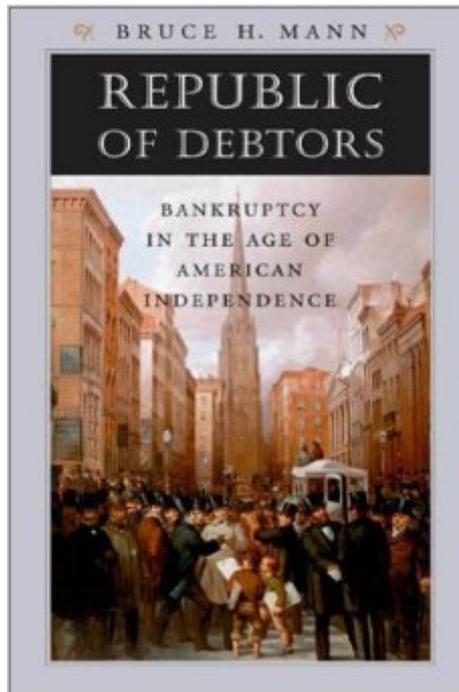


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Republic Of Debtors: Bankruptcy In The Age Of American Independence



Synopsis

Debt was an inescapable fact of life in early America. At the beginning of the eighteenth century, its sinfulness was preached by ministers and the right to imprison debtors was unquestioned. By 1800, imprisonment for debt was under attack and insolvency was no longer seen as a moral failure, merely an economic setback. In *Republic of Debtors*, Bruce H. Mann illuminates this crucial transformation in early American society. From the wealthy merchant to the backwoods farmer, Mann tells the personal stories of men and women struggling to repay their debts and stay ahead of their creditors. He opens a window onto a society undergoing such fundamental changes as the growth of a commercial economy, the emergence of a consumer marketplace, and a revolution for independence. In addressing debt Americans debated complicated questions of commerce and agriculture, nationalism and federalism, dependence and independence, slavery and freedom. And when numerous prominent men--including the richest man in America and a justice of the Supreme Court--found themselves imprisoned for debt or forced to become fugitives from creditors, their fate altered the political dimensions of debtor relief, leading to the highly controversial Bankruptcy Act of 1800. Whether a society forgives its debtors is not just a question of law or economics; it goes to the heart of what a society values. In chronicling attitudes toward debt and bankruptcy in early America, Mann explores the very character of American society.

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Customer Reviews

Bankruptcy is in the air these days, from Enron to overextended former dot-commers. So-called "bankruptcy reform" -- intended to make bankruptcy more difficult and more punitive for debtors --

has been pushed by large creditors for years, and almost passed in the most recent session of Congress. I'm a first-semester law student. I came to this book with a solid, basic understanding of modern bankruptcy law (gained as a business person and as a legal assistant prior to starting law school). As an undergraduate I took two semesters of legal history, and I have an extensive personal interest in American history. Despite my background, until I read this book I had no real appreciation of the implications of failing to have an effective bankruptcy law. Focusing primarily on the second half of the eighteenth century (both before and after the American Revolution), *Republic of Debtors* does an amazing job of showing the social, humanitarian and economic consequences of failing to provide for an orderly discharge of debts in bankruptcy, especially when combined with creditors' remedies such as imprisonment for debt. I, for one, had never confronted the fact that imprisonment for debt survived so long after the American Revolution, nor did I realize that, aside from some brief experiments, the US did not adopt a set nationwide laws on bankruptcy until the late nineteenth century. Professor Mann tells the story by drawing on a wide variety of primary materials, including the diaries of imprisoned debtors and documentation of court cases. One particularly interesting chapter deals with the an elaborate form of self-government that evolved within one of the debtor's prisons.

In the 18th century, the inability to pay debts was considered a moral failure. Mann traces the changing culture of debt around before and after the revolution. After the revolution, insolvency goes from a sin to a risk. Instead of a moral failure, bankruptcy becomes an economic failure. Because debt was so pervasive and common, and was not limited to the poor, the young republic was forced to reinterpret its view of lending and borrowing. In the new economy, failure was possible without punishment. Instead of a classical moral economy, America entered a risk-taking, productive Capitalist economy. Some of this thinking was already in the works. Cotton Mather, for example, had earlier declared that some debt is necessary and that it is not all sin. In the 18th century as well, Puritans were no longer against usury and they realized that some bankruptcy was the sign of healthy entrepreneurial activity. Wartime disruptions in the market created debtors. The French and Indian War was in this way a trial run for the revolution. The war created so many debtors that leniency was necessary. Debtors appeals to sympathy for release, or to logic, arguing that house arrest or gaol meant inactivity and no productivity. Debtors fled to the trans-Appalachian West to secure independence. Especially tobacco farmers were at risk of debt. There was great uncertainty about supply and demand with cash crops that were destined for international markets. Overinvestment one year might lead to debt in the next. Yet all states had imprisonment for debt,

most Americans assuming that this was a necessary punishment. But as debt redefined from moral failure to economic risk, debtors were put in separate gaols, kept away from other felons. One's reputation was his credit.

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