

Republic of Debtors: Bankruptcy in the Age of American Independence. By Bruce H. Mann. Cambridge: Harvard University Press, 2002. viii + 344 pp. Notes, index. Cloth, \$29.95. ISBN 0-674-00902-9.

Reviewed by Bruce G. Carruthers

As Congress starts and stalls on bankruptcy-law reform in the early twenty-first century, amid great furor over whether consumers should be able to discharge their credit-card debts, it is easy to believe that such political controversy could only have occurred after the U.S. economy became heavily dependent on modern forms of credit. Bruce Mann's wonderful new book reminds us that such controversies are not historically unprecedented. Plastic money may be new, but credit, and its abuse, are decidedly not. *Republic of Debtors* is a beautifully written and thoroughly researched book that examines bankruptcy in eighteenth-century America. Predictably enough, the central topic leads to consideration of the commercial legal system in connection with the economy, but Mann also points out bankruptcy's political, social, and cultural dimensions in an insightful and engaging discussion. In several ways, Mann shows that credit and failure were much more than just brute economic facts. They possessed complex social meanings that resonated powerfully with the concerns and ideals of the citizenry. Whether a society forgives its failed debtors, and how much forgiveness they can expect, is an issue with considerable economic and legal import.

Mann begins by explaining how economic development, and in particular the growing use of written credit instruments, changed debt in pre-Revolutionary America. Early on, most debts were informal and occurred in the context of preexisting relations of friendship, neighborliness, or some other social connection. People borrowed on the basis of their personal reputation or perceived creditworthiness, and debt was pervasive. Among Virginia planters, for example, credit was extended on the basis of an oral promise to repay, and if debtors were bound by their social honor to satisfy their obligations, creditors were equally expected to forbear from pressing for repayment (pp. 8, 17). But formal written credit instruments (e.g., promissory notes, bills of exchange, bonds) could be *assigned* from one person to another. This important legal feature

conferred mobility onto debts. In other words, person A could give B a promissory note in payment for goods that B shipped to A. Since such notes were negotiable securities (in the legal sense), B could use that note to satisfy a debt to a third party, C, who could in turn use it to pay off someone else, D. As a creditor, D's legal claim on A would be as strong as B's original claim. In effect, formal credit instruments could, and did, function like money, circulating through a network of transactions and often ending up in the hands of someone who had absolutely no relationship or connection to the original debtor.

As Mann points out, assignability of formal credit instruments led to greater social and geographic distance between debtors and creditors. Rather than owing a debt to a particular individual with whom the debtor had a prior personal relationship, debtors were obliged to the person or persons who held their notes and brought them in for redemption once the notes became due. Debts became more anonymous and were removed from the context of small, close-knit social groups and communities. Shorn of their social trappings and local contexts, debts functioned in new ways. As the mobility of debts increased, individual merchants and traders were drawn into larger and more expansive credit networks. Most businesses were simultaneously debtors and creditors, and so a single insolvency could quickly cascade through the credit network and cause problems for many other firms, not just the direct creditors of the troubled debtor. As firms became ever more reliant on credit extended by distant lenders, insolvency became a much-feared catastrophe that could set off a chain reaction, dragging down not just the debtor but also other solvent but illiquid firms.

Mann reminds his readers of the difference between insolvency and bankruptcy. The former is an economic condition (when total assets are less than total liabilities, or when one is unable to pay debts as they become due), whereas the latter is a legal status. Insolvency is a necessary but not a sufficient condition for bankruptcy. For the latter to exist, one needs a bankruptcy law. And in fact, for most of the eighteenth century (and much of the nineteenth) the United States had no such laws. In the middle of the eighteenth century, a few colonies passed bankruptcy laws that granted discharges to debtors, but these brief experiments were soon repealed. Not until the very end of the century did a national bankruptcy law grant real relief to debtors, and even that law did

not last long. Since insolvency represented the failure of debt, changes in patterns of indebtedness led to changes in insolvency and bankruptcy (when such a law existed). Bankruptcy law, as a legal device for dealing with the problem of failed debtors, also reflected popular attitudes toward economic failure.

Mann explains how perceptions of failure changed. Early on, economic failure was directly equated with moral failure. There was little sympathy and no legal redress for those who failed to keep the promises they had made when they borrowed money, for such outward failure indicated the shortcomings of inner character. Debtors were at the mercy of their creditors. Gradually, however, a shift occurred, and commentators came to view failure as a more purely economic risk without moral implications (pp. 59, 82). Insolvency remained, however, a troubling condition because of its cultural implications. Insolvency put debtors into a position of extreme dependency that contradicted Revolutionary-era ideology valorizing the independence and freedom of male citizens. Indeed, insolvency was sometimes equated with slavery (p. 145).

Mann also has some very interesting things to say about the governance of debtors prisons, relief societies, and the discrepancy between formal legal rules and actual practices (consider the fact that an involuntary bankruptcy law proved to be quite voluntary in practice). His eye for historical detail and stock of good stories will hold the attention of those readers who at first may not find bankruptcy law to be the world's most fascinating topic. After finishing the book, even readers uninterested in the minutiae of eighteenth-century commercial law will recognize the social and economic importance of debt, and the excellence of Mann's scholarship. This is a fine book.

Bruce G. Carruthers is professor of sociology at Northwestern University. He is the author of City of Capital: Politics and Markets in the English Financial Revolution (1996) and coauthor of Rescuing Business: The Making of Corporate Bankruptcy Law in England and the United States (1998). He is currently studying the history of credit, and the connection between globalization and bankruptcy law.