H-Net Reviews
in the Humanities & Social Sciences

Elizabeth Lee Thompson. *The Reconstruction of Southern Debt: Bankruptcy after the Civil War.* Athens: University of Georgia Press, 2004. xvii + 198 pp. $39.95 (cloth), ISBN 978-0-8203-2624-5.

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Published on H-CivWar (May, 2006)

In this insightful monograph, Elizabeth Thompson explores the role of the Bankruptcy Act of 1867 in maintaining the "economic, social and political hierarchy," in the post-Civil War South. Historians have characterized the measure as a "failure" that drew "continuous opposition" from southerners during the Reconstruction Era.[1] Thompson successfully rebuts both contentions. She also dismisses literature that suggests the act represented a punitive measure inflicted on former rebels by the vengeful Yankees. Instead, Thompson establishes that this legislation helped more than hurt southern debtors. She provides a striking example of the complex relationship between the former Confederates and the federal government during the Reconstruction Era. More broadly, she shows the pragmatism that dominated the economic lives of nineteenth-century Americans.

Thompson asserts four central theses in this monograph. First, she contends that the act represented a "well-timed source of relief and opportunity" for southerners, rather than a punitive measure (p. 3). Second, "self-interest" trumped the ideological commitment to states' rights. While openly expressing their disdain for the national government, former Confederates nevertheless embraced this form of national economic protection to help salvage their prosperity after the war. Third, "because the primary beneficiaries of bankruptcy relief were white, male merchants, professionals and planters," the Bankruptcy Act helped stabilize "the entrenched southern society's postwar class and race structure and thus bolstered the economic, political, and social power of the demographic that had formed the leading secessionists and Confederates" (p. 6). Rather than opening a path for reconstructing the southern political and economic system, the Bankruptcy Act played a significant role in helping to "redeem" the southern states. Finally, southerners viewed the Reconstruction-era federal courts more sympathetically than most historians acknowledge. Thompson shows that the beneficent rulings in the bankruptcy cases encouraged southerners to "flock" to the federal courts using the Bankruptcy Act to their advantage for economic protection (p. 5).

Thompson argues her case well. She culled her data from 3,810 bankruptcy filings (3,406 voluntary and 404 involuntary) from debtors living in three regions of the South: southern Mississippi, South Carolina, and eastern Tennessee (p. 143). She chose these areas to represent the variety of economic, social, and political diversity of the postwar South. Thompson included filings from Vicksburg and Charleston, as well as "an average county based on property values and population" (pp. 8-9). She followed the trails laid in these different case studies, and found a great deal of information on many of the debtors, creditors, and attorneys involved in these cases.

Enacted on the same day Congress overrode President Johnson's veto of the Military Reconstruction measure, the Bankruptcy Act lasted for eleven years, longer than either of the two pre-war bankruptcy statutes. "Both voluntary and involuntary bankruptcy were not limited to merchants and other traders, and laborers and farmers were not exempt from involuntary proceedings" (p. 23). Thus the 1867 law differed from precedent. Although passed during the ascent of the Radical Republicans, Thompson reveals that, "sectional neutrality and economic stability trumped" retribution (p. 21). The law authorized the federal, rather than state, courts to adjudicate bankruptcy cases. States had developed a myriad of bankruptcy regulations throughout the antebellum era; by authorizing the federal courts to hear these cases, Congress eased the ability to resolve these disputes. Indeed, as Thompson notes, the 1867 Bankruptcy Act "represented a compromise between debtor and creditor interests" (p. 25). High exemptions allowed debtors to shield personal property; creditors had the benefit of forcing a discharge, although they generally recovered less than half the amount owed to them.

In chapter 2, Thompson explores the relationship between the federal district courts and the bankruptcy applicants. These cases represented a "significant portion" of the courts' work during Reconstruction, far more,

Thompson notes, than the cases involving political or civil rights (p. 33). She found that "the district judges were inclined to support local interests" (p. 42). Although appointed by different presidents (Lincoln or Johnson), Thompson found that the judges in her chosen counties "gained a reputation for serving the white conservative elements of their communities, which were often composed of former Confederates" (p. 43). Thompson finds that southern debtors fared better in these courts than their distant creditors. "Voluntary bankrupts in the southern districts studied received discharges from their debts more frequently than did filers nationally" (p. 49). Thus, she concludes that the Bankruptcy measure provided the "most far-reaching economic assistance that the federal government provided to the postwar South" (p. 51).

How did southerners use the Bankruptcy Act to their advantage? In chapter 3, Thompson demonstrates that by filing voluntary bankruptcy petitions they shielded much of their property before creditors could claim it themselves. South Carolina and Mississippi residents in particular responded to the protections in the bill, and "crowded the dockets" by 1868 with voluntary bankruptcy filings. Not until the 1870s, "possibly as a result of creditors' reactions to the decade's financial woes, including the 1873 panic" did involuntary filings increase. "Thousands of southern debtors did not perceive the 1867 Bankruptcy Acts as a failure but rather saw it as serving their needs" (p. 58).

Chapter 4 provides an illuminating study of the attorneys involved in the bankruptcy cases. Thompson found that lawyers played both sides of the game, serving as collection agents and investigators for northern creditors while also defending debtors. Southern attorneys eagerly sought to practice before the federal courts because representation therein provided a welcome source of income. Thompson approvingly quotes historian Gail Williams O'Brien's observation (in *The Legal Fraternity and the Making of a New South Community, 1848-1882*, 1986) that, "they were neither economists nor philosophers; they were practical men concerned with making a living" (quoted, p. 62). Southerner lawyers, not recent émigrés, provided the legal support for debtors and creditors. These attorneys enjoyed a close relationships with the court registers, who "were federal officers who had to take the Ironclad Oath before serving in office" and "handled the day-to-day administrative duties in bankruptcy cases" (p. 42). This cooperative relationship between homegrown (or at the very least, southern grown) attorneys and the federal registers, many of whom were carpetbaggers, demonstrates another twist in complex post-bellum relations between the national government and former Confederates during Reconstruction. "Southern counsel who had supported the Confederate cause were eager to resume their practices in the federal tribunals after the Civil War and successfully fought congressional legislation that barred former Confederates from doing so," she notes (p. 71).

In chapter 5, Thompson shows how southerners benefited from this "Radical" legislation by filing voluntary bankruptcies. Fellow southerners, not northern merchants, held most of these debts. Voluntary bankrupts "viewed filing either simply as a practical economic necessity that did not affect their political critique of Republican federal policies or perhaps as a right that southerners had earned as a result of the hardships suffered at the hands of federal authorities" (p. 74). Proximity to a railroad line proved the most significant factor in who filed for bankruptcy, more than property values or access to a federal court (p. 83). Thompson reveals that, "the railroad offered these locales greater access," to commercial markets, federal courts, and the sort of formal and informal procedural information that facilitated filing. "Railroads shortened the distance between people and the federal tribunals," Thompson demonstrates (p. 83-84). Eastern Tennessee filers had a 70 percent rate of discharge; 59 percent in South Carolina; 56 percent in southern Mississippi, whereas only one third of voluntary bankruptcy filings nationally were relieved. Thompson observes that "southern debtors walked away free of their debts within a couple of years of declaring bankruptcy" (p. 84).

Thompson reveals in chapter 6 that involuntary bankruptcy proceedings in southern federal courts did not involve a simple North-versus-South dynamic: "rather they involved complex interactions between southern debtors and creditors residing in the North as well as the South" (p. 95). Although more creditors filing against debtors lived outside of the South, except in the Tennessee counties she studied, creditors used involuntary filings to initiate settlements, and many southerners took advantage of the law to recover what they could from debtors. "The traditional depiction of the 1867 Act as empowering Yankee creditors to collect from debtors in the former Confederacy is not full and accurate. Southerners were not always victimized by involuntary proceedings but rather were among those who profited from them" (p. 104).

Because "Congress was not disposed to expand federal power to recognize greater rights for women," female property owners benefited only to the extent that state authorities allowed, according to Thompson in chapter 7

(p. 107). The 1800 Bankruptcy Act referred to both male and female debtors, but the 1867 legislation used only the male pronoun (p. 109). Thompson found thirty-five bankruptcies involving women, all were merchants or skilled workers, and half were married (p. 112). Thompson found even fewer freed African Americans in the bankruptcy files. Why did more freed people not file?- She concludes that blacks used the courts infrequently and they did not have the money to pay for attorneys or the court fees. When they did, they turned to the Freedmen's Bureau Courts. Therefore, "while the act proved a valuable economic tool for scores of white men and a few white women, it did not provide economic or political empowerment for African Americans," she surmises (p. 115).

Since the act made it "less advantageous for corporations to file for bankruptcy than for individuals or partnerships," southerners did not file many corporate bankruptcy petitions (p. 134). Voluntary filings by corporations were rare, and only a few debtors initiated cases against corporations (p. 129). However, since partners were treated like individuals under the law, 39 percent of the cases in her test counties represented involuntary filings involving partners. Many of these corporations (particularly railroads) had strong ties to the states, leading Thompson to conclude that the southerners used the law to protect their regional interests in economic development. This fit neatly with the broader ideal of preserving state interests from "foreign" (federal) intervention.

Finally, in chapter 9 she explains why so many of their representatives clamored for repeal of the act in 1878. The statute reallocated "power in federal-state spheres of authority" (p. 23). This shift ultimately turned southerners against the act. Relatively few southerners were using the law by the late 1870s. Once ex-Confederates extinguished their war debts, and the southern postwar economy picked up, the calls for reestablishing state prerogatives on bankruptcy strengthened. The rising "aversion to the extension of federal power into realms traditionally reserved for state governments," plus increased charges of corruption and maladministration, further doomed the measure (p. 139). As Thompson notes, the act died a political death. Southern representatives in Congress voted favorably for the measure's repeal as part of the movement to restore state prerogatives in domestic affairs. In a broader sense, the demise of the 1867 Bankruptcy Act reflects the pragmatism with which Americans formulated economic policy. Enacted in the wake of economic downturns, all the nineteenth-century bankruptcy measures attacked a specific problem, and then were repealed once the crisis passed. Economic historians Carolyn Webber and Aaron Wildavsky have observed that in matters of political economy, Americans are "the most unideological people" who "practice more than they preach."[2] Thompson's study provides an illustrative example of this conceit.

This book will frustrate scholars interested in the social history of the period. While Thompson's research is thorough and her analysis penetrating, she does not elaborate on many of the stories concealed in the three thousand files she examined. While one admires Thompson for staying focused and completing her task so admirably, the desire to know more about these individuals and their stories overtakes the reader at the end of the book. Hopefully, an equally meticulous and unsentimental scholar will follow her steps and tell us more about the southern economic mind during the Reconstruction era.

Thankfully, Thompson writes with the same spare but elegant style of novelist Marguerite Duras. She wastes no words in driving home her theses, but you never confuse her prose with a technical writing exercise. Her maps, charts, and tables clearly and succinctly present the data she analyzes, a rare treat in the recent scholarship in economic history. The system used by the University of Georgia press for the endnotes and bibliography make it easy to find the sources Thompson cites. Add this book to your reading list for either advanced undergraduate or graduate student seminars on the Civil War and/or Reconstruction, or Civil War era economic history. This monograph should become a standard resource for those studying the social and economic developments in the South during Reconstruction.

Notes

[1]. Charles Warren, *Bankruptcy in United States History* (Cambridge: Harvard University Press, 1935); and David Skeel, *Debt's Dominion: A History of Bankruptcy Law in America* (Princeton: Princeton University Press, 2001), p. 28. Both works are quoted in Thompson, p. 1.

[2]. Carolyn Webber and Aaron Wildavsky, *A History of Taxation and Expenditure in the Western World* (New York: Simon Schuster, 1986), p. 151.

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Citation: Jane Flaherty. Review of Thompson, Elizabeth Lee, *The Reconstruction of Southern Debt: Bankruptcy after the Civil War*. H-CivWar, H-Net Reviews. May, 2006.
URL: http://www.h-net.org/reviews/showrev.php?id=11755

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