a complete sentence of the Latin text were not translated. Those phrases seem for the translator of minor importance. In the third place, we found the opposite phenomenon. In four articles several words in Dutch has been added that not reflected the Latin text.

The example above comes from Europe and the Middle Ages. This phenomenon, however, was not restricted to that area and period. Thanks to the archival efforts of Kate Lynch who is researching Dirck Dey and his family, we can bring up here an example from New York. The aforementioned Dirck Dey was a seventeenth century inhabitant of Amsterdam who round the middle of the century emigrated to New York at that time still called New Amsterdam. On 14 August 1684 Geertie Jans the widow of Dirk Dey and her daughter Jannitje sold to Theunis Dey son of Dirk Dey two houses of the inheritance of Dirck, one inside the town of New Amsterdam, then below Wall Street, and one outside the gate (above 'the Wall') near Broadway. Furthermore, there were some arrangements made on the land they leased from the king of England and from the duke of York. The deed was written in Dutch and signed by Theunis and Jannitje, while the mother put a small cross as signature (Illustration 3).

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<sup>13</sup> J.W.J. Burgers, *De paleografie van de documentaire bronnen in Holland en Zeeland in de dertiende eeuw*, 3 vols. (Leuven 1995) I, 61-64.

<sup>14</sup> Kruisheer, *De stadsrechtorkonden van Haarlem, Delft en Alkmaar*.



Illustration 3: Deed of Geertie Jans widow of Dirk Dey and her daughter Jannitje for Theunis Dey son of Dirk Dey, dated 14 August 1684: New York Historical Society, Manuscript collection, New York City Deeds, unnumbered in 1 Green box.

Op Dato ondergeteekend by syn  
 volvoordelst <sup>de</sup> <sup>Wed. Jans</sup> <sup>van</sup> <sup>Dirk</sup>  
 Geertje Jans <sup>van</sup> <sup>Dirk</sup> <sup>Dey</sup>  
 in vranche <sup>van</sup> <sup>volgende</sup> <sup>geseyde</sup>  
 Geertje Jans <sup>van</sup> <sup>Jannitje</sup> <sup>Dey</sup>  
 Godey volvoordelst <sup>van</sup> <sup>Theunis</sup>  
 voornemt <sup>dit</sup> <sup>land</sup> <sup>en</sup> <sup>gronden</sup>  
 tegenwoordigh bewoont by de  
 voorn. voornemt <sup>als</sup> <sup>voornemt</sup> <sup>dit</sup>  
 land daer toe behoorende in  
 breedte <sup>en</sup> <sup>lengte</sup> <sup>volgende</sup>  
 sijt van <sup>testament</sup> <sup>daer</sup> <sup>van</sup>  
 sijnde voorts <sup>alles</sup> <sup>de</sup> <sup>bestiale</sup>  
 spulden <sup>en</sup> <sup>goornbestel</sup> <sup>soo</sup> <sup>veel</sup>  
 daer sijn <sup>en</sup> <sup>niere</sup> <sup>comen</sup>  
 de <sup>bergen</sup> <sup>en</sup> <sup>schuld</sup> <sup>ploegh</sup> <sup>wagden</sup>  
 en voornemt <sup>alle</sup> <sup>de</sup> <sup>gruut</sup> <sup>sege</sup>  
 belangende <sup>tot</sup> <sup>de</sup> <sup>landbouw</sup>  
 alledy <sup>voort</sup> <sup>dit</sup> <sup>hujs</sup>  
 daer voornemt <sup>geseyde</sup> <sup>Theunis</sup>  
 Dey te <sup>bitally</sup> <sup>van</sup> <sup>syn</sup> <sup>moeder</sup>  
 Geertje Jans <sup>de</sup> <sup>sonnia</sup> <sup>van</sup> <sup>acet</sup>  
 Duijsent <sup>quedy</sup> <sup>en</sup> <sup>syn</sup> <sup>suster</sup>  
 Jannitje <sup>de</sup> <sup>voorn</sup> <sup>Duijsent</sup>  
 quedy <sup>in</sup> <sup>de</sup> <sup>tyt</sup> <sup>van</sup> <sup>drie</sup> <sup>acres</sup>  
 volvoordelst <sup>van</sup> <sup>ieder</sup> <sup>jaar</sup> <sup>in</sup>  
 geseyde <sup>daer</sup> <sup>part</sup> <sup>en</sup> <sup>ingibael</sup>  
 geseyde <sup>Theunis</sup> <sup>Dey</sup> <sup>boven</sup> <sup>vergeen</sup>



In 1724 an English translation was made of the deed to serve in a lawsuit. According to a slip of paper, these documents were related to the same case.

Illustration 4: English translation made in 1724 of the deed of Geertie Jans, dated 14 August 1684: New York Historical Society, Manuscript collection, New York City Deeds, unnumbered in 1 Green box.

On the date here under written and agreed on both  
sides Geertie Jans widow of Dirck Jans of the one part  
& Thomas & Jaan Jans of the other part & for  
the reasons after named witnesses in manner &  
form following, in the first place Geertie Jans  
& Jaan Jans have a house and ground lying  
without the City of Land gate on the west side of  
the Common high Road at & out in possession  
of the said widow also the Land to the same  
& belonging also a piece of Land to the southward  
of the house according to dimensions by Testament  
made also all the Creatures, to say horses, horn  
Beast Likewise waggons & Corn Burrow & Barre  
plough waggon & all utensils & belonging to the  
Cultivating & manning of Land (except the  
household goods) for all which the said Thomas  
Jans promises to pay to his mother Geertie Jans the  
sum of eight thousand guilders and to pay to his  
first Jaan Jans four thousand guilders within  
the time of three following years Every year  
one Equall third part & if it so happens that  
said Thomas Jans is in want & not able to pay

We compared these two documents, and they are surely related. The next illustration shows their relationship. Only the words in black can be considered as a proper translation of the Dutch deed. Words in bleu can be found the original Dutch deed, but they remained untranslated in 1724. The words in green, on the other hand, can't be found in the Dutch text, but were added by the translator. Then there are the words in yellow, which must be considered as free translations. We reserved the purple color for real incorrect translations. Finally, the few words in red are the addition of a later clerk who discovered that in the first sentence the most important verb 'sold' was lacking.



Illustration 5: Comparison between the deed in Dutch of 1684 and the English translation of 1724.

On the date here underwritten are agreed on both || sides Geertine Jans widow of dirck dey of the one part || & Theunis Dircks & Jannetine dey of the other part before || the herein after named witnesses in manner & || form that followeth, in the first place the said geertine Jans || & Jannetine dey have sold to the said Tunis Dey a house and ground lying - || without the City or Land gate on the west side of || the common high Road at present in possession || of the said widow also the Land to the same - || belonging also a peece of Land to the southward || of the house according to dimentions By Testament || made also all the creatures, to say horses, horn || beast as many as there are likewise negros & corne burrow ~~barn~~ storages barn || plough waggon & all utensils belonging to the || Cultivating & manuring of Land Except the || household goods, for all which the said Theunis || dey promises to pay to his mother geertine Jans the || sum of Eight Thousand gilders and to pay to his || sister Jannetine dey four Thousand gilders within || the time of Three following years Every year || one Equall Third part & if it so happens that || the said Theunis dey unhoped-for is in want & not able to pay || in the time of three years as above said for the || following years of none payment He shall pay || six percento jntrest, it is likewise further || agreed that Theunis shall pay Every year to his mother the sum of one hundred gilders for the land that is belonging to the king or the Duke and || also the said Theunis Dirck dey shall pay all pretentions || of the kings Land & of his own, compleatly || according to the lease letter there of during the time || till it shall be expired which shall be Anno 1692 || or as long as his mother is alive and no longer || & what relates or belongs to the house within the city || city lying and being in smith street with the ground || there in to belonging is to be divided half & half || between mother & Daughter for which Reason under the condition || the said Jannetine is but to have in lieu or stead || of four Thousand gilders only Three Thousand gilders || to be demanded of her brother, all don in peace love || & quietness friendship on both sides without any Jlle design || or intention In the presence of the here under || named witnesses actum in new York the 14<sup>th</sup> day august 1684

Was signed

+ This signe was placed by geertine Jans

Theunis dey

Jannetie deij

Testes

geert Jansen Roos

Paulus Twick Evijxck

Jan van Gelder

The English version therefor is not a strict translation of the Dutch deed. The translator must have seen other texts with additional information and brought it all together in one document. Furthermore, he adapted at least on one occasion the text to the situation in his own time. Dirck Dey leased land in 1684 from King Charles II and from the king's son James, the duke of York, in whose honor New Amsterdam was renamed New York after the conquest in 1664 by English troops. In 1685, however, after the dead of King Charles II he duke of York ascended the throne as James II. There was no longer a duke of York until 1892. The translator solved the problem simply by leaving the word 'duke' out of the translation.

Before we draw some conclusions we would like to say a few words on the lack of interest of editors and researchers of legal documents for transcriptions and translations. The most prestigious edition of charters is probably the *Diplomata* series of the *Monumenta Germaniae Historica*, editing the charters of the German kings and emperors from the Middle Ages, including the charters of the Merovingian and Carolingian rulers. According to their instruction, as soon as the editors discovered that an original charter still exists, they stop searching for transcripts or translations. Illustration 6 shows a page from the *Monumenta* edition of a privilege issued in 1252 in which Roman King William confirmed the brothers of the Theutonic Order in their toll freedom for wine in the county of Holland. The charters are promulgated two fold and both charters came down to us in their original capacity. The editors just mentioned the two

originals and enumerates five previous editions. Three of these earlier editions printed the text of a copy instead of the original. This means that the editors ignored later transcripts.

Illustration 6: Edition of a charter issued in 1252 by King William in the *Monumenta* Series.<sup>15</sup>

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- 5 *Wilhelm erweitert mit Zustimmung seines Bruders Florens die von seinem Vater Graf Florens (IV. von Holland) dem Meister und den Brüdern des Deutschen Ordens erteilten jährlichen zollfreien Transporte von 100 Faß Wein in Ammers und Niemandsvriend dergestalt, daß alle durch obengenannte Orte sowie durch Geervliet transportierten Güter frei von der Bezahlung von Brot- und Wein-*  
10 *pfennigen sein sollen.*

*1252 Oktober 25, Köln.*

*Zwei Originale – 18,5 x 23,8 cm ohne Plica; 19,7 x 24,4 cm ohne Plica – im Zentralarchiv des Deutschen Ordens Wien, Urkunden (A<sup>1</sup>, A<sup>2</sup>).*

- 15 *Van Mieris, Charterboek 1, 270, aus Abschriften. – Hennes, Cod. dipl. ord. s. Mariae 139 f. Nr. 144, aus A<sup>1</sup>. – Van den Bergh, OB Holland 1, 301 f. Nr. 572, aus Abschrift von 1563. – De Geer, Arch. Deutsche Orde Utrecht 1, 71 Nr. 73, aus Vidimus von A<sup>1</sup> durch Erzbischof Engelbert von Köln von 1267 September 18. – Kruisheer, OB Holland 2, 628 f. Nr. 951, aus A<sup>1</sup> und A<sup>2</sup>.*

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There is, however, another edition of this same privilege (Illustration 7). This other edition shows us that from 1267 onwards till the end of the eighteenth century, at least 24 copies were made of those charters. In this way this edition gives us an excellent overview of the importance of this privilege for both parties. In the first place, the brothers of Theutonic Order will have watched the observance of their privilege scrupulously. They will have brought it to the attention of every new count. On the other hand, every prince must be aware of the privileges he or his predecessors have granted. The importance of this charter is evident by the existence of copies in archives in Utrecht, Brussels, Haarlem, Bois le Duc, The Hague, Vienna, Lille and Paris. Partly this copies show the historical interest of the privilege in the seventeenth and eighteenth centuries.

There is here a methodological aspect at stake. Even if an editor does not mention transcripts in his edition, it does not relieve him or her from the obligation to search for copies anywhere in archives and libraries, since, only after reading, will he or she be sure that a text of a copy is a transcript of a an already well-known charter or not. What in first instance occurs to be a copy of an already studied charter, can by closer inspection be the transcription of a not previously discovered privilege. By not enumerating transcripts the editor leaves the work actually to the reader. The user may find out whether a transcript is a copy of the charter that he found in the

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<sup>15</sup> *Wilbelmi de Hollandia Diplomata, inde ab anno MCCLII usque ad annum MCCLVI*, D. Hägermann and J.G. Kruisheer (eds.), *Monumenta Germaniae Historica, Diplomata Regum et Imperatorum Germania XVIII-2* (Hannoverae 2006) nr. 248.

edition. By leaving out the transcriptions and their variance this editorial practice limits understanding on how the text of these charters was conceived in the course of centuries.

Illustration 7: Edition of a charter issued in 1252 by King William in *Oorkondenboek van Holland en Zeeland*.<sup>16</sup>

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<sup>\*</sup> Afschriften: B (1267 sept. 18) Duitse Orde Utrecht, archief balijs van Utrecht nr. 103 = vidimus van A<sup>1</sup> door Engelbrecht aartsbisschop van Keulen (zie hierna op die datum). — C (1279 febr. 1, Keulen) DOZA Wenen, oorkonden, vidimus van A<sup>2</sup> door Sifrid aartsbisschop van Keulen (zie hierna op die datum; eerdere druk bij Hennes, *Cod. dipl. ordinis Theutonicorum*, nr. 266). — D (1294 juli 6) RA Bergen, archief graven van Henegouwen, charters, nr. 46 = vidimus van A<sup>1</sup> door Sifrid aartsbisschop van Keulen, Witbold deken van de dom en Gerard voogd van Keulen (zie hierna op die datum). — E (1308 mrt. 1, Keulen) DOZA Wenen, oorkonden, vidimus door Hendrik aartsbisschop van Keulen van de oorkonde van paus Alexander IV d.d. 1257 juni 27 (zie hierna op die datum; eerdere druk bij Van den Bergh, *OHZ*, II, nr. 31); van de oorkonde van paus Bonifatius VIII d.d. 1298 nov. 5 (regist bij Potthast, *Reg.*, II, nr. 24.749); van A<sup>2</sup>; van de oorkonde van rooms-koning Albrecht d.d. 1298 sept. 22 (druk bij Hennes, *Cod. dipl. ordinis Theutonicorum*, nr. 338); van de oorkonde van graaf Floris V d.d. 1279 jan. 24 (zie hierna op die datum; eerdere druk bij Van Mieris, *ChHZ*, I, p. 395-396); en van de oorkonde van graaf Jan I d.d. 1297 okt. 23 (zie hierna op die datum; eerdere druk bij Hennes, a.w., nr. 334); druk van het vidimus bij Hennes, a.w., nr. 376. — F (1310 mei 11, Keulen) DOZA Wenen, oorkonden, vidimus van A<sup>2</sup> door Hendrik aartsbisschop van Keulen. — G (ca. 1323 aug. 27) Afschrift van A<sup>1</sup> in grafelijk kanselarijregister, niet voorhanden doch bekend uit H. — H (1325 aug. 1–1331 juli 23) ARA Den Haag, archief graven van Holland nr. 289 (voorheen archief LRK Holland nr. 22) = register EL 24, boni comitis Wilhelmi in Henegouwen, cas C, f. 27, nr. 138: (jonger) De eodem, naar G (het afschrift volgt op dat van de registrering van de oorkonde van graaf Willem III d.d. 1323 aug. 27 waarbij de Duitse Orde in de tolrijdom wordt bevestigd, alsmede op een afschrift van de oorkonde d.d. 1248 jan. 26 (hiervóór nr. 729) en wordt gevolgd door een afschrift van de oorkonde d.d. 1279 jan. 24 (zie hierna op die datum; eerdere druk bij Van Mieris, *ChHZ*, I, p. 395-396). — I (1333 okt. 15–dec. 2) *Ibidem* nr. 290 (LRK nr. 7) = register EL 6, Suyd-Holland, Amstelland en Waterland, 1316–1337, cas C, f. 34, nr. 140: (jonger) *Idem*, naar H (zelfde situering als H). — J (1399 mrt. 15) DOZA Wenen, oorkonden, bevestiging met insertie van A<sup>1</sup> door Albrecht van Beieren graaf van Holland. — K (ca. 1399 mrt. 15) ARA Den Haag, archief graven van Holland nr. 228 (voorheen archief LRK Holland nr. 52) = liber V Aelbrecht, 1390–1401, cas E, f. 321 v-322 r, nr. 1328 = registrering van de sub J genoemde bevestigingsoorkonde: Die heren vanden Duysschen huze. — L (1398 dec. 18) DOZA Wenen, oorkonden, vidimus van A<sup>1</sup> door burgemeesters, schepenen en raden van de stad Dordrecht. — M (1503 nov. 8, Utrecht) Duitse Orde Utrecht, archief balijs van Utrecht nr. 123 = transumpt op naam van de officiaal van Utrecht door notaris Mart. Kaluwe, van een aantal tolvrijstellingsoorkonden ten gunste van de Duitse Orde, f. 2, naar B. — N (1561) ARA Brussel, hs. nr. 12 = cartulaire de Hollande, Zelande et Frise, f. 371 v-372 v, *caput*: Lettres touchant Hollande; *rubriek*: Transcriptum fratrum Teutonicorum de Confluentia de solutione theloni, naar D. — O (1562) AdN Rijsel, archief Rekenkamer van Rijsel (= B) nr. 1585 = vierde Henegouws cartularium, f. 167 v-168 r of (nieuw) 169 v-170 r, nr. 242: Transcriptum fratrum Teutonicorum de Confluentia de solutione tholonii, naar D. — P (1563) ARA Den Haag, archief graven van Holland nr. 2147 (voorheen archief LRK Holland nr. 76) = copies tirées d'un registre, cas T, f. 408 v-410 r, naar N, zelfde *caput* en *rubriek*. — Q (uiterlijk 1641) RA Utrecht, hs. nr. 344-I = Arn. van Buchell, [liber probationum] LVII, f. 12 v-13 r, naar B. — R (1661–1671) ARA Den Haag, archief LRK Holland, copieën nr. 20 = registrum litterarum latinarum, cas. P, f. 29 v, nr. 49, naar H, zelfde *rubriek*. — S (1661–ca. 1689) *Ibidem*, zelfde archief nr. 4 = afschrift van het sub H genoemde register, nr. 138. — T (1661–ca. 1689) RA 's-Hertogenbos, collectie-Rijksarchief nr. 1 (aanwinsten 1862 nr. 1) = afschrift van het sub H genoemde register, f. 89. — U (1661–ca. 1689) ARA Den Haag, archief LRK Holland, copieën nr. 1 = afschrift van het sub I genoemde register, f. 66 v-67 r. — V (1661–ca. 1689) RA Haarlem, collectie aanwinsten nr. 47 = afschrift van het sub K genoemde register, f. 570 v-571 v, nr. 1328. — W (1706–1712) *Ibidem*, zelfde collectie nr. 61 = afschrift van het sub N genoemde cartularium, f. 357 r-358 r. — X (18e e.) AN Parijs, série KK 1244 = afschrift van het sub O genoemde cartularium, f. 187 v-188 r, nr. 242.

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We may now draw some conclusions. In the first place, it proved very worthwhile to test concepts of related scholarly traditions. In this case the ideas of ‘new philology’ urged us to rethink editorial practices of legal documents.

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<sup>16</sup> *Oorkondenboek van Holland en Zeeland tot 1299* II, nr. 951.



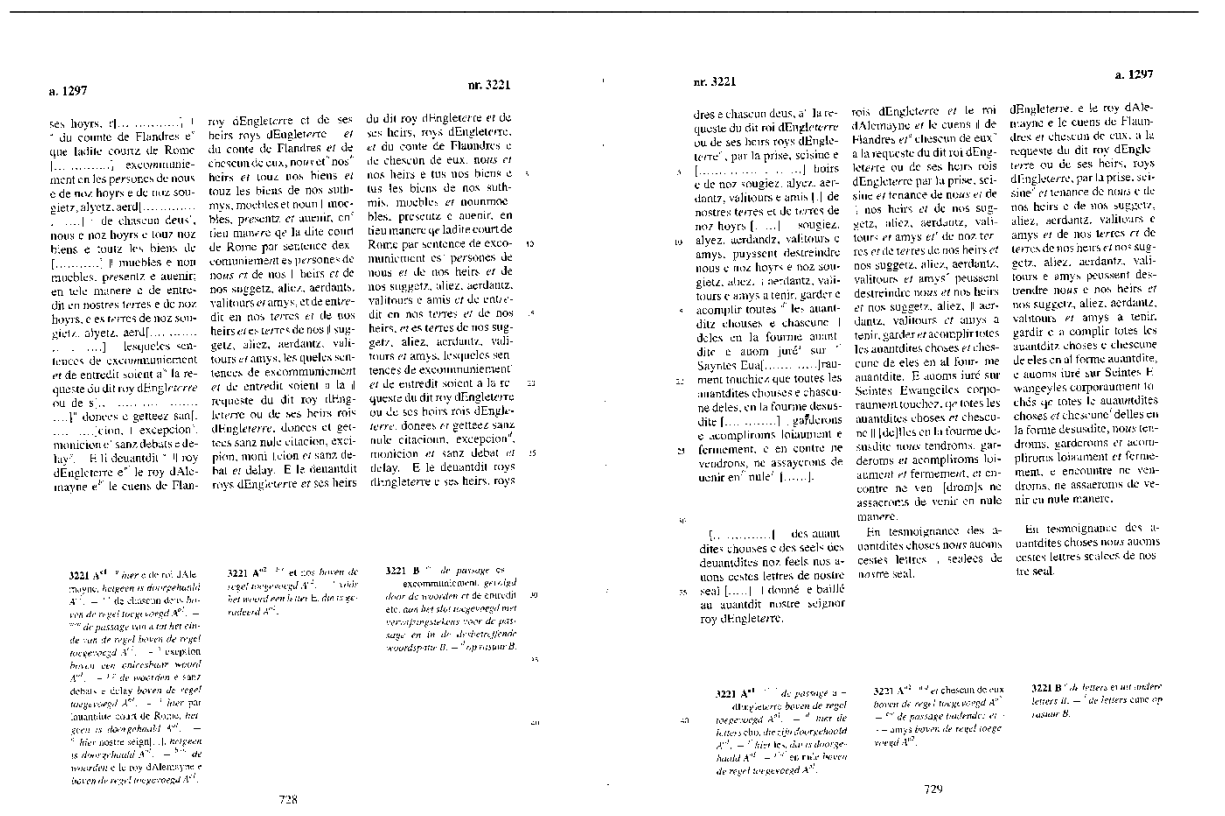
Furthermore, transcriptions and translations of charters show variance in the manuscript age just like literary texts. Editors of charters have to take this into account. Reconstructing the text of a lost original on the basis of transcripts should be made, just as with literary works, with great caution.

Thirdly, even editing a legal document after the surviving original editors should be aware of the fact that some of transcripts were not copied from the original.

Finally, it seems clear by now that an editor of legal documents can hardly leave out transcriptions and translations that came down to us, since the enumeration of transcripts and translations in an edition gives the reader insight into the role the text played during the centuries.

To represent variance an editor quickly experienced the limitations of the printed book. Look at the last pictures that makes clear that three columns is the maximum you can put on a page.

Illustration 8: Edition of a part two drafts and the registration of the charter issued in 1297 by Count John I of Holland in *Oorkondenboek van Holland en Zeeland*.<sup>17</sup>



Besides this physical limitation there are no easy ways to demonstrate the similarities or differences between these three columns. Modern digital tools and editions might be the answer. On one hand, new tools will make the comparisons of texts much easier than before; digital editions will make the convergences and divergences between the several versions of a document more visible for the reader.

<sup>17</sup> *Oorkondenboek van Holland en Zeeland tot 1299 V*, nr. 3221.