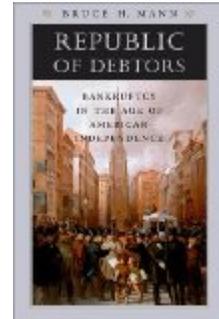


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A “High and Improved State”?: Debt and the New Republic

In *Republic of Debtors: Bankruptcy in the Age of American Independence*, Bruce Mann has produced an ambitious and engaging book which views the debates over insolvency and bankruptcy as central to the ideology of the new American republic. The time frame, which covers much of the eighteenth century, coincides with the profound changes in politics, economics, and culture wrought by the emergence of a market economy and, later, the introduction of republicanism. Beginning from the premise that “debt was an inescapable fact of life in early America” (p. 3), the author argues that how a society views and forgives debtors offers an insight not only into its legal and economic systems, but also its cultural values. Within this framework, Mann also illustrates the ways in which debt and credit became intertwined with other hotly-debated contemporary issues, particularly dependence and independence.

The author situates his narrative within the transformation from a moral economy, as represented by the 1715 spiritual lesson of Samuel Moody, a cleric in York, Maine, and the arrival of the market economy, symbolized by the Bankruptcy Act of 1800. Mann bridges a gap in our understanding of eighteenth-century America through his blending of the more specialized histories of law and finance with the broader field of cultural history, especially with regards to credit and debt which, until recently, have gone understudied. This work, therefore, does not seek merely to show us the commercial and legal context out of which the Bankruptcy Act emerged, but strives to demonstrate the ways in which attitudes toward bankruptcy reflected and influenced ex-

pectations toward the republic. These goals, to a certain degree, can be summed up by an anonymous contributor to William Keteltas’s newspaper, *Forlorn Hope*, published from debtors’ prison. “Imprisonment for Debt, I never believed consistent with a state of civil society, much less that high and improved state which republicanism contemplates” (p. 144). The reality of insolvency and debtors’ prison seemingly stood in stark contrast to this higher and improved state, while simultaneously mirroring the dilemmas of the new republic’s founders who, now that they had resurrected a classical republic in the modern era, confronted the dilemmas of implementing it. The subsequent controversies and disputes revealed the multifaceted nature of contemporary ideologies and issues engulfing the new republic, which Mann illuminates through a study of insolvency and bankruptcy.

By the time of the American Revolution, the issue of insolvency had become intertwined with the much-deliberated dualities of the era, including commerce and agriculture, vice and virtue, nationalism and federalism, dependence and independence, slavery and freedom (p. 5). Credit and debt present yet another critical dichotomy, promising success while threatening failure. Through this latter facet, Mann encapsulates both a primary tension of the era as well as a primary argument of the book, for “at bottom, [Americans] were struggling with the place of failure in the new republic” (p. 5). Economically, such a sentiment echoes Jacob Price, who reminds us that, on both sides of the Atlantic, contemporaries and historians alike frequently have been too quick to focus on commercial success, despite the numer-

ous cases to the contrary.[1] Politically, the ongoing debates surrounding these interlocked dichotomies reveal the ever-present fear that the hard-won republican experiment might not survive.

By the early-eighteenth century, debt began an evolutionary trend away from a largely personal affair, involving neighborly obligations and patronage, to become more recognizably commercialized and impersonal. Although many of these shifts were economic in character, brought on by the rapidly expanding domestic and imperial markets, they demanded, and eventually produced, changes in the moral perceptions of debt. The minister Samuel Moody assumed the existence of a moral economy, when he wrote in 1715 that “it is no Sin to be Poor; but to lie in Debt, is a Sin” (p. 38). Yet even Moody’s contemporary, Cotton Mather, distinguished between types of debt, thereby smoothing the way for a cultural transition from a moral to a market economy. Both men condemned the growing trend towards consumerism and consumer debt, showing little sympathy for those who accrued debt to acquire what were deemed to be luxuries, but Mather recognized that commerce depended upon credit, while colonial society benefited from trade. With this admission came an acceptance of commercial debtors as a distinct group, which could be perceived and treated separately. This seemingly mundane concession harbored several factors capable of instituting cultural changes. Although Mather continued to view late debts as blameworthy, he allowed for the difficulties confronting merchants, appreciating the colonies’ position within a far-flung, transatlantic commercial network. Moreover, a growing belief took hold that debt constituted an economic setback rather than a moral failure. Mann clearly centers his narrative on laws and changes relating to the commercial sector, aptly showing the uneven and often illogical transition inherent within these major cultural and mental shifts. The reader, however, would gain from a more extensive questioning of the contradiction between absolving the merchant who imported the luxuries of the immorality of his or her debts, but not pardoning the merchant’s customers for accruing debt to buy those same luxuries. Economic expansion produced profound and interlinked changes within the makeup of American trade which included the increased availability of goods; growing economic disparities within the merchant community; commercial specialization among the merchants; and the sophistication of financial institutions and investments. Pursuing the nuances within public opinion regarding their own culpability, as well as the role of debt, within these develop-

ments would further the author’s appraisal of the ways in which financial and legal systems inform our understanding of cultural history.

An analysis of debtors’ prisons in eighteenth-century America helps to shed light on the cultural shift in perceptions of debt. Throughout the book, Mann strives to differentiate English and American systems of handling debt, which he accomplishes, in part, through a discussion of the prison system. Unlike England, America had very few actual debtors’ prisons, with the major exceptions being the New Gaol in New York and the Prune Street Jail in Philadelphia, both established after the American Revolution. Consequently, in most colonial regions, debtors were imprisoned or jailed with criminals, whereas in England the two groups typically were not incarcerated together. Adding to their misfortunes, American debtors frequently fared even worse than the prisoners, since the jailers were responsible for the feeding and upkeep of the latter, but not the debtors. Similar to their English counterparts, contemporary observers in America criticized the system on a number of points, although, as Mann shows, this did not occur in the colonies until 1750, since the “idea of imprisonment for debt” was so deeply ingrained into the culture (p. 81). By the late 1760s, spurred by the adverse economic effects of the Seven Years’ War on the American colonies, popular literature championed the cause of imprisoned debtors, particularly in a genre described as “dueling broadsides” (p. 81). Based upon his reading of this literature, the author does not detect a sense among contemporaries that debt represented a moral failure, implying that the redefinition of debt as an economic predicament was well underway.

One of the book’s strengths lies in its readily accessible explanation of evolving financial and legal instruments and institutions. For example, Mann presents lucid descriptions of the working of such financial instruments as bills of exchange. Moreover, in building towards the introduction of the first national Bankruptcy Act in 1800, the author explains the difference in legal terms regarding the informality of insolvency as compared to the formal nature of bankruptcy, as well as the differences between secure and non-secure loans. In both the financial and legal senses, these concepts and instruments varied between the colonies and, later, the states. Mann is at pains to show that individual American polities (colonies and states) attempted to set their own procedures and laws concerning both insolvency and bankruptcy. For instance, in 1785 Pennsylvania enacted a bankruptcy law that, unlike standard American insolvency policies, fol-

lowed the English model. The law was limited to members of the commercial community, such as merchants, brokers, bankers, and factors, and could be activated only by creditors who were owed a large sum. New York, the only state with a commercial center comparable to Philadelphia, “changed its insolvency system with breathtaking frequency in the 1780s” (p. 179). And Massachusetts, the setting for Shays’s Rebellion, had a long history of hostile creditor-debtor relations. The ambiguities surrounding the various state laws concerning insolvency and bankruptcy led to a growing awareness that debt, like commerce, routinely traversed state borders and, thus, should be dealt with at the national level. As Edward Shippen, the presiding judge of the court of common pleas for Philadelphia County, stated, “insolvent laws, subsist in every State in the Union, and are probably all different from each other;... and they have never been considered as binding out of the limits of the State that made them” (p. 184).

By the time of the Constitutional Convention, there were calls for the new government to take control of the situation by enacting a national bankruptcy law. Critics of such a law, however, argued that it would draw power away from the states to the national government. These discussions illustrate Mann’s command of American legal history, possibly too well. It would have been beneficial, for those of us less versed in the historiography, if the author had taken a moment to trace the evolution and maturation of that legal system from colonies to nation, especially since, as Cornelia Hughes Dayton has shown, commerce fostered significant changes in eighteenth-century American courts.[2] This move towards a national system of law, with its attempts to systematize states laws, also demonstrates America’s emergence as a nation-state independent of Great Britain, reinforcing the book’s overall emphasis that the legal and commercial systems were simultaneously interlocked with and fundamental to the development of the new nation. Through his examination of bankruptcy legislation, Mann persuasively proves one of the book’s underlying arguments, namely the significance of debt to the republic, for debt helped to propel the disparate, small republics toward a national system.

In terms of financial institutions, Mann allots considerable space to the American rage for speculation, particularly after the revolution. The speculation frenzy surrounding the transfer of the nation’s capital to Washington, D.C. created, in essence, a paper pyramid that crumbled in 1797, resulting in the imprisonment of “virtually every major speculator,” including the financial magnate

Robert Morris (p. 203). Earlier in the decade, William Duer’s scheme to corner enough stock and “six percents” to control the Bank of New York caused the first financial panic in American history (p. 114). Prior to Duer’s financial collapse in March 1792, many observers recalled the South Sea fiasco seventy years earlier and saw a financial bubble about to burst.

These prominent failures during the 1790s promoted public controversy over speculation. At the time of Duer’s downfall, Seth Johnson worried about the influence of the “scripomania” on non-mercantile investors, arguing that it was “subversive of private industry, happiness, and oeconomy, and of consequences injurious to the public welfare” (p. 114). In 1796, Theodore Sedgewick of Massachusetts was not “sorry that the bubble of speculation has burst” (p. 203). Although Mann, with a focus on the colonies that became the United States, has not set himself the task of writing a transatlantic, cross-cultural account of the evolving character of such phenomena as commerce and finance, along with their respective laws, his book lays the foundation for such a comparative study, by providing numerous examples of these sectors across the Anglo-American Atlantic. For instance, when viewing their own speculation crises, many Americans in the 1790s harked back to the South Sea Bubble of 1720, sharing with many Britons a profound distrust of stock-jobbers. Similarly, many of the debates against speculation and, for that matter, bankruptcy legislation echoed their British counterparts.

At the time in America, the financial disasters and ensuing deliberations exposed class rifts within American society. Just as the notion of a “wealthy debtor” appears to be an oxymoron, the first panic, which witnessed the imprisonment of these wealthy debtors, confused and challenged expectations regarding social and economic position, eventually pushing the issue into the political arena, where the social hierarchy embedded in the discourse quickly surfaced. Bankruptcy legislation, by its nature, would be restricted to wealthy debtors, since it would only apply to those who owed large sums, necessarily leaving out small or “common” debtors. While Mann presents a number of editorials, such as that of Seth Johnson, speaking out against wealthy merchants and speculation, the book’s sympathies appear to lie with the mercantile class. Given Mann’s intentions to intertwine financial and legal systems with cultural history, however, it would seem pertinent to explore more thoroughly the average individual’s views on such matters as speculation, particularly as the book seeks to trace the evolution from a moral to a market economy.

Mann admits that as late as the 1790s, a Massachusetts satirist lumped bankrupts along with “paper-money gentry,” “land-jobbers,” “state leeches,” “idlers,” and even Tories. The book would benefit, however, from a more sustained critique of opinions regarding these financial developments outside the more well-to-do or elite commercial and political circles.

Mann pursues issues of social and economic inequality within the new republic, along with the resulting tensions, through his investigation of the changing notions of debt and bankruptcy as they intertwined with republican ideology. Here the ambitious nature of Mann’s work runs up against the multifaceted and confused nature of the ideological debates present in late-eighteenth-century America. If the book exhibits a weakness it is here amongst the complex, often-contradictory, multi-layered ideologies surrounding the new republic. Indeed the rapidly evolving economic and political arenas produced new ways to visualize credit and debt, which held a dual role in the new nation. On the one hand, the acquisition of capital and wealth offered men the opportunity to become full participants in the young government; thus credit, as the key means to accumulation, entered American imagination. On the other hand, credit also carried the potential for failure, often culminating in debtors’ prison, the very antithesis of independence. In chapter 4, “The Imagery of Insolvency,” Mann introduces a number of the major dualities of the age which frequently centered on concepts of “freedom,” “liberty,” and “independence.” We observe imprisoned debtors making obvious comparisons between their present condition and slavery; Jefferson’s virtuous yeomanry fleeing to Kentucky in pursuit of land and, just as importantly, freedom from their creditors; and, pre-revolutionary Virginia planters, caught up in eighteenth-century consumerism, confronting the tyranny of debt and, more pragmatically, British merchants. Mann demonstrates that changing cultural notions of indebtedness, coupled with the rhetoric of independence during the eighteenth century, provided Americans with a new paradigm of debt. In order to solidify his argument, however, the author needs to more clearly and precisely define how Americans understood “independence,” which strikes at the heart of his argument.

Mann is cognizant of the major arguments and their historiography, although, at times, the nuances embedded within these issues are not always fully probed, as when he discusses the relationship between debt and independence. For example, Mann introduces John Pintard, who was embroiled in William Duer’s speculative

schemes and fled from New York to New Jersey to avoid debtors’ prison, although he eventually spent a year (July 1797 to August 1798) in Newark prison. Among other topics, Pintard illustrates issues of gender, women, and independence, particularly in relation to the circumstances surrounding his economic failure. Pintard, who appears to have been more introspective than most debtors, used his enforced absence from business to read; indeed, in later years, he romantically recalled his time in prison almost fondly, since it granted him this opportunity. In 1800, after his release from Newark, Pintard read Mary Wollstonecraft’s *Vindication of the Rights of Woman* (1792), which drove home the reality of women’s dependence. In contemplating Wollstonecraft, Pintard began to see the often-contradictory intricacies of his own situation, recognizing the ways in which his commercial misfortune had curtailed the social activities (and thus freedom) of his wife, Elizabeth Brasher Pintard. Conversely, during this time period, John frequently sent Elizabeth to New York—where he dared not venture for fear of being incarcerated—to negotiate with his unforgiving creditors. Tellingly, Elizabeth retained the freedom of mobility, or independence, which John had lost through debt. Here the author presents a rich anecdotal example which, had it been enlarged upon, may have shed light on issues of debt and gender, and sharpened the author’s cultural analysis. For example, did John expect Elizabeth’s gender to benefit her (and thus him) when negotiating in a patriarchal, commercial environment? How did Elizabeth view her place in John’s commercial affairs? How common was it for men to employ their wives as emissaries and, therefore, what does this incident tell us about the role of women in eighteenth-century American commerce? As a woman, Elizabeth would appear to be the antithesis of economic independence, yet here independence seemingly grew at her husband’s expense, raising the obvious question, did John feel emasculated by his debts?

From a discussion of the Pintards, the author—surprisingly, to my eye—shifts away from female dependency to a consideration of the gendered disposition of credit and insolvency. For the author, as well as men involved in eighteenth-century commerce, “the gender imagery of failure is inescapable” (p. 120). Eighteenth-century Americans were comfortably familiar with Daniel Defoe’s symbolic representation of “Lady Credit,” who was “passionate, mercurial and seductive.” According to Defoe, she was a “coy Lass,” who “will court those most, that have no occasion for her” (p. 120). Portrayals of credit as fickle and inconstant, and thus female,

were hardly new nor fleeting. J. G. A. Pocock observed that “masculine minds constantly symbolize the changeable, the unpredictable and the imaginative as feminine” (quoted, p. 121). When bold financial schemes collapsed, merchants and speculators saw themselves as “unman’d” by their failure or weakness.

Through his examination, Mann provides an intriguing and informative critique; however, in highlighting the feminine symbolization of credit, he strays away from the larger argument which viewed eighteenth-century women as the essence of economic dependence and, in so doing, misses an opportunity to advance the intertwining of financial history with cultural history. The reality of economic dependence did not escape John Adams who developed his stance on female independence in a letter to a male acquaintance. Similar to property-less men, women and children lacked independent judgment and “their delicacy renders them unfit for practice and experience in the great businesses of life.”[3] In keeping with contemporary ideology, Adams believed that the votes of those individuals who did not own property could be unduly influenced by the holders of their economic livelihood; as such, property ownership and the ensuing economic independency were prerequisites for political citizenship. Here, Mann could have advanced this cultural analysis by connecting notions of debt and dependence to contemporary views of gender, since presumably debtors (like women) could be improperly influenced by their creditors, as Thomas Jefferson well-understood. This is just one example where Mann adds informative anecdotes to our collective lore of republican ideology, but skirts the central and more enduring issues. Admittedly, women’s reputation as fickle and unpredictable (like credit) would serve to hinder them in a political world that valued rational citizens. More importantly, however, society’s ingrained notions of women as economically dependent upon men would not only prove a major stumbling block en route to becoming participants within a republic which prized independence, but also helped to ensure that same dependency. A more vigorous analysis of the role of gender would have served to illuminate the place of independence in American culture and how debt interacted with both. In fairness to Mann, to no small degree this criticism stems from the complexity of the issues surrounding the new republic, as demonstrated by the rich and controversial tone of the debates over eighteenth-century republican ideology, including the role women would or would not play within that new polity.[4]

To my mind, chapter 6 (“The Politics of Insolvency”)

most successfully illustrates the ways in which debt and insolvency were intimately linked with the contested dualities of the era and, thus, with the controversies over the republic. Borrowing a quote from Drew McCoy, Mann arrives at the heart of his argument. The failure of the land speculation scheme surrounding Washington, D.C. landed even Robert Morris in debtors’ prison and finally convinced Congress to take up a national bankruptcy bill in earnest in December 1797. According to McCoy, the debate over the bill provided “a focus for the clash between predominantly Federalist optimism about America’s advance to a higher stage of social development and Jeffersonian fears about the republic becoming a corrupt and over-commercialized society” (p. 207). Here we are reminded of the “high and improved state” promised by republicanism as envisioned by the anonymous contributor to the *Forlorn Hope*. At the same time, by the 1780s Jefferson warned that American debt, both public (such as that incurred by the war effort) and private (such as pre-revolutionary commercial debt owed to British merchants), threatened the reputation and viability of the new nation, deterring foreign investment. During the 1780s, political and financial ideologies appeared to merge, creating an ominous specter of failure, prophesied by republican ideology and exemplified by the growing number of elite debtors.

Even as opposing factions debated the advantages and disadvantages between agrarian and commercial economies (and, thus, societies), credit and debt demonstrated the ways in which the market economy was blurring the lines between economic sectors, effectively outdating the argument before its resolution. Simultaneously, the language of the disputes illustrated the staying power of the moral economy in the long, confused and incomplete transition to a market economy. Thus after the revolution, we see American merchants responding to a depressed economy and the return of British competition by drawing local farmers into the consumer nexus. As economic conditions worsened and debtors could not pay their creditors, “both sides invoked the traditional moral economy of debt” (p. 182). Concurrently, the controversies exemplified a number of issues peculiar to American cultural thought on debt. For instance, English law exempted “farmers, grazeers, drovers, as such, tho they buy to sell” (emphasis in original, p. 196), yet no system of bankruptcy advocated in America could exclude land from a debtor’s assets (p. 181). With good reason, farmers everywhere, along with planters in the south, balked at bankruptcy legislation. Jefferson feared the 1800 congressional bill for various reasons, but primarily because

of this ability to seize the land of bankrupt debtors. The failure to exempt farmers, and particularly planters, who also traded would “render all the landholders South of [Pennsylvania] liable to be declared bankrupts” (p. 197). Southern planters, however, associated commerce not so much with trade but with speculation and assumed that they should be exempt from its stipulations.

The deliberations over the Bankruptcy Act of 1800, beginning in 1797, centered on the question as to whether the nation required such legislation, laying open American views of its society and economy. The discourse took for granted that bankruptcy relief applied only to “large-scale commercial debtors,” since supposedly only they found economic risk unavoidable. Mann views this an “oddly narrow understanding of economic risk” (p. 208), underscoring the degree to which many Americans did not fully comprehend the economic changes occurring around them. The resulting conflicts demonstrate McCoy’s perception that the bill revealed the political fault-lines regarding what type of republic Americans both envisioned and wanted. James A. Bayard, a young Federalist, accepted that agrarian societies did not need bankruptcy legislation, or even want it if land were involved. Yet, he asserted that “no commercial people can be well governed without” such legislation, assuming that America’s destiny was to be a commercial rather than agricultural society (p. 208). Albert Gallatin, a leading Republican in Congress, perceived the complexity of America’s situation more clearly than either Bayard or most contemporaries. “Go into the country and you will scarcely find a farmer who is not, in some degree, a trader” (p. 209). The market economy predicted by Bayard had already arrived and any bankruptcy legislation that did not take the reality of rural debtors into account would disadvantage or even ruin that sector, whose debts were backed by land.

Mann positions his book within the contested rhetorical dualities of the new republic, always aware of the overarching specter of failure (personal, political, and economic). This is a fruitful approach, although at times the complexities and ambiguities of the era’s great ideological debates escape without being fully exploited. Therefore, readers will need to be well versed in the historiography surrounding these issues in order to fully assess Mann’s arguments. That said, this book, for a vari-

ety of reasons, would seem a valuable introduction into the era and its tensions. The author provides ample secondary notes, citing many of the major works in the field, including those recently published. Furthermore, the book relies on a wealth of primary documents, especially abundant in merchant correspondence and diaries as well as newspapers, which will be a valuable resource for those scholars interested in eighteenth-century Anglo-American commerce. Finally, Mann writes in a fluid and captivating style, building upon multiple, entertaining anecdotes, which will appeal to students and scholars alike.

Mann has written a book rich in ideas, obliging the reader to ask new questions, while suggesting further avenues of study on eighteenth-century debt, all of which seem to be the mark of a successful academic work. Economically, the Bankruptcy Act of 1800 forced Americans to confront an emerging market economy; politically it compelled them to face the evolution of their republic into a nation. A bankruptcy act, as Edward Shipped grasped, could only function if it were national in scope, moving across state lines. Mann has succeeded in showing how the changing nature and role of both credit and debt intertwined with the profound transformations that confronted the new republic as well as its ideological underpinnings.

Notes

[1]. Jacob Price, *Perry of London: A Family and a Firm on the Seaborne Frontier, 1616-1753* (Cambridge: Harvard University Press, 1992).

[2]. Cornelia Hughes Dayton, *Women before the Bar: Gender, Law and Society in Connecticut, 1639-1789* (Chapel Hill: University of North Carolina Press, 1995).

[3]. John Adams quoted in Sara Evans, *Born for Liberty: A History of Women in America* (New York: Simon and Schuster, 1989), p. 56.

[4]. For an analysis of the gendered nature of republican ideology, see Linda Kerber, “‘History Can Do It No Justice’: Women and the Reinterpretation of the American Revolution,” in *Women in the Age of the American Revolution*, ed. Ronald Hoffman and Peter J. Albert (Charlottesville: University of Virginia Press, 1989), pp. 3-42.

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