

English Bankrupts 1732–1831: A Social Account

Submitted by Robert Gautier Nantes, to the University of Exeter as a thesis for the degree of Doctor of Philosophy in History, December 2020.

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Abstract

During the long eighteenth century in England many thousands of men and women became bankrupts, but little is known today about what they experienced as bankrupts. This study seeks to redress this imbalance by giving an account of the social experience of a wide and varied sample of English bankrupts from between the years 1732 and 1831.

Through the employment of twenty-four case studies this study introduces the reader to some very different members of the English middling sort, all of whom, however, were engaged in a trade at which they failed. Some of these bankrupts were the predictable tropes of bankers and merchants who risked too much, but others were small provincial businessmen and shopkeepers. This study therefore challenges notions that bankruptcy was largely an event affecting only speculators and the extravagant.

Each case study is supported by a variety of sources, for example, law court and bankruptcy commission records, personal correspondence, private journals, self-published exculpatory pamphlets and press reports. Together the sources reveal bankrupts' personal experience, their beliefs, attitudes, anxieties, reflections and introspections. The social and cultural climate that surrounded bankrupts is represented by a range of polemical pamphlets and treatises, newspaper columns, advice literature, novels, verse and plays.

Bankruptcy was not always the soft-option choice of the privileged. There was a larger overlap between the regimes of imprisonment for debt and bankruptcy in England in the long eighteenth century than is often supposed. This study will show that it was because all traders faced the real prospect of being summarily flung into debtors' gaol, that bankruptcies were triggered.

The study explores bankrupts' relationships with family and friends and finds how these connections continued to represent the most vital safety net against poverty, and how dire the consequences were when these affinities failed. Space and time were transformed for bankrupts as the law deprived them of freedom to move and trapped them in proceedings of indeterminate duration.

Finally, the study assesses how bankrupts and their families experienced sudden financial and personal loss, and how they responded to, and came to terms with, downward social mobility. They lost property, public roles, status, often their health, and even their lives. However, as this study shows, not all bankrupts were equal in the degree to which their experience was unpleasant or tragic. Some sank, whilst others rose to the surface again to lead, often different, new lives.

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Abbreviations

B&NESRO	Bath Record Office
BRO	Bristol Record Office
DHC	Devon Heritage Centre
DRO	Dorset Record Office
<i>EcHR</i>	<i>Economic History Review</i>
GRO	Gloucestershire Record Office
HRO	Hampshire Record Office
<i>LG</i>	<i>London Gazette</i>
LRSFB	Library of the Religious Society of Friends in Britain
<i>ODNB</i>	<i>Oxford Dictionary of National Biography</i>
<i>OED</i>	<i>Oxford English Dictionary</i>
SHL	Senate House Library
SRO	Somerset Record Office
TNA	The National Archives
WRO	Wiltshire Record Office

Conventions

Because most bankrupts in the long eighteenth century were men, I use the pronouns 'he' and 'his' and 'they' and 'them' when referring to all bankrupts, male or female. When I discuss specific cases of male or female bankrupts, I use their respective gendered pronouns.

Because marked variations in eighteenth-century spelling and capitalisation are ubiquitous, I have refrained from employing '*sic*' unless strictly necessary to avoid misinterpretation.

Chapter One

Introduction, Literature Review, Discussion of Sources and Subjects

Anne Scott, a widow, and her son Isaac were business partners in the City of London in the 1760s. They had been trading as merchants and dry-salters in Cousin Lane off Upper Thames Street 'upon a very reputable Footing', when financial problems hit.¹ As a consequence, Anne and Isaac were wrongly, so they both believed, made bankrupts. They were also adamant that they were being cheated by the assignees who were in possession of their estate and empowered to liquidate it. There ensued a very bitter correspondence between bankrupts and assignees with each party refusing to comply with the petitions or demands of the other, such that at least one party was put 'in a most violent Passion'.²

On Friday 18 September 1767 Isaac Scott received an unsettling letter from the leading assignee, Mr Hague. It came in response to Scott's refusal to attend a meeting at Rolls Coffee House in Chancery Lane where his creditors wished him to sign a document. The letter read as follows:

Mr *Hague* presents his Compliments to Mr *Scott*, and is very sorry to inform him, that if he persists in this absurd, obstinate Behaviour, he will never meet the Indulgence that he expects; the Affidavit requested is what the Creditors have a Right to demand from him, and if he don't comply, must not complain of the Treatment he will certainly experience...³

What 'Mr *Scott*' was to experience at the hands of the assignees, as a pamphlet published by his mother revealed, was disagreeable and protracted. Scott was not alone. In England throughout the long eighteenth century all bankrupts experienced some form of 'Treatment' at the hands of their creditors. However, what each bankrupt experienced varied greatly. Some barely experienced a change to their circumstances, whilst others were reduced to poverty; very few went to the gallows. This study is an account of the experience of English people, who like Isaac and Anne Scott, became bankrupts.

¹ Anne Scott, *The Case of Anne and Isaac Scott, Bankrupts, Late Merchants and Dry-Salters* (London, 1768), p. 2.

² *Ibid.*, p. 38.

³ *Ibid.*, p. 46.

1.0 Introduction

When in 1694 Thomas Goodinge, a Serjeant-at-Law, published a manual for lawyers, merchants and tradesmen on the '*Law against Bankrupts*', he declared: 'I have often wondered, that so little hath been written on a Subject which made *so great a Figure* amongst Men of Business'.⁴ If Goodinge felt that there had been insufficient commentary in England on bankruptcy in the century and a half since the creation of the first English bankrupt laws in 1543, then how it might have pleased him if he could have foreseen the quantity of advice literature, commentary and scholarship on the laws that was published over the following century and into the nineteenth. By the late twentieth century, with four centuries of bankruptcies and many new and revised statutes on the subject to look back upon, a scholarship on the history of English bankruptcy had truly emerged. However, it has always been the 'Subject' that has received most attention, unsurprisingly in the most part from legal historians. Yet a second glance at Goodinge's observation will register that he regarded bankruptcy as a phenomenon that mattered much to 'Men of Business' because it was members of this social group who were not merely personally exposed by law to the risk of bankruptcy because of the legal stipulation that a bankrupt must be deemed to be a trader, but also that thousands of them actually became bankrupts. The subjects of this thesis are these 'Men' who became bankrupts. Goodinge neglected to mention women 'of Business', and they too are subjects in this thesis. Pertinently, he did mention the 'thousands of Families' upon whom the effects of bankruptcy were 'derived down', and they too feature in this thesis.⁵ Goodinge may have written a book about the law, but he was not insensible to the wider social consequences of bankruptcy. These are the principal objects of this study.

If much has been written about the subject of bankruptcy since 1694, the contrary remains the case about bankrupts themselves. We largely only know them by their names and trades which were published in the *London Gazette*. We know even less about their experience as bankrupts. This is because historians, excepting legal historians, have been mostly interested in bankruptcies as a source from which to extract evidence for historical studies of

⁴ Thomas Goodinge, *The Laws Against Bankrupts: Or a Treatise wherein the Statutes Against Bankrupts are Explained* (London, 1694), preface.

⁵ *Ibid.*

economics, trade and finance. However, bankruptcy as an event in itself has more to offer. Only recently Antunes and Münch Miranda have expressed the need ‘to study bankruptcies as a historical category’.⁶ So why not also study *bankrupts* as a historical category? A 2011 sector study of the English cotton spinning industry by Solar and Lyons is replete with data from bankruptcies because it is useful, but information about individual bankrupts is superfluous.⁷ However, some sector studies provide more extensive information about an individual bankruptcy. A recent example that gives some insight into an individual bankrupt’s financial relationships occurs in a study of commercial gardeners in Middlesex which, while addressing the structure and development of their trade, includes a short account of the bankruptcy in 1821 of John Rutt, a gardener in Hammersmith.⁸

An objection to treating bankrupts as a group is that given most individuals in trade fell within the broad parameters of the eighteenth-century middling sort, individual bankrupts can more usefully provide evidence to support analysis in a variety of themes in social history, for example household possessions or consumer practices as bankruptcies generated inventories and accounts. Yet this is still simply squeezing bankruptcies for their data while the bankrupts, the human subjects, remain incidental. An opportunity is missed here as bankrupts can tell us about many aspects of social experience in long eighteenth-century England, not least about how relationships around money were structured and how those relationships changed when things went wrong.

This study will attempt to redress the imbalance in scholarship between bankruptcy and bankrupts by treating bankrupts as a discrete category and finding out more about them as individuals and what it was like to be them. In exploring the lives of English bankrupts, in an inversion of how they usually figure in research, this study will also endeavour to ask how bankrupts’ experience fitted into a wider historical context, and how that wider context in turn influenced bankrupts’ experience. The thesis will also try to shed additional

⁶ Cátia Antunes and Susana Münch Miranda, ‘GOING BUST: Some Reflections on Colonial Bankruptcies’, *Itinerario*, 43 (2019), 47–62, p. 48.

⁷ Peter M. Solar and John S. Lyons, ‘The English Cotton Spinning Industry, 1780–1840, as Revealed in the Columns of the *London Gazette*’, *Business History*, 53 (2011), 302–23.

⁸ Barbara Anne Rough, ‘The Structure and Development of Commercial Gardening Businesses in Fulham and Hammersmith, Middlesex, c. 1680–1861’ (unpublished doctoral thesis, University of Cambridge, 2017), pp. 283–90.

light on how issues around debt in the long eighteenth-century impacted on middling-sort personal experience and relationships.

To assess the little that has so far been revealed about bankrupts and their experience, and that of their families and other affected parties, I will review the existing literature on eighteenth-century bankruptcy, in so far as it contributes to arriving at an understanding of bankrupts. This is an important caveat because it is not the aim of this study to take forward the very specific work done on bankruptcy law by legal historians. Neither is it my aim to take forward other fields of research that have used bankruptcy data to support broader arguments about changes in business, markets and economies. However, this prior research is invaluable in building the historical context within which an exploration of bankrupts' experience is possible.

Before continuing, it is necessary to clarify what was meant by bankruptcy and terms relating to finance and law in eighteenth-century England, as these terms are used continuously throughout the thesis. I make every effort to avoid modern historiographical ambiguity so that the reader may understand the terms as they were used by contemporaries. This is important because today as in the eighteenth century some terms have precise meanings in law, others are popular and imprecise and may be understood in different ways according to context, speaker and audience.

Firstly, 'insolvency' needs to be understood in two ways: as a broad category heading for all matters related to the inability to pay debts and meet obligations (such that creditors are taking steps to recover what they are owed) and into which are subsumed all debt-related circumstances and regimes; secondly, it has a further, narrower, application which is elaborated below. Bankruptcy is the name of the legal regime that could be imposed on insolvent persons who had debts above a minimum threshold; 'bankrupt' was a legal identity or state of being imposed on people who met the criteria for bankruptcy. Then 'insolvency' makes a reappearance through its relationship with 'insolvent debtors': 'insolvent debtor' is the term usually employed to distinguish between persons who were bankrupts, and persons who could not pay their debts but who did not qualify for bankruptcy; insolvent debtors were more likely to be imprisoned if they did not pay their creditors whilst bankrupts were usually spared imprisonment (although it was never so simple). Then 'to break' was to fail, and

usually meant bankruptcy. This is the sense in which ‘break’ and ‘broke’ are understood and used here.

‘Failure’ and ‘failed’ are used frequently. The terms refer to both the failure of businesses and to the failure of persons in business. The terms are frequently used in speaking of merchant houses or banks but can be applied to any business and its proprietor. Although failure in business need not have resulted in bankruptcy (alternative settlements with creditors were possible), generally in this thesis I use ‘failure’ synonymously with bankruptcy. Usually, if a bank or merchant house was said to have failed, it was highly likely that its partners had become bankrupts. This meant that the business had failed, and that the proprietors or partners had personally ‘failed’. It is important to remember when reading this study that under eighteenth-century English law ‘failure’ and bankruptcy were always personal (sometimes, very personal). Strictly speaking, however, when a bank stopped payments (i.e. when customers could not redeem notes for specie or be paid the balance of their accounts in cash) it was clearly failing, but it had not necessarily failed. If other banks rescued it, it might resume business and payments. If it was not rescued and its partners became bankrupts, then the bank had definitively failed, and so had its partners.

Finally, the above terms should be understood separately from the more technical question of ‘solvency’, that is whether a bankrupt or an insolvent debtor was really ‘solvent’ or ‘insolvent’ in the strict financial sense that could be demonstrated by properly kept books which would have displayed a trader’s true position regarding assets and liabilities. There is a helpful discussion of these distinctions by Cordes and Schulte Beerbühl in *Dealing with Economic Failure*.⁹ The issues are also addressed in greater detail later in the thesis.

⁹ Albrecht Cordes and Margrit Schulte Beerbühl (eds), *Dealing with Economic Failure: Between Norm and Practice, 15th to 21st Century* (Frankfurt, 2016), pp. 12–13.

1.1 Bankruptcy in popular literature

Before this study tests readers' knowledge and understanding of bankrupts, I will assume that the reader possesses an impression of eighteenth-century bankrupts because examples, albeit sometimes misleading, abound in eighteenth and nineteenth-century fiction. Literary representations of bankrupts are not necessarily unrepresentative and uninformative. Similarity with the content of authentic sources explored in this study suggests the events related in contemporary fiction were drawn from, or influenced by, real events.

Novelists, Daniel Defoe (bankrupt in 1692) probably being the most notable in the eighteenth century and Charles Dickens in the nineteenth, had first-hand experience of financial problems and measures employed against debtors.¹⁰ It is also reasonable to suppose that authors witnessed, or had related to them, or read in the press, the debt-related problems of others. Novelist Clara Reeve wrote in 1785 that the novel 'gives a familiar relation of such things, as pass every day before our eyes, such as may happen to our friend, or to ourselves'.¹¹ Relatives, friends, neighbours and trade acquaintances of most eighteenth-century English people would at some point have experienced failing credit, debt, material distress, imprisonment, bankruptcy and ruin (both financial and personal). Tawny Paul notes, for example, that in eighteenth-century England '[o]ne in four middling men experienced the debtor's prison during their lifetimes'.¹²

In eighteenth and nineteenth-century fictional narratives ('histories', novels, verse, plays) a 'bankrupt' is a recurring trope. He, for usually it is a 'he', makes scattered, but not infrequent appearances throughout in the recognisable roles of malefactor, fool, or victim of misfortune. Usually a bankruptcy, or a bankrupt, serves as a plot device to pose a threat to the security of a character who is inextricably and calamitously bound to the bankrupt, examples of imperilled characters are: Moll in Defoe's *Moll Flanders*;¹³ the Vicar in Goldsmith's *Vicar of*

¹⁰ Paula R. Backscheider, 'Defoe, Daniel (1660?–1731)', *ODNB* (Oxford, 2008); Michael Quilter, 'Daniel Defoe: Bankrupt and Bankruptcy Reformer', *Journal of Legal History*, 25 (2004), 53–73, pp. 54–6; Michael Slater, 'Dickens, Charles John Huffam (1812–1870)', *ODNB* (Oxford, 2020).

¹¹ Clara Reeve, *The Progress of Romance* (Colchester, 1785), quoted in Markman Ellis, *The Politics of Sensibility: Race, Gender and Commerce in the Sentimental Novel* (Cambridge, 1996), p. 16.

¹² Tawny Paul, *The Poverty of Disaster: Debt and Insecurity in Eighteenth-Century Britain* (Cambridge, 2019), p. 238.

¹³ Daniel Defoe, *Moll Flanders*, 2nd edn (London, 1722), p. 129.

Wakefield;¹⁴ old Edwards in Mackenzie's *Man of Feeling*;¹⁵ young Mr Belfield in Burney's *Cecilia*;¹⁶ Emma in Hays' *Memoirs of Emma Courtney*;¹⁷ and a character who is caused the loss of her fortune in Edgeworth's *Love and Law*.¹⁸ Tawny Paul has highlighted the constant climate of financial insecurity that for many prevailed in the eighteenth century.¹⁹ Given this, it is little surprising that the anxieties of contemporaries about the threat of misfortune loomed large in literary texts and thus bankrupts came to occupy enduring and useful structural positions in popular contemporary fiction. However, the bankrupts in these eighteenth-century novels are secondary characters and their stories are little developed, which imposes limits on the insight that might be gained into the lives of real bankrupts.

A difficulty I encounter seeking insight into the experience of English bankrupts in the work of literary scholarship is that the presence of bankruptcy and insolvency in the structures of fictional works has been identified by literary scholars as residing largely in the Victorian novel. So identified has it been that John McVeagh observes of the commonplaceness of bankruptcy in the work of nineteenth-century writers that to try 'to compile a full account of bankruptcy in Victorian fiction would mean listing every other novel of the age, so the task would be pointless'.²⁰ However, up to a point such a project was attempted by Barbara Weiss with *The Hell of the English: Bankruptcy and the Victorian Novel*. Weiss's selection of Victorian novels in which bankruptcy is a major structural element are notable, being: Dickens' *Dombey and Son* and *Little Dorrit*, Charlotte Brontë's *Shirley*, Gaskell's *North and South*, Thackeray's *The Newcomes*, George Eliot's *Mill on the Floss*, and Trollope's *Way We Live Now*.²¹

¹⁴ Oliver Goldsmith, *The Vicar of Wakefield*, 2 vols (Salisbury, 1766), I, p. 15.

¹⁵ Henry Mackenzie, *The Man of Feeling* (London, 1771), pp. 179–80.

¹⁶ Fanny Burney, *Cecilia, Or Memoirs Of An Heiress. By The Author Of Evelina*, 5 vols (London, 1782), II, p. 82.

¹⁷ Mary Hays, *Memoirs of Emma Courtney*, 2 vols (London, 1796), II, p. 157.

¹⁸ Maria Edgeworth, 'Love and Law: A Drama in Three Acts' (1817), in Maria Edgeworth, *Tales and Novels*, 18 vols (London, 1833), XVI, p. 262.

¹⁹ Paul, *Poverty of Disaster*, pp. 2–5, 10, 12–13.

²⁰ John McVeagh, *Trade-full Merchants: The Portrayal of the Capitalist in Literature* (London, 1981), p. 205 fn.7.

²¹ Barbara Weiss, *The Hell of the English: Bankruptcy and the Victorian Novel* (London, 1986), p. 16.

Weiss explicitly states that she chooses to focus on bankruptcy rather than insolvency and makes the useful observation that confusion has reigned in literature with cases of bankruptcy that do not meet the criteria for actual legal bankruptcy. However, she also acknowledges that the novels she examines contain bankruptcies in an ‘untechnical’ sense, not a strictly legal one.²² For literary purposes it only matters that the structural role of a bankruptcy or a bankrupt is instrumental in the narrative. Historians are sometimes confused too with ‘bankrupt’ and ‘bankruptcy’ applied to circumstances that are more likely to be ones of personal insolvency. There is further muddiness in that events, both fictional and real, that arose from debt recovery actions, such as the seizure and sale of goods and possessions by public auction, were also events triggered by bankruptcy. The striking title of Weiss’s study and the novels selected would seem to situate bankruptcy primarily as a phenomenon and experience of nineteenth-century England.²³

That bankruptcy continued to be a social and economic issue in the nineteenth century and that it was reflected in cultural production, is acknowledged. However, I would argue that bankruptcies and bankrupts were sufficiently evident in long eighteenth-century fiction, not to mention long eighteenth-century reality, to warrant giving them as much attention as their Victorian counterparts. In the meantime, the problem remains of how to reliably learn about bankrupts. The tropes found in contemporary fiction and subsequent literary scholarship are popular and have an immediacy, but they are not reality. More substance is needed then if we are to construct an account of the real experience of English bankrupts drawn from ‘authentic’ primary sources. Recently help has been at hand with the publication of E. J. Clery’s *Jane Austen: The Banker’s Sister*.²⁴ In this case we learn a lot from a novelist, and from Clery’s study, about the experience of a real bankrupt: the bankrupt was the novelist’s brother, banker Henry Austen. Although the subjects of Clery’s study were exceptional, I draw on Henry Austen’s bankruptcy at various points in my study because of the wider relevance of his experience. There remains, however, the question of how to construct an account of the experience of

²² Weiss, *Hell of the English*, pp. 15–16.

²³ For bad experience related to finance in Victorian novels, see Nancy Henry, ‘“Rushing into Eternity”: Suicide and Finance in Victorian Fiction’, in Nancy Henry and Cannon Schmitt (eds), *Victorian Investments: New Perspectives on Finance and Culture* (Bloomington, 2009).

²⁴ E. J. Clery, *Jane Austen: The Banker’s Sister* (London, 2017).

English bankrupts that will be valid for the thousands of more obscure individuals who became bankrupts in the long eighteenth century. To help do this, this chapter will place bankrupts in their legal, economic, and social context.

1.2 Bankruptcy in legal history

By the first decades of the twentieth century an academic interest in the history of English bankruptcy law had emerged. Levinthal and Treiman wrote key texts, still useful today as introductions to the subject, and as accounts of ancient, medieval, and early modern debt and bankruptcy laws. Levinthal was concerned with definitions, the origins and evolution of the statutes, the incessant problems with interpretation, and ultimately the slow process of reform. Treiman highlighted the extraordinary actions and contrivances which were necessary before a person could ‘become’ a bankrupt before the nineteenth-century reforms.²⁵ Although essentially preoccupied with bankruptcy statutes rather than bankrupts, this scholarship remains an important resource for grasping the idiosyncrasies of the law. Although others periodically tackled bankruptcy as the century progressed, the subject remained largely the law, whilst bankrupts still attracted little interest and remained obscure.²⁶ A small shift in focus in the legal analysis occurs in the 1960s when Cadwallader recognised that many debtors and bankrupts were unfortunate and endured real sufferings and discomforts, but there is little detail of bankrupts’ broader experience.²⁷ Cadwallader did include an appendix with stories of notable criminal bankrupts taken from contemporary published accounts (e.g. *Newgate Calendar*), yet he draws us little nearer to ordinary bankrupts as bankrupts convicted of fraud were a minority.

²⁵ Louis Edward Levinthal, ‘The Early History of Bankruptcy Law’, *University of Pennsylvania Law Review and American Law Register*, 66 (1918), 223–50; Levinthal, ‘The Early History of English Bankruptcy’, *University of Pennsylvania Law Review and American Law Register*, 67 (1919), 1–20; Israel Treiman, ‘Acts of Bankruptcy: A Medieval Concept in Modern Bankruptcy Law’, *Harvard Law Review*, 52 (1938), 189–215.

²⁶ See also Edward Welbourne, ‘Bankruptcy Before the Era of Victorian Reform’ in *Cambridge Historical Journal*, 4 (1932), 51–62. Welbourne is problematic and is discussed further in the chapter on law and practice.

²⁷ Francis John James Cadwallader, ‘In Pursuit of The Merchant Debtor and Bankrupt: 1066–1732’ (unpublished doctoral thesis, University of London, UCL, 1965).

The 1970s and 1980s saw a small expansion in the attention given to bankruptcy by a broader range of historians and a degree of cross-disciplinary interest emerges. W. J. Jones, a legal historian, wrote a detailed and lengthy account of the development of English bankruptcy law in the sixteenth and seventeenth centuries. The article, which traces the development of bankruptcy law from the first statute under Henry VIII, aids understanding of how the legal regime came into being and why eighteenth-century bankrupts were still subject to it.²⁸ Ian P. H. Duffy followed with a broader historical overview of English bankruptcy in which his focus, as the parameters of his study suggest, was the Elizabethan stipulation that a person be adjudged a ‘trader’ before they could derive any benefit under bankruptcy legislation.²⁹ This requirement vexed bankruptcy proceedings for centuries until abolished in 1861. Duffy’s analysis may not accommodate individual experience, but he does introduce the inextricably related legal and economic factors.

In 1985 M.S. Servian threatened to shake up a dry field with his study of the conflicting views of judiciary and merchants on the ends of bankruptcy law, and the gradual process of adaption of the law to the changing nature of trade.³⁰ Servian did not intend yet another history of the statutes, in his own words he intended his study to ‘contribute to a growing literature within what is coming to be nominated “critical legal history”’. Servian argues that previous studies of the legal history of bankruptcy had left ‘a dearth of contextually-sensitive research’ and he believed ‘critical legal history’ would oppose mere descriptions of ‘doctrinal legal development’ which took little account of the ‘social, economic, political, philosophical or institutional context’. Servian proposed to draw upon theoretical models from other disciplines including Philosophy of Science, Jurisprudence, Social Anthropology and Ethno-methodology’; he further proposed to ‘investigate the ideological dimensions of bankruptcy law’ and assess ‘how the very stability of a reputation-based system of credit was symbolically recreated in the drama of a debtor’s bankruptcy’, and to ‘enter a debate within social history as to the nature of 18th century civil society’.³¹

²⁸ W. J. Jones, ‘The Foundations of English Bankruptcy: Statutes and Commissions in the Early Modern Period’, *Transactions of the American Philosophical Society*, n.s., 69 (1979), 1–63.

²⁹ Ian P. H. Duffy, ‘English Bankrupts, 1571–1861’, *American Journal of Legal History*, 24 (1980), 283–305.

³⁰ M. S. Servian, ‘Eighteenth Century Bankruptcy Law: From Crime to Process’ (unpublished doctoral thesis, University of Kent, 1985).

³¹ Servian, ‘Eighteenth Century Bankruptcy Law’, pp. 4–8, 12–13.

Although radically different from most legal histories, this unpublished thesis has become an oft cited work in the small canon of bankruptcy literature. Essentially, Servian is concerned with the process of reconciliation between a more static judiciary leaning upon the statutes, and an increasingly dynamic merchant class in need of a stable credit system. Contemporary attitudes are well drawn, but the experience of bankrupts never emerges. The clearly unsatisfactory state of the English bankrupt laws that changed little in the long eighteenth century is covered by V. Markham Lester's study which, whilst mostly addressing nineteenth-century law reform, gives a clear and succinct history of the eighteenth-century debt and bankruptcy regime.³²

The twenty-first century reveals only a little evidence that legal scholars have shifted in focus from bankruptcy to bankrupts. David Milman, writing about the present-day state of English insolvency and bankruptcy law revisits all the statutes and earlier debates, just as his predecessors who followed Gooding did, and he therefore provides a useful summary resource for the social historian.³³ Nothing here is remarkable but for the fact that it becomes apparent that Milman would like to give an account of the experience of bankrupts! He frequently includes anecdotal references to experience and individual cases in his footnotes; but his main sources are works of fiction and Weiss's literary criticism, and as a result references to Dickens and other nineteenth-century novelists dominate. Milman's professional objective does not allow him to illuminate the experience of bankrupts and their families to the extent he might wish, but the recourse to works of fiction does seem like an appeal for bankrupts' voices to be heard, to know more about them, what they did, and what befell them. As a shortcut to such an end literary texts provide dramatic content in a condensed form. One wonders whether Milman would have used real accounts of bankrupts' experience had they been more readily available.

Milman's curiosity sits well with David Graham and John Tribe (also scholars of present-day English insolvency) who produced the series *Bankruptcy in Crisis – a Regency Saga* between 2004 and 2009, which is a commentary on early

³² V. Markham Lester, *Victorian Insolvency: Bankruptcy, Imprisonment for Debt and Company Winding-Up in Nineteenth Century England* (Oxford, 1995).

³³ David Milman, *Personal Insolvency Law, Regulation and Policy* (Aldershot, 2005).

nineteenth-century reform and reformers, notably Montagu.³⁴ Graham and Tribe in providing some insight into the characters and behaviours of key players in the bankruptcy process such as the newly appointed Vice-Chancellors and ‘eccentric barristers specialising in bankruptcy’ and ‘some of the scandals surrounding bankruptcy commissioners’, put a little flesh on the dry bones of insolvency lawyers.³⁵ But this is still ‘lawyer on lawyer’ and we learn little about those who were disempowered by becoming bankrupts, yet had to experience being processed by the empowered agents and arbiters of the law. However, Graham and Tribe’s research is helpful to this study in building the profiles, attitudes and behaviours of the wider group of participants in the bankruptcy process.

The elusive experience of bankrupts begins to emerge when scholars shift from exploring the merely legal, to the criminal. Here a very human, albeit darker, side to bankruptcy is uncovered. Emily Kadens, in seeking to draw parallels with, and to illuminate, recent cases of major fraud in the United States, has used Old Bailey records to examine the actions and behaviour of eighteenth-century English bankrupts who crossed the line into felony.³⁶ In choosing the bankruptcies of Thomas Pitkin (1704) and John Perrott (1757) she warns against ‘assuming a past commercial golden age populated by trustworthy merchants and bankers’.³⁷ In ‘The Pitkin Affair: A Study of Fraud in Early English Bankruptcy’ she says of Pitkin ‘everyone was so anxious to extend him credit’, and his ‘deliberate bankruptcy brought home the frightening reality of the changing times: more credit meant more risk, a message not lost on contemporary commentators’.³⁸ Thus by drawing such parallels Kadens also brings eighteenth-century bankruptcy closer to our understanding.

Here and there in Kadens’ anatomy of Pitkin’s fraudulent bankruptcy are a few scattered voices whose snatches of discourse at last allow us to glimpse the

³⁴ David Graham and John Tribe, ‘Bankruptcy in Crisis – a Regency Saga’, Part 1, *Insolvency Intelligence*, 17 (2004), 85–89; Graham and Tribe, ‘Bankruptcy in Crisis’, Part 2, 17 (2004), 134–38; Graham and Tribe, ‘Bankruptcy in Crisis’, Part 3, 20 (2007), 38–41; Graham and Tribe, ‘Bankruptcy in Crisis’, Part 4, 22 (2009), 132–40.

³⁵ Graham and Tribe, ‘Bankruptcy in Crisis’, Part 1, 8th page (un-numbered downloadable pdf).

³⁶ Kadens has in mind scandals of the stature of Enron and Bernie Madoff.

³⁷ Emily Kadens, ‘The Pitkin Affair: A Study of Fraud in Early English Bankruptcy’, *American Bankruptcy Law Journal*, 84 (2010), 483–570, p. 487.

³⁸ *Ibid.*, p. 519.

experience of his victims. Pitkin's fraud brought down the banker John Dann whose wife we hear lamenting in a letter:

I am sorry to heare by Mr Dann [that] y^e trustees will not be so kind as to give me some small consideration ... in case I Should survive Mr Dann, it might be of some help to me, considering I have lost my all by him...³⁹

In 'The Pitkin Affair' we learn about the mechanics of fraud, but in Kadens' article on the fraudulent bankruptcy of John Perrott 'The Last Bankrupt Hanged: Bankruptcy Procedure in Eighteenth Century England' we learn something of the bankrupt and his life, although overall the lives and experience of those involved are secondary to uncovering the legal process of Perrott's bankruptcy. Kadens compares what actually happened in Perrott's case with what might have been expected to happen under the prevailing statutes. Not surprisingly Kadens' examination of the case leads her to the conclusion that the eighteenth-century system of bankruptcy law was dysfunctional, especially when faced with criminal acts like Perrott's in which a requirement for a capital sanction precluded any further cooperation in the recovery of money; Perrott in his death cell remaining silent as to its whereabouts.⁴⁰ Kadens affirms that while fraud in many forms was common, high profile cases such as Perrott's that ended on the gallows were rare and not representative of the majority experience. Due to the extreme criminal nature of their activities records of their cases have survived. Unfortunately, the 'majority experience' has left little trace in historical records. Kadens, like other legal historians, draws conclusions about the shortcomings of eighteenth-century bankruptcy law. By using court records she reveals something of what these bankrupts were like and how they had lived. For example, we learn a little about Perrott's relationships with women.⁴¹

Writing about bankruptcy from a legal perspective is understandable, as being a bankrupt was a legal state, and bankruptcy proceedings were regulated by statute and overseen by commissioners, who were often lawyers. So inevitably legal history constitutes both the majority content and the backbone of

³⁹ Ibid., p. 555.

⁴⁰ Emily Kadens, 'The Last Bankrupt Hanged: Bankruptcy Procedure in 18th-Century England', *Jay L. Westbrook Bankruptcy Conference November 15–16, 2007 Austin, Texas*, 1–43, pp. 42–43.

⁴¹ Kadens, 'Last Bankrupt Hanged', pp. 32–34.

bankruptcy historiography. Yet the relative narrowness of the legal history of bankruptcy is markedly expanded when it is joined with other historical fields. Given that bankruptcy, in Julian Hoppit's words, 'was an eighteenth-century growth industry' it is to be expected that bankruptcy has attracted interest from economic and business historians.⁴² The next section will consider how bankruptcy as a problem for 'Men of Business' has been approached by historians.

1.3 Bankruptcy in economic and business history

Duffy returned to the subject of bankruptcy in 1985 with a monograph on bankruptcy in London.⁴³ His summary of the legal and institutional framework of bankruptcy is comprehensive: examining the bankruptcy laws, the insolvency laws, and the law on small debts. Duffy seeks to clarify the causes of financial collapse during the industrial revolution through investigating cases of failed businesses using evidence found in the documentation collected and generated by bankruptcy commissions. This is a significant move towards greater knowledge of bankrupts, because almost for the first time we hear voices of bankrupts and other individuals as they stood before bankruptcy commissioners. Whiffs of acrimony between business partners can be heard. But this is as far as it goes as Duffy's main focus is the failed business, rather than the bankrupts and other sufferers. Duffy is principally preoccupied with describing the intricately complex and inter-related holdings of bills of exchange between the failed firms, and as a result what he calls the 'house of cards' effect after the 1810 failure of bankers Brickwood & Co. Duffy's unravelling of the economics and the mechanics of credit and debt that surround a bankruptcy is useful, but if the experience of those bankrupts is to be understood, then there should also be an unravelling of the personal and the private, the social and the psychological. This same class of neglected historical records used by Duffy will, in some cases, serve to make this possible.

⁴² Julian Hoppit, *Risk and Failure in English Business 1700–1800* (Cambridge, 1987), p. 176.

⁴³ Ian P. H. Duffy, *Bankruptcy and Insolvency in London During the Industrial Revolution* (New York, 1985).

If any single historical work has made English bankruptcy a plausible field for historical enquiry, then it has been Julian Hoppit's *Risk and Failure in English Business 1700 – 1800*, published in 1987. Whilst this is a work of economic history and as the title suggests addresses risk and failure in English business, it provides, even as a by-product, the most rounded and comprehensive study of bankruptcy in England. It has, along with Duffy, endured for the last three decades as the principal work of reference for anyone wishing to address eighteenth-century English bankruptcy. It provides political, economic, and cultural contextualisation, as well as being a very detailed and comprehensive piece of primary research on credit, risk and the causes of the growing number of business failures throughout the eighteenth century. Beyond this, if we were to judge the book by its cover which bears Thomas Rowlandson's satirical and somewhat grotesque representation of a meeting of creditors, we might be forgiven for thinking that it would also give an account of the kind of experience depicted by Rowlandson, but it does not.⁴⁴ Like Duffy, Hoppit is interested in businesses that failed (and why they failed), rather than the great successes that have predominated in accounts of eighteenth-century commerce and the Industrial Revolution in England. Hoppit adheres to Schumpeter's view that understanding success is better achieved by studying failure, and why those failures came about.⁴⁵ Hoppit wants to understand the reasons for failure but maintains that bankruptcy records rarely provide explanations for why people failed, and therefore he uses his understanding of the credit environment and his assessment of business risk taking, in order to arrive at the likely causes of failure.⁴⁶ Overall Hoppit's is a work on eighteenth-century economy, credit control systems, and business decision making, punctuated by investigations of specific cases of failure, and therefore it is still a study of bankruptcy and not bankrupts. However, Hoppit still helps those who seek a more social and cultural insight into the experience of bankrupts because of the quantity of research on, and descriptions of, the social and moral climate that surrounded credit, speculation, and failure.

⁴⁴ Thomas Rowlandson, *A Meeting of Creditors*, c. 1785–1790, The Fitzwilliam Museum, Cambridge.

⁴⁵ Hoppit, *Risk and Failure*, p. 11.

⁴⁶ *Ibid.*, p. 43.

Before continuing to a discussion of case-study methodology, it is important to mention research that sits at the intersection of legal and economic accounts of insolvency and the socially embedded culture of early modern and long eighteenth-century credit and debt. Key studies are Craig Muldrew's *The Economy of Obligation: The Culture of Credit and Social Relations in Early Modern England* and Margot Finn's *The Character of Credit: Personal Debt in English Culture, 1740–1914*.⁴⁷ Both Muldrew and Finn give centrality to the cultural position of credit and debt and the implications for social relations. I draw on both texts, along with other works by the same scholars, later in this thesis. More recently the importance of bankruptcy's alter ego, namely imprisonment for debt, has been the subject of fresh research in Tawny Paul's, *The Poverty of Disaster: Debt and Insecurity in Eighteenth-Century Britain*.⁴⁸ Paul's study is important for this thesis because it highlights the structural causes of eighteenth-century financial insecurity and the susceptibility to downward social mobility of the middling sort. Paul helpfully describes the experience, that of debt incarceration, which potential bankrupts were so desperate to avoid. I draw on detail from her study at various points in this thesis.

1.4 Bankruptcies as case studies

Duffy and Hoppit both include case studies of bankruptcies in their work. Hoppit has four short case studies of bankruptcies, but their scope is limited to how the bankrupts' credit relationships were structured in order to speculate about the causes of their failures. More recently Margrit Schulte Beerbühl has included case studies of bankruptcies as part of her study of German merchants in eighteenth-century England.⁴⁹ To construct the cases she uses bankruptcy

⁴⁷ Craig Muldrew, *The Economy of Obligation: The Culture of Credit and Social Relations in Early Modern England* (Basingstoke, 1998); Margot C. Finn, *The Character of Credit: Personal Debt in English Culture, 1740–1914* (Cambridge, 2003).

⁴⁸ Tawny Paul, *The Poverty of Disaster: Debt and Insecurity in Eighteenth-Century Britain* (Cambridge, 2019).

⁴⁹ Margrit Schulte Beerbühl, 'The Risk of Bankruptcy among German Merchants in Eighteenth-Century England', in Karl Gratzer and Dieter Stiefel (eds), *History of Insolvency and Bankruptcy in an International Perspective* (Södertörn, 2008), 61–82, p. 79; Schulte Beerbühl, *Deutsche Kaufleute in London: Welthandel und Einbürgerung 1660–1818* (München, 2007)/*German Merchants in London: World Trade and Naturalization 1660–1818* (Munich, 2007); an English language adaption of Schulte Beerbühl's 2007 German text is *The Forgotten Majority: German Merchants in London, Naturalization, and Global Trade 1660–1815* (New York, 2015).

commission records. Her use of examinations of bankrupts at meetings of London bankruptcy commissioners enables us to hear the voices of bankrupts answering questions about their business behaviour and decisions. Testimonies from these examinations reveal much more than just what was on the ledgers, they give insight into relationships and attitudes that existed between the participants in the bankruptcy process. Although Schulte Beerbühl largely concentrates on merchants' business trajectories she provides valuable biographical information on bankrupts which help attempts to construct full biographies of bankrupts. For example, Schulte Beerbühl has brought to light the business activities of 'forgotten' merchants and bankrupts of German origin who traded from London.⁵⁰ Another recent bankruptcy case study with an emphasis on the economic and financial is provided by Mina Ishizu in a study of the 1811 bankruptcy of John Leigh & Company.⁵¹ Most existing case studies of bankruptcies emphasize legal or business aspects of bankruptcies, rather than the social experience of bankrupts and their families. However, these studies help to provide a model for structuring a study of individual bankrupt's experience as the legal aspects, and absolutely anything to do with money, inevitably overlap with personal experience.

In this study, in addition to numerous small items of historical evidence about debtors and bankrupts, I employ twenty-four case studies of bankrupts ranging on the social spectrum from small-town tradesmen to major London merchants and bankers. All the cases, bar two, have bankruptcy commissions at their centre and are therefore highly structured. Structurally bankruptcy commissions bear a remarkable resemblance to criminal investigations, and indeed many contemporaries regarded bankruptcy as a crime and bankrupts as criminals. This is not, however, the reason for the resemblance. Anne-Marie Kilday and David Nash maintain: 'Crimes and criminals, as well as their policing and detection, are themselves rooted firmly in narrative.'⁵² Similarly, an eighteenth-

⁵⁰ Henry Nantes, for example, see *Forgotten Majority*, pp. 212–19.

⁵¹ Mina Ishizu, 'Boom and Crisis in Financing the British Transatlantic Trade: A Case Study of the Bankruptcy of John Leigh & Company in 1811', in Thomas Max Safley (ed.), *The History of Bankruptcy: Economic, Social and Cultural Implications in Early Modern Europe* (Abingdon, 2013).

⁵² Anne-Marie Kilday and David Nash (eds), *Law, Crime and Deviance since 1700: Micro-studies in the History of Crime* (London, 2017), p. 3. For use of case studies with a business history focus, see Christine Wiskin, 'Businesswomen and Financial management: Three Eighteenth-Century Case Studies', *Accounting, Business & Financial History*, 16 (2006), 143–61.

century bankruptcy and bankrupt, and the episodic proceedings of commissions, were rooted firmly in a narrative that began with an insolvency and the committing of an act of bankruptcy then progressed through many enquiries until a kind of resolution was reached and the bankrupt was finally discharged. Bankruptcy commission records therefore lend themselves well to a case-study approach. Commissions also provide the core evidence for this study. However, commission records are not enough alone to gain a sense of what English bankrupts were like as people and what the nature of their experience was. There are also difficulties in attempting to compare bankruptcy cases. Most surviving bankruptcy commission files are incomplete and depleted of useful records, which is why it has been necessary to employ over twenty cases in order to encounter common recurring features. Then to put together relatively comprehensive cases it has been necessary to complement commission records with a variety of other sources. An example of this is Kadens, who, for the case of the fraudulent bankrupt Perrott, relies heavily on the Old Bailey case and the outcome is unsurprisingly bleak.⁵³

Only rarely is there a richness in a variety of sources such that a comprehensive profile and narrative around the experience of a bankrupt can be constructed. A rare example is Clery's account, mentioned above, of Henry Austen.⁵⁴ Whilst still substantially a biography and analysis of the literary output of Jane Austen, it brings to readers in biographical style an account of the experience of a bankrupt. Clery's account brings us much closer to the private experience of an early nineteenth-century bankrupt and goes beyond their business affairs. Nevertheless, Austen the banker with his elite connections (e.g. Warren Hastings and the Earl of Moira) can only be partially representative of the many thousands of minor and now forgotten middling bankrupts who filled the pages of the *London Gazette* on a weekly basis.

⁵³ Kadens, 'Last Bankrupt Hanged', pp. 1– 43.

⁵⁴ Clery, *Austen*.

1.5 Discussion of sources: In search of the English bankrupt

This section will review the nature of the sources I have employed, my reasons for selecting them, and the issues that arise with them. In England, many thousands of bankrupts were named in the *London Gazette* throughout the long eighteenth century; during the eighteenth century alone, there were 33,000 according to Hoppit.⁵⁵ From the *Gazette* it is possible to know the names, locations and trades of almost all English bankrupts since the 1680s until the present day. Bankrupt notices in the *Gazette* also contain very useful chronological information on key stages in the proceedings of bankruptcy commissions, but other than this very basic information, the *Gazette* tells us nothing about the bankrupts as individuals nor offers insight into their experience. Where further traces of these bankrupts survive in archives the records are only a fraction of those created, most of which are now lost.

To begin to find these traces of bankrupts it is necessary to locate bankruptcy commission records. Fortunately, an Act of Parliament in 1718⁵⁶ required bankruptcy commission proceedings to be written down: these records from bankruptcy commissions provide details about how bankruptcies unfolded, who the parties were, and how those involved interacted with the legal process and with one another. Bankruptcy commission records can be found in bankruptcy or Chancery series in the National Archives or, usually, as part of law firm collections deposited in county record offices.⁵⁷ Nowhere is there a greater quantity of English bankruptcy records for the eighteenth and nineteenth centuries than in TNA where thousands of case files are held, although they hold little from before the last quarter of the eighteenth century (a few records go back to 1759). Furthermore, in Sheila Marriner's words, the 'many apparently contradictory series' pertaining to bankruptcy commissions (B series) do not lend themselves to ease of use, but relative to records buried in various Chancery series (C series) the B series (especially B3) provide relatively easy access to bankruptcy case material.⁵⁸ However, the records are only useful up

⁵⁵ Hoppit, *Risk and Failure*, p. 42.

⁵⁶ 5 Geo. I, c. 24.

⁵⁷ TNA, 'Legal Records Information 5: Bankrupts and Insolvent Debtors 1710–1869' (2008), [pdf download, now superseded by online view only doc.]. For a useful review of the history and classification of, mostly London, bankruptcy records held at TNA see Sheila Marriner, 'English Bankruptcy Records and Statistics before 1850', *EcHR*, n.s., 33 (1980), 351–66.

⁵⁸ Marriner, 'English Bankruptcy Records', p. 354.

to a point, evidence that gives insight into the experience of the people involved is very limited. Hence, I have only made significant use of a few NA B3 records and the odd Chancery C series records (all are London cases).⁵⁹ This study includes other London bankrupts, but records of their commissions have not been preserved in TNA, and I rely on other sources (discussed below).

TNA B3 records contain, according to Marriner, 'files for individual bankruptcies containing records of the proceedings before commissioners'.⁶⁰ They offer, in theory, a complete chronological account of bankruptcies. However, having examined many such files, I concur with Marriner in that they really are no more than 'proceedings', and they tell us relatively little about the bankrupts themselves. Precisely the kind of information required to give a deeper and more nuanced account of bankrupts' experience is mostly omitted.

Nevertheless, commission records are a start: they are often chronologically ordered and bound in volumes; they give names and some details of all the key actors (bankrupts, family members, servants, solicitors, commissioners, creditors, witnesses), which is far more than the *Gazette* gives; they contain essential legal and administrative information; they contain witness statements for proofs of acts of bankruptcy (discussed later), which often provide details of the distribution of the physical spaces occupied by bankrupts (home and workplace); they include business and financial information through the inclusion of lists of creditors, their debts, sets of accounts and dividends paid over the years from bankrupts' estates; they sometimes tell us what bankrupts possessed through inventories of domestic contents and trade stock and utensils; they even occasionally provide explanations for why a trader failed; finally, they sometimes tell us whether bankrupts were discharged. They rarely, however, give a hint of what became of bankrupts. TNA files for London commissions are relatively comprehensive regarding holding the above information, whereas commission files held by provincial archives are frequently incomplete, but sometimes offer useful additional material. Overall, the structural and procedural information in commission files helped me to create a framework around which to build more individualised bankruptcy case studies.

⁵⁹ They are: Fordyce (1772); Nantes (1797); Von Doornik (1810) is held in C 217.

⁶⁰ Marriner, 'English Bankruptcy Records' p. 356.

There is a marked contrast between TNA and county record offices in the number of bankruptcy records held, and in what has been retained. We would expect to find far more cases of bankruptcy in London than anywhere else. According to Marriner, B3 contains the files of 4,350 bankruptcies occurring mostly between 1780 and 1842, representing about five per cent 'of total bankruptcies' for the period.⁶¹ Why particular B3 files have survived, and others not, is unclear. Marriner attributes it to 'the element of chance' or that 'the Court' did not consider the case files belonged to it.⁶² On this question my own explorations of the files are inconclusive: the presence of some large bankruptcies is evident from the number of physical volumes and the scale of the debts owed, which from the point of view of economic and financial history must surely make sense. Alexander Fordyce (1772) and other major bankrupts are present; but equally smaller single volume cases are present. My perusals of the contents of a selection of the files largely found only the routine formal proceedings of commissions. I would only hazard to suggest that scale and complexity may have been a factor in the files' preservation, but that in TNA historical interest or problematality was not.

Even when the records for only this small proportion of total cases have been retained, they still vastly outnumber the files in county record offices on provincial bankruptcies. Some of the county archives I visited contained next to nothing related to insolvency and bankruptcy. Frequently, only single documents survive against the name of a bankrupt; these are often petitions for the issue of a bankruptcy commission, or assignments of property on parchment – ornate historic documents, but not sources upon which this study can be built. For example, Dorset's record office contains only one comprehensive commission file (John Slade, 1830), and I was unable to locate a single commission file at all in Devon, although there are a few other documents that relate to bankruptcies. The record office in Bristol, England's

⁶¹ Ibid., p. 361. The five per cent 'of total bankruptcies' may in fact apply largely to London bankruptcies. A few B3 files are for bankrupts who traded in the provinces, for example according to the *London Gazette* two bankrupts whose files are in B3 are Manchester innkeeper Thomas Allcock (1783) whose commission file is in TNA B3, but whose commission met in Sandbach, Chester, and Portsmouth merchant Andrew Lindegren (also 1783) who was called to London Guildhall. Given the dominance of London in the overall figures, an adjustment for the provinces may not greatly change the proportion.

⁶² Marriner, 'English Bankruptcy Records', p. 356; TNA, 'Bankrupts and Insolvent Debtors'. The 'Court' referred to, was the Court of Bankruptcy established in 1832, after the period of this study.

second city in the eighteenth century, has far more commission files than any of the other counties that feature in this study, but the numbers are still only in the dozens and therefore dwarfed by the London numbers.

Nevertheless, despite the pool being tiny relative to London, some of the provincial commission files contained very useful material. In most cases they form part of solicitors' collections in which, not only have files of essential proceedings before the commissioners been retained, but also other bundles of related documents are present. These bundles may contain, for example: additional affidavits of debt and creditors' accounts with bankrupts; legal opinions and documents relating to causes in other courts (usually Chancery); correspondence between lawyers about how to proceed with the bankruptcy; and sometimes letters to and from bankrupts. It is from this final category that it is possible to hear the voices of bankrupts preserved in their own hand. Although commissions sometimes recorded bankrupts' detailed responses during examinations, the highly structured format was sometimes less than revealing, whereas bankrupts' letters reveal them reflecting on their experience and commenting on their treatment.

Cases in point are, from Wiltshire and Bristol archives respectively: David Kennedy (1752), and David Brigstock (1774).⁶³ It seems that only rarely did anyone think it important to preserve traces of bankrupts' participation in their own affairs; Kennedy's letters can be found amongst those of his creditors because they had Kennedy on their own agenda, and during his commission he had to give an account of his efforts to get in debts. This also gave him the opportunity to describe his circumstances and voice his frustrations. Brigstock bet on a creditor taking out a friendly commission against him, only to find his pleas ignored and his desperate letters exhibited at the Bristol Quarter Sessions. Fortunately for this study, preserved in the incriminating letters is the voice of the bankrupt. The conflicts caused by Hampshire bankrupt Thomas Lodge (1775) brought wrangles over his estate to Winchester Assizes. The records were preserved, and they recite much of the background to Lodge's bankruptcy. Lodge's bankruptcy was one of many that have, as a result of being problematic, generated richer historical content for this study. There

⁶³ Years in parentheses are the years in which the subjects were declared to be bankrupts.

remains, however, the question of the representativeness of these problematic bankruptcies, which is discussed below.

Further scattered references to bankruptcies and bankrupts exist across archival manuscript collections in single documents, typically amongst estate papers. However, often these are no more than passing comments about the inconvenience caused by a debtor becoming a bankrupt. In addition to manuscript sources contemporary printed texts are helpful. I refer not to the many polemical commentaries on bankruptcy that circulated in the eighteenth and early nineteenth centuries, or to ‘histories’ of the few high-profile felonious bankrupts who went to the gallows or successfully absconded with creditors’ money, but to a handful of pamphlets published by aggrieved bankrupts or creditors. I use a pamphlet by Anne and Isaac Scott (bankruptcy and pamphlet: London, 1768) who were motivated to militate against what they felt was shabby and dishonest treatment by those in control of their estate. The text contains at length both the voice and experience of a bankrupt and family. This is unusual as pamphlets were more often vehicles for levelling charges of dishonesty against bankrupts. Dated 1768 the Scott commission pre-dates TNA B3 1780–1832 period to which most surviving London commission files pertain. Therefore, it is little surprising there is no trace of it in TNA, although TNA holds records of petitions made to extradite Isaac Scott after he absconded to France. This corroborates the account of early events in the pamphlet.⁶⁴ Further credibility for it as a reliable source is lent by a law court report of an action heard before Lord Mansfield which was taken out by the Scotts’ assignees.⁶⁵

My point with the Scott pamphlet is simply that being tied to *London Gazette* and bankruptcy commission records or similar ‘official’ documents may serve a legal, economic or business history well, but they will never get the flesh on the bones for a history of lived experience, making recourse to correspondence and life-writing essential. This study is very much about getting to the voices of bankrupts and sources like these contribute greatly because they allow us to

⁶⁴ TNA, Secretaries of State: State Papers Foreign, France, SP 78/268–276, Earl of Rochford, Folio 236: Memorial petitioning Shelburne from the creditors of Isaac Scott, who fled to France and was arrested at Cassel. They ask for an escort to bring him back to a ship for England.

⁶⁵ ‘Hague and others, Assignees of Anne and Isaac Scott, Bankrupts, versus Rolleston, Saturday 6 February 1768’, in James Burrow, *Reports of Cases Argued and Adjudged in the Court of King’s Bench during the Time of Lord Mansfield’s Presiding at that Court*, 5 vols (Dublin, 1794), IV, pp. 2174–77.

hear bankrupts' voices directly. Legal sources often only record third parties making sworn statements about what bankrupts did or did not do; words were not recorded verbatim, they were only reported; the sources also omit the more private and personal unless, as with David Kennedy's file, they consist almost exclusively of letters.

It is not unusual to find passing references to bankrupts in people's journals or in the correspondence of more elite figures, and I make use of some of these anecdotes. However, more importantly introspective evidence from bankrupts themselves is mustered for this study by the inclusion of several journal or biographical texts in which bankrupts recorded their experience. Journals or autobiographies written by bankrupts permit an engagement with the private and personal reflections of the subjects, although the writers usually expected their texts to be read eventually by, at least, a close circle. Locating texts of this nature has largely been a matter of chance made possible only by interrogating all the databases of every and any archival collection that I could reach within the constraints upon my research. An example is Thomas Pyott (1763), who kept copies of his correspondence (sent and received), and towards the end of his life used these along with his own commentary to assemble an autobiographical journal in which he endeavoured to explain and justify his actions. Thomas Pyott never became a bankrupt in law, but his difficulties which began in 1763 and the circumstances that ensued made him in effect a bankrupt. His journal, in which many fears about impending bankruptcy were recorded, sits unaccompanied by remotely similar texts in an 'Archives & Manuscripts' collection.⁶⁶

A bankrupt who started a journal too late, that is, after his bankruptcy, was Joseph Fry (1828), but fortunately for this study his wife had been keeping a journal before, during, and after the bankruptcy. Her journal entries relate the experience of the impact of bankruptcy on her and her family.⁶⁷ His wife was, of course, reformer Elizabeth Fry. She was born into the Gurney banking family

⁶⁶ Senate House Library, Archives and Manuscripts MS 122, Pyott, Thomas Robert. Page numbers cited below from Pyott's manuscript are the archivist's, not Pyott's.

⁶⁷ Library of the Religious Society of Friends in Britain, Diaries of Elizabeth Fry 1797–1833, MS Vol. S267/2, 1826/1827–1829; MS Vol. S267/3, 1826/1827–1829, 'Elizabeth Fry's Private Journal Book for the Year 1829, Mildred's Court'.

which means her representativeness of and typicality as an average English bankrupt's wife is an issue which is addressed later in this thesis.

One former bankrupt who chose to turn his autobiography into a printed volume and place it on the book market was Joseph Brasbridge (1800).⁶⁸ His memoir is an example, along with Pyott's and the Scotts', of life-writing that complements the more unwitting traces left by bankrupts in legal records. At the same time these sources centre accounts of bankruptcy on the subjects rather than on legal proceedings.⁶⁹ Of course, there are issues with the representativeness and reliability of these sources with their authors' bias and their constructed nature, but as Margaret Hunt recognised in her study of the eighteenth-century middling sort, sources like these 'are as close as we are likely to get to the voices'.⁷⁰ Bankrupts' voices are complemented, or contradicted, by comments about bankrupts in the publications and correspondence of eighteenth-century English people of letters. Their observations help to locate bankrupts within prevailing discourses on debt, risk, luxury, and misfortune.

Whilst I aim with this study to give an 'authentic' account of the experience of English bankrupts in the long eighteenth century, I recognise that I must make a case for the credibility and representativeness of my sources. If an important objective of this thesis is to get nearer the truth about the experience of English bankrupts, then a major question remains about the reliability of some, if not all, the historical records employed in this study. Records created in a legal context e.g. depositions sworn before commissioners have a certain authority, whereas a slice of autobiography or an accusatorial pamphlet can be exercises in bias and personal agendas. Yet, can even the bankruptcy commission records be entirely relied upon? Edward Welbourne's essay on the collusion, incompetence, corruption and 'farce' that surrounded English bankruptcy commissions although written more than eighty years ago still casts a shadow over the *prima facie* credibility of the records generated by events in which he, not mistakenly, saw much collusion and artifice.⁷¹ Emily Kadens, who

⁶⁸ I am grateful to Professor Jonathan Barry for drawing my attention to Brasbridge's memoir.

⁶⁹ For a discussion of the issues around using life-writing as evidence see Sarah Ailwood, "'The True State of my Case": The Memoirs of Mrs Anne Bailey, 1771', *Law, Crime and History*, 1 (2016), 37–58.

⁷⁰ Margaret Hunt, *The Middling Sort: Commerce, Gender, and the Family in England, 1680–1780* (Berkeley, 1996), pp. 8–9. Hunt sets out her reservations about her own sources.

⁷¹ Welbourne, 'Bankruptcy', 51–62, for 'farce' see p. 56.

researched the case of infamous bankrupt Thomas Pitkin, expresses caution on evidence that might equally be applied to much evidence in this study:

Driven **by** greed or vengeance or fear of punishment, the people generating the documents often had reason to mythologize their own actions and those of the other participants. And yet, while complicating the story, the lying humanizes the whole affair. [...] The creditors, who had extended too much credit, did not want to admit to their poor judgment or gullibility. These were real people unwilling to take responsibility for the onerous results of their actions. In attempting to piece together such a story, the historian can only weigh the evidence critically and try not to be too badly deceived.⁷²

This then raises the question of how representative the case studies in this study are of typical bankruptcies in eighteenth-century England, that is of the ninety-five per cent for which no records, other than *Gazette* notices, survive? In response to this I argue there is no reason to assume that most commissions for which records do not survive were timely, straightforward and unproblematic; probably some were, but probably many others were not.

From the many provincial bankruptcy commission records I have examined, their content suggests their survival in archives is probably due to the bankruptcies being problematic, for example: the bankrupts absconded permanently or could not gain their discharge; civil disputes were triggered and prosecuted in the courts; or there were instances of fraud, real or alleged. In the absence of evidence affirming that most bankruptcy commission proceedings were unproblematic I think it likely that many bankruptcies were not entirely smooth and painless experiences, and I suspect each account of bankruptcy related in this study will probably contain elements that also shaped events and experiences in most bankruptcies in England between 1732 and 1831.

The cases of bankruptcy employed in this study were largely self-selecting. They were not selected primarily for their scale (i.e. neither size of failure nor quantity of records generated), nor were they selected for geographical location, trade sector, or social status. They were selected primarily for the nature of

⁷² Kadens, 'Pitkin Affair', p. 487.

their content, by which I mean whether that content would provide evidence for an account of the experience of bankrupts in their own words or failing that in the words of their families and other close observers. Most archival records that I examined did not answer this purpose; a very few did, and hence they were selected. Because the period covered by the study is quite long (1732–1831) I tried to identify at least one suitable case per decade, not so much to demonstrate change, but more to show how little the laws, processes, and experience of English bankrupts changed over the period. That said, there is some evidence of material and organisational change in commission records across the study period. There is some evidence that by the early nineteenth century solicitors to bankruptcy commissions were making greater use of pre-printed forms for memoranda of commission meetings and affidavits of debt, for example in the 1817 case of Romsey brewer John Latham, there are printed form for each stage of the commission. Contrastingly, the hand-written commission records for Sherborne maltster John Slade set down in 1830, barely differ from those of George Clay in Kings Lynn and Richard Hutchings in rural Somerset set down in 1739 and 1744 respectively. The records from across the period of study show widespread structural and stylistic similarities. This lack of change in the format of commission records across the period of this study was probably because bankruptcy advice manuals which told lawyers and bankrupts alike exactly how to proceed and how to word documents, barely revised their instructions; it was also because there was no need to change anything when the statute law that underpinned practice remained almost completely static.

1.6 Locations, trades, social status

The sources selected show a marked bias towards the southern half of England, but this is merely the result of constraints upon research resources, rather than a calculated choice; one subject, Thomas Pyott, traded from Hull in Yorkshire before fleeing the area. In fact, in terms of geographic representation, if any part of England is under-represented in this study it is London. In the eighteenth century almost half of all bankruptcies occurred in the capital. Yorkshire was significant as the second largest location of cases,

but at 4.4 per cent of the total it was not significant relative to London.⁷³ Included are several London based cases, but they in total represent only about a quarter of the total in this study. If I follow Hoppit's cartographical representation of counties with the most and the least bankrupts in the eighteenth century, most of my cases are taken from the counties with higher bankruptcy numbers, and which are located mostly below a line running from the Severn to The Wash.⁷⁴ Yorkshire and Lancashire are the main exceptions. As my study includes the first third of the nineteenth century, I acknowledge that the numbers and significance of bankruptcies above that line would have grown in relative weight. As previously emphasised this study is not an economic survey, it is primarily concerned with finding good experiential accounts of bankruptcies. However, this priority has not precluded the assembling of a broadly socially representative collection of cases.

With regard to business sectors, cases of bankruptcy in this study occur in all of the five sectors in which bankruptcies were most frequent in eighteenth-century England, accounting for 70 per cent of the total (NB Some cases in my study fall between 1801 and 1831, so strictly Hoppit's data does not apply to the last third of my period.): textiles and clothes (Richard Hutchings, David Kennedy, Ann Harding); wholesale, including 'merchants' (George Clay, Havilland Le Mesurier, Henry Nantes); food (Ann and Isaac Scott, John Kempster); drink (Thomas Pyott, Thomas Lodge, Joshua James, Edmund Townsend, John Latham, John Slade); and retail (David Brigstock, Joseph Brasbridge, William James, but some of the others may also have retailed directly to customers).⁷⁵ Furthermore, it is a very inexact science to attempt to place eighteenth-century traders into exact trades or even sectors, as they invariably operated other trades or had business interests that fell into several categories. In addition to these sectors there were the bankers: Alexander Fordyce, Matthew and John Brickdale, and the Wakeford brothers.

In bankruptcy commission records where reasonably definitive statements of debts, or valuations of stock, are available we get a sense of the financial scale of businesses. Lists of creditors proving debts or receiving dividends with their locations recorded, tell us about the geographical reach of traders' networks.

⁷³ Hoppit, *Risk and Failure*, p. 59.

⁷⁴ *Ibid.*, pp. 60–61.

⁷⁵ *Ibid.*, p. 57.

The businesses on the spectrum in this study vary widely in scale. Most modest was the small one-household business of David Brigstock and his wife in rural Wales. They traded a variety of goods, mostly from their shop in one location and transactions were not of great value, but his debts were sufficient to qualify Brigstock for bankruptcy. Minor Wiltshire trader though he was, David Kennedy had important business relationships in London. George Clay of Kings Lynn traded with Scandinavia; his Nordic creditors had their affidavits of debt translated into English and proved under power of attorney at Clay's commission. Not all provincial traders' businesses were modest in scale: Romsey brewer John Latham, in addition to his brewery, owned a chain of public houses, underpinned by such unsustainable levels of debt that it eventually broke him. Country bankers the Brickdales of Taunton and the Wakefords of Andover had substantial balances on their banks' books. Wakefords' exceeded £200,000 in 1826; they also owned other assets such as land and houses. Not surprisingly, the London cases in this study have amongst them the largest businesses. Ann and Isaac Scott (dry salters) and Edmund Townsend (wine and spirits merchants) probably fell into a broad category of small to medium sized businesses in the Metropolis. Unfortunately, as in so many cases, their commission records have not survived and therefore most details about their finances are unknown. They are most likely to have fallen somewhere, along with most bankrupts, into a very broad category of owing between £1,000 and £30,000. In Hoppit's sample of bankruptcy sizes, once debts were above £10,000, ninety per cent of bankrupts were from London.⁷⁶ Beyond this, major London bankruptcies go off the scale with banker Alexander Fordyce and the merchant house Richard Muilman & Co (surviving partner Henry Nantes after Muilman's suicide) with debts of £300,000 and upwards. It should be observed that when debts are stated in commission records what is generally meant is gross debts on the overall balanced account. There are usually credits on the balance sheet too, so the totality of debts does not necessarily translate into irrecoverable losses.

Given the diversity of the subjects described above, choosing the most appropriate social descriptor for the subjects in this study is problematic. Before

⁷⁶ Hoppit comments that so much financial information has not survived, and where it does the preponderance is towards large problematic London bankruptcies, Hoppit, *Risk and Failure*, pp. 140–44.

an individual could be made a bankrupt that person needed first to be deemed to have been engaged in trade, hence it might seem self-evident that I would refer throughout the thesis to a ‘tradesman’. However, the evident diversity in sector, trade and scale makes a blanket use of the descriptor ‘tradesman’ seem clumsy when speaking of all bankrupts. There was anyway an imprecision in understanding of the term in the eighteenth century, Defoe remarked the ‘term *tradesman* is understood by several people, and in several places, in a different manner’, neither did he intend his *Complete English Tradesman* for merchants who he viewed as distinct from tradesmen.⁷⁷ I have resisted the temptation to give a wider sense to tradesman by employing anachronistic sounding terms like ‘businessman’ or follow Grassby’s employment of ‘merchant’ as a non-anachronistic synonym for ‘businessman’.⁷⁸ Defoe also employed the term ‘trader’ which suggests wider applicability than ‘tradesman’, but I have reservations because of its current connotations of both street market and global exchanges.⁷⁹ I will not use the term ‘dealer’ for obvious reasons, although it was meaningful in the eighteenth century because all bankrupts were classified in commission records and *Gazette* notices with the catch-all ‘dealer and chapman’ in addition to their principal trade. However, in the absence of a satisfactory catch-all term I will primarily use ‘trader’ because of its relevance to the trader/non-trader ‘distinction’ and it captures the scale of some of the businesses in this study better than ‘tradesman’ would, but I sometimes: use ‘tradesman’ when it seems more appropriate; use the name of a trade or sector when clarity requires; and use ‘bankrupt’ for all subjects when they are close to, or after, failure. Until discharged, bankrupts had no professional identity only a legal one, that of being a bankrupt.

Returning to this very diverse sample of traders, we already know something of the scale of their bankruptcies, but what of their social status, personal wealth, and lifestyle? Again, the range is considerable. The availability of family history and background information on the subjects varies greatly, but in general the subjects appear to have entered trade through their trading family backgrounds. In a few cases parents belonged to the professions and set up their children in

⁷⁷ Daniel Defoe, *The Complete English Tradesman*, 2nd edn (London, 1727), pp. 1–3.

⁷⁸ Richard Grassby, *The Business Community of Seventeenth Century England* (Cambridge, 1995), p. xxx.

⁷⁹ Defoe, *Tradesman*, p. 6, and passim.

trade. According to Grassby the most likely route into trade was via an apprenticeship.⁸⁰ Clearly in some cases there was pre-existing wealth and trade success in the families and therefore the subjects were placed into the family businesses or set up with new businesses as gentleman traders, as Grassby maintains: ‘Younger sons of the gentry would inevitably find their way into trade. Gentility preferred to eschew work for profit, but the need to maintain the levels of consumption that gentility required, necessitated earning a living.’⁸¹

All subjects in this study had domestic servants (in addition to any trade servants), although some, David Brigstock for example, may have had no more than one domestic servant. We can suspect this because one of Brigstock’s principal creditors made reference to ‘the hussy he calls his maid’ in a letter to another creditor, which could be understood to imply, amongst other things, that the girl or woman was his one and only domestic servant.⁸² Brigstock’s shop along with his dwelling house were part of the same building; he had a field and a few animals, and there is nothing in the records to suggest that he enjoyed more than life’s decencies. Other bankrupts had clearly availed themselves of luxuries: country seats and/or estates (Mulman, the Brickdales, the Wakefords); suburban London villas (Fordyce, Nantes); income-generating real estate assets such as farms, plantations in the West Indies, tenements and messuages; income-generating financial assets such as annuities, mortgages, bonds, bank deposits, shares in ships, insurance, turnpikes, tontines, even theatres, etc. Where inventories were taken, we also gain insight into the domestic comforts the traders had enjoyed prior to their bankruptcies: the numbers of rooms in their homes, the fittings and furnishings, quantities of plate and other valuables. Records sometimes reveal whether the traders had elite family members or connections. Two who were likely to have been well-connected were Richard Mulman and Matthew Brickdale, who were, or had been, Members of Parliament. All of Thomas Pyott’s cousins seemed to be

⁸⁰ Grassby, *Business Community*, p. 54.

⁸¹ *Ibid.*, p. 116.

⁸² BRO, 44352/2/1/5, Papers re David Brigstock, 1772–1777, John Philipps to John Davies, 2 April 1774. NB In my descriptions of archival bankruptcy records I have tried to observe the descriptions created by the archivists. This, however, means that there is considerable variation in how collections of bankruptcy records are described from one archive to another, and the words ‘bankruptcy’ or ‘bankrupts’ are not always employed. Descriptive conventions such as ‘in the matter of’ or ‘re’ (as above in ‘Papers re’) are commonly employed in cases of bankruptcy (‘re’ is the Latin equivalent of ‘in the matter of’ and is commonly employed in the legal documentation of bankruptcy cases).

baronets, and Joseph Fry (of Fry tea merchants and nephew of the founder of Fry's chocolate) had married Elizabeth Gurney of the Norwich banking family. However, high-status contacts were not always friendly, especially if they were creditors or in some way riled by the bankrupt, as brewer and untrustworthy steward Thomas Lodge found when he got on the wrong side of Sir Henry Paulet St John, whose Hampshire seat he was supposed to be overseeing.

The subjects of this study possessed not only very different degrees of wealth, they also differed greatly in their trade skills and their levels of education. Technical skills can be assumed for some of the trades, especially those involving technical or chemical processes, such as Somerset yarn washer Richard Hutchings, or Bristol distiller Joshua James, or Sherborne maltster John Slade. Merchants and bankers will have possessed an ability to understand and employ financial instruments, how to work the debt markets and make legally binding contracts. Furthermore, it should not be assumed that because the subjects became bankrupts that they were incompetent or reckless. They may have been, but bankruptcy alone was not proof of this. There is certainly evidence in the sources that some were competent and conscientious, as this study will reveal in the chapters that follow. However, there is also evidence that mistakes were made, practices were sloppy, too much debt was loaded, and risks assumed were too great. Reasons for failure are discussed in greater detail in chapter three.

Beyond the requisite trade skills some of the subjects in this study possessed far more than basic literacy. Occasionally it is possible to know from inventories or creditors' bills the kind of literature bankrupts had in their homes. Examples of bankrupts' possible reading are provided by Bristol cheesemonger William Somerton, bankrupt in 1772, who had two Bibles and twenty-five books of unknown title valued at £1 1s in his home; money scrivener James Bunn the younger, bankrupt in 1771, had in his possession Hume's *Essays*, Goldsmith's *Essays* as well as several volumes on law.⁸³ From this study London merchant Henry Nantes, bankrupt in 1797, saw an auction of his books, in which were included volumes of Bell's *Poets*, Cooke and Hawkesworth's *Voyages*, Grose's *Antiquities*, Hill's *Vegetable System*, and Swammerdam's *Insects* amongst

⁸³ BRO, 44352/2/1/1, Papers re William Somerton; NRO, DN/MS C 5/4, Papers relating to a Commission of Bankruptcy against James Bunn the younger: affidavit of Thomas Longman of Pater Noster Row, bookseller, 23 February 1775.

other works.⁸⁴ More meaningful than bankrupts' libraries, the contents of which they may or may not have digested, are examples of their own writing. All the subjects in this study were able to write about their business affairs. Generally, the presentation, organisation, spelling and grammar of the humbler traders lacked the precision and rhetoric of the gentleman traders whose families' wealth had afforded them finer educations. For example, amongst the subjects Thomas Pyott peppered his memoir with classical and literary quotes,⁸⁵ Alexander Fordyce was educated by major Scottish Enlightenment figure Thomas Blackwell,⁸⁶ and John Brickdale gained a BA whilst at Christ Church Oxford, and a Bachelor in Civil Law whilst at All Souls Oxford.⁸⁷ We know nothing of the education of Anne Scott, but a pamphlet to give her family's side of events and to defend their reputation bears her name. She declared that she had taken the 'greatest Care in compiling the CASE' and challenged her addressees to point out any errors.⁸⁸

The records used for this study show that all subjects were able to adequately convey their concerns, fears and distress in writing, and it has been this ability to write about themselves that has permitted this study to relate the experience of a wide range of bankrupts. The better educated subjects had substantial command of spelling and textual organisation; even their application of contemporary conventions in eighteenth-century capitalisation and spelling was largely systematic. Others produced texts which had unstable spelling, random capitalisation, scarce punctuation, and little organisation. Some subjects clearly struggled to express themselves when their problems deepened and as the legal constraints they were under became more complex. This will be apparent in the chapters that follow.

Finally, before this study commences it remains to set out the main research questions: How was the experience of bankrupts shaped and determined by the constraints and demands of the law? To what extent did bankrupts' actual experience of proceedings differ from their expectations? What did the process

⁸⁴ Sale of 'An Elegant and Well-chosen LIBRARY' by Messrs. Christie, Sharp, and Harper, *Morning Chronicle*, 1 April 1797, issue 8573, p. 4.

⁸⁵ For example, Pyott cites the *Odyssey*, SHL, MS 122, Pyott, p. 68.

⁸⁶ Jacob M. Price, 'Fordyce, Alexander (1729–1789)', *ODNB* (Oxford, 2004).

⁸⁷ W. R. Williams, *The Parliamentary History of the County of Gloucester* (Hereford, 1898), p. 128; 'Brickdale (John) All Souls Coll. B. C. L. Oct. 11, 1784.', in *The Catalogue of Graduates*

[sic], &c. in *The University of Oxford*, 10 October 1782 to 10 October 1792 (Oxford, 1792), p. 8.

⁸⁸ Scott, *Case of Anne and Isaac Scott*, opening address.

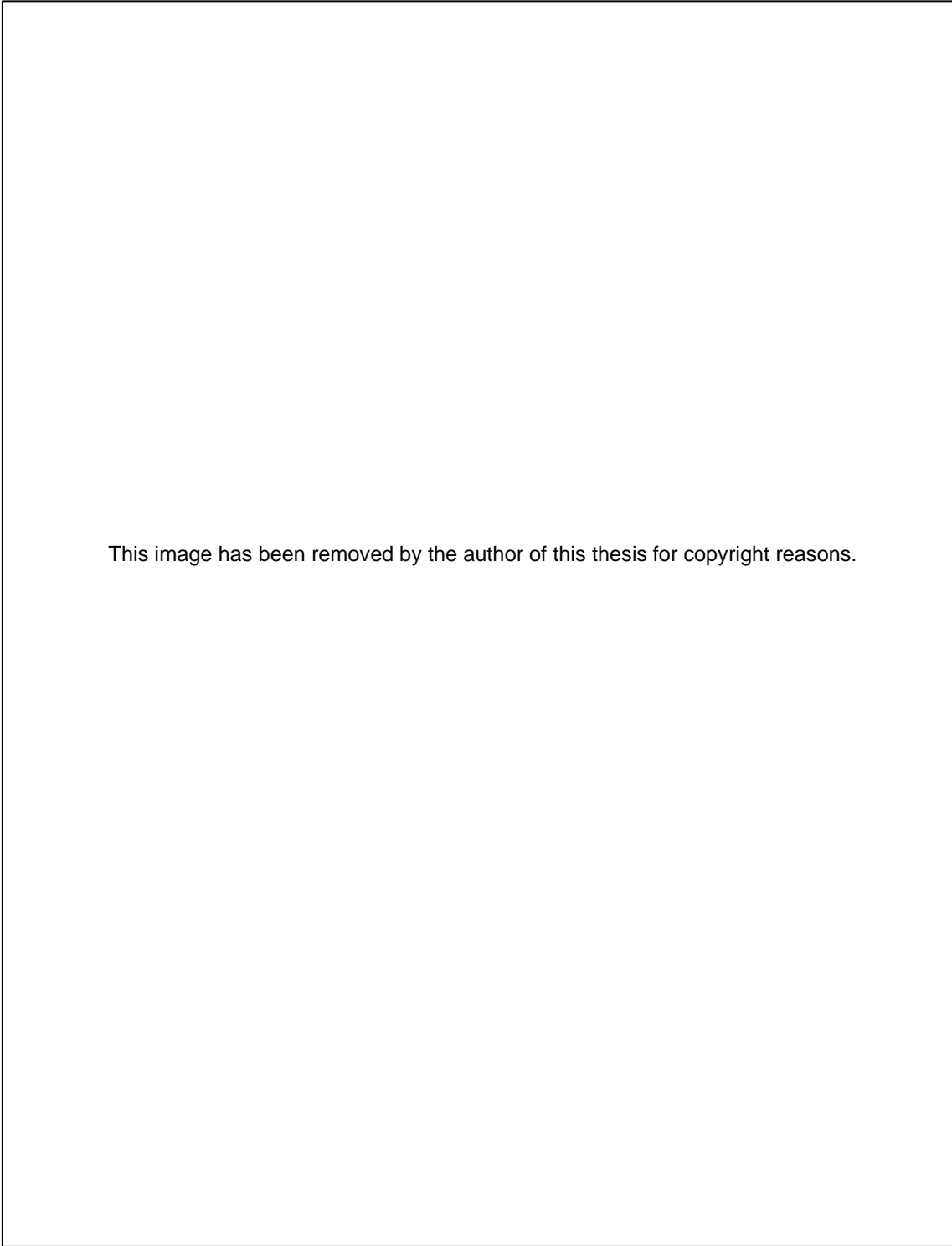
do to the individual, their lives, their families, and their relationships with others? How did they experience and cope with loss of status and downward social mobility? What was bankruptcy's legacy for those affected? Did some pick themselves up, or did some never recover? The question of why the traders in this study failed and became bankrupts is important, but as the question often cannot be satisfactorily answered it is not allowed to overshadow the experiential account.

At present there are few answers to the questions posed above. The reality is that the experience of many thousands of bankrupts, whether bankers, merchants, or shopkeepers, is almost entirely unknown. This study proposes to address this gap in our knowledge by bringing real experience to light through the study of relatively neglected historical records and thus bring to the fore the personal, and often painfully private, experience of those subjected to the idiosyncratic regime created by the English bankrupt laws. Although an understanding of the laws will be important in this thesis, the overall study is an attempt to wrest bankruptcy from the domains of law, business, even fiction, and to give centrality to the real people subject to, in Adam Smith's words, the 'greatest and most humiliating calamity'.⁸⁹ The next chapter will set out the English bankrupt laws and practices that so determined and influenced the cases of the bankrupts in this study.

⁸⁹ Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, 2 vols (London, 1776), I, p. 415.

Chapter Two

Laws, Proceedings and Practice



This image has been removed by the author of this thesis for copyright reasons.

Figure 1.1. Example of a bankruptcy commission file drawn up by Bristol solicitor Daniel Burges in 1811. The names of the commissioners appear in the centre, below them are the names of the assignees (a banker and a mercer).⁹⁰

⁹⁰ BRO, 44352/2/1/15/9, Papers re John Stych, 1811–1813.

2.0 Introduction

the word Bankrupt is odious to the law...⁹¹

In order to make reading this study easier and for it to be possible to make sense of events this chapter provides the reader with a basic understanding of the history and intent of the English bankrupt laws, the form they took during the period of this study (1732–1831), and how they were applied in practice.

Making sense of the bankrupt laws has never been a simple undertaking, in fact in the House of Lords in the early nineteenth century Earl Stanhope and Lord Chancellor Eldon accused each other of not understanding the laws.⁹² Little improved over the next hundred years such that early in the twentieth century Louis Edward Levinthal complained about historical accounts of English and American bankruptcy legislation, saying scholars had ‘uniformly considered an historical treatment of the subject as unnecessary, uninteresting, or impossible.’⁹³ Levinthal’s commentary on the laws, although now a century old, are remarkably clear and useful.

By the 1970s misunderstanding and confusion over exactly what a state of bankruptcy was during the long eighteenth century caused W. J. Jones to observe:

A major problem for the historian is that the word *bankruptcy* has been used in two senses. The first is provided by general usage, literary or vernacular, covering people who have become destitute or insolvent, or in which we may, for example, speak of a king or a country as being "on the verge of bankruptcy." The general impression is one of financial calamity. The word is also used to support adverse comment on the intellectual, moral, or political standing of a government, institution, or person ... This range of meaning can be legitimate for many periods and countries: for Scotland, an authority has noted that "the word by itself has no place at all in the formal language of the law." In England, on the other hand, the terms *bankrupt* and *bankruptcy* have represented a legal

⁹¹ 'Nomius Antinomus', *Observations on the State of Bankrupts under the Present Laws* (London, 1760), p. 6.

⁹² *Parliamentary Debates*, Vol. 28 (1814), col. 797, in Weiss, *Hell of the English*, p. 41.

⁹³ Levinthal, 'Early History of Bankruptcy Law', p. 224.

concept for over four centuries. This second understanding can be explained by reference to one definition of a bankrupt:

One who has done some act or suffered some act to be done in consequence of which, under the laws of his country, he is liable to be proceeded against by his creditors for the seizure and distribution among them of his entire property.⁹⁴

Duffy takes issue with historians, observing that they ‘have frequently used the term "bankrupt" inexactly, disregarding the technical division of debtors into two categories’.⁹⁵ I argue in this thesis that although made decades ago now, these observations are confusions which still arise not infrequently amongst scholars from a variety of disciplines. I use the form ‘bankrupt laws’, rather than bankruptcy law, as the former is how many contemporary commentators referred to the statutes.⁹⁶ When I refer to the English common law regime applied to debtors who were not, or could not be, bankrupts, I refer to the ‘debt laws’ and ‘insolvent debtors’. Where clarity allows it, before traders became bankrupts, I identify them as ‘traders’, and after bankruptcy just as ‘bankrupts’. Non-trader debtors who cannot be bankrupts, I refer to as ‘insolvent debtors’, or just debtors. There are issues around the use of the terms ‘insolvent’ and ‘insolvency’ and this is discussed more in the chapter on credit and finance. In so far as I can, I avoid using the term ‘insolvency’ because of its ambiguity in being, on the one hand an over-arching descriptor for the generalised problem of not being able to meet obligations (inclusive of bankrupts), and on the other hand being the branch of debt law that primarily employed imprisonment for debtors.

The bankrupt laws formed part of English civil law, that relatively dull but essential companion to criminal law. According to C. W. Brooks ‘[I]t is arguable that the civil law is even more important than the criminal law in maintaining the social and economic relationships in any society’.⁹⁷ Therefore, an understanding

⁹⁴ Jones, ‘Foundations of English Bankruptcy’, p. 7. See Jones fn.10 and fn.11 for the sources he uses in this extract.

⁹⁵ Duffy, ‘English Bankrupts’, p. 304.

⁹⁶ See, for example, William Cooke, *A Compendious System of the Bankrupt Laws*, 2 vols (London, 1785), or any number of entries in Hansard.

⁹⁷ C. W. Brooks, ‘Interpersonal Conflict and Social tension: Civil Litigation in England, 1640–1830’, in A. L. Beier, David Cannadine and James M. Rosenheim (eds), *The First Modern Society: Essays in English History in Honour of Lawrence Stone* (Cambridge, 1989), p. 357.

of the somewhat idiosyncratic English bankrupt laws will be an aid to understanding the highly tested social and economic relationships between the subjects in this study. Furthermore, understanding the bankrupt laws can aid insight into the motivations, decisions, behaviours and even ‘mentalities’ encountered in the subjects of this study. If later in the study more understanding of the way in which bankrupt laws were interpreted and applied is required, then further explanation is given in the relevant chapters.

In keeping with the central thesis of this study, which is to give an account of the social experience of bankrupts, this chapter will endeavour to position bankrupts, and to a lesser extent the other actors involved, at the centre of my explanation of the laws. In order to avoid an over preoccupation with simply the legislative and jurisdictional aspects, an attempt is made to explain the laws from the respective points of view of the subjects. This study commences in 1732 which was the year in which an important new bankruptcy statute came into effect.⁹⁸ This statute was, with little amendment, to govern all English bankruptcies examined in the period of this study until the inception of a series of Victorian reforms that followed the Bankruptcy Court (England) Act 1831 which brought about a species of nationalisation of bankruptcy jurisdiction and process.⁹⁹

Chronologically the first case study in this thesis is the bankruptcy of George Clay, a merchant from King’s Lynn in Norfolk, who became a bankrupt in 1739.¹⁰⁰ We do not know whether he gave any thought to the bankruptcy statute that had recently passed into law, but he will certainly have known that his creditors had at their disposal a variety of legal options, amongst which bankruptcy was only one. He may have known little or nothing about the history of the English bankrupt laws, but he will have had some knowledge of the personal stories of other indebted or bankrupt traders. He may have possessed a law book or business manual or two and there will have been other traders and local lawyers he could consult. In his moment of financial crisis, he will only have been thinking about how the prevailing bankrupt laws applied to him and whether they might save or damn him. Briefly, however, before setting out the

⁹⁸ 5 Geo. II, c. 30.

⁹⁹ Lester, *Victorian Insolvency*, pp. 44–45, 62. The Act was not implemented beyond the London area until 1842.

¹⁰⁰ NRO, BL/CS/1/1/1, Bankruptcy of George Clay; LG, 18 March 1739, issue 7894, p. 4.

bankrupt laws and the associated proceedings that Clay would have encountered in the 1730s, to aid the reader I give an account of how these English laws came into being and how the laws that applied to the period of study were to a great extent inherited from earlier centuries, which as stated above also influenced attitudes. This chapter is divided into two parts: part one provides a historical context; part two introduces the legal and procedural actors in bankruptcy.

Part One

2.1.1 Early Debt and Bankrupt Laws

Laws for dealing with recalcitrant debtors have their origins in the ancient and classical worlds.¹⁰¹ The English debt laws developed throughout the medieval period, but for the purposes of this study my overview commences in sixteenth-century England.¹⁰² In the first four decades of sixteenth-century England individuals unable, or unwilling, to satisfy their creditors were dealt with by debt laws which were a part of common law; ‘bankrupts’ as a category of debtor did not yet exist. Under the existing debt laws creditors, as a means of recovering what they were owed, simply seized goods on a first come, first served basis. Therefore, as there was no legal requirement for a rateable distribution of debtors’ assets, slow-moving creditors risked receiving nothing. However, the seizure and sale of assets to recover money owed could be problematic because of the legal costs, and it was therefore more common for creditors to use the quicker, easier and cheaper action of imprisonment for unforthcoming

¹⁰¹ For accounts of treatment of debtors in the Roman Empire or under ancient Hebrew law, see Levinthal, ‘Early History of Bankruptcy’, *passim*.

¹⁰² For discussions of the development of debt laws and bankrupt laws through the medieval, early modern and modern periods, see Levinthal, ‘Early History of English Bankruptcy’; Israel Treiman, ‘Acts of Bankruptcy: A Medieval Concept in Modern Bankruptcy Law’, *Harvard Law Review*, 52 (1938), 189–215; Francis John James Cadwallader, ‘In Pursuit of The Merchant Debtor and Bankrupt: 1066–1732’ (unpublished doctoral thesis, University of London, UCL, 1965); Jones, ‘Foundations of English Bankruptcy’; Duffy, ‘English Bankrupts’; Joanna Innes, ‘The King’s Bench Prison in the Later Eighteenth Century’, in J. Brewer and J. Styles (eds), *An Ungovernable People: The English and their Law in the Seventeenth and Eighteenth Centuries* (London, 1980); Jay Cohen, ‘The History of Imprisonment for Debt and its Relation to the Development of Discharge in Bankruptcy’, *Journal of Legal History*, 3 (1982), 153–71; Paul Haagen, ‘Eighteenth Century English Society and the Debt Law’, in Stanley Cohen & Andrew Scull (eds), *Social Control and the State* (Oxford, 1983); Duffy, *Bankruptcy and Insolvency in London*; Hoppit, *Risk and Failure*; Lester, *Victorian Insolvency*; Margot C. Finn, *The Character of Credit: Personal Debt in English Culture, 1740–1914* (Cambridge, 2003); Paul, *Poverty of Disaster*.

debtors. The complicated medieval and early modern origins of imprisonment for debt, and importantly, why debtors' bodies rather than property and land, were proceeded against, are discussed in greater detail by Joanna Innes, Jay Cohen, Margot Finn and others.¹⁰³

Under common law debtors who wished to thwart their creditors were not without stratagems. They could avoid paying their creditors indefinitely by, for example: entering a sanctuary, where they might continue to live well if they had previously concealed assets; they might flee the country (although at the risk of being outlawed and their assets seized by the Crown); or simply staying at home and bolting the doors whereupon common law prohibited forced entry in a civil cause.¹⁰⁴ It was because of these means of frustrating the designs of creditors that the first English bankrupt laws were introduced in the sixteenth century.¹⁰⁵ Before 1543, when the first bankruptcy statutes became law, there existed an impression that debtors were avoiding their creditors by remaining in their houses. At that time the law permitted a debtor to shut himself up in his own home with his assets, or more to the point with assets he had taken only on credit and which were therefore arguably still the property of his creditors. Meanwhile, a sheriff's officer who might otherwise on gaining entry to a house, force inner barriers in search of seizable goods, was thwarted because he was not empowered to break down the outer door, which the debtor would have bolted securely. The debtor might also have gone into hiding somewhere other than his own residence. The inaccessibility of the debtor was cause for anxiety amongst creditors, as each one could not be certain that a more advantageous accommodation might be struck by another creditor with the debtor.¹⁰⁶

Out of concerns like these grew bankrupt laws intended to deal with debtors who employed cunning tactics to avoid paying their debts. Failing to pay debts had always been regarded as a dishonest action, as indicated by the title of England's first bankrupt statute of 1543: 'An Act against such persons as do

¹⁰³ Innes, 'King's Bench Prison', p. 253; Cohen, 'History of Imprisonment for Debt', pp. 154–55; Duffy, *Bankruptcy and Insolvency in London*, pp. 58–63; Finn, *Character of Credit*, pp. 109–11.

¹⁰⁴ For a discussion of how sanctuaries were used by debtors see James R. Hertzler, 'The Abuse and Outlawing of Sanctuary for Debt in Seventeenth-Century England', *Historical Journal*, 14 (1971), 467–77.

¹⁰⁵ Cohen, 'History of Imprisonment for Debt', p. 155.

¹⁰⁶ Jones, 'Foundations of English Bankruptcy', p. 15.

make Bankrupt'.¹⁰⁷ Note the language: 'do make bankrupt', this meant at the time little other than the committing of a criminal act. The preamble to the Act sets out the offence thus:

Where divers and sundry persons craftily obtaining into their hands great substance of other men's goods do suddenly flee to parts unknown or keep their houses, not minding to pay or restore to any their creditors their debts and duties, but at their own wills and pleasures consume the substance obtained by credit of other men, for their own pleasure and delicate living, against all reason equity and good conscience.¹⁰⁸

Under the statutes enacted in the sixteenth century there was no intention to create a more benign regime for debtors. What the Acts of Henry VIII did was to introduce the principle of rateable distribution of assets, which was intended to benefit all the creditors equally in proportion to what they were owed. The Acts aimed to put in place a summary proceeding which would permit immediate seizure of fraudulent debtors' property to achieve an equitable distribution for all creditors.¹⁰⁹ A bankrupt was still basically a fraudulent debtor. Under the 1543 statute an insolvent debtor's property belonged to all his creditors, the first-comer could no longer simply grab all there was of value.¹¹⁰ Levinthal identifies two enduring principles in the 1543 statute, that assets could be summarily collected or sold, followed by a distribution intended to benefit all creditors.¹¹¹ These principles were not particular to England, as Levinthal further elaborated:

All bankruptcy law, however, no matter when or where devised and enacted, has at least two general objects in view. It aims, first, to secure an equitable division of the insolvent debtor's property among all his creditors, and, in the second place, to prevent on the part of the insolvent debtor conduct detrimental to the interests of his creditors. In other words, bankruptcy law seeks to protect the creditors, first, from one another and, secondly, from their debtor.¹¹²

¹⁰⁷ 34 & 35 Hen. VIII, c. 4.

¹⁰⁸ In Jones, 'Foundations of English Bankruptcy', p. 15.

¹⁰⁹ Levinthal, 'Early History of English Bankruptcy', p. 14.

¹¹⁰ Lester, *Victorian Insolvency*, pp. 13–15.

¹¹¹ Levinthal, 'Early History of English Bankruptcy', p. 14.

¹¹² Levinthal, 'Early History of Bankruptcy Law', p. 225.

Such was the new law in principle at least, but in effect the statute was lacking in definition as to the who, and how, of executing the law, with the result that effectiveness was limited.¹¹³

The inadequacy of the law's provision for extracting debtors from their residences, even following the first bankruptcy statute, gave rise to the following complaint in the reign of Elizabeth from some French merchants:

The English merchant . . . has this privilege, that when he has bought goods and intends to become a bankrupt, he can retire into his house, or even into his shop, provided that the door is closed with a lock or some barrier; and the bailiff cannot touch his goods, nor can anyone disturb him nor demand any account from him, nor arrest him or even talk to him, even though the poor ruined creditors may see the bankrupt in his house, with his wife, his factors and servants, publicly selling their goods in front of their eyes, without being able to attach these goods or any of the debtor's real or personal property.¹¹⁴

The statute did, however, recognise the problem of collusion between debtors and others, and pecuniary sanctions were to be applied to those that hid debtors' assets or falsely purported to be creditors. Importantly the power to summon and examine persons suspected of collusion with the bankrupt was created.¹¹⁵ However, the difficulties of applying the Henrician statutes gave rise to further Acts.

The important Act of 1571¹¹⁶ set in statute principles that, whilst on the one hand furthering the modernising of legislation, established conditions that bedevilled the interpretation and application of the law until the middle of the nineteenth century. What the 1571 Act did, that the 1543 had not, was to designate a category of persons, only those engaged in buying and selling, to whom the statute would exclusively apply. Strictly applied rules defined the category of person thus:

¹¹³ Levinthal, 'Early History of English Bankruptcy', p. 15.

¹¹⁴ Israel Treiman, 'Escaping the Creditor in the Middle Ages', *Law Quarterly Review*, 43 (1927), p. 231, in Jones, 'Foundations of English Bankruptcy', p. 16.

¹¹⁵ Levinthal, 'Early History of English Bankruptcy' pp. 15 –16.

¹¹⁶ 13 Elizabeth I, c. 7.

Any merchant or other persons using or exercising the trade of merchandise, by way of bargaining, exchange, rechange, bartry, chevisance, or otherwise, in gross or by retail, or seeking the trade of living by buying and selling...¹¹⁷

The distinction, however, was not about leniency towards those engaged in trade who might be victims of misfortune, rather it was introduced precisely because merchants were regarded as being especially well placed to evade the claims of their creditors, or wilfully to commit frauds.¹¹⁸ It is worth noting in passing that at the same time the essentially punitive bankruptcy law did not apply to landed gentlemen.¹¹⁹

Inevitably, once an attempt had been made to define a trader and make distinctions between people, there ensued arguments over whether a person was a trader within the meaning and intentions of the statute; in Jones's words, '[A]ll sorts of men were debtors, but only a tiny fraction could be bankrupts'.¹²⁰ Simply being engaged in some kind of business or profession did not qualify a debtor to become a bankrupt, although by the early nineteenth century the trader/non-trader distinction had been steadily eroded by periodic enlargements of the list of qualifying trades. Professions such as doctors, lawyers and schoolmasters, although they charged for their professional services, did not fit the bankruptcy rules because they did not trade in goods. However, establishing the nature of a person's trade was often not clear cut, and lawyers and judges would be exercised for centuries in their deliberations about how a person gained their living.

This trader distinction was also peculiar to England. Levinthal observes that 'confusion surrounding the application of the state of being bankrupt is understandable given that throughout the greater part of the last two millennia under Roman, Jewish and Germanic law all debtors could be bankrupts. It was only between 1570 and 1861 [in England] that the law of bankruptcy was applied exclusively to tradesmen'.¹²¹ According to Hoppit the reason for the

¹¹⁷ Extract from 13 Elizabeth I, c. 7, in J. Baskett (His Majesty's Printer), *The Statutes at Large Concerning Bankrupts* (London, 1735), p. 6.

¹¹⁸ The view of the trader-merchant as potential fraudster may have its origin in Levinthal, and is discussed by Cohen, 'History of Imprisonment for Debt', p. 166 fn.33.

¹¹⁹ Levinthal, 'Early History of English Bankruptcy', p. 16 fn.59.

¹²⁰ Jones, 'Foundations of English Bankruptcy', p. 36.

¹²¹ Levinthal, 'Early History of Bankruptcy Law', p. 224 fn.10.

trader distinction was to ensure the landowning and farming community did not fall under the jurisdiction of bankruptcy.¹²² Merely doing some buying and selling did not qualify. A farmer, working his own land, sold much more than he bought, therefore he could not be a bankrupt.¹²³ The problem Jones finds with the statutes is that they provided labels, but with inadequate definition. He sums it up thus:

[I]f a person could be construed as living by buying and selling, and if he committed an act which had been specified by the bankruptcy statutes, then his prospects were governed by procedures which did not apply to others. A peculiar department had been created within the varied laws and rules of debt. It was a legal distinction, but it was also a social one.¹²⁴

As will become apparent in this thesis it was often the attempts of heavily indebted traders to secure protective membership of this 'peculiar department' that was the cause of much of what they experienced, anticipated or not. If successful they became 'bankrupts', but they also became socially distinct as they could not be anything else.

A trader could not become a bankrupt by dint of proving themselves a trader alone, they also had to commit a pseudo crime, an 'act of bankruptcy'. What the law required was that certain acts, which were really performances, be acted out, the totality of which could be construed to be the committing of the act of bankruptcy that the law required. By the eighteenth century any notion that these 'acts' were crimes had become a nonsense, yet they still had to be committed because the antiquated law of English bankruptcy was still rooted in these early modern criminal statutes. The 1571 statute had endeavoured to define these behaviours that could then be construed as committing 'acts of bankruptcy'; and it also recognized 'a bankrupt' as a discrete category of miscreant. The statute ruled that if a trader:

departs the realm, or keeps his house, or takes sanctuary, or suffers himself willingly to be arrested for any debt not justly due, or suffers himself to be outlawed, or yields himself to prison, or departs from his

¹²² Hoppit, *Risk and Failure*, p. 24.

¹²³ Jones, 'Foundations of English Bankruptcy', p. 22.

¹²⁴ *Ibid.*, p. 51.

dwelling-house, with the intent to defraud or hinder any of his creditors, he shall be taken for a bankrupt.¹²⁵

By the beginning of the nineteenth century there were technically seventeen such 'acts'. The three in most frequent use were: 'staying indoors for an unusually long time, leaving home for a similar time, and lying in gaol for two months after having been imprisoned for debt'.¹²⁶ Examples of the performance of these acts will be seen in the following chapters.

Any margin available to creditors to come to an arrangement with debtors privately was circumscribed as soon as a commission of bankrupt was set up. From that point on all creditors were subject to the proceedings of a commission. However, Jones regards the 1543 statute as almost 'unworkable', and that of 1571 as 'so restricted that it unbalanced the English law of bankruptcy for generations'.¹²⁷ These statutes had not created bankruptcy law as we understand it today, or indeed as it came to be understood in the eighteenth century. In sixteenth-century England there was not yet a distinction between 'a bankrupt' and 'an insolvent debtor'; that distinction emerges later. The early legislation was primarily preoccupied with control and deterrence, as Levinthal affirmed:

It is true that in the modern view of the institution of bankruptcy the Act of Henry VIII can hardly be spoken of as a true bankruptcy law, for it is in fact little more than a criminal statute directed against men who indulged in very prodigal expenditures and then made off.¹²⁸

Although indebted traders could 'enjoy' the new status of being a bankrupt, they were still considered criminals, and under the statute of 1571 a bankrupt could still be imprisoned as well as see their assets seized.¹²⁹ Commissioners could sell almost everything to benefit the creditors.¹³⁰ So at this stage bankruptcy still did not offer insolvent debtors the kind of protection that many would readily seek in later centuries.

¹²⁵ In Levinthal, 'Early History of English Bankruptcy', pp. 16–17.

¹²⁶ Duffy, *Bankruptcy and Insolvency in London*, p. 16.

¹²⁷ Jones, 'Foundations of English Bankruptcy', pp. 9–10.

¹²⁸ Levinthal, 'Early History of English Bankruptcy', p. 2.

¹²⁹ Duffy, *Bankruptcy and Insolvency in London*, p. 8.

¹³⁰ Jones, 'Foundations of English Bankruptcy', p. 29.

During the seventeenth century the line against bankrupts hardened. An Act in 1623¹³¹ added the pillory and the loss of an ear if debtors could not prove bankruptcy had been caused by misfortune alone.¹³² Keeping to one's house and bolting the outer door was no longer tolerated as commissioners were empowered to break down doors. There were also important procedural developments. When an earlier Act under James I¹³³ was amended the procedure of formally examining a bankrupt before a bankruptcy commission was established. The activities of bankrupts had been regarded as opaque, and therefore the examination was required so the bankrupt would have to explain how he had conducted his affairs. Bankrupts were offered incentives to be forthcoming and threatened with penalties if they were not. Failing to cooperate with a full inquiry could land the bankrupt in prison.¹³⁴ Perjury or concealing goods could land the bankrupt in the pillory, or cost the aforementioned ear.¹³⁵ Bankrupts, or at least the idea of 'a bankrupt', seemed to provoke a moral anxiety which found its outlet in calls for ever more draconian sanctions. Fortunately for bankrupts they had some defenders: to proposals that bankrupts be whipped to death Sir Edward Coke is recorded in 1621 expressing his dislike to Parliament of 'laws written in blood'.¹³⁶

By the end of the seventeenth century there existed a bankruptcy regime that was intended to benefit creditors yet remained harsh to bankrupts, who were still considered fraudulent. In 1697 Daniel Defoe, who had been a bankrupt, said of the bankrupt law that it stripped the debtor 'of all in a moment, but renders him for ever incapable of helping himself, or relieving his Family by future Industry'.¹³⁷ However, a change in attitudes was emerging towards the end of the seventeenth century. John Cary expressed this view:

¹³¹ 21 Jac. I, c. 19.

¹³² Levinthal, 'Early History of English Bankruptcy', pp. 17–18.

¹³³ 1 Jac. I, c. 15.

¹³⁴ Levinthal, 'Early History of English Bankruptcy', pp. 17–18.

¹³⁵ Duffy, *Bankruptcy and Insolvency in London*, pp. 8–9.

¹³⁶ Jones, 'Foundations of English Bankruptcy', p. 20. Some sources report that Sir Edward Coke's actual words when responding in the House of Commons on May 24, 1621 were '*I like not lawes written in bloud*', although the *Journal of the House of Commons: Volume 1, 1547–1629* (London, 1802), pp. 625–26 for 24 May 1621, does not show these words. However, they do appear in Wallace Notestein (ed.), *Commons Debates, 1621: The notes by Sir Thomas Barrington of the House of Commons in 1621* (New Haven, 1935), p. 296.

¹³⁷ Daniel Defoe, *An Essay upon Projects* (London, 1697), in Lester, *Victorian Insolvency*, p. 16.

Misfortunes may and often do befall industrious Men, whose *Trades* have been very beneficial to the Nation, and to such a due Regard ought to be had.¹³⁸

A 'due Regard' was had and the framing and intention of the law did change. By the early eighteenth-century England had evolved a set of bankrupt laws and procedures which were markedly different from the mechanisms employed against insolvent debtors, who were merely imprisoned. What made the early eighteenth-century laws ground-breaking was that, for the first time, a compliant bankrupt could be discharged. It was the absence of discharge that had so vexed Defoe. The statutes of 1705, 1706 and 1711 suggested that changing attitudes to bankrupts were being enshrined in law.¹³⁹ The crucial shift came about from the recognition, in some quarters at least, that a debtor could become insolvent by no fault of his own, and furthermore that a discharge was more appropriate than a sanction. According to Levinthal the statutes of 1705 and 1711 were regarded by some as essentially the first laws of English bankruptcy.¹⁴⁰ Given that bankrupts could still be imprisoned until the early eighteenth century, the 1705 statute was suddenly very trusting of bankrupts, as V. Markham Lester explains:

a bankrupt could be discharged from all debts due and owing when he became bankrupt, without approval of his creditors, provided the bankrupt surrendered himself to his creditors in the time allowed in the Act and 'in all things conform as in and by this act is directed...'¹⁴¹

The introduction of this discharge was no small matter. It meant a bankrupt had no need to fear being imprisoned again for debts arising from the same bankruptcy. With a discharge the honest bankrupt, who did as the law directed, could resume useful industry, as Defoe had desired. However, this new trust placed in bankrupts soon proved misplaced. After 'many notorious frauds and abuses' a new statute in 1706 required a discharge to be approved by four-fifths of creditors. Severe measures for dishonest bankrupts were now included in the 'modern' statutes. Concealing property was punishable by a £100 fine plus

¹³⁸ J. Cary, *An Essay on the State of England, in Relation to its Trade, its Poor, and its Taxes, for Carrying on the Present War Against France* (Bristol, 1695), p. 37, in Hoppit, *Risk and Failure*, p. 22.

¹³⁹ 4 Anne, c. 17; 5 Anne, c. 22; 10 Anne, c. 15, c. 20.

¹⁴⁰ Levinthal, 'Early History of English Bankruptcy', pp. 18–20.

¹⁴¹ Lester, *Victorian Insolvency*, p. 16.

twice the value of what had been hidden.¹⁴² Also under the 1706 statute concealing goods of greater value than £20 became a capital offence, although few bankrupts ever went to the gallows. A bankrupt to whom the capital sanction was applied is discussed in Emily Kadens's account of the fate of John Perrott.¹⁴³

Despite the severity of the sanctions, the new statutes were still modernizing. In Levinthal's view, the new law was also about a growing understanding that trade depended on credit; and those in trade assumed risks which were in the interests of both creditor and debtor. No longer at stake would be what a trader might earn in the future, let alone the freedom of his person.¹⁴⁴ Or as Duffy puts it 'the trader could return to business without fear of future assets being liable for payment of past debts'.¹⁴⁵ The early eighteenth-century reforms, according to Duffy, 'eradicated the dread which bankruptcy may have previously instilled, by reducing the consequences of failure'. In his view if the draconian legislation had not been reformed, there would have been greater nervousness around entering more volatile trades and markets.¹⁴⁶ Once the system of granting a certificate of discharge had been established, in Levinthal's words 'English law had all the elements of modern bankruptcy'.¹⁴⁷

The reforms of the early eighteenth century formed a crucial juncture after which two clearly distinct legal processes could be applied to a trader. An inability or an unwillingness to pay debts could, as ever, result in imprisonment. On the other hand, debtors who could avail themselves of the bankruptcy regime because they were traders and owed over £100, could be discharged from their debts and avoid prison.¹⁴⁸ The prospect of a discharge also served to facilitate agreement on composition with creditors, as the bankrupt could be confident of no further liability beyond the amount he agreed to pay.¹⁴⁹ Unfortunately traders who did not have a debt exceeding £100 with a single

¹⁴² Ibid., pp. 16–18.

¹⁴³ Duffy, *Bankruptcy and Insolvency in London*, p. 10; Kadens, 'Last Bankrupt Hanged', pp. 1–43. The trial of another fraudulent bankrupt is related in Anon., *A Particular ACCOUNT of the TRYAL of Richard Towne, Tallow Chandler for FELONY* (London, 1712), and Towne's hanging in Anon., *A Select and Impartial ACCOUNT of the Lives, Behaviour, and Dying Words, of the most remarkable CONVICTS, Vol. I* (London, 1760), pp. 121–23.

¹⁴⁴ Levinthal, 'Early History of English Bankruptcy', pp. 18–20.

¹⁴⁵ Duffy, *Bankruptcy and Insolvency in London*, p. 17.

¹⁴⁶ Ibid., p. 152.

¹⁴⁷ Levinthal, 'Early History of English Bankruptcy', p. 20.

¹⁴⁸ Lester, *Victorian Insolvency*, p. 17.

¹⁴⁹ Jones, 'Foundations of English Bankruptcy', pp. 50–51.

creditor were denied the protection of bankruptcy; for them imprisonment for debt remained the most likely action that would be taken against them.¹⁵⁰

Naturally, if pressure from creditors was overwhelming and traders saw they qualified for treatment under the bankrupt laws, then they were highly likely to want to take this less onerous path given that incarceration and ‘gaol fever’ could be a death sentence.¹⁵¹ Bankrupts who conformed to the bankruptcy process were not only spared prison, they could also be discharged from their debts.¹⁵² Moreover, an Act of Parliament in 1718 had already spared bankrupts the onerous liability to arrest for debt whilst travelling to meetings with bankruptcy commissioners.¹⁵³ Or so in theory, because as this study will show, when contemplating attending meetings, bankrupts often remained in fear of arrest by creditors acting under rival authority and jurisdiction. Law and practice were not one and the same.

There were various minor adjustments to the law before the Act of 1732 consolidated all the previous laws in ‘An Act to Prevent the Committing of Frauds by Bankrupts’.¹⁵⁴ It was the 1732 statute that, according to one eighteenth-century commentator ‘has ever since been the great directory in all proceedings relative to Bankrupts’.¹⁵⁵ And so it remained, largely unaltered, essentially governing English bankruptcy for the next one hundred years. Note that the title of the Act still frames bankruptcy as fundamentally a crime.¹⁵⁶ The pace of reform did accelerate somewhat in the early nineteenth century although the laws did not undergo any notable change until Lord Eldon’s consolidation in 1825.¹⁵⁷ However, the reader should note that new reforms sometimes applied only to bankruptcies in London, whilst country bankruptcies, which constitute a number of the cases in this study, remained under earlier statutes. Lester states that under the 1825 statute a debtor could self-declare bankruptcy, but this only applied in London. Even when major innovations were enacted, they often initially applied only in London where the greatest numbers

¹⁵⁰ Duffy, *Bankruptcy and Insolvency in London*, p. 17.

¹⁵¹ Haagen, ‘English Society and the Debt Law’, p. 224.

¹⁵² Lester, *Victorian Insolvency*, p. 17.

¹⁵³ 5 Geo. I, c. 24; Duffy, *Bankruptcy and Insolvency in London*, p. 11.

¹⁵⁴ 5 Geo. II, c. 30; Lester, *Victorian Insolvency*, p. 18. The various minor acts are listed in fn.56.

¹⁵⁵ James Bland Burges, *Considerations on the Law of Insolvency, with a Proposal for Reform* (London, 1783), p. 287.

¹⁵⁶ Hoppit, *Risk and Failure*, p. 20.

¹⁵⁷ 6 Geo. IV, c. 16; Lester, *Victorian Insolvency*, pp. 34–5.

of bankruptcies were occurring. Lester notes that even after the 1831 Act that created the 'Court of Bankruptcy', the counties continued with the pre-1831 part-time commissioner system.¹⁵⁸

Under the 1732 statute from the date of a bankruptcy commission being issued a bankrupt had forty-two days within which to surrender to the commission and complete a full disclosure of his assets. The commissioners would sit at a minimum of three meetings within the forty-two days. Bankrupts were also to be free from arrest during the forty-two days. If four-fifths of the creditors who were owed more than twenty pounds agreed, a bankrupt could receive a certificate of discharge, provided that the commissioners certified to the Lord Chancellor that the bankrupt had conformed to all the legal requirements. As an incentive to bankrupts to cooperate, bankrupts could receive an allowance from their liquidated assets ranging from three percent if the bankrupt estate salvaged less than ten shillings in the pound, up to ten percent (with a maximum of £300) if fifteen shillings were paid out to creditors. Commissioners fees were also specified.¹⁵⁹ The 1732 statute consolidated the position of the assignees as the managers of the bankrupt's affairs and estate. Assignees were themselves creditors and were chosen by creditors owed £10 or more. The Lord Chancellor kept the authority to remove assignees.¹⁶⁰ Bankrupts relationships with these assignees would sometimes prove problematic as the subsequent chapters in this study will show.

We return now to George Clay the King's Lynn merchant who was facing financial problems in the 1730s and who would inevitably have been pondering his limited options. As a merchant he met the trader requirement, and the volume of his debts meant that it was not difficult for him to owe a single creditor a sum that met the £100 and upwards threshold. In fact, to some creditors he owed sums in excess of £300.¹⁶¹ Given the state of provincial debtors' goals in the 1730s we can be reasonably confident that Clay would have preferred to be treated under the recently enacted 1732 bankrupt laws, rather than as an insolvent debtor.

¹⁵⁸ Lester, *Victorian Insolvency*, pp. 36, 45.

¹⁵⁹ Duffy, *Bankruptcy and Insolvency in London*, p. 12, see Duffy, p. 12 fn.17 for the whole range of allowances.

¹⁶⁰ Lester, *Victorian Insolvency*, p. 19.

¹⁶¹ NRO, BL/CS/1/1/1, Bankruptcy of George Clay, pp. 11, 12.

Imprisoning a debtor was an action intended to coerce debtors to pay, and it continued to be used against debtors until its abolition in 1869. According to Paul 'by the eighteenth century, recent changes in legal procedure made arresting a debtor one of the cheapest and most expedient ways for creditors to pursue what they were owed'.¹⁶² Cohen maintains that this type of confinement was anomalous in that 'penal imprisonment is usually associated with criminal proceedings', but where unpaid debts were concerned imprisonment was employed as a device of private law.¹⁶³ Creditors truly believed imprisonment of debtors not to be a strange and unusual practice, but to be a self-evidently effective and entirely reasonable measure against a serious problem. As the early modern economy grew in complexity, and reliance on credit became not only more extended, but fundamental to the furthering of trade, the risk of debtors defaulting became an ever-greater concern. Such anxiety encouraged vigilance, and a disposition to recover debts by any means available in law. C. W. Brooks gives the example of a 'solicitor and town clerk of Bath, John Jeffreys', who in 1778 'warned a man who owed him money that he was "resolved...to be trifled with no longer, for I will use the means that the Law has given me for recovering money, let the consequences be what it will"'.¹⁶⁴ This widespread and enthusiastic employment of this aspect of English civil law meant that by 1776 there were more insolvent debtors in the gaols of England and Wales than criminals.¹⁶⁵

Furthermore, under these debt laws, with neither proof nor warning, a creditor could demand a debtor be arrested.¹⁶⁶ Thus Clay could be picked up as soon as he stepped out of his house and onto the streets of King's Lynn.¹⁶⁷ As a debtor in a gaol in the 1730s the trader inmate might, as one contemporary complainant put it, 'starve *by slow Degrees*, even to Death, in a noisome Jail, and possibly, in Company with the most Profligate of the human Race'.¹⁶⁸ Because there circulated a substantial literature containing emotive accounts of

¹⁶² Paul, *Poverty of Disaster*, p. 35.

¹⁶³ Cohen, 'History of Imprisonment for Debt', pp. 154–55.

¹⁶⁴ Brooks, 'Interpersonal Conflict', p. 394.

¹⁶⁵ *Ibid.*, p. 358; on numbers imprisoned, see Paul, *Poverty of Disaster*, pp. 33–4, 44–49.

¹⁶⁶ Haagen, 'English Society and the Debt Law', p. 225.

¹⁶⁷ For commentary on the advantages for creditors of arresting a debtor, see Paul, *Poverty of Disaster*, pp. 35–6.

¹⁶⁸ Anon., *The Case of Bankrupts and Insolvents Considered* (London, 1734), p. 37; for an account of conditions in a debtor's prison, and why incarceration was therefore so feared see Philip Woodfine, 'Debtors, Prisons, and Petitions in Eighteenth-Century England', *Eighteenth-Century Life*, 30 (2006), 1–31, p. 18.

cruel creditors and the sufferings of those imprisoned for debt, the impression can be given that creditors were eager to imprison those indebted to them, whereas in fact people were rarely gratuitously litigious or given to unpleasant summary actions out of malice.¹⁶⁹ Margot Finn maintains that failure to make payment in full was common in the eighteenth century, and not unnaturally, there was a desire to resolve issues before resort to the law.¹⁷⁰ At the same time there was a general awareness among creditors that excessive harshness on debtors was not necessarily prudent, given that creditors knew they could run into trouble themselves. Finn notes there was only a 'thin and permeable boundary that separated the status of debtor from that of creditor'.¹⁷¹ The law was only resorted to with some reluctance.¹⁷² In fact, efforts to find more neighbourly and less draconian resolutions were often made.¹⁷³ Joanna Innes points out that debt actions were not usually taken out against people who had nothing or whose liabilities exceeded their assets, but just against an individual who did not meet an obligation. It was usual, only when all other methods of persuasion had proved fruitless, that a creditor would initiate proceedings to gain 'an enhanced coercive negotiating power'.¹⁷⁴ The principal 'coercive power' was the threat of imprisonment, rather than actual imprisonment. Clay would have felt this threat and have known that as a bankrupt he stood a better chance of remaining at liberty.

In Clay's case, as with many other bankrupts, it is not easy to tell unequivocally from the historical records whether it was primarily the trader who wanted the bankruptcy, or whether it was his creditors. As external factors beyond the control of both trader and creditors were often involved, the decision to seek the relative 'protection' of bankruptcy may also have been a joint enterprise, especially as a trader could only be made a bankrupt as a result of a creditor's petition. A trader could not declare himself bankrupt, which is something often misunderstood. Many traders got themselves made bankrupts by colluding with

¹⁶⁹ Examples of pamphlets that circulated are: Anon., *The Piercing Cryes of the Poor and Miserable Prisoners for Debt, in All Parts of England* (London, 1714); Anon., *The Unreasonableness and Ill Consequence of Imprisoning the Body for Debt* (London, 1729).

¹⁷⁰ Finn, *Character of Credit*, p. 98.

¹⁷¹ *Ibid.*, p. 75.

¹⁷² Craig Muldrew, *The Economy of Obligation: The Culture of Credit and Social Relations in Early Modern England* (Basingstoke, 1998), pp. 181, 195.

¹⁷³ For a discussion of attempts to avoid recourse to law, see Craig Muldrew, 'The Culture of Reconciliation: Community and the Settlement of Economic Disputes in Early Modern England', *Historical Journal*, 39 (1996), 915–42.

¹⁷⁴ Innes, 'King's Bench Prison', p. 254.

one or more of their creditors in 'friendly' bankruptcies. The case studies in this thesis suggest that the triggers for bankruptcy were either arrest and imprisonment of a trader as discussed above, or an execution levied on the trader's goods and property. Sometimes it was both as different creditors employed different actions.

Under the debt laws there was no orderly and equitable distribution of a debtor's assets. The first creditors to move sometimes employed 'executions', which were writs that only permitted the seizure of moveable assets: chattels (interior furnishings and plate) and trade stock. It was not difficult to obtain writs to seize goods.¹⁷⁵ However, the immovable assets, like property, land, and financial instruments were untouchable. Coin, bank notes, bills of exchange, bonds, book-debts, and any other securities such as stocks, were all safe from the sheriff's officer.¹⁷⁶ Distraining or distressing the moveable goods of a trader was a common debt recovery action. It was often a creditor's move on the household goods and stock in trade that convinced a trader that they had no alternative but to prevail upon a friendly creditor to make them a bankrupt, as arrest was often likely to follow. Although moveable goods were the easiest assets that could be quickly turned into specie, goods sold at auction rarely realised much, creditors were more likely to believe they would get results from arresting their debtor. Even if the first creditor were satisfied by the assets he had seized, if there was nothing left to turn into cash for the next creditor then that second creditor would use imprisonment. Whereas as a bankrupt who surrendered all his worldly assets and possessions which were distributed *pro rata* amongst the creditors, he stood a good chance of being discharged from any future liability arising from his debts at the time of his bankruptcy.¹⁷⁷ The non-trader debtor, even if released from gaol, would not be discharged of his debts if any remained pending.¹⁷⁸ To the stricken trader then, a 'Commission of Bankrupt' was evidently the lesser evil. 'Commission of Bankrupt' is a form

¹⁷⁵ For step by step details of the process see Duffy, *Bankruptcy and Insolvency in London*, pp. 61–65.

¹⁷⁶ Margot Finn, 'Debt and Credit in Bath's Court of Requests, 1829–39', *Urban History*, 21 (1994), 211–36, pp. 213–14; Peter Earle, *The Making of the English Middle Class: Business, Society and Family Life in London 1660–1730* (London, 1989), p. 124.

¹⁷⁷ Cohen, 'History of Imprisonment for Debt', p. 161.

¹⁷⁸ *Ibid.*, p. 159.

used in contemporary literature and many legal records.¹⁷⁹ For brevity, I usually refer to a bankruptcy commission or just commission.

2.1.2 The bankruptcy commission and its proceedings

Prior to the 1831 Act that created the Court of Bankruptcy, which put bankruptcies much more under central and official supervision in England, the most crucial and instrumental entity in the process of bankruptcy was the bankruptcy commission, essentially an outsourced institution. Its commissioners were independent and held their authority from the Lord Chancellor whose authorisation was required before a commission could be issued. The duty of the commissioners was to serve the interests of the creditors; a bankrupt merely got an account and was informed about the disposal of his goods and lands. The commissioners had powers to summon and examine people, but they were not law courts in a way that to us would be recognisable.¹⁸⁰ Yet commissioners had powers comparable to magistrates and justices.

An afflicted trader like Clay, quite possibly encouraged by some of his friendlier creditors, might make the first move in getting himself made a bankrupt. Bankrupts like him naturally cast about for help and guidance in their predicament. As will be discussed in chapter five their principal recourse was always to friends and family, whilst others consulted lawyers. Some, however, were not without their own resources and did attempt to use their learning to understand and interpret the bankrupt laws themselves. Different traders had different understandings of the bankrupt laws and varied in their adeptness at interpreting and applying them. Inevitably, some might have done well to heed the words of Francis Bacon, who declared 'I could wish that every citizen knew as much of law as would enable him to keep himself out of it'.¹⁸¹ However, with imprisonment looming they had no choice but to engage with the law.

Advice manuals for tradesmen had long existed, and very specific texts aimed at debtors or bankrupts were available throughout the eighteenth century. The

¹⁷⁹ 'Commission of Bankrupt' appears in, for example, the advice manual by Thomas Davies, *The Laws Relating to Bankrupts* (London, 1744), p. 153.

¹⁸⁰ Jones, 'Foundations of English Bankruptcy', p. 10.

¹⁸¹ Francis Bacon, quoted in Anon., *The CITIZEN's Law Companion* (London, 1794), p. iii.

literature largely fell into two camps: manuals that sought to explain the bankrupt laws in depth; and manuals that concentrated more on the practical application of the law. Their accessibility and ease of usefulness was probably always more to lawyers than to traders facing bankruptcy; the latter, the evidence in this study suggests, relied more on direct advice from their solicitors than trying to interpret manuals themselves. These solicitors in turn often sought highly specialised opinions from London barristers. We cannot be certain if many or few bankrupts read manuals, as only rarely do we find them referring to them; and only rarely do we discover what books bankrupts had in their homes. However, one author of a manual aimed directly at bankrupts clearly hoped that bankrupts would enlighten themselves by reading his text 'so that the inquirer will have no further trouble than to ascertain in what stage of the commission his business is, and immediately to refer thereto to satisfy his doubts'.¹⁸²

There is some evidence of possession of law books by bankrupts. Because in 1775 a London bookseller swore to a debt for books he had not been paid for we know that a money scrivener by the name James Bunn of North Walsham, Norfolk (bankrupt in 1770) had volumes in his possession which were identified as *Law of Bankrupts*, and Blackstone's *Law Tracts*.¹⁸³ As discussed in the introduction some subjects in this study had the benefit of longer and more privileged educations. This is borne out by their evident command of language in the sources, and it is therefore probable that they were able to access and interpret legal advice manuals.

Generally, however, as the chapters in this study will show, there is little evidence to suggest that bankrupts were in command of the law. In fact, as this study will endeavour to demonstrate, eighteenth-century bankruptcy law and proceedings could be a minefield for traders with little grasp of the law. They made poor decisions that they believed, or desperately hoped, would serve their interests. One contemporary commentator summed it up:

¹⁸² John Paul, *A SYSTEM of the LAWS relative to Bankruptcy* (London, 1776), p. xiii.

¹⁸³ NRO, DN/MS C 5/4, Papers relating to a Commission of Bankruptcy against James Bunn the younger: affidavit of Thomas Longman of Pater Noster Row, bookseller, 23 February 1775 (Longman swears to an unpaid debt for books sold). Texts that match or approximate in name to *Law of Bankrupts* are: Goodinge, *The Law of Bankrupts* (London, 1701), A late Commissioner of Bankrupts, *The Law For and Against BANKRUPTS* (London, 1743), Thomas Davies, *The Laws Relating to Bankrupts* (London, 1744).

It appears that under a commission great errors and inconveniences often arise, from people being ignorant of the power and operation of the laws made for and against bankrupts...¹⁸⁴

No matter how well a trader understood his options under the bankrupt laws he could not declare himself a bankrupt and therefore needed the assistance of a friendly creditor to petition for the issue of a bankruptcy commission. Were the trader to be the object of a 'hostile' bankruptcy, a petitioning creditor would be commencing proceedings regardless of the trader's inclination for a commission or not. The trader would receive a much rougher ride from hostile creditors if they got the upper hand in a commission, as cases in this study will show. However, regardless of whether a bankruptcy was trader driven, or creditor driven, the requirements for issuing a commission were the same.

Not unlike the initiation of a debt action under common law, a bankruptcy commission could be initiated by one single creditor acting independently with the assistance of a lawyer. The creditor, who became known as the petitioning creditor, swore that he was owed a debt above £100 and which had remained unpaid for an unreasonable period. This petition was submitted to the Lord Chancellor, who granted a commission and appointed commissioners.¹⁸⁵ A bond of £200 had to be placed with the Lord Chancellor to deter malicious petitions; these were legal fees that initially the petitioning creditor had to shoulder.

If a petitioning creditor was successful in getting a commission issued and commissioners appointed, the procedural framework of the commission came into being and immediately determined the formal proceedings to which the bankrupt would be obliged to submit. As soon as the commissioners met, they had to determine whether the bankruptcy statutes applied to the debtor: if he was a trader and if he had committed an act of bankruptcy. In friendly bankruptcies these steps were formalities and were effected by the examination of witnesses, usually servants. The bankrupt would have been abreast of events.

¹⁸⁴ Paul, *SYSTEM of the LAWS*, p. xiv.

¹⁸⁵ Hoppit provides a clear and succinct summary of the process in Hoppit, *Risk and Failure*, pp. 35–37.

If, however, the trader had not sought a commission himself, he might learn of his bankruptcy by notification from the commissioners, or the commissioners' messenger, or from a notice in the *London Gazette*.¹⁸⁶ The latter would also be read by his friends, neighbours and business contacts. If notification was sent by the commissioners then the commissioners' messenger, or messenger's assistant, sometimes installed himself in the bankrupt's home with the aim of preventing the removal of items of value.¹⁸⁷

Once established a commission advertised meetings of creditors in the *London Gazette*. At the outset three meetings were always declared (often in practice many more were held): the first for the surrender of the bankrupt and the proving of debts (in practice debts could be proved at any of the meetings); the second for the choosing of assignees to liquidate the estate; the third and final for the bankrupt to complete their examination (in which they revealed the extent and whereabouts of all their assets), and for creditors to assent or dissent from granting the bankrupt a certificate of discharge. The liquidation of bankrupts' estates and the drip-feed of dividends to creditors often continued for many years after individual bankrupts had been discharged.

Throughout this study I will use the terms 'proceedings', 'administration', and 'liquidation'. Proceedings will refer to the work of commissions; administration to the endeavours of commissioners, assignees, and solicitors involved in a commission; liquidation to the disposal of assets and winding up of bankrupt estates. Bankruptcy commissions did not attempt to save bankrupts' businesses, they were therefore effectively liquidations in the sense employed in twenty-first century English insolvency. A more contemporary phrasing for the work of the commission would be 'the getting in of the bankrupt's estate' for the purposes of distribution. I have not used this phrasing simply because it would be unwieldy.

This, in short, was how a bankruptcy commission was structured and how it proceeded. But as will become evident through the chapters of this study matters often did not proceed in anything like such a straightforward manner. The conceptual and jurisdictional boundaries between a regime that had at its centre the deprivation of liberty, and the putatively modern and more pragmatic

¹⁸⁶ Duffy, *Bankruptcy and Insolvency in London*, p. 16.

¹⁸⁷ *Ibid.*, pp. 25–27.

system of bankruptcy, were porous and disputed. Many events in this study were driven by the tensions between these two jurisdictions. Conflicts between the two branches of law and their respective representatives broke out continuously. Contemporary commentators blamed the statutes, which in the early nineteenth century after centuries of tinkering still warranted this charge from Edward Christian in 1812: 'There is no branch of the Law of England that exhibits such extraordinary specimens of contrariety of opinions, and irreconcilable decisions as the Bankrupt Law.'¹⁸⁸

Finally, returning to George Clay, he had probably not sought his own bankruptcy as he had absconded altogether before being later apprehended. He failed to surrender before the commissioners in December 1739, but in fairness to Clay this was because he was already in gaol (or assumed to be in gaol somewhere). The commissioners still wanted him before them and required the gaoler and keeper to 'deliver to Mr James Robertson the body of the said Clay' so that he 'might be dealt with' under the law of bankruptcy. They also ordered that Clay's 'goods, chattels, books...wheresoever they be found' be seized.¹⁸⁹ There is evidence that Clay was produced as records show that a gaoler was paid two shillings to deliver Clay to Robertson, and Robertson, who was probably the commissioners messenger or a sheriff's officer, was in turn paid two shillings to 'take him and his effects'.¹⁹⁰ It is pertinent that this first part of the account of the English bankrupt laws has ended mentioning messengers and sheriff's officers as these officers were the facilitators and implementors of bankruptcy commissions and instrumental in shaping the overall experience of bankrupts. They are considered along with legal professionals in the second part that follows.

Part Two

2.2.1 People in bankruptcy proceedings

Unlike bankrupts the categories of individuals described below, although not central in this study, are not peripheral either because they were the necessary

¹⁸⁸ Edward Christian, *The Origin and Present Practice of the Bankrupt Law, both in England and Ireland*, 2 vols (London, 1812), I, p. iii.

¹⁸⁹ NRO, BL/CS/1/1/1, Bankruptcy of George Clay, p. 19.

¹⁹⁰ NRO, BL/CS/1/1/3/1-8, Miscellaneous accounts of money owing by George Clay.

facilitators and implementors of the material aspects of the experience of bankruptcy. They were the people that actually did things in a bankruptcy: they called and attended meetings, took decisions, drew up legal documents, issued instructions, took material possession of objects, detained and held the bodies of persons if necessary; whereas bankrupts were, at least notionally, passive and unable to act. These agents had a variety of roles in the implementation of a bankruptcy commission, and they maintained important relationships and interactions with bankrupts. They will surface again and again throughout this account of the social experience of bankrupts and therefore the reader will need a knowledge of their roles and significance.

In addressing the legal professionals of the long eighteenth century this thesis will limit itself to describing the roles and functions of legal professionals while they implemented and oversaw the law and practice of bankruptcy. There were principally two categories of agent: lawyers (commissioners, barristers, solicitors, attorneys); and officers of the law (sheriff's officers, messengers, bailiffs). The most influential of these roles in bankruptcy were those of commissioner of bankrupts and solicitor to the commission that had been issued.

2.2.2 Commissioners

Originally there had been no strict rules as to who could be appointed a commissioner except that they should be "wise, honest and discreet".¹⁹¹ Commissioners mattered to bankrupts because, in theory at least, they oversaw the whole bankruptcy process to its conclusion, and were charged with the authority of the Lord Chancellor to see that the liquidation was conducted according to statute and established procedure. Commissioners were also under obligation to report on how they managed and distributed the estate of a bankrupt. They wielded considerable powers and could commit uncooperative bankrupts to gaol where they could be held until they cooperated. In 1776 John Paul noted how bankrupts by 'not knowing the authority of the commissioners, have frequently incurred the censure of the law, even to the loss of their

¹⁹¹ 13 Eliz. I, c. 7, in Levinthal, 'Early History of English Bankruptcy', p. 17.

personal liberty'.¹⁹² An example of this occurred in 1781 when, as a result of 'gross prevarications', a Bristol bankrupt, Joseph Pedley, was committed to Bristol Newgate for 'his not giving a satisfactory account' to the commissioners. There he remained for two and a quarter years before being again committed for giving answers 'much less satisfactory than before'.¹⁹³ In 1797 one subject in this study, John Kempster, a Wiltshire corn dealer, was ordered by commissioners to be held in 'Custody for not making satisfactory Answers to certain Questions touching his Estate and Effects'. The commissioners kept Kempster in the county gaol for over two years.¹⁹⁴ Lying to commissioners could land a bankrupt in a criminal court as was the case in 1830 with a bankrupt linen draper who had 'sworn to a false return' and was sentenced to seven years transportation at Hereford Assizes.¹⁹⁵

London commissioners, who were appointed from a list of sixty, sat at the notoriously overcrowded Guildhall. In some other locations, for example King's Lynn, commissioners also sat in a guildhall, but generally country commissioners sat in inns and taverns. For example, for the commission issued against Somerset yarn washer Richard Hutchings the commissioners met on 2 April 1744 at 'the Dwelling house of Ambrose Cecill at Crewkerne, Innholder, being a publick Inn and known by the sign of the George'.¹⁹⁶ Five commissioners were appointed, typically it was two esquires and three gentlemen; only three commissioners were required to attend meetings and sign memoranda. There they swore one another into their respective offices. The commissioners for the commission issued against Sherborne maltster John Slade swore one another in on 14 May 1830 at the offices of Thomas Fooks, solicitor to the commission.¹⁹⁷

The reader might imagine that bankruptcy commissioners could be relied on to be reasonable and respectable actors in the whole bankruptcy process and that they would protect bankrupts from the harshness of creditors. Such a notion

¹⁹² Paul, *SYSTEM of the LAWS*, p. xiv.

¹⁹³ Anon., *The Case of the Creditors of Joseph George Pedley, A Bankrupt of Bristol* (Bristol, 1783), pp. 38, 56, 69.

¹⁹⁴ WRO, 1033/194, Papers re John Kempster's bankruptcy: Declaration of bankruptcy and warrant to arrest, 17 April 1797.

¹⁹⁵ *Sunday Times*, 20 June 1830, issue 400, p. 3.

¹⁹⁶ SRO, DD/MR/107, Bankruptcy records, 1725 – 1754, Richard Hutchings of Woolmistone in Crewkerne, p. 1.

¹⁹⁷ DRO, D/FFO/27/103, John Slade of Sherborne, maltster, papers of proceedings in bankruptcy.

encounters some challenges which are related below. However, in the cases in this study the commissioners appear to have applied themselves dutifully and endeavoured to interpret the law and conduct commissions professionally and reasonably, given the tensions that existed between creditors and bankrupts. Furthermore, being gentlemen, they even found opportunities to demonstrate their sensibility. There are few detailed accounts of the words and interactions at bankruptcy commission meetings, apart from their formal memoranda. High-profile bankruptcies which were reported in the press sometimes contained accounts of what was said by different parties during commission meetings. One report that records a commissioner's words is provided by a meeting in 1772 which heard the examination of William James, one of the partners of notorious bankrupt Alexander Fordyce. Had it not been for the scale and consequences of the failure of the banking house of Neale, James, Fordyce, and Down the meeting would not have been reported. Mr James was too overcome to read his own statement to the meeting, so passed it to the presiding commissioner. The commissioner read James's address to the meeting, and being moved to tears, 'evinced himself *a man of feeling*'.¹⁹⁸ Thus the commissioner communicated to the assembled creditors what attitude he thought ought to be taken towards the bankrupt.

The mood was somewhat different at Fordyce's examination in October at which the commissioners protected the public villain from the ire of the creditors. Questions put to Fordyce, to which, had he responded in the affirmative, would have exposed him to criminal prosecution, were checked by a commissioner who pointed out:

our power by no means extends to it; we as commissioners are to inquire into the state and condition of his effects, to ask and inquire in what manner they are concealed or made away with, or in any and what parts, and to subject him to the consequences...but to enter into the whole scene of a man's life that tends to circumstances of criminality, or to make him so, we as commissioners (as no judge in England will oblige

¹⁹⁸ 'The truly pathetic Case of Mr. James, one of Mr. Fordyce's Partners', in *Gentleman's and London Magazine, for September 1772* (London, 1772), p. 569. Henry Mackenzie's *Man of Feeling* had been published a year earlier in 1771.

him) cannot submit to it...I protest it is a question I think we should not suffer to be asked...¹⁹⁹

Did commissioners weary of the antics of bankrupts and creditors? William Cowper, who spent several years as a bankruptcy commissioner and received sixty pounds a year for it, suggested that overseeing commissions made demands on his time saying, 'I am going to spend 2 or 3 days at the Park, if the Bankrupts will give me leave'.²⁰⁰ The discomforts of sitting in the restricted space of the Guildhall in which London commissioners endeavoured to conduct meetings is discussed in greater detail in chapter six.

Commissioners did not escape censure and had been the subject of criticism since bankruptcy entered English law. Commissioners, who in the earlier years of the bankrupt laws had also been creditors, drew criticism, for example, for using their position to embezzle. The statutes had been silent on how commissioners were to be compensated, but they clearly expected to be reimbursed for their personal expenses. They were readily accused of using long sittings for personal gain. Of commissioners it was said that they 'swallowed up as much of the poor bankrupt or pretended bankrupt his estate, by often and unnecessary sitting about the same'.²⁰¹ A common charge against commissioners, certainly from the late seventeenth century, was that the cost of their 'eating and drinking at the expense of the Bankrupt's estate, that the tavern bills of the commissioners formed much more formidable items in bills of costs in Bankruptcy, than the fees of the commissioners'.²⁰² Such practices were to some extent curtailed by legislation passed in 1705, although ways round it were found. The introduction by Lord Chancellor Harcourt of the London lists of commissioners aimed to 'prevent the appointment of improper persons'.²⁰³

¹⁹⁹ 'Examination of Mr Fordyce, as a Bankrupt', *Gentleman's and London Magazine*, for October 1772 (London, 1772), p. 639.

²⁰⁰ William Cowper to John Duncombe? Thursday, 11 January 1759, in James King and Charles Ryskamp (eds), *The Letters and Prose Writings of William Cowper*, 5 vols (Oxford, 1979), I, p. 85 (also, see fn.6 for years spent as a bankruptcy commissioner).

²⁰¹ W. Leach, *Proposals for an Act for the More Speedy Satisfaction of Creditors* (London, 1649) p. 17, in Jones, 'Foundations of English Bankruptcy', p. 33.

²⁰² C. P. Cooper, *A Brief Account of Some of the Most Important Proceedings in Parliament, relative to...the Court of Commissioners of Bankrupts* (London, 1828), p. 259.

²⁰³ Cooper, *Proceedings in Parliament*, p. 261.

Harcourt's lists did not solve the matter of the commissioners' tavern bills. A petition of London merchants to the House of Commons in 1718 still complained that excessive charges meant 'the estate and effects of bankrupts were swallowed up'. An Act was passed in the same year that prohibited allowances for 'the eating and drinking of the commissioners', and placed limits on their emoluments. The 1718 statute's effect was only partial, and many commissioners continued to receive more than their entitlement and to order 'great sums of money to be charged for their eating and drinking'. The act at least required commissioners to take an oath to act honestly and impartially. London commissioners were then charged with tabling so many meetings on the same day that they were obliged to adjourn them whilst taking fees for each notional meeting.²⁰⁴

Country commissions were still less well regulated. The petitioning creditor, or his solicitor, could put forward their own choice of commissioners, usually barristers residing in the area.²⁰⁵ Also, as late as 1828 country commissioners were still permitted to charge their tavern bills to bankrupts' estates.²⁰⁶ Sources consulted for this study show just such tavern bills. Bankruptcies could be expensive, and there were complaints that the dividend, the sum creditors finally recovered, could be cut by as much as half.²⁰⁷ This also reduced the final sums that bankrupts were allowed after the value of the dividends achieved was known.

2.2.3 Solicitors and attorneys

In the sources employed in this study lawyers are identified sometimes as solicitors and sometimes as attorneys. By the commencement of the period of this study little difference remained between solicitors and attorneys following an Act in 1729 which 'virtually abolished the distinction between solicitors and attorneys'.²⁰⁸ For brevity, unless the historical records specifically refer to an

²⁰⁴ 5 Geo. I, c. 22; Cooper, *Proceedings in Parliament, relative to...the Court of Commissioners of Bankrupts*, pp. 265–59.

²⁰⁵ Cooper, *Proceedings in Parliament*, pp. 262, 264.

²⁰⁶ *Ibid.*, p. 259.

²⁰⁷ Hoppit, *Risk and Failure*, p. 40, see also pp. 37–38 for the costs and inefficiencies of commissioners.

²⁰⁸ 2 Geo. II, c. 23, ss. 5 (attorneys), ss. 7 (solicitors), in Edward Jenks, *A Short History of English Law* (London, 1912), pp. 203–07.

attorney, I will employ only solicitor in general discussion as in England this title was steadily replacing attorney.²⁰⁹

In the eighteenth century with 'new societal and economic needs' solicitors had to offer more complex services.²¹⁰ They were also, according to Penelope J. Corfield 'social power-brokers within eighteenth-century England'.²¹¹

Administering bankruptcy commissions was only one field of an eighteenth-century solicitor's professional activity.²¹² Nevertheless, some solicitors were clearly deeply involved in administering bankruptcies, but they have been little mentioned in historical accounts of the bankruptcies. This seems to some extent an oversight as much of what we can learn about bankruptcies lies in documents that have survived in law firms' collections. Solicitors were always the *factota* in the growing numbers of bankruptcy cases throughout the eighteenth century, but they were far from mere administrators and writers of conveyances. They were certainly persons of reference in cases of bankruptcy; the solicitor was 'the confidential lawyer...who always knew what to do'.²¹³

Usually, a single solicitor was at the centre of a bankruptcy commission and their role was variously identified as 'attorney to the commission' or 'solicitor to the commission'.²¹⁴ The petitioning creditor employed a solicitor to make the case for a commission of bankrupt and this solicitor usually became the commission solicitor. It would not be unusual for the same solicitor, if the bankruptcy had been a 'friendly' one, to act for both petitioning creditor and bankrupt; this was especially likely to be the case if the solicitor had previously acted for the trader prior to his bankruptcy. Hostile creditors had their own solicitors. Once approved by the Lord Chancellor, the ensuing commission

²⁰⁹ For historical commentary on attorneys and solicitors, see J. H. Baker, *An Introduction to English Legal History*, 2nd edn (London, 1979), pp. 140–42; A. H. Manchester, *A Modern Legal History of England and Wales 1750–1950* (London, 1980), pp. 52–53, 66–67; and Albert J. Schmidt, 'The Country Attorney in Late Eighteenth-Century England: Benjamin Smith of Horbling', *Law and History Review*, 8 (1990), 237–71, pp. 237, 257 fn.2.

²¹⁰ Albert J. Schmidt, 'Marketing Property in Eighteenth-Century England: Lawyer History in the Huntington Library's Stowe Collection', *Huntington Library Quarterly*, 62 (1999), 115–43, p. 117.

²¹¹ Penelope J. Corfield, 'Eighteenth-Century Lawyers and the Advent of the Professional Ethos', in P. Chassigne and J-P. Genet (eds), *Droit et Société en France et Grande Bretagne: Law and Society in France and England* (Paris, 2003), p. 105.

²¹² For the wide variety of roles occupied by a rural practitioner, see Schmidt, 'Country Attorney', p. 237. Schmidt does not list acting for bankruptcy commissions.

²¹³ Corfield, 'Eighteenth-Century Lawyers', p. 111.

²¹⁴ Thomas Davies, *The Laws Relating to Bankrupts* (London, 1744), p. 153 uses 'attorney'; Lord Chancellor Eldon in *Ex parte Story*, 1 Buck's Reports 70 (1817) uses 'solicitor', in Lester, *Victorian Insolvency*, p. 26; Lester himself on p. 25 uses "commissioners' counsel".

would be in the hands of the commissioners and the solicitor. Then, while the commissioners took executive decisions, it was the solicitor and his clerks that did the work. Solicitors' bankruptcy files contain correspondence between solicitors and bankrupts, sometimes between solicitors and bankrupts' wives, creditors, and inevitably from solicitors for other parties.

Like commissioners, solicitors did not escape criticism for their expenditure whilst acting for the commissioners.²¹⁵ There was a popular view that lawyers sought to enrich themselves from commissions as much as fraudulent bankrupts did. It was a view with a long history. Back in 1588 in a sermon Lancelot Andrewes had already lumped them together warning against 'false bretheren, namely of the wilfull bankrupt, & the deceitfull lawyer'.²¹⁶ It has been noted that many bankrupts fell back on practising the law when times were hard.²¹⁷ C. W. Brooks relates how many lawyers made themselves unpopular in the seventeenth century through sharp practice and excessive fees, and then in the eighteenth century how William Hutton, maintaining the same opinion, 'thought that local attorneys were broken-down drunkards who stirred up unnecessary suits in order to fleece their clients with exorbitant fees'.²¹⁸ According to A. H. Manchester 'the attorney was generally held in low public esteem in eighteenth-century England'.²¹⁹ In their defence Schmidt argues that 'Popular literature notwithstanding, country attorneys were not so often knaves using their skills to cheat unwitting clients as indispensable cogs in the rural economy where they served the interests of the landholding classes.'²²⁰ In fact in this study of bankrupts in which some of the greater traders were also substantial landholders, we will see this kind of service being rendered even after bankruptcy.

Nevertheless, there were negative attitudes towards lawyers who handled bankruptcies, and it should not therefore be too surprising that eighteenth-century English society could understand that even bankrupts could be victims

²¹⁵ Lester, *Victorian Insolvency*, p. 37.

²¹⁶ Lancelot Andrewes, *A Sermon Preached at the Spittle by M[aster] Andrewes the Wednesday in Easter Week. April. 10. 1588 (1588)*, in Peter McCullough (ed.), *Lancelot Andrewes: Selected Sermons and Lectures* (Oxford, 2005), p. 254.

²¹⁷ Schmidt, 'Country Attorney', p. 239.

²¹⁸ C. W. Brooks, *Pettyfoggers and Vipers of the Commonwealth: The 'Lower Branch' of the Legal Profession in Early Modern England* (Cambridge, 1986), pp. 193–94; Brooks, 'Interpersonal Conflict', p. 377.

²¹⁹ Manchester, *Modern Legal History*, p. 72.

²²⁰ Schmidt, 'Country Attorney', p. 237.

to knavish lawyers who stood to gain from a self-interested ‘execution’ by the legal profession. This was highlighted in the very public swipe taken at certain members of the profession in Samuel Foote’s 1776 comic romance *The Bankrupt*. The first thing to know about Foote’s play is that there is no bankrupt in it, only a potential one. The source of villainy is not the trader, who is presented as well-meaning and entirely innocent, but predatory lawyers whose scheme is to contrive a bankruptcy and then milk the bankrupt estate after persuading a city merchant and banker to become a fraudulent bankrupt. As one of the lawyers declares ‘there is not a nicer road to hit than the region of Bankrupts’.²²¹ The scheming lawyers boast about the ruses they habitually employ to make money at the expense of ‘loobies’ (unsuspecting creditors), all of which must surely have been familiar and meaningful to an eighteenth-century theatre audience that saw bankruptcy as a bandwagon all too easy for many contemporaries to jump aboard.²²²

Views of the competence of solicitors and attorneys in bankruptcy matters were also mixed, especially when it came to a metropolitan appraisal of country practitioners. In December 1754 a major London creditor of one of the bankrupts in this study, having sent a knowledgeable friend to make enquiries in Wiltshire, received a letter from his emissary that addressed technicalities in issuing a commission: ‘I am pretty sure the commission will bear date from the time of the arrest of which you will inform your self tho’ attorneys here will not think so, but you know some are very ignorant’ (in 1758 William Blackstone would complain ‘about a lack of knowledge among practitioners’²²³).

Fortunately for the London creditor competent help was at hand as his friend informed him, ‘If you have occasion to employ an attorney I could recommend you to Mr Charles Young at Marlborough: he is a man of fortune and reputation.’²²⁴ Popular tropes aside, this study will show a good number of solicitors behaving with patience and professionalism towards bankrupts and creditors. It was not unusual for solicitors to have been previously engaged by traders prior to their bankruptcies; sometimes these solicitors had become

²²¹ Samuel Foote, *The Bankrupt* (London, 1776), p. 36.

²²² Various satires on lawyers are discussed throughout Corfield, ‘Eighteenth-Century Lawyers’.

²²³ William Blackstone, quoted in David Lemmings, ‘Blackstone and Law Reform by Education: Preparation for the Bar and Lawyerly Culture in Eighteenth-Century England’, *Law and History Review*, 16 (1998), 211–55, p. 222.

²²⁴ WRO, 492/280, Bankruptcy of David Kennedy of Marlborough, linen-draper: A[rthur] Edwards to John Stabler, 11 December 1751.

'family friends'.²²⁵ Nevertheless, given the acrimonious turn many bankruptcies took, the solicitor often struggled to remain on cordial terms with the parties, something that was necessary if they were to continue to act as effective intermediaries.

2.2.4 Other officers

No bankruptcy commission would have functioned without the participation and actions of 'people on the ground', who in the material world, implemented commission directives in space and time. These were sheriffs' officers, bailiffs, 'messengers', clerks, auctioneers and others, and in turn their servants (often referred to simply as their 'men'). It is not the intention of this thesis to open a broad discussion of long eighteenth-century law enforcement officers, especially where the apprehension and punishment of criminals is concerned. The interest here is limited to the categories of officers employed in civil actions to recover debts, and who acted in and around bankruptcy proceedings.

The principal enforcement agent of English bankruptcy commissioners was their 'messenger', an office which should not be confused with certain other offices bearing the name of messenger, or a messenger-at-arms in Scots law.²²⁶ According to definitions in the *OED* entry for 'messenger': 'The messenger was a sort of sheriff's officer employed to execute the orders and warrants of the court. Originally...a messenger was attached to the court of each commissioner.'; and, 'A sheriff's officer employed to execute the orders or warrants of a bankruptcy court.' The only pre-1831 example, which dates from 1732, does relate the messenger clearly to bankruptcy commissioners: 'That every such Bankrupt...shall be...required...to deliver up...all his...Bookes of Accounts...not seized by the Messenger of the said Commission.'²²⁷ Overall, these slightly fuzzy definitions tell us correctly that a messenger was not dissimilar to a sheriff's officer, but that he was engaged as the bankruptcy commissioners' officer.

²²⁵ For the 'bonds of friendship' between solicitors and clients, see Schmidt, 'Country Attorney', p. 243.

²²⁶ See *OED* entry 3. b. for 'messenger' in Scots law.

²²⁷ See all *OED* entries in 3 for 'messenger'.

Although the commissioners' messenger did indeed sometimes deliver special 'messages', such as summonses, their messenger should not be understood as being a messenger in any everyday sense. Messengers had several important functions under a bankruptcy commission. Firstly, immediately after they had declared a trader to be a bankrupt the commissioners needed to secure and protect the bankrupt's goods and household effects from other parties that might attempt to seize them, they therefore sent their messenger to be quickly in 'material possession' of the property. In order to be securely 'in possession' of the property the messenger often installed 'a man' in a bankrupt's house to watch the property.²²⁸ Only this way could a bankruptcy commission be safely 'in possession' and prevent the agents of other creditors getting 'in possession'. Commissioners provided messengers with warrants that authorised them to:

enter into and open the house [of the bankrupt and] all other place and places...where any of his goods are...and there seize all the ready money, jewels, plate, household stuff, goods, merchandizes, books of account...and in case of resistance, or of not having the key or keys of any door...you shall break open [the door]...²²⁹

Acting for the commissioners was not without risks, in 1705 a messenger with a commissioners' warrant was 'knock'd down' at the gate to Southwark Mint.²³⁰

Bankruptcy records tell us the names of messengers and little else. It is probable that the kind of person appointed to fill the office of messenger to a bankruptcy commission was a very similar person to that appointed to fill the office of a sheriff's officer. A messenger's office was not for an uninterrupted period like that of constable, but rather like sheriffs' officers, who were 'appointed by the High Sheriff to act on each occasion of executing process wherein he is concerned' and 'when a warrant is granted to him he becomes the special officer of the High Sheriff for that occasion, *and for that occasion only*'.²³¹

²²⁸ For one account of how effective this measure was, see Duffy, *Bankruptcy and Insolvency in London*, pp. 26–27.

²²⁹ Anon., *The Solicitor's Guide, AND Tradesman's Instructor, CONCERNING BANKRUPTS*, 3rd edn (London, 1768), p. 30.

²³⁰ 'Riots in the Mint', *Journal of the House of Commons* (1688–1834), 23 February 1705, p. 169, <<https://parlipapers.proquest.com/parlipapers/docview/t70.d75.jhc-002214?accountid=10792>> [Accessed 28 October 2020].

²³¹ George Atkinson, *A Practical Treatise on Sheriff Law Containing the New Writs under the New Imprisonment for Debt Bill* (1839), p. 45.

Messengers were only appointed when a bankruptcy commission was issued and had to be provided with a warrant from the commissioners before they could act. Messengers were remunerated with fees for actions performed on behalf of commissioners. Examples of messengers' fees can be seen in the commission solicitors' bills pertaining to some bankruptcies in this study. For example, in a bill from 1806 for administering the bankruptcy of Ann Harding the messenger received five shillings for summoning the commissioners to meet; other messenger's fees are subsumed into the solicitor's charges.²³² In the much larger Wakeford bankruptcy of 1826 the extensive messenger's bill includes many charges of fifteen shillings for summonses, five pounds and five shillings for making an inventory, and two charges of nine pounds and sixteen shillings for '28 days possession' at the houses of two of the Wakeford brothers. The 'assistant Messenger' took away four pounds and four shillings.²³³

Given that offices like that of sheriff's officer or commissioners' messenger were of limited duration the individuals probably engaged in other employments or they had their own trades. It is also possible that messengers, as with sheriff's officers, were at other times no other than the historically better-known, but contemporaneously unpopular, bailiffs. One pamphleteer in 1723 declared, 'a Bailiff is Universally hated by Man, Woman, or Child'.²³⁴ A publication of 1802 declared them 'low implements of the law' and 'licensed harpies'.²³⁵ They were as officers 'notoriously corrupt'.²³⁶ Messengers and bailiffs, as unpleasant beings, were lumped together by Bishop George Berkeley when he wrote: 'A Man had better a thousand times be hunted by Bailiffs or Messengers than haunted by these Spectres'.²³⁷ It seems Berkeley could imagine something worse than bailiffs and messengers.

So, it is probable that messengers were held in similar esteem to bailiffs and sheriffs' officers given that messengers also seized, or more technically got into possession of, all debtors' and bankrupts' goods and personal and household

²³² BRO, 44352/2/1/13/5, Papers re Ann Harding: Solicitor's bill, September 1806.

²³³ HRO, 52M84/59, In the case of Joseph Wakeford, William Wakeford and Robert Wakeford, bankrupts: Messenger's bill, p. 441.

²³⁴ Captain Alexander Smith, *The Comical and Tragical History of the Lives and Adventures of the Most Noted Bayliffs in and about London and Westminster*, 1st edn (London, 1723), p. 56.

²³⁵ Fleetwood, (Charles), in *The Thespian Dictionary; or Dramatic Biography of the Eighteenth Century* (London, 1802), w/n.

²³⁶ Jennine Hurl-Eamon, 'The Westminster Impostors: Impersonating Law Enforcement in Early Eighteenth-Century London', *Eighteenth-Century Studies*, 38 (2005), 461–83, p. 469.

²³⁷ George Berkeley, *Alciphron: or, the Minute Philosopher*, 2 vols (Dublin, 1732), I, p. 18.

possessions. They seized everything, including the chamber pots.²³⁸ Daniel Defoe famously had his civet cats seized in 1692.²³⁹ Messengers, or their men who were described to a Parliamentary Committee 1818 as being ‘of the lowest degree’, remained in bankrupts’ houses.²⁴⁰ In 1783, while proposing reforms, James Bland Burges maintained that the display of ‘insolence of office, for which these subaltern retainers to the law are so notorious, ought, as much as possible, to be prevented’.²⁴¹ Once in the possession of the messengers all the trade goods and utensils on the trade premises, and all the furniture and bedding, silver plate, and kitchen utensils in the dwelling house were liable to be sold for the benefit of creditors.

Their conduct whilst in possession of the property of others did not go unchallenged. In April 1824 a messenger by the name of Burwood, had demanded of him in the Vice-Chancellor’s Court ‘that an account might be rendered...of certain differences of wines and liquors during the period he had possession two bankrupts’ estate’ as there was a ‘great deficiency of wines and liquors occurred during the period Burwood had possession of the bankrupts’ property’.²⁴² On the other hand messengers could face danger and antagonism, for example in a case brought in Chancery in 1803 it was argued that a ‘messenger under a Commission of bankruptcy was put out of possession of property on board a ship, by threatening to throw him overboard’ as well as being subjected to ‘contemptuous language’.²⁴³

Throughout the events in this study there was a tension between two different legal avenues for the recovery of debts: seizure of property and/or imprisonment under common law; and bankruptcy under statute law. In theory at least statute took precedence as, according to Blackstone, an Act of Parliament was ‘the exercise of the highest authority that this kingdom acknowledges upon earth’.²⁴⁴ Manchester makes the point that by the time Blackstone was making this observation ‘in the event of a conflict between

²³⁸ For an extensive inventory including ‘3 blue & white Chamber pots’, see HRO, 50M69/12, Bankruptcy case at the Winchester Assizes, action in trover, assignees of Lodge v Sir Henry Paulet St John and others.

²³⁹ Quilter, ‘Defoe: Bankrupt and Bankruptcy Reformer’, 53–73, p. 55.

²⁴⁰ Duffy, *Bankruptcy and Insolvency in London*, p. 27.

²⁴¹ Burges, *Law of Insolvency*, p. 371.

²⁴² *Sunday Times*, 4 April 1824, issue 77, p. 4. The bankrupts were Howard and Gibbs.

²⁴³ Dixon, *Ex parte*, 26 January 1803, in Francis Vesey, *Reports of Cases Argued and Determined in the High Court of Chancery 1789–1817* (Boston, 1844), p. 104.

²⁴⁴ Blackstone quoted in, Manchester, *Modern Legal History*, p. 33.

statute and common law, statute would prevail', although judges still had to interpret statutes.²⁴⁵ This did not mean, however, that conflicts, were resolved by default.

The agents of the law who acted out this conflict in a physical sense were sheriffs' officers and the bankruptcy commissioners' messengers. The conflicts usually consisted of a race to get material possession of a debtor's property and plant a 'man' in or on it. One conflict that had unfortunate consequences occurred in Chatham in December 1821 where a sheriff's officer was violently assaulted by a messenger's men over possession of a bankrupt's property.²⁴⁶ So far, this researcher has identified only a few instances within bankruptcies where matters descended to rough or violent behaviour, although perhaps some outcomes of this nature should be expected. Lawrence Stone, albeit referring to the seventeenth century, wrote of enmity in rural England and put forward a challenge to the myth of 'a peace-loving, conflict-free, golden age of the village' given that 'early modern English society was at least five times more violence-prone than contemporary English society', although Stone is clear that levels of violence descended greatly over the eighteenth century.²⁴⁷

To some extent tensions between the jurisdictions and their agents can be better understood when it is known that officers who were mistaken in their authority and action, or whose right to possession was overturned, would lose their fees or even be subject to penalties. In 1754 the London creditor's friend, mentioned above, who had travelled to Wiltshire to investigate the circumstances of David Kennedy pointed out that another creditor who had incurred expenses (£14 3s) for arresting Kennedy before he became a bankrupt, risked not recovering his costs 'for if a commission is taken out he will not be allowed one penny expenses'.²⁴⁸ It was the risk that a zero-sum game might play out between one creditor or group of creditors, and a rival group of creditors who preferred a bankruptcy commission, that sometimes so heated personal relations during bankruptcy. Because sheriffs' officers and

²⁴⁵ Ibid.

²⁴⁶ 'Violent Assault on a Sheriff's Officer', West Kent Quarter Sessions, *Sunday Times*, 27 October 1822, issue 2, p. 3.

²⁴⁷ Lawrence Stone, 'Interpersonal Violence in English Society 1300–1980', *Past & Present*, 101 (1983), 22–33, pp. 28, 32.

²⁴⁸ WRO, 492/280, Bankruptcy of David Kennedy: A[rthur] Edwards to John Stabler, 11 December 1751.

messengers also risked losing their fees, the conflict sometimes played out to the extreme as in Chatham in 1821. However, this study will also show that, in the context of bankruptcy, it was not only men of 'the lowest degree' who laid hands upon one another.

2.2.5 Conclusion

To one not conversant with the Bankrupt laws it must be a matter of curious speculation to consider, how very little effect has been produced by so immense an application of accumulated force. Statute after statute has been made: but the grievances have continued...[a]fter such repeated attempts...after so long an experience of their little efficacy, what are we to conclude? ²⁴⁹

So wrote James Bland Burges in 1783 and it should also be evident to the reader from reading this chapter that bankruptcy law in its statutory forms and in its practical implementation was deeply flawed. The laws were products of their times in which prevailing moral attitudes had as much influence in shaping the law as did practical considerations. Because reform and adaption of the laws moved slowly, the laws failed to keep up with the needs of a changing commercial world. Therefore, by the period of this study the subjects were all acting under an inherited system that was not fit for purpose and was often an influential factor in the bad experiences that will be related in this study. In the words of Burges 'nothing is so fatal as an insufficient law'.²⁵⁰ The subjects, who not surprisingly did not have a good grasp of the law, did not readily construe their difficulties as being the product of unsatisfactory legislation, but rather they tended to explain matters in terms of morality and personal relationships, themes which are explored in greater detail in the next chapter. This chapter then, should have equipped the reader with sufficient understanding of the English bankrupt laws, including how they were implemented and by whom, in order to make sense of events that unfold in subsequent chapters.

²⁴⁹ Burges, *Law of Insolvency*, p. 211.

²⁵⁰ *Ibid.*, p. 216.

Chapter Three

Bankrupts: Villains or Victims?

3.0 Introduction

Late in 1751 the creditors of David Kennedy, a Wiltshire linen draper, were exchanging letters in which they discussed the options available to them for recovering as much as possible of what they were owed by Kennedy. They debated the merits of a composition or a bankruptcy commission, but an obstacle before them was the fact that a quick-acting creditor who ‘was very free in speaking of Kennedy and represents him as a very great villain’ was holding him in Salisbury gaol.²⁵¹ If a creditor categorised his debtor as a ‘villain’ then it was easy to justify his action of imprisoning this debtor, after all what more appropriate place was there for a villain but a gaol? Bankrupts, however, represented themselves differently. In 1807 when a London bankrupt, William Everhard Von Doornik, finding himself unable to secure a discharge from the bankruptcy process under which he barely had the means to live, declared: ‘It is high time for me to be released or I will real[l]y and truly fall the victim to utter Despair’.²⁵²

Being a bankrupt was of course a legal identity, but it was also a social identity the further refinement of which invited these two powerful and morally opposed representations. The problem for eighteenth-century English society was which view to take. It was aptly summed up in 1760 by one commentator in a letter to a member of parliament thus:

as one *Bankrupt* may be a worthy object of our regard and pity, whilst another, as being a villain, may deserve a gibbet, the ideas attendant on the word are very various, and consequently the Bankrupt stands in different lights to different people...²⁵³

It would impossible to proceed with this chapter without reference to Hoppit’s commentary on perceptions of, and attitudes to, bankrupts in the chapter he

²⁵¹ WRO, 492/280, Bankruptcy of David Kennedy: John Stabler to David Kennedy, 29 October 1751 (then forwarded to Robert Cooper); A[rthur] Edwards to John Stabler, 11 December 1751.

²⁵² TNA, C217/58, Exhibits relating chiefly to Baron Von Doornik, in the Matter of William Everhard Baron Von Doornik, a bankrupt: William Everhard Baron Von Doornik to Mr Abbott, 20 June 1807.

²⁵³ ‘Antinomos’, *State of Bankrupts under the Present Laws*, pp. 1–2.

titled 'The Bankrupt: Friend or Foe?'.²⁵⁴ Hoppit discusses eighteenth-century society's conflicted feelings about bankrupts: Were bankrupts industrious men who had benefitted the nation prior to succumbing to misfortune and who were therefore worthy of compassion (they were therefore friends in need), or were they a threat to the integrity of the nation's wealth and morals (they were therefore foes)?²⁵⁵ The kind of public discussions examined by Hoppit, which were dominated by English society's elites and scholars are revisited in this chapter in order to show the nature of the moral climate and linguistic influences that, to a greater or lesser extent, are likely to have operated upon the attitudes and language of the subjects in this study. In addition to this, this chapter introduces examples of voices of bankrupts and their creditors as they articulated their self-perceptions of victimhood or their beliefs about the villainy of the other party.

Eighteenth-century judgemental discourses on debtors, and especially bankrupts were embedded in a centuries-old culture of credit and reputation.²⁵⁶ A consumption led economy had grown from the second quarter of the sixteenth century and the absence of sufficient specie required households to trust one another to pay or exchange in kind at a later date.²⁵⁷ For the economy and commerce to function credit had to be given and taken and credit was underpinned by trust, which Craig Muldrew describes 'as the central institutional bond of society'.²⁵⁸ Reliable households or businesses enjoyed credit because they were trusted to meet their obligations when required. This bond between them was socially important as it secured 'general ease of life for all entangled' in the chains of credit.²⁵⁹

²⁵⁴ Hoppit, *Risk and Failure*, p. 18.

²⁵⁵ *Ibid.*, p. 19.

²⁵⁶ For in-depth studies of the early modern and long eighteenth-century middling sort's dependency on credit, see Muldrew, *Economy of Obligation*, and Finn, *Character of Credit*. For additional commentaries on credit see the following: for the notion of building and maintaining strong credit as a means to confront risk through the thinking of Adam Smith, see Emily C. Nacol, *An Age of Risk: Politics and Economy in Early Modern Britain* (Princeton, 2016), pp. 101–4, 107, 118, 122; for a discussion of conflicting attitudes to the mysterious influence of credit, see Jonathan Sheehan and Dror Wahrman, *Invisible Hands: Self-Organization and the Eighteenth Century* (Chicago, 2015), pp. 49–58; for the role of credit in political economy, see Carl Wennerlind, *Casualties of Credit: The English Financial Revolution 1620–1720* (Cambridge MA, 2011), *passim*.

²⁵⁷ Muldrew, *Economy of Obligation*, p. 3.

²⁵⁸ *Ibid.*, p. 182.

²⁵⁹ *Ibid.*, p. 148.

Therefore, everyone fundamentally had the same interest in maintaining credit and averting defaults, but as a result of economic fluctuations or business mismanagement there inevitably were failures to meet obligations, and these caused considerable friction at household and community level. Muldrew observes: ‘Just as trust and contracts were seen as the basis of human society; breaking one’s word was not only unjust but was considered socially harmful as well.’ Communities wished to avert disharmony, but with such enormous webs of obligations there were frequently disputes and ‘differences occurred and emotions could flare quite quickly’.²⁶⁰ Obligations to pay for goods on agreed future dates mattered beyond their mere monetary importance. ‘Credit contracts’, Margot Finn maintains, ‘figured in English memory and imagination (and functioned in English markets) as ongoing social relations rather than as purely contractual agreements’.²⁶¹ So it was necessary for people to trust one another’s word or paper which was not without risk, especially when reputations were unknown.²⁶² Trust, of course, could also be bestowed rashly. Wakelam gives the example of Richard Hogarth (father of Hogarth the artist) who, having ‘trusted unwisely’, was imprisoned for debt.²⁶³ Breaches of trust were disliked because an obligation had no value if it was not met; and if promises to pay were worthless there would be loss of confidence throughout the economy. Although a debtor might lay claim to misfortune their failure to pay could also be interpreted as contrived and therefore a deception. Eighteenth-century legislators had already decided what they thought of deceivers, having passed a law to hang forgers whose ‘lies and deceptions’, according to Randall McGowen, they considered ‘violated sacred pledges’.²⁶⁴

Creditors’ attitudes and choice of language were informed and shaped by moral discourses which had been honed over centuries such that Hoppit maintains members of eighteenth-century English society ‘inherited’ their attitudes to

²⁶⁰ Ibid., pp. 184, 199.

²⁶¹ Finn, *Character of Credit*, p. 98.

²⁶² Donna T. Andrew and Randall McGowen, *The Perreaus & Mrs. Rudd: Forgery and Betrayal in Eighteenth-Century London* (Berkeley, 2001), pp. 138–39.

²⁶³ Alexander Wakelam, *Credit and Debt in Eighteenth-Century England: An Economic History of Debtors’ Prisons* (Abingdon, 2021), p. 3.

²⁶⁴ Randall McGowen, ‘From Pillory to Gallows: The Punishment of Forgery in the Age of the Financial Revolution’, *Past & Present*, 165 (1999), 107–40, p. 134. For beliefs about the dangers posed to public and private credit by and breach of trust and deception, see pp. 121–25, 130–36, and Andrew and McGowen, *The Perreaus*, pp. 138–54, also Paul, *Poverty of Disaster*, pp. 115–16.

bankrupts.²⁶⁵ The discourses contained rival explanations for the events and consequences that surrounded traders' failure: on the one hand there was the villain explanation; on the other the victim explanation. In the case of the former it was wickedness that explained a trader's failure and then as a bankrupt his exploitation of the bankruptcy regime to cheat and defraud his creditors. This was the more traditional explanation. A more modern explanation, especially in the wake of the bursting of the South Sea Bubble in 1720, was that of the recklessness of speculative activity. In the eighteenth century speculation was often regarded as a major cause of bankruptcy. *The Times* reported in 1788: 'In a commercial country, like England, where speculation has no legal check, and paper credit far exceeds the real wealth of those in trade, failures must be very common.'²⁶⁶ The counter-explanation for failure was misfortune, which was accompanied by complaints from both bankrupts and their sympathisers that their treatment was unjustly harsh.

Eighteenth-century England possessed an accumulation of critical and cautionary discourses from both legislators and commentators of earlier generations. In order to gain a sense of the accumulated weight of these attitudes I will look briefly at attitudes that became established in the sixteenth and seventeenth centuries. This is necessary because it cannot be assumed that the views of eighteenth-century metropolitan commentators, such as James Boswell and Horace Walpole (cited later in this chapter), were certain to have reached the eyes or ears of the subjects and their creditors, especially the non-elite provincial ones. Some of these individuals might equally have formed their attitudes as a result of the continuing circulation of the writings or influences of seventeenth-century figures such as Samuel Butler and John Bunyan (also cited below²⁶⁷).²⁶⁸ To know what exactly individuals from a trade milieu read and

²⁶⁵ Hoppit, *Risk and Failure*, p. 19.

²⁶⁶ *The Times*, quoted in Julian Hoppit, 'Attitudes to Credit in Britain, 1680–1790', *Historical Journal*, 33 (1990), 305–22, p. 315.

²⁶⁷ I am grateful to Jonathan Barry for this observation.

²⁶⁸ There are a variety of studies and opinions on the engagement of provincial people with printed texts (or the influences of texts): for an ease of access to texts see Roy Mckeen Wiles, 'The Relish for Reading in Provincial England Two Centuries Ago', in Paul J. Korshin (ed.), *The Widening Circle: Essays on the Circulation of Literature in Eighteenth-Century Europe* (Philadelphia, 1976), pp. 91–95; for the continuing importance of oral culture outside London in the late eighteenth century, see Jeremy Black, *The English Press in the Eighteenth Century* (Beckenham, 1987), pp. 207, 209; for the breadth of reading of non-elites after 1774 (ending of perpetual copyright) and the prevalence of the 'old canon' see, William St. Clair, *The Reading Nation in the Romantic Period* (Cambridge, 2004), pp. 118–19, pp. 137–39, 395, 525 (Appendix 6, inc. Butler and Bunyan); for a list of merchants and

how it influenced their attitudes is difficult, but one notable example was provincial shopkeeper Thomas Turner. The East Sussex shopkeeper's reading was extensive, and while including 'old canon' works by the likes of Butler and Bunyan, it also took in more contemporaneous publishing. In May 1755 Turner read and reflected on the 1722 play *The West Country Clothier* which negatively represents luxury and bankruptcy.²⁶⁹

3.1 Bankrupts as Villains

A suspicion that sixteenth-century merchants were extravagant 'was a common attitude of the time' according to Jones.²⁷⁰ Jones observes that Sir Edward Coke although 'perhaps making an overly literal interpretation of the preamble to the Henrician statute, declared that it had been necessary because English merchants had wallowed in extravagance, "costly building, costly diet, and costly apparel," which had caused them to waste their wealth and neglect their trade'.²⁷¹ It was because of this discontent with merchants' behaviour that the first bankrupt laws were enacted. This discontent had been expressed very clearly in the preamble to the 1543 statute (cited in chapter two) which directly censured some merchants' taste for 'delicate living'.²⁷²

tradesmen belonging to a Liverpool subscription library in 1760, see *ibid.*, p. 250; for evidence of tradesmen's and tradeswomen's book buying and reading habits see, Jan Fergus, *Provincial Readers in Eighteenth-Century England* (Oxford, 2006), pp. 29–30, 42, 68–9, 208, 233; for the spread of business and conduct literature from the capital out into provincial markets, see James Raven, *Publishing Business in Eighteenth-Century England*, (Woodbridge, 2014), pp. 206, 233–37.

²⁶⁹ *The West Country Clothier* – full title Anon. *The Obliging Husband, and Imperious Wife; or, the West Country Clothier Undone by a PEACOCK* (1722) – in David Vaisey (ed.), *The Diary of Thomas Turner 1754–1765* (East Hoathly, 1994), p. 8, Appendix D details his reading, pp. 347–53; for further discussion of Turner's reading, see Naomi Tadmor, 'In the even my wife read to me': Women, Reading and Household Life in the Eighteenth Century', in James Raven, Helen Small and Naomi Tadmor (eds), *The Practice and Representation of Reading in England* (Cambridge, 1996), pp. 166–69; for an apprentice reading 'The Compleate Traidman', see Abigail Williams, *The Social Life of Books: Reading Together in the Eighteenth-Century Home* (New Haven, 2017), p. 81 (the text could have been Defoe's *Complete English Tradesman*, but it might equally have been *The Compleat Tradesman* by N. H., published in London in 1684, and which advises on pp. 13–17 whether to assume mercy or severity towards debtors and bankrupts); for an apprentice cutler's keenness to read Walpole, see Stephen M. Colclough, 'Procuring Books and Consuming Texts: The Reading Experience of a Sheffield Apprentice, 1798', *Book History*, 3 (2000), 21–44, pp. 32–4.

²⁷⁰ Jones, 'Foundations of English Bankruptcy', p. 53.

²⁷¹ Edward Coke, *The Fourth Part of the Institutes of the Lawes of England* (London, 1669), p. 277, in Jones, 'Foundations of English Bankruptcy', p. 53.

²⁷² 34 & 35 Hen. VIII, c. 4.

Negative moral attitudes toward bankrupts, rather than merchants, could not circulate until bankrupts existed as an identifiable category of individuals. As seen above this category came into being in the sixteenth century ‘that period, when the name of Bankrupt was first introduced into our law’, wrote James Bland Burges in 1783.²⁷³ From the time England created bankrupts as a legal category of person in 1543 (strictly speaking they were not named as such until the statute of 1571, although the 1571 statute implies that a bankrupt as a person in law was contemplated in the Act of 1543), criticism of, and warnings about, bankrupts became common.²⁷⁴ Bankrupts had then become the trade-related category of individuals onto whom fears and opprobrium could be projected. Anxiety was expressed in Parliament; according to Jones in a 1571 Parliament ‘some prophesied that all trades connected with buying and selling were in danger of rapid decay’ and the ‘abuses and deceits of “bankrupts” were described as intolerable’.²⁷⁵ From the sixteenth century onwards in England bankrupts were surfacing in a variety of print media as the subject of economic, legal and moral argument. In Tudor and Stuart England bankrupts began their trajectory, which was to last well into the nineteenth century, as recurring tropes in works of fiction. ‘Bankrupt’ also came to coexist as a public insult alongside others such as ‘villain’, ‘scoundrel’, ‘rascal’, ‘rogue’ all of which were commonly used ammunition in early modern England. For frequency of use against men one set of data for the eighteenth century ranks ‘bankrupt’ in eighth place out of twenty-three, well behind ‘rascal/rogue’, ‘villain’, ‘cheat’, ‘thief’, ‘liar’ and others, but firmly above ‘murderer’ and ‘dog’.²⁷⁶

There were instances in discourses in the public sphere in which bankrupts were equated with all manner of wickedness. This was a time when any notion of an accidental bankrupt, let alone an unfortunate one, barely existed. In 1588 the populace was warned to be on guard against ‘those citie mothes those bankrupts, that eate vp & consume yo[ur] wealth’.²⁷⁷ Cadwallader says of Tudor and Stuart England that the ‘community of the 16th and 17th centuries could only

²⁷³ Burges, *Law of Insolvency*, p. 201.

²⁷⁴ An Act against such Persons as do make Bankrupt 1543 (34 & 35 Hen. VIII, c. 4); An Act Touching Orders For Bankrupts 1571 (13 Eliz. I, c. 7).

²⁷⁵ Jones, ‘Foundations of English Bankruptcy’, pp. 18–19.

²⁷⁶ ‘Gender composition of insults brought before the consistory court’, from NRAS, Edinburgh commissary court, consistorial processes, 1710–70, CC8/6/154–482, in Tawny Paul, ‘Credit, Reputation, and Masculinity in British Urban Commerce: Edinburgh, c. 1710–70’, *EcHR*, 66 (2013), 226–48, pp. 234, 243–44.

²⁷⁷ McCullough (ed.), *Lancelot Andrewes*, p. 255.

see the bankrupt as a semi-criminal' or worse, he relates how in Thomas Dekker's 1606 *Seven Deadly Sins* 'Fraudulent Bankruptcy heads the cavalcade of sins as they enter the gates of the city bringing the plague with them'.²⁷⁸ This early modern equation of bankrupts with the wrong side of the spiritual divide was common, making 'bankrupt' an even more feared and resented label. In 1584 John Dee was indignant at the 'slandorous words' which had cast him as 'a Conjuror, and a bankrupt alkimist'.²⁷⁹ Bankrupts were viewed as not only wrong-doers, but also the natural inhabitants of vile locations. Francis Maximilian Misson, in describing the liberty of the Savoy in late seventeenth-century London, declared it and similar places to be 'nothing but Dens of Thieves and Bankrupts. There are in these Places inaccessible Nests of such Vermin'.²⁸⁰

In 1667, however, Samuel Butler, in a more secular take sketched the stratagem for which bankrupts would become notorious in the eighteenth century, which entailed fraudulently abusing credit and the goodwill of others thus gaining 'more by giveing over his Trade then ever he did by dealing in it', and 'lay's his Traine (like a Powder-Traytor) and get's out of the way while he blow's up al those that Trusted him'.²⁸¹ Although also accurately relating how a trader could grow rich with fraudulent business practices, John Bunyan in 1680 concentrated on a bankrupt's slide into iniquity and inevitable damnation in *The Life and Death of Mr Badman*. Badman, having been schooled by the devil, had the 'very knack of knavery', and aimed to 'get hatfuls of money by breaking' (i.e. becoming a bankrupt). Just as the serpent beguiled Eve, 'so did Mr. Badman beguile his creditors'.²⁸² It did not of course end well for Badman, and

²⁷⁸ Cadwallader, 'Pursuit of The Merchant Debtor', p. 1.

²⁷⁹ John Dee, *A True & Faithfull Relation Of What Passed For Many Years Between Dr. John Dee (A Mathematician Of Great Fame In Q. Eliz. And King James Their Reignes) And Some Spirits* (London, 1659), p. 244, entry for 'Monday, Setembris, 24 Mane hora 8. † Pragæ.

²⁸⁰ Francis Maximilian Misson (probably words from his *Mémoires et Observations Faites par un Voyageur en Angleterre* (1698) p. 224, quoted in Notes (l. 137) for George Farquhar, *The Recruiting Officer* (1705–1706): ACT III. Scene I, in Shirley Strum Kenny (ed.), *The Works of George Farquhar*, 2 vols (Oxford, 1988), II, p. 69.

²⁸¹ Samuel Butler, Βαυκ-ρῦππ 202. Oct. 6. [16]67, from *Unclassified Prose Observations from Butler's Manuscript: Bankrupt*, in Hugh de Quehen (ed.), *Samuel Butler: Prose Observations* (Oxford, 1979), p. 237.

²⁸² John Bunyan, *Grace Abounding and The Life and Death of Mr Badman* [1680] (London, 1979), pp. 217, 222, 226.

Bunyan was able to assure his readers that this particular bankrupt was 'gone to hell and is damned'.²⁸³

This belief that bankrupts were essentially evil that had persisted since the sixteenth century, if not superseded, was from the late seventeenth and early eighteenth centuries onwards, supplemented by new and changing interpretations as a new commercial age dawned. Moral anxiety and panics did not disappear, simply the principal reasons for fearing bankrupts shifted somewhat from sixteenth and seventeenth-century beliefs about how their wickedness posed a threat to moral and religious standards, to the threat they posed to trade, to national prosperity, to social order, and to justice. In 1708 Edmund Calamy declared: 'Among the many Complaints of the Times we live in, hardly any one is more commonly in the Mouths of all, than against the breaking of Tradesmen'. Calamy argued that the former 'fair way of Trading' that had been 'so reputable, and so successful' was lost. Trade was now conducted on the basis of 'Tricks and Projects, and Crafty Undermining Arts', the consequences were surely to be 'Disorder and Infection'.²⁸⁴

Calamy viewed the love of money as still the cause of traders' failure, but also it was by 'their Aspiring Projects' that they failed.²⁸⁵ In 1729 Bolingbroke imputed 'a *declining Condition*' in the country's riches to, amongst other factors, 'the *daily Bankruptcies* that we find in all our News Papers'.²⁸⁶ Bolingbroke was right in so far as the frequency of bankruptcies would increase over the course of the eighteenth century as the population, the economy, and credit and trade grew. At the same time bankruptcy grew in the popular imagination as the worst manifestation of evils that emerged from a climate of deteriorating values and easy credit. There had long been ambivalent attitudes to such easy credit.²⁸⁷ However, in 1769 William Draper for example, rather than credit, was still blaming notions of bad men straight from the pages of Bunyan. He declared: 'I hope that my countrymen will be no longer imposed upon by artful and

²⁸³ *Ibid.*, p. 296.

²⁸⁴ Edmund Calamy, *A SERMON at the Merchants Lecture in Salters Hall, on Decemb. The 7th. 1708. Upon Occasion of the many Late Bankrupts* (London, 1709), p. 3.

²⁸⁵ *Ibid.*, p. 12.

²⁸⁶ Henry St John (first Viscount Bolingbroke), AN ANSWER to a Letter in the Daily journal of the 8th Instant, relating to our Exports, Coinage, Paper Credit &c., To CALEB D'ANVERS, Esq, *Contributions to the Craftsman* (1736): No. 134. Saturday, 25 January 1729, in Simon Varey (ed.), *Lord Bolingbroke: Contributions to the 'Craftsman'* (Oxford, 1982), p. 81.

²⁸⁷ For in-depth discussions of early modern attitudes to credit, see Muldrew, *Economy of Obligation*; Finn, *Character of Credit*, and Hoppit, 'Attitudes to Credit', pp. 305–22.

designing men, or by wretches, who, bankrupts in business, in fame, and in fortune, mean nothing more than to involve this country in the same common ruin with themselves.²⁸⁸ Major John Cartwright launched a torrent of invective against, amongst others, ‘insignificant coxcombs’, ‘toad-eaters’, ‘wretches’, ‘profligates’, ‘gamblers’, ‘public plunderers’, and of course ‘bankrupts’.²⁸⁹

Those moved to publish on the subject did so for a variety of moral or intellectual reasons or were prompted by events, although it may also have been injury to personal finances which galvanised some to vent their feelings as Pope and others had done in the wake of the bursting of the South Sea Bubble. John Gay was of the view that Pope had lost half his fortune.²⁹⁰ Fifty years later after not dissimilar events a disgruntled James Boswell wrote:

War, famine, and pestilence, used formerly to fill up the number of the general calamities of mankind; but, in the present age, one has been added, *viz.* Bankruptcy...²⁹¹

Although Scottish bankruptcy law was different from England’s, Boswell was writing in the wake of the 1772 financial crisis which had brought down banking houses in both England and Scotland. His words suggest that he regarded bankruptcy as a new and modern man-made apocalypse perpetrated by bankrupts like Alexander Fordyce. The harm to society that could be wrought by bankrupts, especially ones that contrived to use bankruptcy to their advantage, was a concern that, if contemporary literature and sermons are believed, worried everyone. Boswell, of course, had his own reasons for being exercised over financial matters.²⁹²

²⁸⁸ William Draper, *Sir William Draper, The Public Letters*: Letter II: Sir William Draper to the Printer of the Public Advertiser, 26 January 1769, in John Cannon (ed.), *The Letters of Junius* (Oxford, 1978) p. 36.

²⁸⁹ D. B. Horn and Mary Ransome (eds), *English Historical Documents*, 10 vols (London, 1957), VII, 1714–1783, ‘Major John Cartwright on the Evils of Long Parliaments, 1776’.

²⁹⁰ Gay on Pope, in G. Croly, *The Works of Alexander Pope*, 4 vols (London, 1835), I, p. lvii, also for quotes from Pope about speculative financial activity, see Catherine Ingrassia, ‘Money’, in Pat Rogers (ed.), *The Cambridge Companion to Alexander Pope* (Cambridge, 2007), p. 179. However, exactly how much the likes of Pope, Gay and Newton lost seems to be contested.

²⁹¹ James Boswell, *Reflections on the Late Alarming Bankruptcies in Scotland* (Edinburgh, 1772), p. 1.

²⁹² For an account of Boswell’s financial difficulties see Gordon Turnbull, ‘Boswell, James’, *ODNB* (Oxford, 2004), and for his drinking and debts, see Thomas B. Gilmore, ‘James Boswell’s Drinking’, *Eighteenth-Century Studies*, 24 (1991), 337–57, p. 352.

The national scandal that followed the financial crisis of 1772 probably indelibly fixed the image of the 'bad-man' bankrupt in the eighteenth-century public's imagination. It also spurred the pulpit to action with William Scott reprising Bishop Fleetwood's 1708 sermon which had censured an earlier crop of bankrupts. Generally, the dangers warned against were the same: assuming excessive risk, consuming too much, and worst of all, taking too much credit. The inevitable consequence was bankruptcy.

Scott had been particularly incensed by the actions of the bankrupt Alexander Fordyce and also of Sir George Colebrooke, who he clearly held responsible for 'the almost *total* ruin and distress of (perhaps) Thousands of honest and well meaning People!'.²⁹³ Sir George Colebrooke, a director of the East India Company, sustained major losses from 1771, but did not become a bankrupt until 1777.²⁹⁴ Scott opened his sermon with a 'dedication' to Fordyce and Colebrooke:

Gentlemen...Don't mistake me – I don't mean by *this*, to point *either* of You out *in particular*, as tho' YE were the *only* ones: Would to God that there were not already *too* many in this *Great City* and the *Three Kingdoms*, under the *like* predicament with *Yourselves*, and to whom therefore, it is equally applicable! But as the unhappy *Proceedings* of the *One*, and the unexpected (consequently disagreeable) *Stop* of the *Other*, have made You become the popular Topics of Conversation both *at home* and *abroad*...²⁹⁵

Boswell in 1772 was anxious that something might be learnt and that a society, seemingly out of kilter because of ambition and luxury, might be righted. He hoped:

that the late bankruptcies, however distressing to individuals, deserving and undeserving, may be of general utility, if they have the effect which we may suppose they will have on every rational and well-disposed

²⁹³ William Scott, *A Sermon on Bankruptcy* (London, 1773), p. 2.

²⁹⁴ H. Bowen and A. McConnell, 'Colebrooke, Sir George, second baronet (1729–1809)', *ODNB* (Oxford, 2004, revised 2008).

²⁹⁵ Scott, *Sermon on Bankruptcy*, pp. iii–iv.

person, by restoring just notions of subordination, frugality, and every other principle by which the good order of society is maintained...²⁹⁶

Bankruptcies continued of course such that in 1783 Horace Walpole, weary of constant bad news, demanded to know if there had not been ‘changes enough?’, ‘divorces enough?’, ‘lies enough?’, and of course, ‘bankruptcies and robberies enough?’.²⁹⁷

So, what were bankrupts doing such that they so inflamed public opinion against themselves? Obviously, damaging bank failures with the stopping of payments, frequently followed by the bankruptcies of the partners, were attributed to luxury and excessive risk taking. Yet these high-flying financiers were a largely metropolitan minority. William Scott in his sermon had been concerned about the other ‘ones’, the nation’s lower-flying sort of tradesmen whose bankruptcies Scott considered ‘too many’ in number. He added an address to the citizens of London: ‘It is for *your* Sakes especially that I *address* Myself on this *particular* Subject.’ That subject being, in his words, ‘the Affair of *Bankruptcy*’.²⁹⁸

What was worrying so many was the notorious practice by some in trade of breaking deliberately. This entailed contriving a bankruptcy, not for reasons of failing trade, but in order to illicitly enrich themselves. This was of course fraud, but it was not difficult to do and anyone in trade had the opportunity to do it. In fact, so commonplace was the underhand practice believed to be, that it earned its own place among the objects of eighteenth-century satire. Fielding had already successfully lampooned intended breaking on the stage with ‘Mr Stocks’ in his farce *The Lottery* in the 1730s.²⁹⁹ No less than five editions of the play were published up until at least the 1770s which permitted the generations that followed Fielding’s original audiences to learn about villains like Mr Stocks. Very simply, false breaking involved accumulating trade stock obtained on credit, selling it to cronies for cash at knock-down prices or otherwise disappearing it, then getting an accomplice creditor to get a bankruptcy commission issued under which, most unfortunately, there would be very few

²⁹⁶ Boswell, *Reflections*, p. 23.

²⁹⁷ Horace Walpole to the Countess of Upper Ossory, 18 October 1783, in P. Toynbee (ed.), *Letters of Horace Walpole*, 16 vols (Oxford, 1905), XIII, p. 70.

²⁹⁸ Scott, *Sermon on Bankruptcy*, pp. iii–iv, vii, 2.

²⁹⁹ Henry Fielding, *The Lottery. A Farce* (London, 1732), p. 7.

shillings in the pound to pay legitimate creditors who had supplied goods and given credit in good faith.

This kind of blatant and ubiquitous contrivance was satirized in verse in *Midnight Conversations* which imagined eavesdropping on a private conversation between a husband, an 'intended BANKRUPT', and wife as they schemed to fraudulently break. An apparently successful, but cynical, young tradesman wishing to eschew the lot of a 'plodding, patient *Man of Trade*' declares to his wife:

My credit to the last I've strain'd.
 And various mighty orders feign'd;
 My warehouses with goods are fill'd,
 My Agents, in their business skill'd,
 Will quickly of these goods dispose,
 And take the cash

He then proposes to secrete the money 'Where no Commissioners can trace' before 'boldly' breaking, and nonchalantly declaring, "'tis the fashion now to break', before assuring his wife:

It's done with safety ev'ry day;
 To break at present is mere play.
 I tell you its become a trade;³⁰⁰

Burges outlined more formally the easy pickings available to the dishonest bankrupt:

By a well-concerted Bankruptcy, every possibility of hazard may be avoided, and a greater fortune may be acquired by one single stroke, than could, in the common course of business, have been accumulated after a life of honest industry. No sooner was this secret known, than fraudulent Bankruptcies grew up into a regular system.³⁰¹

³⁰⁰ Anon., *Modern Midnight Conversation, or Matrimonial Dialogues; Adapted to the Times* – 'In private Conversation Man and Wife' (London, 1775), pp. 16–22.

³⁰¹ Burges, *Law of Insolvency*, p. 318.

Under the prevailing statutes flagrant abuses of the bankruptcy regime were not hard to get away with, and once a certificate was obtained with the help of co-conspirator assignees, a trader could return to trade and repeat the whole process. Clearly, the actions of some bankrupts had been sufficiently dishonest and damaging to establish bankrupts in the minds of many as a category of villains who were a menace to the nation. Offenders were satirized, but they could also be punished. Returning to John Cary, who in 1695 had acknowledged that real misfortunes could afflict people in trade, he took a different view of fraudsters calling:

for those who design under the shelter of a Protection or Privilege to spend all they have, and thereby cheat their Creditors, no Law can be too severe...³⁰²

Half a century later Adam Smith was also convinced that such severity was required:

The lesser frauds are generally obliged to be recompensed by the deceiver and are besides punished with a fine. There are however two species of fraud which are more severely punished; the 1st is with regard to bankruptcy. By the statute of bankruptcy in England, the debtor, on giving up all his substance to his creditors, is freed from all farther distress; but if he embezzles above 20£...he is punished with death. This law was made in the time of George 2d, and many have been since executed upon it; and with great justice. For though the resentment of the injured would not perhaps require so great a punishment yet there are severall circumstances which make it necessary.³⁰³

The perpetration of frauds by bankrupts was not without danger, as fraud was a capital offence. However, Smith overestimated the numbers hanged and it was the frequent escaping of severe sanctions, or any sanctions at all, that stoked public indignation.³⁰⁴ Boswell certainly thought bankrupts were getting off lightly:

³⁰² Cary, *Essay on the State of England*, p. 37, in Hoppit, *Risk and Failure*, p. 22.

³⁰³ Adam Smith, *Lectures on Jurisprudence: Report of 1762–3: Thursday Febry 3d 1763*, in R. L. Meek, D. D. Raphael, and Peter Stein (eds), *The Glasgow Edition of the Works and Correspondence of Adam Smith*, 5 vols (Oxford, 1978), V, *Lectures on Jurisprudence*, pp. 131–32.

³⁰⁴ For the numbers of bankrupts hanged and accounts of a couple of the most notorious frauds perpetrated by bankrupts in the eighteenth century, see Kadens, 'Pitkin Affair', pp. 483–570 and Kadens, 'Last Bankrupt Hanged', pp. 1– 43.

How inconsistent is it, that in a country where we hang a man who steals or robs to the extent of a trifle, we should be so tender to *fraudulent bankrupts*, though they have actually deprived their neighbours of sums enormous, and occasioned universal and deep distress.³⁰⁵

He felt strongly that they should not be allowed to get away with flaunting their ill-gotten gains. He continued:

If they will strut, let it be in prison: If they will be merry, let it be within those walls where culprits dwell...³⁰⁶

Because an unsatisfactory law allowed many bankrupts to commit fraud, seemingly with impunity and to evade the sanctions desired by Cary, Smith and Boswell, bankrupts were widely regarded as agents of destruction in society. It is therefore not surprising that in eighteenth and early nineteenth-century novels bankruptcy, or the actions of bankrupts, were a cause of anxiety and sudden, unexpected and calamitous changes to people's fortunes. Examples can be found in works by Daniel Defoe, Tobias Smollet, Oliver Goldsmith, Henry Mackenzie, Fanny Burney, Charlotte Turner Smith, and Maria Edgeworth, and others.³⁰⁷ In 1817 in *Ormond* Edgeworth created a vision of the destructive power that bankruptcy could exercise over a society when an Irish bank failed, and the banker became a bankrupt. The bankruptcy was all the talk: 'It was a public calamity, a source of private distress, that reached lower and farther than any bankruptcy had ever done...in every house it was the subject of lamentation, of invective.'³⁰⁸ Edgeworth was writing towards the end of the period of this study and showed that beliefs about bankruptcy and bankrupts as capable of causing great damage persisted.

³⁰⁵ Boswell, *Reflections*, p. 5.

³⁰⁶ *Ibid.*

³⁰⁷ Examples of bankruptcy and bankrupts in novels can be found in: Defoe, *Moll Flanders*, p. 129; Defoe, *Roxana* (London, 1724), pp. 182–83; Tobias Smollett, *The Adventures of Sir Launcelot Greaves*, 2 vols (London, 1762), II, pp. 232–33; Oliver Goldsmith, *The Vicar of Wakefield*, 2 vols (Salisbury, 1766), I, p. 15; Henry Mackenzie, *The Man of Feeling* (London, 1771) pp. 179–80; Fanny Burney, *Cecilia, Or Memoirs Of An Heiress. By The Author Of Evelina*, 5 vols (London, 1782), I, pp. 55–56; Fanny Burney, *Camilla*, 5 vols (London, 1796), V, p. 362; Charlotte Turner Smith, *The Old Manor House*, 4 vols (London, 1793) I, pp. 178–79; Maria Edgeworth, *Castle Rackrent and The Absentee* (New York, 1895), first published in 1800 and 1812 respectively, pp. 316–17.

³⁰⁸ Maria Edgeworth, *Tales and Novels*, 18 vols (London, 1833), XVIII (containing *Ormond*, 1817), pp. 379–81.

Although most bankruptcies were not the object of the attentions of the press and pamphleteers as was the case with Fordyce and Colebrooke, the kind of opinions in print cited here would easily have reached eyes or ears beyond London and it is probable that at least some of the commentary on bankrupts issuing from the Metropolis reached some parties involved in the cases in this study. As will be apparent in this study many bankruptcies were relatively small affairs which occurred within more localised and less extended trading networks, whether in London or in smaller provincial locations. Bankrupts in such places were often closely associated, either as family or by proximity, with many of their creditors. In these situations, judgments on parties' behaviour and moral conduct were harsh and bankrupts' motives were imputed to 'villainy', and the figure of the 'villain' was readily evoked.

Most of the views presented thus far have been those of soldiers, statesmen, scholars and gentlemen. However, not participating in the national dialogue discussed above were views from the ground, that is the voices of ordinary bankrupts and those associated with them or affected by them. It is with these less audible voices that this study is primarily concerned, and examples follow. In early nineteenth-century Swansea a creditor judged the behaviour of William James, a bankrupt, declaring that 'he acted Exceedingly wrong'.³⁰⁹ Relationships between bankrupts and their creditors were often expressed in terms of moral deficit, with one party because of their wickedness greatly injuring the other. Daniel Scott, the brother of bankrupt Isaac Scott who was acting in Isaac's defence, was by the assignees 'given out to be the greatest Villain ever heard of'.³¹⁰ One of David Kennedy's creditors, cited above, represented Kennedy 'as a very great villain'.³¹¹ On the other hand, failed merchant Thomas Pyott blamed 'the Villainy of others' for his 'utter Ruin'.³¹² These instances of defamatory language were not uttered in public spaces. They were recorded in depositions, letters or journals, although sometimes they were expressed in pamphlets which were sold or distributed, as was the case with the Scott family's diatribe against their assignees. We do not know how many read it sympathetically but one copy of the pamphlet, priced at two

³⁰⁹ BRO, 44352/2/1/14/2, Papers re William James: John James to Samuel Ash, May 1808.

³¹⁰ Scott, *Case of Anne and Isaac Scott*, pp. 55–56.

³¹¹ WRO, 492/280, Bankruptcy of David Kennedy: A[rthur] Edwards to John Stabler, 11 December 1751.

³¹² SHL, MS 122, Pyott, Thomas Pyott to Charles Pyott, 12 November 1763, pp. 29–30.

shillings, was intended for, or came into the possession of the musician Redmond Simpson, who 'was for many years the first performer on the hautboy in this kingdom'.³¹³ Further reference to Simpson is made below.

In exchanges between parties the level of personal grievance was sometimes so pronounced that there were calls for punishment and threats were made. In 1808 another of William James's creditors charged James with being 'a most unprincipled and dishonest Scoundrel' and hoped that the assignees would 'at his Examination...be Extremely Severe with him'.³¹⁴ In 1767 Isaac Scott was told by the assignees in his case that if he persisted in his obstinacy that he 'must not complain of the Treatment he will certainly experience'.³¹⁵ Isaac's behaviour would subsequently be declared 'a *Perrot* affair' which invoked the capital sanction applied to the bankrupt John Perrott who had been hanged only a few years earlier.³¹⁶

3.2 Bankrupts as Victims

Although bankrupts were frequently the objects of disapprobation, they were sometimes objects of compassion. Bankrupts who had not acted dishonestly had their defenders and their sympathisers. Some regarded the bankrupt laws as too harsh and furthermore, ineffective. From the 1690s into the first quarter of the eighteenth century, bankrupts had an outspoken and emotive voice in the form of Daniel Defoe, who had himself been a bankrupt.³¹⁷ Defoe spoke for the honest trader of course, although even Defoe thought the gallows appropriate for dishonest bankrupts.³¹⁸ The principal thrust of his argument was that the essentially Elizabethan statute was ineffective with costs consuming estates and therefore incentivising bankrupts to abscond and/or conceal assets. Neither creditor nor debtor benefitted under a commission while 'a revengeful creditor' could continue to pursue a bankrupt even if he had nothing. This

³¹³ Quoted in *The New Lady's Magazine; Or, Polite and Entertaining Companion for the Fair Sex*, 2 vols (London, 1787), II, p. 112. The copy of Scott's pamphlet held by the Bodleian bears Simpson's name.

³¹⁴ BRO, 44352/2/1/14/2, Papers re William James: William Hall to Samuel Ash, 22 September 1808.

³¹⁵ Scott, *Case of Anne and Isaac Scott*, p. 46.

³¹⁶ *Ibid.*, p. 68. For Perrott's demise, see Kadens, 'Last Bankrupt Hanged', pp. 1–43.

³¹⁷ For a detailed account of Defoe's dissatisfaction with the bankruptcy statutes at the end of the seventeenth century see, Quilter, 'Defoe: Bankrupt and Bankruptcy Reformer', 53–73.

³¹⁸ *Ibid.*, p. 60.

meant honest bankrupts could be treated very harshly.³¹⁹ Defoe wanted tradesmen to know that under a reformed law they could stop trading and still 'be well Treated, that on a fair Surrender, they shall be us'd like Honest Men, and pitty'd as Men of Misfortune'.³²⁰ In 1697 he complained that the bankrupt laws stripped the debtor 'of all in a moment, but renders him for ever incapable of helping himself, or relieving his Family by future Industry'.³²¹

Others thought that those that assumed risks in furthering trade and the country's prosperity, ought to be treated with understanding. This was the view, cited above, which John Cary espoused in 1695.³²² In 1739 David Hume was able to contemplate bankrupts as unfortunate, at least up to a point:

A bankrupt, at first, while the idea of his misfortunes is fresh and recent, and while the comparison of his present unhappy situation with his former prosperity operates strongly upon us, meets with compassion and friendship. After these ideas are weakened or obliterated by time, he is in danger of compassion and contempt.³²³

Boswell also conceded: 'let us not forget that there are a few unfortunate [bankrupts]... For these I can make all the allowance that the tenderest humanity would wish', but he also insisted on rigorous scrutiny whilst roundly condemning 'villains' who obscured the facts:

let us be sure that the excuse is true, before we dispense with the punishment... I myself am agreeably satisfied with the innocence of some: Woe be to those villains who have thrown a cloud of suspicion over all, and made it so hard for the truly honest to get themselves distinguished...³²⁴

³¹⁹ Ibid., pp. 58–59, 60.

³²⁰ Daniel Defoe, 3, 25 *Review* (26 Feb. 1706), p. 98, in Quilter 'Defoe: Bankrupt and Bankruptcy Reformer', p. 67.

³²¹ Daniel Defoe, *An Essay upon Projects* (1697), quoted in Lester, *Victorian Insolvency*, p. 16.

³²² Cary, *Essay on the State of England*, p. 37, in Hoppit, *Risk and Failure*, p. 22.

³²³ Hume's observation on bankrupts was made as part of his thoughts on the 'double relation of impressions and ideas', in David Hume, *A Dissertation on the Passions; The Natural History of Religion*, in Tom L. Beauchamp (ed.), *The Clarendon Edition of the Works of David Hume* (Oxford, 2007), p. 20.

³²⁴ Boswell, *Reflections*, pp. 5–6.

Hearing directly from bankrupts about their predicament was harder, but voices were sometimes heard publicly complaining about their treatment. In 1759 one ‘Honestus Moneyless’, who had been a bankrupt and who had, he claimed, ‘drank deeply of the water of affliction’, drew the *London Chronicle*’s readers’ attention to a gathering in a London tavern of certificateless bankrupts whose intention it was to apply to parliament ‘to mitigate the laws in...regard to bankrupts’. Honestus articulated what already was, and would continue well into the nineteenth century to be, the fundamental complaint of bankrupts that the laws were ‘most shameful’y put in execution’, the result Moneyless maintained of ‘a common expression of foreigners’ that ‘no country in the world has “better laws than the English, but none worse executed”’. The consequence of this was the ‘present deplorable state of those unhappy wretches and their families’ for which he blamed the implementation of the law for setting assignees and bankrupts against one another (as we will see with the Scotts in subsequent chapters) with the result that bankrupts and their families were kept in ‘the utmost degree of want and desperation’. This, he argued, did no one any good. Bankrupts who could not obtain their certificates from implacable assignees were being driven abroad taking the ‘arts and misteries’ of their callings with them to ‘very great prejudice of this kingdom’.³²⁵ This last argument may not have washed much with creditors who were all too aware of the power they could wield by refusing to grant a certificate. Boswell, at least, was not to be pacified by any pleadings from bankrupts, declaring he would not be ‘soothed by the whining of their artful emissaries’.³²⁶ There was, however, some softening in the legislation. According to Jones: ‘A statute of 1774, describing many bankrupts and debtors as well-meaning but unfortunate, asserted that such “have always been deemed the proper objects of public compassion”’.³²⁷

In 1783 the advocate of bankruptcy law reform, James Bland Burges, put it rather more bluntly saying, ‘[t]he honest Insolvent is permitted to be a victim’ whilst still censuring the dishonest bankrupt who ‘triumphs in his uncorrected villainy, and insults those laws he glories in having evaded’.³²⁸ Burges

³²⁵ ‘Honestus Moneyless’, *London Chronicle*, 24–27 March 1759, issue 350, pp. 289–90.

³²⁶ Boswell, *Reflections*, p. 5.

³²⁷ 14 Geo. III, c. 77, in Jones, ‘Foundations of English Bankruptcy’, p. 50 fn.109.

³²⁸ Burges, *Law of Insolvency*, p. 316.

understood that the prevailing bankrupt laws had unintended consequences, which rather than ensure good conduct, actually encouraged immorality. He argued that the bankrupt laws 'instead of deterring the iniquitous, or of intailing a certain punishment upon their offences, have been converted into a means of protection, and are become an engine for villainy and deceit'.³²⁹ Yet he remained sensitive to the need to distinguish between the villainous and the unfortunate maintaining that 'a distinction ought constantly to be made between those who become Bankrupts by unavoidable accidents and misfortunes, and those who bring insolvency upon themselves by their own improvidence, profusion, or dishonesty'.³³⁰

Burges also took unscrupulous and opportunistic creditors to task whom he considered capable of abusively interpreting the bankrupt laws in order to exploit their trade debtors:

The unsuspecting victim of an abominable conspiracy may in an instant, in the full tide of fame and of prosperity, be turned out of his house; his effects, his books, and his most valuable writings may be seized. His name may be branded with the epithet of Bankrupt throughout Europe, and his reputation may receive a mortal wound.³³¹

'Nomius Antinomus' had been of a similar view in 1760 when he declared of a bankrupt:

He has no time to offer or propose a composition: the commission is already out; his creditors are hasty, and ruin is the word. Thus the gentle and honest man is ranked under the denomination, and forced into the class of villains, to give up himself and fortune, at the mercy of those who are perhaps interested in his undoing...what is still a greater pain of mind, he must submit his fame to be sacrificed to common ignominy, lies, and scandal...³³²

Should Burges's unfortunate bankrupt have had a commission issued against him before the courts long vacation then he 'remains without relief, without a vindication of his character; his effects are in the hands of his enemies, he

³²⁹ Ibid., p. 317.

³³⁰ Ibid., p. 337.

³³¹ Ibid., p. 326.

³³² 'Antinomus', *State of Bankrupts under the Present Laws*, p. 5.

continues subject to all the severe penalties of the Bankrupt Laws'.³³³ Burges appealed for there be a change in the law and to attitudes for the sake of honest bankrupts who were 'liable to condemnation, without being heard in their defence; they are liable to confiscation, without a power of resisting; they are declared deserving of death for a merely civil offence'.³³⁴ In a challenge to the draconian measure applied to insolvents and bankrupts Burges asked: 'Is Insolvency more criminal than Felony? Is it more horrible than Murder?'³³⁵

Few calls for reform and a better understanding and treatment of bankrupts were more eloquent than Burges's, but it might still seem that in general calls for compassion and less harsh treatment for bankrupts were probably getting drowned out by more powerful invectives in the printed public sphere from the many elite commentators on the subject. However, there is evidence that bankrupts had been getting a steady trickle of more understanding treatment in a wide variety of print. From the late seventeenth century there was a counter-narrative more sympathetic to bankrupts in plays and novels. In these texts, bankrupts and their families, instead of being villainous and fraudulent, were portrayed as victims of misfortune and manipulation.

In Francis Kirkman's *The Unlucky Citizen* (1673) the young protagonist finds himself listening to a 'melancholy' travelling companion who tells how 'NO SOONER' had he got to London, his creditors descended on him 'and at length a *Statute of Bankrupt* came upon me, that LIKE a *Deluge* swept away all'.³³⁶ In the 1722 play *The Obliging Husband* a scheming wife uses the frightful spectre of a bankruptcy to panic her husband into making over his estate: 'I'll tell him that Parson *Gripeall* threatens to take out a Statute of Bankrupt, and then his Estate will be taken away from him, and rent to Pieces' (the image of estates, and indeed individuals, 'rent to Pieces' is one that will reoccur throughout this study).³³⁷ A preoccupation of Defoe's was the manner in which many women married to traders, lived in ignorance of their husbands' financial affairs only to be taken unawares by disaster. He expressed this through the mouth of

³³³ Burges, *Law of Insolvency*, p. 326.

³³⁴ *Ibid.*, p. 201.

³³⁵ *Ibid.*, p. 325.

³³⁶ Francis Kirkman, *The Unlucky Citizen: Experimentally Described in the Various Misfortunes of an Unlucky Londoner* (London, 1673), p. 57.

³³⁷ Anon. *The Obliging Husband, and Imperious Wife; or, the West Country Clothier Undone by a PEACOCK* (1722), p. 113.

Roxana who laments how often she saw women living in comfort and style one day, and the next 'surprised with a disaster, turned out of all by a commission of bankrupt, stripped to the clothes on her back'.³³⁸ In 1741 in Eliza Haywood's *Anti-Pamela*, a trader, unable to face his family with the injury he had done them, and rather than become a bankrupt, attempts to shoot himself through the head.³³⁹ Predictably, he fails in this endeavour just as he had failed in his trade.

That bankruptcy could represent an oppressive threat to the fortunes and spirits of traders and their vulnerable families is represented in Smollett's *The Adventures of Sir Launcelot Greaves* (1762) in which the 'affliction' of Suky, a widow in debt, is aggravated by the 'prospect of bankruptcy'.³⁴⁰ In Fanny Burney's *Camilla* (1796) a family is rumoured to be 'in danger of bankruptcy'.³⁴¹ When an aristocrat's agent is dismissed in disgrace in Maria Edgeworth's *The Absentee* (1812), it not only represents a pecuniary loss to the man as he fears 'losing his other agencies', but above all he feels the 'dread of immediate bankruptcy'.³⁴² The struggling shopkeeper Gabriella in Burney's *The Wanderer* (1816) is 'unpractised in every species of business' and unable to 'calculate its chances', thus added to her difficulties is 'a perpetual horror of bankruptcy'.³⁴³

Here we can see writers equating the experience of bankruptcy with the language of disaster, violence, and fear: 'a deluge swept all away'; an estate might be 'rent to pieces'; a woman 'stripped to the clothes on her back'; a man shot in the head; people felt 'dread' and 'horror'. These fictional individuals were not represented as competent tradespeople, neither were they represented as frauds and villains. They were represented as potential victims of misfortune worthy of the same compassion extended to creditor 'sufferers' afflicted by the consequences of bankruptcies. Just as the negative tropes and language could, as stated earlier, reach eyes and ears in all parts of the country, so could these more sympathetic representations.

³³⁸ Defoe, *Roxana*, pp. 182–83.

³³⁹ Eliza Fowler Haywood, *Anti-Pamela: or, Feign'd Innocence Detected* (London, 1741), pp. 170–71.

³⁴⁰ Smollett, *Sir Launcelot Greaves*, II, pp. 232–33.

³⁴¹ Burney, *Camilla*, V, p. 362.

³⁴² Edgeworth, *Castle Rackrent and The Absentee*, pp. 316–17.

³⁴³ Fanny Burney, *The Wanderer; Or, Female Difficulties*, 5 vols (London, 1814), IV, p. 148.

Artistes and creators of literary works had reasons and agendas for representing bankruptcy as they did (the financial problems of many are well known), and there is some evidence for there being real sympathies for bankrupts. In 1768 Redmond Simpson might have readily paid two shillings for the Scott family's pamphlet as we know he had some years earlier played at a benefit for the musician Ferdinand Tenducci who was being held in the King's Bench for debt.³⁴⁴ In 1778 Samuel Johnson wrote to Elizabeth Montagu soliciting five guineas to help 'Poor Davies, the bankrupt Bookseller' to repurchase his 'household stuff', which had obviously been sold at auction by his creditors. 'Poor Davies' was Thomas Davies (c. 1713–1785) who had introduced Boswell to Johnson.³⁴⁵

Sympathisers came from other quarters in society. Diarist and letter writer Penelope Maitland recorded her compassion in her diary in the 1790s: 'Heard poor Mr Charles Ross was a bankrupt...the Lord sanctify his afflictions, support and deliver him and family'. A few days later she again prays for an ending to the 'family's great distress'.³⁴⁶ Several years later she recorded her sympathy for another bankrupt 'in a most afflicted state'.³⁴⁷ It would be wrong to suggest that negative attitudes toward bankrupts had changed greatly by the 1820s, but it is worth noting that in 1829 at a meeting of creditors in the bankruptcy of Fry and Chapman, the solicitor for the commission declared that an investigation would find that the bankrupts had been 'more sinned against than sinning'.³⁴⁸

3.3 Conclusion

The overall impression given by the commentaries and exchanges in this chapter is that in eighteenth-century England bankrupts were disliked. Accusations of villainy were regularly levelled at bankrupts both in the public

³⁴⁴ Philip H. Highfill, Kalman A. Burnim, Edward A. Langhans (eds), *A Biographical Dictionary of Actors, Actresses, Musicians, Dancers, Managers & Other Stage Personnel in London, 1660–1800*, 16 vols (Carbondale & Edwardsville, 1984), XIV, pp. 94–95.

³⁴⁵ Samuel Johnson to Elizabeth Montagu, 5 March 1778, in R. W. Chapman (ed.), *The Letters of Samuel Johnson, with Mrs. Thrale's Genuine Letters to Him*, 3 vols (Oxford, 1984), II, 1775–1782, Letters 370–821.1., p. 245.

³⁴⁶ 'The Diary of Penelope [Maitland]', 1787–1794, Bodleian Library, MS. Eng. Misc. e. 642 (Available through: Adam Matthew, Marlborough), *Defining Gender* <[http://0-www.gender.amdigital.co.uk/lib/exeter.ac.uk/Documents/Details/The Diary of Penelope Maitland 17871794](http://0-www.gender.amdigital.co.uk/lib/exeter.ac.uk/Documents/Details/The_Diary_of_Penelope_Maitland_17871794)> [accessed 2 May 2016], entries for 6 July, 10 July 1790.

³⁴⁷ [Maitland], 1795–1800, MS. Eng. Misc. e. 643, entry for 3 June 1796.

³⁴⁸ *Sunday Times*, 11 January 1829.

domain and in private exchanges. Strong rhetoric was driven by feelings of being wronged or of having privations extended, and also the fear of sustaining even greater losses. Dislike of bankrupts derived from several factors, not least inherited attitudes and suspicion. Clearly, fraudulent bankrupts were reviled, but bankrupts were also simply censured because they were deemed to have breached trust and failed to pay what they had undertaken to pay. The evidence also suggests that bankrupts were disliked because they were believed to not only damage national prosperity and stability, but because in so doing they caused loss and trouble to many individuals. It should not therefore be surprising that bankrupts were deemed a menace to society. However, not all those who gave vent to their views represented them as villains, as attitudes shifted over the eighteenth century others were willing to regard them as victims of misfortune. As R. J. Morris puts it: 'Bankruptcy began as little better than a crime, attracted varied amounts of moral censure, but ended the period as something like an accident of trade.'³⁴⁹

A problem for long eighteenth-century society was that, whilst bankruptcy could easily be understood as villainy in the abstract in metropolitan discourse, at neighbourhood and provincial level bankrupts were known individuals living in close relationship to others. They were family, friends, neighbours, customers and suppliers, or members of the same church congregation. Positive social relations depended on the meeting of obligations and if obligations were not met relations between creditor and debtor deteriorated, although charges of villainy could flow both ways with bankrupts sometimes regarding their creditors as villains for withdrawing trust and cutting off vital credit. How then were they regarded by the people who knew them? It will become plainer in this study that the moral standing of bankrupts and their quality as citizens was contested repeatedly by those with whom they were entangled. Much of what conditioned the experience of bankruptcy resulted from understandings, assumptions and misunderstandings about the relationships and obligations that existed between the various 'actors' involved. It was when these relationships came under strain that the actors began assigning the roles villain or victim. This chapter has

³⁴⁹ R. J. Morris, 'Review of' *Risk and Failure in English Business 1700–1800*, by Julian Hoppit, *Social History*, 14 (1989), p. 417.

been very much about subjective judgements, the next chapter takes a more objective approach with an examination of the numbers involved in bankruptcy.

Chapter Four

Economic and Financial Context

4.0 Introduction

Perhaps, it may be said, that many large fortunes were made during the war; granting that this was the case, it was on account of certain fortunate speculations, or because the money had left the hands of those who are most serviceable during peace, and had passed into the hands of those who are most serviceable during war; and thus, as no foreign connection could be formed immediately, bankruptcies, failures, and stoppages of payment amongst many considerable commercial houses, to a very great amount, were the consequences of these speculations.

Every one now became suspicious of the credit of his neighbour. Money from all quarters was called in for payment.³⁵⁰

The last two lines above, written by one 'H.B.' of Bath on the numbers and causes of bankruptcies in 1816, show considerable insight relative to the anxious noises of other commentators which were presented in the previous chapter regarding what they believed to be the factors that were driving the growth in numbers of bankruptcies in the long eighteenth century. This chapter eschews the noise in favour of numbers and the more probable causes of bankruptcies, such as the mutual loss of confidence identified by 'H.B.'. The chapter is divided into three sections: section one tells us about how many bankruptcies were really occurring in the long eighteenth century and how the numbers grew; section two looks at the economic and political factors that influenced the likelihood of bankruptcies occurring; section three looks at the probable direct causes of individual traders' bankruptcies.

4.1 Bankruptcies in numbers

This study of bankrupts commences in 1732, a year that bisects that period of economic growth in England from 1700 to 1760 which most historians of recent decades have regarded as being one of slow but unevenly upward growth

³⁵⁰ H. B., *Thoughts upon the Causes of the Present Distress of the Country and upon their Remedy* (Bath, 1816), pp. 10–11.

before the, now somewhat contested, ‘take-off’ in the 1760s.³⁵¹ The period is one in which there was major political and economic change, and it ends in 1831 just as booms in railways, banks, mines and insurance were spreading through the country.³⁵² More mundanely, it was also the year in which an Act was passed to establish a Court of Bankruptcy, which was a major step towards making many of the bankruptcy practices described in this thesis obsolete.³⁵³ Such a reform was, in part, necessary due to the sheer number of bankruptcies in the first decades of the nineteenth century. If bankruptcy numbers are compared to the size of England’s population, which roughly doubled over the period of this study (1732–1831),³⁵⁴ then the annual numbers of bankruptcies in the 1820s had risen seven to eight-fold over the same period.

W. J. Jones has observed that before the eighteenth century ‘debtors were many but bankrupts few’.³⁵⁵ Certainly, in the fifty years before this study commences few bankruptcy commissions were issued in England despite the existence of bankrupt laws since the mid-sixteenth century. According to Hoppit in the last two decades of the seventeenth century only a score or two of people were made bankrupt each year. Only in the last few years was there appreciable growth, with numbers reaching nearly a hundred in 1699, which was more than double the number of bankrupts in 1695.³⁵⁶ However, during the long eighteenth century bankrupts’ numbers grew and they came to increasingly matter, in part because there were simply more and more of them amongst the general population, but also for other reasons which will be explored in this chapter and subsequent ones. How do we know about these numbers?

³⁵¹ See N. F. R. Crafts, ‘British Economic Growth, 1700–1831: A Review of the Evidence’, *ECHR*, n.s., 36 (1983), 177–99.

³⁵² Lucy A. Newton, Philip L. Cottrell, Josephine Maltby and Janette Rutterford, ‘Women and Wealth: The Nineteenth Century in Great Britain’, in Anne Laurence, Josephine Maltby and Janette Rutterford (eds), *Women and their Money 1700–1950: Essays on Women and Finance* (Abingdon, 2009), pp. 86–87; Peter Mathias, *The First Industrial Nation: The Economic History of Britain 1700–1914*, 2nd edn (Abingdon, 2001), pp. 255–57.

³⁵³ 1 & 2 Will. IV, c. 56.

³⁵⁴ E. A. Wrigley, ‘The Growth of Population in Eighteenth-Century England: A Conundrum Resolved’, *Past & Present*, 98 (1983), 121–50, p. 122, Wrigley has 4.9m for England in 1680; Flinn has 5.6m for England in 1741, in M. W. Flinn, ‘The Population History of England, 1541–1871’, *ECHR*, n.s., 35 (1982), 443–57, p. 447; Kenneth Morgan, *The Birth of Industrial Britain: Social Change, 1750–1850* (Harlow, 2004), p. 62, Morgan gives 14.2m for England and Wales in 1831.

³⁵⁵ Jones, ‘Foundations of English Bankruptcy’, p. 5.

³⁵⁶ Hoppit, *Risk and Failure*, Appendices 1–3, pp. 182–86.

Early efforts to gather bankruptcy data were made in the late eighteenth century by George Chalmers who produced a ‘curious, and instructive, table’ in 1794.³⁵⁷ Reliable figures, however, were not produced until the twentieth century when a few historians visited the raw data with a view to improving the unsatisfactory ‘official’ statistics that made appearances throughout the nineteenth century. By the 1980s Hoppit, Marriner and Duffy had provided reliable figures on eighteenth-century English bankruptcy.³⁵⁸ Hoppit has calculated that in the eighteenth century some 33,000 businesses in England and Wales were subject to bankruptcy proceedings.³⁵⁹

As might be expected the numbers became more concentrated as the century advanced, but caution is necessary before drawing conclusions about trends. There are issues with methodologies employed to create statistics for bankruptcies. For example, it can appear that more business owners were becoming bankrupts, perhaps because of war or economic downturn, but the reality may be more mundane. Sometimes we can see more bankrupts being recorded, not because the risk environment in the eighteenth century had intensified, but simply because new Acts of Parliament permitted more categories of trader to be included under the bankrupt laws.³⁶⁰ Then there is the issue of different data series, and which one to follow. Marriner provides numbers from several sources and there are substantial differences, hence the issues alluded to earlier.³⁶¹ The number of dockets struck was never the same as the commissions that were eventually issued, and even then commissions might be superseded (annulled), before being issued afresh by a different petitioning creditor. The striking of a docket was really just, according to Hoppit, an entry ‘made in the Docket Books in response to a creditor's petition to have

³⁵⁷ George Chalmers, *An Estimate of the Comparative Strength of Great Britain* (London, 1794), pp. 46–47.

³⁵⁸ In recent decades, the most used estimate of historic bankruptcy numbers has been Hoppit's in *Risk and Failure*. Other important data sets and estimates of bankruptcy numbers have been provided by: Norman J. Silberling, ‘British Prices and Business Cycles, 1779–1850’ in *Review of Economics and Statistics*, 5 (1923), 223–47; T. S. Ashton, *An Economic History of England: The Eighteenth Century* (London, 1955); Marriner, ‘English Bankruptcy Records’ (Marriner takes issue with Silberling); Duffy, ‘English Bankrupts’; Duffy, *Bankruptcy and Insolvency in London*.

³⁵⁹ Hoppit, *Risk and Failure*, p. 42.

³⁶⁰ Duffy, ‘English Bankrupts’, p. 304.

³⁶¹ Marriner, ‘English Bankruptcy Records’, pp. 353–54.

his debtor declared a bankrupt'.³⁶² A trader was not definitively a bankrupt until commissioners declared him to be one.

Hoppit recognised that the only way to arrive at an approximation of accuracy in counting bankruptcies was to accept that only those cases that were dragged through every stage, and advertised as such in the *London Gazette*, could be confidently considered complete bankruptcies. In other words, simply counting dockets or entries in *The Gentleman's Magazine* would lack accuracy. Hoppit does not claim to have tracked every single bankrupt through the *London Gazette*, so his bankruptcy statistics must be regarded as a guide rather than a wholly accurate representation of an objective state of affairs in the eighteenth century.³⁶³ Of course, although the bankruptcies in this study occurred over a period of one hundred years, the period does not coincide with that of Hoppit's century (1700–1800). Therefore, to show the trend of bankruptcy numbers for the period of this study I am using Margrit Schulte Beerbühl's graphic synthesis of data (assembled from Hoppit and others) because it plots the general trend over all but the last few years of my period of analysis (see graph below).³⁶⁴

³⁶² Hoppit, *Risk and Failure*, p. 44.

³⁶³ For his methodology see Hoppit, *Risk and Failure*, pp. 42–55.

³⁶⁴ Schulte Beerbühl's sources of data (see p. 239 fn.167) are: Silberling 'British Prices and Business Cycles', pp. 223–47; Ashton, *Economic History of England*, p. 254; Hoppit, *Risk and Failure*, appendix 1; Duffy, *Bankruptcy and Insolvency in London*, appendix 2.2.

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Figure 2.1. General Trend in Bankruptcy in England, 1710–1826 (yearly averages per decade), *Source: Margrit Schulte Beerbühl, The Forgotten Majority: German Merchants in London, Naturalisation, and Global Trade 1660-1815.*³⁶⁵

For the first half of the eighteenth century there were on average 172 to 278 bankruptcies every year, ‘comparatively few’ according to Schulte Beerbühl given what was to come. From the middle of the century the numbers began to rise. Then something started to happen from the 1770s and bankruptcy numbers experienced their own take-off. In Hoppit’s words, bankruptcy was ‘an eighteenth-century growth industry’.³⁶⁶ Bankruptcies were averaging 478 a year between 1771 and 1780, but by the 1790s that average had risen to 762. In 1793 the number of cases rose above a thousand for the first time. After the turn of the nineteenth century numbers rose still more steeply, and by the middle of the first decade with the Napoleonic blockade, the number of bankruptcies had again exceeded a thousand. From 1811 to 1820 cases averaged 1,622 a year, and then until 1826 there were, on average, 1,353 cases a year.³⁶⁷ 1826 was extreme with over two and a half thousand cases,

³⁶⁵ Schulte Beerbühl, *Forgotten Majority*, p. 199, fig. 13.

³⁶⁶ Hoppit, *Risk and Failure*, p. 176.

³⁶⁷ Schulte Beerbühl, *Forgotten Majority*, pp. 198–89.

and then until 1831 numbers fluctuated in a range of just over twelve hundred a year to around two thousand.³⁶⁸

These are total numbers for England and Wales. A different picture arises from a closer study of the regions, although as the following figures rely on Hoppit's data, the discussion only applies until 1800. Not surprisingly, London produced by far the largest number of bankrupts in the country, almost half of the total from 1688 to 1800. This figure is even greater if contiguous counties, such as Middlesex, Berkshire, Surrey, Sussex, are added. The rest of English counties only creep above one percent of the national total if a major trading hub happens to have been located there, for example: Exeter in Devon; Norwich in Norfolk; and York in Yorkshire. The proximity of Bristol probably explains higher figures for Somerset and Gloucestershire. There are a few examples of marked regional changes in trade and industry over the eighteenth century: in Devon numbers of bankruptcies almost halved towards the end of the eighteenth century, whilst in Lancashire they more than doubled.³⁶⁹ The relative decline of trade in Exeter relative to the growth in Liverpool and growing industrial towns like Manchester were responsible for this. Such regional trends support the argument that where business activity increased, business failures also increased. There is a danger of concluding simply that troubled times and bankruptcies went hand in hand and assuming a probable causal relationship. This is a relationship that Hoppit challenges by positing that eighteenth-century prosperity, not downturns, gave rise to higher rates of bankruptcy.³⁷⁰

Although contrasting regional differences is not an objective of this thesis, it is important to know that London, as the financial centre of the country with the greatest share of international trade, was also the location of the largest bankruptcies. It also seems self-evident that more bankruptcies would occur in London and large cities because of the larger populations and number of businesses. However, this is too simplistic: bankruptcies were also more likely to occur in an urban environment such as London because of high levels of consumption. Ever changing fashionable habits gave rise to great fluctuations in the demand for goods and services. This could be very good for business,

³⁶⁸ For the last few years until 1831 I have used Marriner, 'English Bankruptcy Records', pp. 353–54.

³⁶⁹ Hoppit, *Risk and Failure*, Appendices 1–3, pp. 182–86.

³⁷⁰ *Ibid.*, p. 42.

but it also could be very bad as the risk of poor decision making increased. There was exposure to the vicissitudes of overseas trade which greatly elevated levels of risk, particularly for merchant houses based in London.³⁷¹ There was also the factor of the decline of once thriving trades, for example the Levant trade declined into insignificance by the 1760s, prompting Jonas Hanway to lament, 'our Turkey Merchants, who some years since figured at the top of the commercial world, now bow their diminished heads'.³⁷²

Apart from the clear general trend of growth in bankruptcy numbers across the period of this study, this statistical information in isolation tells us very little unless we are clearer about the factors that generated the numbers. Contemporaries who paid attention to increases in the numbers of bankruptcies generally tended to attribute the trends to a variety of personal failings on the part of the bankrupts before they considered the influence of political and economic climates. Sudden spikes in numbers tended to cause moral panics and heightened perceptions of bankrupts as fraudsters and menaces to society despite events and trends in the wider political and economic climate. The next section discusses how big political and economic factors influenced bankruptcy numbers.

4.2 Economic and Political Influences

What were the major factors that, whilst not being directly responsible for individual bankruptcies, created conditions that made creditors more aggressive and therefore survival for some traders impossible? Examples of probable factors are given by Grassby, who suggests factors such as climate, natural disasters, plague, famine, war or financial crises, but also changes in politics, technology, and fashion.³⁷³ For Hoppit the factors that put the greatest pressure on the economic and business environment, and consequently on individual traders, were principally war and finance. The latter is not easily separable from the former as wars were often directly the cause of financial crises.³⁷⁴ War

³⁷¹ Schulte Beerbühl, *Forgotten Majority*, pp. 199–200.

³⁷² Jonas Hanway, *An Answer to the Appendix Of a Pamphlet, entitled Reflections upon Naturalization, Corporations and Companies, etc.* (London, 1753), p. 32, in Paul Langford, *A Polite and Commercial People: England 1727–1783* (Oxford, 1989), pp. 166–67.

³⁷³ Grassby, *Business Community*, pp. 91–93.

³⁷⁴ Hoppit, *Risk and Failure*, pp. 98–99, 130–35.

caused substantial losses, for example some 3,250 ships were lost during the War of Spanish Succession.³⁷⁵ Unfortunately for some, wars ending did not necessarily help economic climates. Langford maintains that recession followed the Seven Years War, foreign and colonial trade slumped, and profits fell as a result of reduction in public expenditure on the war effort.³⁷⁶ The general discussion below of the causes of bankruptcies is intended to be useful to the reader because one problem with the case studies in the subsequent chapters is the frequent absence of clear evidence to explain the reasons for individual failures.

4.2.1 Economic crises

To speak about causes is problematic. It would be more meaningful to talk about economic contexts and climates that created conditions under which traders were likely to increasingly struggle and therefore be increasingly likely to fail. Direct causes of bankruptcy, as this study will suggest, were idiosyncratic to the individual trader and their relationships and bonds with others. However, there are examples of traders readily attributing their demise to crises. Thus, Benjamin Travers, a failed London sugar merchant, reflected in 1811 on the economic and financial climate and the likelihood that others would follow him into bankruptcy:

What sad distress has overtaken the commercial world since I quitted the great city! Should the bank limit their discounts in order to return as soon as possible to payments in specie – the consequences must prove fatal to many – now in high repute – The present crisis – I think very alarming.³⁷⁷

In March 1793, Havilland Le Mesurier, another bankrupt merchant, in writing to Henry Addington the Speaker of the House of Commons declared the collapse of other businesses in London to be the cause of his own bankruptcy. He wrote: 'I will only say that the failures yesterday in the City have dragged me

³⁷⁵ Grassby, *Business Community*, p. 92.

³⁷⁶ Langford, *Polite and Commercial People*, p. 455.

³⁷⁷ TNA, C217/61, Bankruptcy Proceedings, Travers and Esdaile and related causes: Benjamin Travers to W. Allen, 25 May 1811.

into their vortex'.³⁷⁸ These sophisticated businessmen in late eighteenth and early nineteenth-century London were substantial players so it may not surprise to find them reflecting on wider economic factors being the cause of bankruptcies, especially their own. Margaret Hunt notes that it has been argued 'that as early as the seventeenth century some economic theorists were fully capable of abstracting the working of the market out from the human and social context'. Yet, Hunt maintains, 'there is little evidence, however, that the average man or woman engaged in trade during this period possessed such an ability'.³⁷⁹ One trader who did not look to the greater economic context to explain his failure was Reading bankrupt Matthias Deane, who in 1795, only ventured that his demise was due to 'a Variety of unforeseen Losses, and untoward Circumstances', which if nothing else, gave him cause for 'a Reflection on the Uncertainty of human Pursuits'.³⁸⁰ Not all provincial bankrupts were so philosophical, and the chapters that follow will show bankrupts attributing their demise to the actions of individual creditors.

4.2.2 Wars

There is a clear correlation between wars and increases in the number of bankruptcies: merchant houses with major overseas operations, and associated high risks, were vulnerable; markets for exports might not be reached, and domestic customers might not be supplied with imported goods; ships could be seized by privateers, and insurance costs could rise. The disruptive effect on overseas trade caused problems with credit and the payment of debts. This would quickly lead to liquidity problems, crises of confidence and the failure of banks, merchant houses, and whole networks of smaller businesses. During the Continental Blockade (1806-1814), with its embargo on trade with Great Britain, bankruptcies rocketed. A government seeking to raise finance could be particularly detrimental to some sectors.

³⁷⁸ DHC, 152M/C1793/OZ22–25, A bankrupt merchant's plea, 1793: Havil[and] (John) Le Mesurier to the Speaker (Henry Addington), 17 March 1793.

³⁷⁹ Margaret Hunt, 'Time-Management, Writing, and Accounting in the Eighteenth-Century English Trading Family: A Bourgeois Enlightenment', *Business and Economic History*, 18 (1989), 150–59, p. 152. The argument Hunt refers to is made in Joyce Oldham Appleby, *Economic Thought and Ideology in Seventeenth-century England* (Princeton, 1978), pp. 242–79 (see Hunt fn.2).

³⁸⁰ WRO, 9/35/129, Matthias Deane to Thomas Brudenell-Bruce, 1st Earl of Ailesbury, 26 May 1795.

During the American War, the building boom of the mid-1770s was stopped due to increases in duties on glass and wallpaper.³⁸¹ In wartime right across the economy businesses would find themselves competing with government to secure labour, goods and finance.³⁸² In Hoppit's view, however, those that adapted and survived while competitors melted away, stood to be rewarded.³⁸³

So, although war was likely to have been a major factor in causing many failures, it was not necessarily bad for all businesses. As Hoppit points out, wars also created business opportunities.³⁸⁴ Supplying armies and navies was profitable business. He notes that early in the five major wars of the eighteenth century bankruptcies rose, but he also notes that they fell back towards the end of hostilities.³⁸⁵ Then the arrival of peace brought new problems as it did not benefit industries that had supplied the war effort such as the iron and steel sectors, which lost government contracts.³⁸⁶ Ending trade embargoes allowed influxes of cheaper imports which undermined domestic businesses.

Wars did not simply cause material damage and loss, they also created uncertainty, instability, and a lack of confidence in the business environment. This, in conjunction with the lack of reliable information and the alarming nature of news arriving, could easily have a bearing on the types of decisions made.³⁸⁷ Typically where money and confidence are interlinked, objectivity can be replaced by anxiety and the herd instinct. It is much harder, however, to say that a war was the overwhelming direct cause of an individual bankruptcy. When the external trade and business environment heated up, it will often have been a matter of how well a specific business was structured and run when it came to survival or failure. If wars did not directly cause financial crises, then other more peaceable activities of men could. Hoppit essentially characterises financial crises as 'moments when confidence in some financial mechanism evaporates and is followed by an intense demand for liquidity'.³⁸⁸ With generalised squeezes on credit across the population previously patient and

³⁸¹ Hoppit, *Risk and Failure*, pp. 122–29.

³⁸² *Ibid.*, p. 123.

³⁸³ *Ibid.*, p. 129.

³⁸⁴ *Ibid.*, p. 122.

³⁸⁵ *Ibid.*, p. 123.

³⁸⁶ *Ibid.*, p. 129.

³⁸⁷ *Ibid.*, p. 128.

³⁸⁸ *Ibid.*, p. 130.

benign creditors could suddenly turn the heat on their debtors because they feared for their own financial integrity. This study will show that it was almost always, at least with the cases selected, creditors' actions to recover debts that directly caused individual bankruptcies.

As has already been discussed many financial crises, which inevitably had a bearing on bankruptcies, were the result of war and disruption of overseas trade. To say which crises were purely financial and when they happened is not straightforward, the question is discussed in much greater detail than here in Ashton and Hoppit.³⁸⁹ Ashton suggested thirteen financial crises for the eighteenth century: 1701, 1710, 1715, 1720, 1726, 1745, 1761, 1763, 1772, 1778, 1793, and 1797; 1797 also saw the suspension of cash payments by the Bank of England, which were not fully resumed until 1821.³⁹⁰ For the first three decades of the nineteenth century Duffy sees the periodic surges in bankruptcy numbers as deriving essentially from fluctuations in overseas trade.³⁹¹ Mina Ishizu notes the high occurrence of bankruptcies in the years 1810–11, 1815–16 and 1825–26. Bank failures in the first year followed by contractions in liquidity rippled out across the country causing failures in other sectors in the following year.³⁹² Also, in the years following the end of the Napoleonic Wars there were problems with provincial banks, many being 'cut down' by what Pressnell called the 'scythe of post-war deflation and depression'. He records sixty country banks failing in 1825, as opposed to only three in London.³⁹³ Some partners in country banks are subjects in this study.

For much of the eighteenth century the influence of financial crises on the number of bankruptcies had not been great, until matters changed radically in the 1770s. When in 1772 the bankruptcy of Alexander Fordyce's banking partnership in London and the failure of the Ayr Bank in Scotland occurred, a devastating ripple expanded across the financial system. Then with the onset of the American Wars it meant colonists were not paying their debts; they owed British banks and businesses about five million pounds.³⁹⁴ A decade later in

³⁸⁹ Ibid., pp. 130–31; T. S. Ashton, *Economic Fluctuations in England, 1700–1800* (Oxford, 1959), pp. 106–37.

³⁹⁰ L. S. Pressnell, *Country Banking in the Industrial Revolution* (Oxford, 1956), p. 17.

³⁹¹ Duffy, *Bankruptcy and Insolvency in London*, pp. 172–73.

³⁹² Ishizu, 'Boom and Crisis', p. 141.

³⁹³ Pressnell, *Country Banking*, p. 70; appendix 20, p. 538.

³⁹⁴ Schulte Beerbühl, *Forgotten Majority*, pp. 204–05.

1788 abusive credit practices led to the failure of a major calico printer and banker (Livesey, Hargreaves, Anstie, Smith & Hall) which in turn brought down other banks and businesses.³⁹⁵ These were major shocks that created credit climates in which bankruptcies were more likely. However, in these climates only some traders failed. The reader will therefore ask what exactly it was that tipped some traders into the abyss.

4.3 The direct causes of individual failures

Eighteenth-century people had their own explanations for the failure of others. According to Margaret Hunt the 'trading classes' had moved on from providential interpretations, and began to think in terms of material factors:

lack of industry and especially inattention to one's accounts, keeping bad company, lending to or otherwise supporting people who were untrustworthy or "in declining circumstances," drunkenness, illicit sexual activity, and domestic extravagance. What was unusual was not the vices themselves, which were quite traditional, but the fact that they now seemed in and of themselves to provide a sufficient explanation for the phenomenon of failure.³⁹⁶

These were popular and mostly simplistic explanations that clung to notions of personal weaknesses and moral shortcomings. They were also not dissimilar to the explanations given from on high by the elite commentators who featured in chapter three. Enough contemporaries probably understood that such behaviours did not directly cause failure. They were anxious, however, about these behaviours because they threatened stability and, in Hunt's words, to yield to vices 'could tip the mechanism over and plunge everyone in one's orbit into bankruptcy'.³⁹⁷ There were still more explanations. Grassby suggests that failures in business were sometimes the result of thefts or frauds. Frauds, of course, were sometimes perpetrated by traders with the intention of enriching themselves through fraudulent bankruptcies. Trading households could be destabilized by premature and untimely death from illness or third-party

³⁹⁵ J. Hoppit, 'The Use and Abuse of Credit' in Neil McKendrick, R. B. Outhwaite (eds), *Business Life and Public Policy: Essays in Honour of D. C. Coleman* (Cambridge, 1986), pp. 70–71.

³⁹⁶ Hunt, 'Time-Management', p. 152.

³⁹⁷ *Ibid.*

bankruptcies.³⁹⁸ Lack of experience in business increased risk for traders, just as the possession of experience reduced risk.³⁹⁹ Grassby further maintains:

the unskilled merchant was a danger both to himself and to others...Merchants in every area of trade complained about “raw young men” who were reckless, who overpaid and sold too cheaply. The high degree of skill required by trade was frequently underestimated by gentlemen who mistakenly put their least intelligent children into business...in competitive trades, ignorance and poor judgement led to failure.⁴⁰⁰

If businesses made it to maturity (Josiah Child estimated that ten years were necessary⁴⁰¹) they were more likely to survive, but new entrants, according to Grassby, ‘were trapped in a vicious circle’. Too many of them, with expensive borrowings, competed for scarce opportunities whilst compelled to take risks that were too great, and young merchants who failed ‘were thrust into the squalid, frightening world of the bankrupt, the criminal and the social outcast’.⁴⁰² It should be noted, however, that not all traders who failed entered the ‘squalid, frightening world of the bankrupt’. As should emerge in this study, all bankrupts were not equal. Some sank much deeper into frightening worlds, others barely at all.

Failure was out there waiting for all but the most experienced and guarded. For the unwary merchant in the second half of the eighteenth century, Schulte Beerbühl observes: ‘Wars, piracy, unreliable business partners, and misconceptions of distant, complex markets could quickly turn expected profits into losses.’⁴⁰³ Poor business decisions, loss of good reputation and creditworthiness, as well as unforeseen calamities including the failure of other businesses could all combine with events in the immediate business environment or changes in the wider economy to make failure an inevitability for some. Valid all these factors are as plausible and probable causes, it is still very difficult to know the direct cause, or causes, of a specific case. For example, Schulte Beerbühl relates that the cause of the failure in 1761 of

³⁹⁸ Grassby, *Business Community*, pp. 91–93.

³⁹⁹ *Ibid.*, p. 93.

⁴⁰⁰ *Ibid.*, p. 183.

⁴⁰¹ *Ibid.*, p. 98.

⁴⁰² *Ibid.*, p. 98.

⁴⁰³ Schulte Beerbühl, *Forgotten Majority*, p. 198.

Uhthoff & Battier, a large London merchant house of German origin, was attributed by one to 'great irregularity' in the counting house, as well as 'excessive speculation'. However, this was merely a contemporary's opinion, as Schulte Beerbühl observes we cannot know if this was the case.⁴⁰⁴ If the lives of bankrupts are to be explored, questions about why they failed will always be raised, so can the sources help us at all?

The answer in short, is not readily. On the direct causes of bankruptcies Hoppit observes: 'From the *London Gazette* it is possible to learn chronology, geography and occupation of eighteenth-century bankrupts but difficult to find the precise causes of failure. Indeed, among other sources direct evidence on the causes of bankruptcy is virtually non-existent.'⁴⁰⁵ Hoppit is right on both counts because for most bankruptcies that appeared in *Gazette* notices it is impossible to find complementary records. Then, even when records of bankruptcies have been preserved the surviving documents are often few in number and of limited utility. A beautifully calligraphed petition for the issue of a bankruptcy commission on parchment with the Lord Chancellor's seal attached gives a few names which *Gazette* notices do not provide (e.g. name of petitioning creditor and commissioners), but from such a document we learn nothing about the factors that hastened a bankrupt's demise.

Where proceedings of individual bankruptcy commissions have survived this is a start. Commissioners had the power to examine bankrupts extensively, but largely they confined themselves to ensuring commission procedures were observed and that the whereabouts of assets were revealed. Hoppit maintains that bankrupts were 'never required to explain how they had fallen into the abyss of failure'.⁴⁰⁶ This impression is easily arrived at after the perusal of many commission files. However, 'never' is not quite the case as sometimes some explanations can be found, and this study brings a few explanations to light for a number of bankruptcies amongst the case studies. Furthermore, in the better sets of bankruptcy records, usually from law firms' collections where correspondence has survived, creditors can also be found providing their own 'explanations' by levelling accusations at bankrupts about their behaviour and

⁴⁰⁴ Walter Shairp, Consul and merchant in St. Petersburg, to Thomas Shairp, London, 21 May 1761, NA Edinburgh, GD 30/1583//14, in Schulte Beerbühl, *Forgotten Majority*, p. 204.

⁴⁰⁵ Hoppit, *Risk and Failure*, p. 43.

⁴⁰⁶ *Ibid.*, p. 43.

practices. If creditors could point to bankrupts' villainy it was easier to justify their debt recovery actions which might entail seizure of debtors' property or imprisonment of their bodies, than to show forbearance born of an understanding of misfortune caused by the wider economic climate. Even if a creditor did feel inclined to ponder his debtor's misfortune, this could be dangerous as delay might permit another harder-hearted creditor to land an execution or snatch the body of the debtor leaving less, or nothing, for the creditor with a modicum of compassion.

So, 'villainy' was a convenient explanation and as a concept it was much easier to come to terms with than the far more elusive issue of solvency, which returns us to H.B.'s explanation in 1816 that: 'Every one now became suspicious of the credit of his neighbour. Money from all quarters was called in for payment.'⁴⁰⁷ Basically, what H.B. was describing was a culture of 'every man for himself'. When the external political and economic climate heated up and credit tightened, a trader's survival depended on their ability to get paid by their debtors before they were forced themselves to settle with their own creditors. Typically, traders with weaker credit and poorer reputations, and who were often also smaller fish relative to their creditors, were the first to be leaned on to settle accounts. If putative insolvent debtors were already late in meeting their obligations their creditors had the legal option to impose the kind of debt recovery actions described above. The commencement of these actions would either precipitate matters such that a debtor sought the protection of a bankruptcy commission with the assistance of 'friends'; or worse, if a creditor considered their interests would be better served by a commission he could get one issued without the acquiescence or even knowledge of the trader, in other words he could prosecute a hostile bankruptcy. The latter action was particularly unwelcome to traders who maintained they were not insolvent and therefore should not be made bankrupts.

Solvency was of course a contested state. A trader's solvency could only really be known either by a thorough examination of his books (assuming he kept them) and discovery of his assets, or an informed judgement by one who knew both trader and the trade intimately, or a combination of both. Given that

⁴⁰⁷ H. B., *Thoughts upon the Causes of the Present Distress of the Country and upon their Remedy* (Bath, 1816), pp. 10–11.

bookkeeping standards, as well as the business practices of some, were often poor, it should not be assumed that a trader would have known with any certainty whether he was solvent or not. What others believed about his solvency could easily depend on what was in their interests. For example, in the spring of 1808 when William James, a Swansea shopkeeper, was facing impending bankruptcy, protestations of solvency were made in his favour in correspondence. One correspondent commented on ‘the affairs of William James’ maintaining that ‘he has more Effects than will pay all his debts’. Another respondent on James’s affairs was prepared to give the claim serious consideration, pondering ‘if he be as you represent him, solvent’.⁴⁰⁸ James was not saved from a commission becoming a bankrupt by the end of the summer.⁴⁰⁹ In 1813 another reluctant bankrupt’s complaint was that he had, in fact, always been solvent and that the issuing of a commission against him was at best ill-advised, and at worst malicious. These were the complaints of Edmund Townsend who maintained that he had been engaged in ‘a very old and lucrative concern’ before some ‘adverse creditors’, who were reacting to the news that he had sustained losses, initiated a hostile bankruptcy despite his estate, he insisted, being ‘quite solvent’.⁴¹⁰

4.4 Conclusion

What this chapter has shown is that it is not difficult to understand how, in the big picture, political events and economic changes created conditions that were likely to ‘favour’ the occurrence of bankruptcies. The numbers show clearly that the greater the economic activity and the more ‘political’ events (particularly wars) there were, then the more bankruptcies there were. Yet the closer we draw to the specifics of individual cases of bankruptcy then the harder it gets to

⁴⁰⁸ BRO, 44352/2/1/14/2, Papers re William James: John James to Samuel Ash (Bristol merchant), 28 April 1808; Heineman Ash & Co. to Messrs. Davies and Berrington, n.d. May 1808.

⁴⁰⁹ LG, 16 August 1808, issue 16172, p. 1135.

⁴¹⁰ B&NESRO, 0253, Edmund Townsend, bankrupt of Somerstown, Sussex, and Bath: Edmund Townsend, *A Case of Extraordinary Oppression and Injustice*, handbill dated 6 December 1813 (printed for Townsend by W. Melineux, Printer, 4 Bolt Court, Fleet Street). NB Part of the Townsend records held at B&NESRO are a collection of handbills that were printed for him (numbers unknown). However, they bear many manuscript additions, amendments and observations by Townsend.

know what factor or event most determined a trader's demise, although it will usually have been a combination of factors.

To a considerable extent this is a problem of sources. This study will show few bankrupts reflecting on the wider economy and business environment and what the implications were for them. This is not to suppose that they did not reflect, but that simply their reflections are rarely evident in the sources. Equally, reflections on how their own shortcomings in business might have contributed to their failure are also hard to find. This raises the question of exactly to what, or to whom, did bankrupts attribute their failure. The suggested answer is that although when they explained their failure, they frequently cited misfortunes and unexpected disappointments, what they felt really pulled the rug from under them were the actions of their creditors.

In the following chapters the reader will notice bankrupts attributing their bankruptcies to the actions of creditors who had taken formal measures to recover their money. The fact that creditors were rarely strangers, and indeed were sometimes 'friends' or family generally increased bankrupts' resentment toward individuals who they held personally responsible for their demise. This meant that for bankrupts their experience of failure was far more about personal relationships than it ever was about the economy or business practices. The next chapter looks in detail at these important relationships.

Chapter Five

Finding 'Friends'

5.0 Introduction

Despite being in his late thirties in 1830 and being the proprietor of an established malting and carrying business in Sherborne, Dorset, John Slade was unmarried. The account of his bankruptcy that year mentions no family except his sister, Mrs Whittle, who is mentioned only in reference to his final years in Sherborne. At the time of his bankruptcy his 'family' were the servant couple who formed a household with him.

John Slade dwelt next to his yard with his servants, William and Ann Luffman. When the Luffmans were called to be examined by the bankruptcy commissioners they provided the testimony required to prove an act of bankruptcy and for the commission to gain legal jurisdiction over Slade's assets. However, it is also possible to get a sense from Ann's statement that she held some affection for her master, whose sister was distraining his goods and personal effects, and that she had had some knowledge of his declining circumstances. She seemed inclined to help him in so far as her position enabled her to. She knew that in 1828, two years before the bankruptcy, Slade had been considering selling up and going to Van Diemen's Land (present-day Tasmania). She knew of his involvement 'in a stud'. He had clearly spoken to Ann about the problem his sister was causing him with an execution. Ann believed one of his creditors' (the butcher) bills was inflated. She defended his trade practices assuring that 'by his good management he would shew a poor man how to live'.⁴¹¹

Ann related how an anxious Slade 'called me to his bed room and desired I would not leave it 'till he was asleep'. With an execution in place and the sheriff's officer's man in the house Slade determined to flee in the night. He turned to Ann for assistance in packing declaring, 'My cruel Sister has distressed me'. Ann related that Slade was too beside himself to do any packing as he 'sat down on the bed side and cried and said you must do all, I can do nothing myself'. Ann packed a trunk for him and then at Slade's request

⁴¹¹ DRO, D/FFO/27/103, John Slade, proceedings in bankruptcy: deposition of Ann Luffman, 14 May 1830.

got her husband William to load and ready the cart before driving Slade away. Ann related something of their farewell: she ‘parted from him that night in the Hall of his House; he wished me well and shook hands with me’.⁴¹²

At the time of his bankruptcy John Slade lacked the two basic pillars of support for a trader: family and friends. Worse still his own family acted against him and caused his final demise. In Grassby’s view, risky trades ‘were best financed within the family, because siblings and kin were less likely to imprison for debt’.⁴¹³ Yet Slade’s sister’s execution exposed her brother to that most feared outcome for traders, that of prison and poverty. Slade could not meet another levy upon his property and that meant the next creditor might easily have imprisoned him, hence he fled. That night with no family or kin to aid him, Slade found friends in his servants. For bankrupts to be deserted by family and friends was untypical, but neither was it exceptional.

Family members with the financial wherewithal to assist and to sustain, and not pull the financial rug from under them, really mattered to bankrupts. Once in financial difficulty troubled kin needed to borrow money which often required a relative to stand surety, or they simply needed to be directly rescued financially.⁴¹⁴ These kinds of instrumental roles for family members in bankruptcies were representative of the inter-relatedness of family with the bankruptcy process and experience. A case like Slade’s is unusual on a number of accounts: firstly, the explicit role of a close family member in his undoing which seemingly militates against any notion that family could always be relied upon to bail out, and not to torpedo, a relative facing financial failure. It is also unusual because of Slade’s apparent lack of recourse to any other family members or friends to keep him afloat. But for the assistance of his servant Ann and finding a creditor to take out a petition of bankruptcy against him, he appears to have faced his bankruptcy alone without the usual interventions and assistance from family and friends that was the case for other subjects in this chapter. Family and friends of course did not merely assist, they were often affected detrimentally by the bankruptcies.

⁴¹² Ibid.

⁴¹³ Richard Grassby, *Kinship and Capitalism: Marriage, Family, and Business in the English-Speaking World, 1580–1740* (Cambridge, 2001), p. 286. This view seems, in part, to be drawn from Peter Mathias, ‘Business History and Management Education’, *Business History*, 17 (1975), 3–16, pp. 10–11 (NB Grassby has recorded the article as being in volume 27).

⁴¹⁴ Grassby, *Kinship and Capitalism*, pp. 297–99.

Family also mattered to bankrupts as the privations they suffered were also imposed on those who were dependent upon them. Hunt has observed that England had ‘a legal system in which the distinction between business liability and personal and family liability was extremely vague’.⁴¹⁵ Thus family was quickly mired in seemingly interminable processes of debt recovery actions and litigation, which respected no boundaries. More fortunate relatives, however, who were not dependants of bankrupts could provide financial and other assistance, therefore relationships with them mattered greatly to bankrupts. Hunt notes the eighteenth-century middling sort’s desire ‘to fashion the family into an emotional and financial refuge from the vicissitudes of business’.⁴¹⁶ Yet family neither offered a simple solution to finance, or a straightforward safety net when things went wrong. In Grassby’s words families ‘were not rational structures conforming to rules, but chaotic and infinitely diverse aggregations of individuals in motion’.⁴¹⁷ Slade’s sister probably had her reasons for resorting to legal measures to recover money from her brother; relatives already established in business always feared contagion from their less prudent and business-like kin. Relatives found themselves having to make loans or pay off debts. Equally unscrupulous rescuers sometimes took advantage of their position as trusted kin to further their own ends.⁴¹⁸ These factors surface in the discussion below of roles and relationships of those close to bankrupts.

This study of bankruptcy and its consequences will consider all the people most closely involved with the subjects. Failed traders did not experience bankruptcy in isolation they experienced it along with their families and the members of their households. The role of family and friends in getting individuals into a trade, and once there assisting them, has received plenty of attention in early modern and long eighteenth-century historiography.⁴¹⁹ Arguably somewhat less attention has been given to the roles of family and friends when things went financially wrong. This chapter on family and friends attempts to address this

⁴¹⁵ Hunt, *Middling Sort*, p. 23.

⁴¹⁶ *Ibid.*, p. 161.

⁴¹⁷ Grassby, *Kinship and Capitalism*, p. 389.

⁴¹⁸ *Ibid.*, p. 230; for a discussion of withholding aid from family or taking legal action against a sibling for debt, see Hunt, *Middling Sort*, pp. 27–29.

⁴¹⁹ For in depth discussions of the role family, kin, and friends played in financing and assisting (or not) relatives starting out in business, see Hunt, *Middling Sort*, pp. 22–29; Grassby, *Kinship and Capitalism*, pp. 217, 286–87; and for financial involvement with friends and family in general, see Naomi Tadmor, *Family and Friends in Eighteenth-Century England: Household, Kinship and Patronage* (Cambridge, 2007), pp. 109, 123, 178, 181, 201–03, 213, and for some of the emotional responses arising from lending to relations, see Tadmor, pp. 190–91.

gap and to assess to what extent bankrupts' families and friends cushioned them or compounded their troubles, and to assess what effect these behaviours had on relationships. The chapter approaches family and friends in three parts: in the first part the significance of family roles and relationships are addressed; the second addresses the importance to bankrupts of finding 'friends' to assist them; and the third part goes into greater detail about the most important relationship that bankrupts had, the one with their wives.

Part One

5.1 Family

Mr Fortescue is quite dissatisfied with me[,] it may be to the future serious injury of my family...⁴²⁰

The Mr Fortescue, who was believed to threaten such harm to John Brickdale's family, was not one more impatient trade creditor, but rather he was related by marriage to the bankrupt. This seems to fly in the face of notions that the family was essentially a safety unit or network for distressed traders. Grassby's view on family and its response to members in financial trouble, that conflicts 'were inevitable but usually resolved...[k]in and friends provided crucial advice and assistance at moments of crisis and stress', will still find support in this study.⁴²¹ However, there will be instances where kin (and friends) provided little assistance and ramped up the stress.

Family members were involved in all aspects of bankruptcies, but particularly early on they were vital participants in the theatre that was the committing of acts of bankruptcy. In 1772 Ann Adams was owed money by shopkeeper David Brigstock, and so in July she sent her niece Polly Adams to Brigstock's home to ask for payment. Brigstock, who was in his shop nearby, responded with a member of his family sending his wife to tell Polly he was not at home.⁴²² On another occasion Brigstock's brother, Jeremiah, who had been living with

⁴²⁰ SRO, DD/DP/6/11, Miscellaneous correspondence re Brickdale's bankruptcy, 1820–1822: John Brickdale to Robert Beadon, 2 January 1821.

⁴²¹ Grassby, *Kinship and Capitalism*, p. 263.

⁴²² BRO, JQS/P/44, Proceedings against David Brigstock, examinations of witnesses, 14 March 1774: deposition of Mary Morgan, servant. Documents related to Brigstock's bankruptcy commission were exhibited in the proceedings against him at the quarter sessions.

Brigstock and working in the shop for some ten years, received the creditor Philip William on 20 July 1773. William told Jeremiah that he wanted to speak to Brigstock, and when Jeremiah located his brother in a field near the house, Brigstock told Jeremiah to deny him to William, which Jeremiah did for his brother and master.⁴²³

Brigstock managed to have his family members acting out their roles in the manner that he understood they had to in order to commit an act of bankruptcy correctly. This proved to be far from the case with Hampshire brewer, Thomas Lodge. Before he became a bankrupt, he was depending on his relatives to repeatedly meet creditors' demands on him, whilst at the same time seeming to fall out with his family. Hunt makes the point that the middling sort did not have landowners' option to mortgage estates, so creditors depended more on the strength of kin relationships to guarantee payments. In the event of business or financial disaster there was a moral onus on kin to come to the rescue and spare relatives the seizure of their goods or imprisonment.⁴²⁴ There were, however, sometimes limits to kin's patience and they also perceived threats to their own interests, which necessarily conflicted with that moral onus. This is demonstrated in the case of Thomas Lodge who had got on the wrong side of a number of creditors, as well as Sir Henry Paulet St John (Sir Harry) for whom he had been acting as steward.

On 9 January 1775 Lodge was arrested at the suit of five creditors for debts of £906. His release was obtained by his brother-in-law Wyeth giving security to the creditors. Wyeth received some security as Lodge first conveyed three houses and some ground to him.⁴²⁵ Family assisted again when Lodge returned from London on 22 January 1775 and found his father-in-law, Mr Stephens, waiting for him. According to Richard Allee, a servant, 'he found Mr Stephens at his house and expressed the greatest concern but said he [Stephens] did not mind it' and that Lodge 'should stand his ground and that he could pay every one and should not go out of the way for fear of being arrested'.⁴²⁶ It is not clear

⁴²³ BRO, JQS/P/44, Examinations of witnesses, 14 March 1774: deposition of Jeremiah Brigstock.

⁴²⁴ Hunt, *Middling Sort*, pp. 22–23.

⁴²⁵ HRO, 50M69/12, Winchester Assizes, assignees of Lodge v Sir Henry Paulet St John and others.

⁴²⁶ HRO, 15M50/1216/51. This record appears to be a fair copy of Lunn's account with Lodge, made and signed 13 January 1775. However, on the back is a scribbled statement from Richard Allee.

from Allee's statement whether Lodge or Stephens 'could pay every one', although Stephens seems more likely as he had the opportunity to honour the assurance the next day. On 23 January when Lodge was arrested again, this time for £340, Stephens stood bail for him and Lodge was once again released.⁴²⁷

Family assistance in Lodge's manoeuvres to avoid arrest continued on Wednesday 25 January when he went to his father's house and hid until the following Sunday. During this sojourn there occurred the more unusual intervention of a sibling when Lodge's sister Jane, asked Lodge's servant, Richard Allee, to deny that Lodge was at the house.⁴²⁸ If the wrong family members participated in an attempted act of bankruptcy this could be a cause of subsequent problems at law.

Repeatedly performing these rescues until the demands became too great, may have been what prompted Stephens, along with Lodge's 'colleague' Henry Lunn and Lodge's own father, 'finding they could not get rid of the Execution [taken out against Lodge's goods] formed a plan of making Lodge a Bankrupt for defeating Sir Harry of his Remedy and Lunn struck a Doquet for a Commission of Bankruptcy'. Later Stephens and Lunn would nimbly get themselves chosen as assignees at a poorly attended second meeting of creditors.⁴²⁹ Lunn's friendship with Lodge would come under pressure later, but Stephens' appointment as assignee aimed to secure both family interest, and control. How much Stephens acted with the knowledge and consent of Lodge, and how much he was acting in his own interests rather than out of familial loyalty, is less clear, but it is possible that Stephens and Lodge's father used the family members they could influence, their daughters, to attempt to construct acts of bankruptcy around Lodge. The next month Stephens continued to act decisively in his son-in-law's affairs after the sale of Lodge's effects had been advertised on 20 February. Stephens, 'apprehending that Matters might be accommodated' intervened directly by paying Lodge's most powerful creditor

⁴²⁷ HRO, 50M69/12, Winchester Assizes, assignees of Lodge v Sir Henry Paulet St John and others.

⁴²⁸ *Ibid.*

⁴²⁹ HRO, 15M50/1216/35, Sir Henry Paulet St John's Case: from Broome of Gray's Inn for the opinion of James Mansfield, June 1776, pp. 2–3.

(Sir Harry) a visit and got his consent for a postponement of the sale until assignees had been chosen for Lodge's estate.⁴³⁰

The possibility, at least in some cases, that family assistance only persisted for as long as the assisting party was securing the principal benefit is suggested by the souring of Thomas Lodge's relationship with his wife and her family. Lodge had been adamant that he was not a bankrupt and that a commission was unnecessary and, furthermore, that there was no debt above £100. Such was his position that he initiated his own lawsuit against the assignees, one of whom was his father-in-law.⁴³¹ Furthermore, Lodge's unexplained absences from home may not have endeared him to his wife and her family, but his behaviour over the bankruptcy may have been the cause of an even greater cooling with her father. There was a move by creditors against Lodge's own father, but whether Stephens was amongst those creditors is unclear.⁴³² Unsurprisingly, problems with debts, sometimes leading to bankruptcy, caused friction in families within and across generations. Sometimes family and friends were creditors, or they had given sureties. As a result of their kinsmen's or friends' predicament they often stood liable to bear substantial losses themselves, which gave them a sense of license to interfere.

Another parent who intervened in a bankruptcy was Isaac Orchard, the father of bankrupt widow and haberdasher Ann Harding. Ann had tried to continue the family business while her husband was hiding and then after his death. Orchard was financially linked to Ann's husband Thomas, as they had entered into a joint bond on 15 October 1804 binding them to John Griffit for the sum of £500 plus interest (the bond was for £1,000).⁴³³ Orchard, an 'accomptant' was also a creditor in Ann's bankruptcy for the amount of £90 1s 10d, which was not one of the larger debts. The trustees of Thomas Harding's estate held a debt of £930 12s 10d. The firm of Sleigh and Alsop were owed £193 7s 10d.⁴³⁴

After her husband's death Ann was pursued by his creditors. In September 1806 Messrs. Sleigh, Alsop & Co had obtained an execution which they

⁴³⁰ HRO, 50M69/12, Winchester Assizes, assignees of Lodge v Sir Henry Paulet St John and others, p. 12.

⁴³¹ *Ibid.*, pp. 13–14.

⁴³² *LG*, 5 March 1782, issue 12276, p. 5.

⁴³³ BRO, 44352/2/1/13/5, Papers re Ann Harding: copy of John Griffit[s] grant of power of attorney to John Physick of Bath sent to Payne & Burges, 16 November 1806.

⁴³⁴ *Ibid.*: list of creditors entitled to sign Ann Harding's certificate.

intended to levy on Ann's goods. Requests on behalf of Orchard to 'remove the execution off the goods' were refused. An officer was placed in Ann's house by the Under Sheriff, and in effect he was in possession of Ann's goods. It was this circumstance that decided Ann's father to strike a docket against Ann, the intention being 'to prevent a sale of her effects under the execution'. Orchard himself would not strike the docket (or could not if his debt was below £100), but rather Samuel Ash, a Bristol merchant, agreed to be the petitioning creditor. Orchard's initiative persuaded the other party's solicitor to 'assent to take off the officer if an affidavit of act of Bankruptcy having been committed previous to the levy should be produced to him'. Ann's father then obliged by drawing up the affidavit of an act of bankruptcy.⁴³⁵

Ann Harding's brother Isaac Orchard ('the younger'), had been assisting her in the haberdashery trade, and he was the principal witness of the denial of a creditor for the proof of an act of bankruptcy.⁴³⁶ During the bankruptcy proceedings Ann was being put under some pressure by Samuel Ash to account for every last effect, and when he informed Ann that 'a pair of saddle bags were missing from the house' he asked her to write to her brother to see if he had taken them. The detailed reply Ann received from her brother about the whereabouts of items in the house: 'on the shelf above the kitchen stairs' and 'in the third storey front room over the best bedroom', suggest that he enjoyed autonomous access to the house during the taking of the inventory and possession of the Hardings' domestic goods, and to have had access to the house, whilst Ann did not.⁴³⁷

Ann's situation was distinct from most women caught up in bankruptcies because, unlike the wives and daughters who are also discussed in this chapter, Ann was the bankrupt. Although the male bankrupts in this study were very evidently stripped of much of their agency, they still found ways to make themselves instrumental by using their unique knowledge of their trading networks to assist the assignees to get in debts, as was the case with David Kennedy, who is discussed in detail in chapter seven. Ann, however, seems to

⁴³⁵ Ibid: Solicitor's Bill, September 1806.

⁴³⁶ Ibid: commission memoranda.

⁴³⁷ BRO, 44352/2/1/13/4, Papers re Ann Harding: Ann Harding to Daniel Burges, 3 December 1806.

have been left little agency as the sources largely only record the decisions or actions of her father, brother, and a solicitor.

Providing financial assistance to relatives involved risk to the helper. Unhappily, as examples from this study of bankrupts show, relatives who came to the rescue often found themselves having to worry about preserving their own households from falling to creditors, which inevitably had negative consequences for relationships. The ripple effect of a bankruptcy on other family members was particularly marked in the case of the Brickdale family, bankers in Taunton, Somerset. In 1819 both John Brickdale and his father, Matthew, had bankruptcy commissions issued against them. On top of this John Brickdale's son, John Fortescue Brickdale, was imprisoned for debt. Furthermore, John Inglett Fortescue, Brickdale's brother-in-law who had provided sureties on behalf of the floundering banker, found himself subject to actions by Brickdale's creditors, which soured relations. On 20 February 1820 Brickdale lamented to Robert Beadon, the commission solicitor and family friend, that he felt:

Harrassed and almost worn out...by the daily letters I receive (in no very pleasant language) from Mr Fortescue, and the lamentable situation in which my son is placed. I...must trust to your kindness in turning your thoughts [to] how we may effect some arrangement to calm the irritated feelings of Mr F. and to liberate my son from the thraldom which now separates him from his wife & family.⁴³⁸

Here family was not pulling together, and early support seemed to have given way to persecution. Brickdale clearly resented his brother-in-law, whilst he helplessly saw members of his family subjected to all manner of privations.

Family also made matters harder in the case of John Slade, the bankrupt Sherborne maltster introduced at the beginning of this chapter. Slade's sister had obtained a writ of *feri facias* which empowered the sheriff's officer to place an execution (the taking possession of moveable property) in Slade's house. By seizing and selling her brother's effects before anyone else did, she stood a good chance of getting cash for the whole value of the debt. The records do not

⁴³⁸ SRO, DD/DP/6/14, Correspondence, mainly with John Brickdale, 1810–1820: John Brickdale to Robert Beadon, 20 February 1820.

reveal Slade's sister's side of the story and Slade portrayed her as merely an external persecutor. Ann Luffman, Slade's domestic servant, in her examination recalled Slade lamenting that 'he could not think how his Sister could be so cruel'.⁴³⁹ But likewise bankrupts and their financial disasters made things harder for family.

Bankrupt banker Alexander Fordyce's brothers' 'honourably acquired' fortunes were 'irrecoverably sunk in the vortex, and lost for ever!'. For his brother James this entailed a 'contracted household'. Where previously they had been accustomed to 'luscious sweets of plenty', now his wife, she herself claimed, 'regulated every thing with such nicety, frugality, and decorum' that they apparently managed to disguise the fact that their circumstances were reduced. Fordyce's other brother, William, also had to settle for 'humbler felicity'.⁴⁴⁰ However, the suffering was always relative. Elite traders turned bankrupts, who had relatives amongst the wealthy and gentry, rarely experienced the privations faced by more modest tradesmen like Slade for whom family assistance, or the absence of it, equally mattered.

However, membership of the gentry was no guarantee of ready assistance from family. In the 1760s former Hull gentleman trader Thomas Pyott, forever on the verge of bankruptcy, lamented in his journal that those who threatened to imprison him 'will not believe me when I tell them I have not a Relation that can deliver me'.⁴⁴¹ Pyott's struggle with his own feelings about his impecunious circumstances made his attempts at negotiating assistance with his relatives difficult. He was willing to accept 'Generosity' if it were offered, but he was fearful of the reaction he might get if he dared to 'ask for money'.⁴⁴² Pyott did eventually get some assistance from a branch of his family, but it did not come quickly or easily. The implications of his dilemma with his relations is discussed further in chapter eight.

When bankrupts were unable to obtain assistance from their relatives, the bankrupts were left contemplating the consequences for the welfare of their families who they were unable to support. In 1813 Edmund Townsend, a

⁴³⁹ DRO, D/FFO/27/103, John Slade, proceedings in bankruptcy: deposition of Ann Luffman, 14 May 1830.

⁴⁴⁰ Henrietta Fordyce, *Memoir of the Late Mrs Henrietta Fordyce* (London, 1823), pp. 55–56.

⁴⁴¹ SHL, MS 122, Pyott, p. 49.

⁴⁴² *Ibid.*, p. 50.

bankrupt who seemed unable to enlist help from family or friends, went onto the printed page and there fretted that he was ‘sixty years of age, unequal to great and continued exertion’, and he was even more anxious for his family. His daughter was ‘as yet incapable of supporting herself’, and his wife was ‘solely dependent upon him’, although he would go on to maintain that in any case he was unable to support them.⁴⁴³ By 1817 matters had not improved for Townsend and family. Having attained the age of sixty-four his cries about the injustice done him by the bankruptcy commission continued, his thirteen year-old daughter was ‘without even commonly decent apparel’, nor did he have the means to provide an education for her.⁴⁴⁴ Invoking the sufferings of family members was a recurring way in which bankrupts petitioned public figures for help in their misfortunes and tried to enlist the help of individuals beyond their circles of family and friends. It was a way to portray themselves as victims and not villains. It was a way to emphasize the injustices they believed they were subject to as a result of malicious commissions. It was also a supplication for lenient and indulgent treatment, and for financial help and employment.

Part Two

5.2 Finding Friends

‘A meeting will make friends, and you will be protected. A contempt of this overture will be your utter ruin’.⁴⁴⁵

The above warning to a debtor was part of a notice placed in the *Sunday Times* in 1831. It was accompanied with the further threat ‘to Advertise you, and take out a Commission of Bankruptcy’. Clearly making ‘friends’ was the better option for the addressee. Bankrupts needed to find people to be ‘friends’, especially if the assistance provided by family was insufficient or non-existent.⁴⁴⁶ Following

⁴⁴³ B&NESRO, 0253, Edmund Townsend, bankrupt: Townsend, *Case of Extraordinary Oppression*.

⁴⁴⁴ Ibid: Edmund Townsend to John Ingram Lockhart, Esq. MP, 11 July 1817, reproduced in a hand bill addressing ‘BANKRUPT—LAWS. Singular Occurrences; Great Oppression and Prejudice; Moral Conclusions, &c.’, July 1817.

⁴⁴⁵ *Sunday Times*, 20 November 1831, issue 474, p. 1 (a notice addressed to William Reddall).

⁴⁴⁶ For a detailed discussion of who ‘friends’ were and what contemporaries understood such relationships to mean, see: Randolph Trumbach, *The Rise of the Egalitarian Family: Aristocratic Kinship and Domestic Relations in Eighteenth-Century England* (New York, 1978), p. 64; Keith Thomas, *The Ends of Life: Roads to Fulfilment in Early Modern England* (Oxford,

the dynamics of bankrupts' relationships with family in their households and other close relatives, their relationships with certain friends, who were sometimes also relatives, were the most significant in shaping their experience, for better or worse. Friends were important to the bankrupts in this study, both before, during, and after their bankruptcies. Some of the bankrupts in this study were helped into business by individuals they described as friends.⁴⁴⁷ Then in times of trouble they also placed their hopes in friends; and sometimes in anyone who they desperately hoped might be a friend to them in their distress. In 1752 Edward Kennedy found himself having to implore another to be his friend: 'I have never a friend in the world besides yourself and I beg that you will stand my friend in regard to it [getting his certificate] against the next meeting'.⁴⁴⁸

Identifying and being able to trust new friends was fraught with dangers. Early in his ill-fated entry into business Thomas Pyott had put his trust in one man, but as it turned out '[t]his man, with all the flattering professions of Friendship, after He had boasted of laying the ground plot of my Ruin, and... was the very first to tell the difficulties I was under upon change, and every Book-sellers Shop in Hull, surmising the consequence must be a Bankruptcy.'⁴⁴⁹ Pyott had made a poor choice, when what he needed were friends who would be 'allies, backers, associates: persons on whose support one could rely in times of need'.⁴⁵⁰ With his credit shot to pieces Pyott was left lamenting that he knew no one who 'had Humanity or Generosity to assist' him.⁴⁵¹

Edmund Townsend, bankrupt in 1805, was initially favoured by an act of friendship when he entered his first business by succeeding a relation. However, when he entered his ill-fated wine and spirit dealing venture in Covent Garden he did so by acting as manager for 'a gentleman of fortune, who found capital'. He recorded that his 'friend retired from the concern a few years

2009), pp. 187–97; Grassby, *Kinship and Capitalism*, pp. 241–49; Tadmor, *Family and Friends*, pp. 167–271.

⁴⁴⁷ For the importance of friends and acquaintances in an expanding commercial world where numbers of kin were inadequate to fulfil the need for capital and business contacts, see Grassby, *Kinship and Capitalism*, p. 296.

⁴⁴⁸ WRO, 492/280, Bankruptcy of David Kennedy: David Kennedy to Robert Cooper, 17 September 1752.

⁴⁴⁹ SHL, MS 122, Pyott, p. 8.

⁴⁵⁰ Thomas, *Ends of Life*, p. 190.

⁴⁵¹ SHL, MS 122, Pyott, p. 8.

after...and left the capital in my hands'.⁴⁵² Townsend is notable for, apart from his wife and daughter, not mentioning further family at all. After his bankruptcy and the onset of privations Townsend set great store by the benign attention of 'friends'. During the inclement weather of the winter of 1813, he had borne two months of 'sufferings' whilst his family in London were 'equally distressed'. Their privations were alleviated by the intervention of a 'benevolent Patron' who enabled them to procure 'clothes and other necessaries'. Townsend subsequently dined several times with his 'polite and condescending' helper. He did not name the man, but as 'he took pains to enter fully into my case', he may have been a lawyer. However, Townsend was to find that 'friends' equally had their dangers. Townsend annotated some entries on the cash account he kept for his sojourn in Bath, in which a condemnation of one Mr T. is scribbled in the margin: 'a – refers to transactions with a professed friend who obtained money from me and others for my use and retained it for his own purposes'.⁴⁵³ How could stricken traders find friends at all, let alone identify genuine friends? Thomas Pyott needed friends because he had no money. This only distressed him further because he saw lack of money as an obstacle to finding friends. He expressed his awful predicament declaring, 'I am now destitute of money, consequently of Friends'.⁴⁵⁴

Having to rely on people who were not relations to be 'friends' meant risks were higher. A calamitous quest for a 'friend' was undertaken by David Brigstock. He was arrested for debt in Carmarthen on 26 July 1773 and held there in custody. On 28 July Brigstock was contacted by John Philipps, who had heard of his confinement. Philipps [*sic*] offered to be Brigstock's 'friend and extricate him' from the debt for which he was held, which Philipps did, and Brigstock was released. However, Philipps' friendship was disingenuous, and highly conditional. While Brigstock was still detained, Philipps sent two men to secure Brigstock's shop and appraise his stock. They were received and assisted by Mrs Brigstock. They then nailed up the shop door and carried off the keys and books.

⁴⁵² Edmund Townsend, *An Extraordinary History of a Bankruptcy* (London, 1811), pp. 1–2.

⁴⁵³ B&NESRO, 0253, Edmund Townsend, 'The Cash Account of E. Townsend, in Bath, 13 April 1814' (printed for Townsend by Meyler and Son, Printers, Bath).

⁴⁵⁴ SHL, MS 122, Pyott, p. 14.

This was the state of affairs at Whitland Forge when the freshly-liberated Brigstock arrived home. A few days later Philipps called Brigstock to his home in [Way...], and there he asked Brigstock to give him security for his debt promising 'to be his friend in future if he would comply'. Brigstock did comply and executed a bill of sale of his goods and stock to Philipps. Furthermore, Philipps offered to let Brigstock remain in possession of his goods so that he could sell them to pay his other creditors. No sooner had he executed the bill, than Philipps demanded payment of his debt. When Brigstock could not pay, his 'friend' had Brigstock's stock sold whilst all the time keeping him locked out of his shop.⁴⁵⁵

Having been failed by one 'friend', Brigstock quickly sought another to get a commission of bankrupt issued against him. With Philipps seemingly betraying David Brigstock's trust and pushing him further to the wall, Brigstock wrote to Richard George, a deal merchant in Bristol, on 7 October 1773:

I am very sorry to give you this trouble for I never thought it would come so, but as I threwed myself to hands I should not, I have been consilling with lawers which is Mr Watkins of Laugharne and Mr James of Hollway...

These lawyers had advised Brigstock that he needed to persuade one of his creditors to take out a commission of bankruptcy against him, and thus he turned to Richard George saying that he could do nothing 'without you be pleased to be a friend to one'.⁴⁵⁶ Brigstock was relieved when he finally received a response from George on 16 November 1773. Brigstock replied to him the following day addressing himself to his 'Esteemed Friend', and explaining how, while he had been waiting anxiously for a reply to his request, he had been 'thinking I had not a friend to take my part'.⁴⁵⁷

Unfortunately, we do not have George's side of the correspondence, but Brigstock wrote to him again on 28 November. He said his brother Jeremiah, who worked in the shop, and who had lived with Brigstock for some ten years, would be able to testify to an act of bankruptcy. Brigstock closed his letter

⁴⁵⁵ BRO, JQS/P/44, Examinations of witnesses, 14 March 1774: David Brigstock, pp. 2–3.

⁴⁵⁶ BRO, JQS/P/44, Proceedings against David Brigstock: David Brigstock to Richard George, 7 October 1773.

⁴⁵⁷ Ibid: David Brigstock to Richard George, 17 November 1773.

declaring himself George's 'most distressed' servant.⁴⁵⁸ Brigstock would again have a long uncomfortable wait for news from George, and on 8 January Brigstock wrote again:

Sir, Being so long without having answer from you forced me to write these lines hoping, Sir, you will not fail with the first opportunity...

Brigstock needed to know if George would petition to make him a bankrupt. Brigstock continued:

the way of bankrupt is the best if you would be as kind as to help us through...but 'tis of no use to talk about it if you be not willing to assist us...⁴⁵⁹

Brigstock was trying to find a friend who would concert a bankruptcy with him, which despite being illegal was common practice. A better friend might have told Brigstock that to discuss it in writing was ill-advised. Brigstock's importuning letters to a 'friend' would come back to bite him, as they were exhibited at the Quarter Sessions. He found the contrary to what he had sought. As Grassby observes 'friend' only has meaning 'in relation to its opposite, that is enemies and complete strangers'.⁴⁶⁰ The kind of friendships that Brigstock had hurried into with Philipps and George were no more than what Hobbes called 'market friendship'.⁴⁶¹ The trust he placed in their friendship had been misplaced.⁴⁶² Both Philipps and George were mere market friends to Brigstock, and as creditors who were not willing to be patient and forbearing they were not friends at all. Creditors who were willing to wait, as well as being prepared to compound on debts, were friends.

In this study the bankrupt with undoubtedly the most complex and fraught relations with family, friends and creditors was Taunton banker John Brickdale. If Brickdale had had friends aplenty before his bankruptcy, he was at pains to find friends to assist him afterwards. One person who had been standing by him consistently was Taunton solicitor Robert Beadon. A friend in the law was very useful to bankrupts, and Beadon is a good example. Although it should be

⁴⁵⁸ Ibid: David Brigstock to Richard George, 28 November 1773.

⁴⁵⁹ Ibid: David Brigstock to Richard George, 8 January 1774.

⁴⁶⁰ Grassby, *Kinship and Capitalism*, p. 241.

⁴⁶¹ Thomas, *Ends of Life*, p. 196.

⁴⁶² On the centrality of trust to friendship, see Grassby, *Kinship and Capitalism*, p. 300; Tadmor, *Family and Friends*, p. 200.

noted that, as many of the case records used in this study were generated or accumulated by solicitors, and some like Beadon were already friends of the subjects before they became bankrupts, these lawyers predictably stand out as bankrupts' friends. Even if not already a friend, records often show solicitors putting themselves across in a friendly, helpful and well-intentioned way towards bankrupts. Although the bias of the sources, mentioned above, should be remembered.

In the particularly complex nature of the Brickdale bankruptcy the pre-existing relationship with Taunton solicitor Robert Beadon was a vital asset to the family in their attempts to find their way out of a maelstrom of litigious actions. The significance of the relationship between Beadon and the Brickdales became evident when George Nuttall, the Brickdale family's bailiff, was casting about for an attorney to assist him in taking out a petition of bankruptcy against the Brickdales. His first choice was Robert Beadon, but he was advised to the contrary. Beadon, he was told, was a friend of Matthew Brickdale's. Nuttall had to visit three other attorneys before he found one at home.⁴⁶³

As the Brickdales' affairs lurched ever closer to bankruptcy John Brickdale increasingly reached for family friend Robert Beadon. He wrote to Beadon on 31 October 1819: '[I] am very unwilling to lay so grievous a tax upon you though I know that you would not consider yourself or your personal convenience to do no service'.⁴⁶⁴ Brickdale, rightly or wrongly, never wanted to accept that bankruptcy offered the only way out of his difficulties, and he relied on Beadon as a friend to influence other 'friends'. In November he asked Beadon to gather together the bank creditors in order to 'convince them that an arrangement would be preferable to a Bankruptcy'. This he believed could be achieved 'if our friends would be really in earnest about it'.⁴⁶⁵ For Brickdale Beadon was a very useful friend because he could connect Brickdale to other 'friends' who might assist him.

Brickdale often seemed to believe that those he considered 'friends', especially Beadon, would be able to steer developments to suit him. Once he had been

⁴⁶³ SRO, DD/DP/7/6, Brickdale Family Papers, Bankruptcy of John and Matthew Brickdale: Draft affidavit of George Nuttall, January 1820.

⁴⁶⁴ SRO, DD/DP/6/7, Brickdale correspondence, 1819: John Brickdale to Robert Beadon, 31 October 1819.

⁴⁶⁵ SRO, DD/DP/6/4, Brickdale papers, 1819–1821: John Brickdale to Robert Beadon, 21 November 1819.

declared a bankrupt, Brickdale was clearly anxious to be free of the status of a bankrupt and his obligations under the commission. Quite unrealistically he wanted his certificate of discharge signed by the creditors before he had his final examination. Again, Brickdale believed that 'friends', guided or cajoled by Beadon, would be readily persuaded. Beadon, however, was less confident that there existed a collective amenable disposition amongst the friends and advised Brickdale on 6 December that he did not think he would 'get any one of your creditors, except it be a very particular friend, to sign your certificate' before having finished his examination.⁴⁶⁶

Still determined that the 'friends' would be willing to oblige him, the next day Brickdale wrote to Beadon proposing to consult Beadon about

getting our friends to come and prove their debts at the first meeting, as well as to lay the plan for my last examination – should not the Certificate be prepared that as our friends prove they may sign...⁴⁶⁷

Even when Brickdale was keeping a low-profile he was in continuous contact with Beadon over debts and the sale of assets. He had also begun to recognise that he needed assistance to find employment. He told Beadon:

I wish I was in a situation to avail myself of the kindness of some friends who might think me proper to fill the situation of assessor in some place of contested election. It would be very convenient for I am living upon charity and unable to do anything (which I would most willingly undertake) to gain a present livelihood.⁴⁶⁸

The category of 'friends' Brickdale alluded to now were not quite the same as those to whom he owed money and who he had hoped might offer him agreeable terms. With the bankruptcy a fact, Brickdale looked to those who would find him a job. People who helped others obtain employment were gratefully considered 'friends'.⁴⁶⁹ In the meantime while Brickdale hoped for a more permanent situation he had to live and feed his family, which led him to resort to yet another kind of friend, one willing to advance cash. When the loss

⁴⁶⁶ Ibid: Robert Beadon to John Brickdale, 6 December 1819.

⁴⁶⁷ Ibid: John Brickdale to Robert Beadon, 7 December 1819.

⁴⁶⁸ SRO, DD/DP/6/21, Miscellaneous correspondence re Brickdales' bankruptcy, 1820: John Brickdale to Robert Beadon, 2 March 1820.

⁴⁶⁹ Tadmor, *Family and Friends*, p. 168.

of entitlement to a life insurance pay-out threatened, for the want of ready money Brickdale asked Beadon, 'Could I get a friend to advance the Premium [?]'.⁴⁷⁰ Ten days later when writing to Beadon again he confessed that he had only 'a very few pounds left of a small sum which a friend lent me and am paying here for the board – lodging, washing of Mrs B. a daughter and myself'.⁴⁷¹ Prior to the bankruptcy the friendship between Beadon and Brickdale may have been an instrumental relationship, one described by Thomas as existing between individuals of unequal power and status, but where there was 'mutual self-interest'.⁴⁷² After his bankruptcy the former banker and estate owner's power and status was diminished, but it is evident that Brickdale expected Beadon to continue to be a friend to him in an instrumental way by finding people to be Brickdale's friends. Eventually, 'Some friends' did help him, as by the beginning of 1821 he was employed at the Custom House in Bristol.

Part Three

5.3 Bankrupts' Wives

certainly you would not have your Wife and all your Family to be a Servant...⁴⁷³

Thus, Thomas Pyott reproached himself for even contemplating a way out of his difficulties by requiring his wife to adapt to a diminished social status. Reality was that wives were almost as much impacted by bankruptcy as the bankrupts themselves, and it would be impossible to narrate the experience of bankrupts without dedicating space to their wives, with whom their social and economic lives were intimately bound. If they had both been involved in running a business, then in Hannah Barker's words, 'the bond between husband and wife' was crucial.⁴⁷⁴ In the event of a bankruptcy there was probably no more tested relationship than that existing between bankrupt and wife.

⁴⁷⁰ SRO, DD/DP/6/8, Brickdale correspondence, 1820: John Brickdale to Robert Beadon, 9 March 1820.

⁴⁷¹ SRO, DD/DP/6/6, Brickdale papers, 1820–1827: John Brickdale to Robert Beadon, 19 March 1820.

⁴⁷² Thomas, *Ends of Life*, p. 191.

⁴⁷³ SHL, MS 122, Pyott, p. 55.

⁴⁷⁴ Hannah Barker, *Family and Business during the Industrial Revolution* (Oxford, 2017), p. 135.

Wives' entrepreneurial business activity and competent domestic management have been increasingly identified by historians.⁴⁷⁵ And thus far this study has found no evidence of wives' poor domestic or trade management. Neither has this study encountered evidence of wives' extravagance, which contemporary commentators blamed for contributing to bankruptcies. What the evidence in this study does suggest is that it was bankrupt men's risk-taking or poor credit management that was responsible for their financial difficulties. On this point Amanda Vickery has observed that even if imprudent household consumption of luxuries had been a contributing factor to difficulties, husbands were as much spenders, if not more, than their wives.⁴⁷⁶ We might reasonably expect the wives of the more modest subjects in this study, rather than squandering proceeds, to have been contributing to running the family business.

Wives were part of what Erickson calls 'an economic partnership'.⁴⁷⁷ Some of the wives that feature in this study were involved in, and clearly understood, their husbands' trades. This was not unusual as businessmen were likely to marry within the business community, often finding spouses amongst neighbours and friends.⁴⁷⁸ Grassby observes: 'most wives of businessmen were not marginalized, divorced from production, nor converted into idle breeders' and husbands and wives 'fundamentally worked as a team with flexible strategies'.⁴⁷⁹ In fact it was only prudent for wives to work with and know their husbands' trades.⁴⁸⁰ Catherine Hall maintains that a 'major field of women's economic activity in the eighteenth century was as wives, daughters, mothers and sisters active in family enterprises'. Hall lists many areas of competence in which retailer's wives were routinely involved which included: 'minding the shop when necessary and looking after business affairs when their husbands were

⁴⁷⁵ For an account of a wife's management, see Anne L. Murphy, "'You do manage it so well that I cannot do better": the Working Life of Elizabeth Jeake of Rye (1667–1736)', *Women's History Review*, 27 (2018), 1190–1208.

⁴⁷⁶ Amanda Vickery, *Behind Closed Doors: At Home in Georgian England* (New Haven, 2009), p. 107.

⁴⁷⁷ Amy Louise Erickson, 'Married Women's Occupations in Eighteenth-Century London', *Continuity and Change*, 23 (2008), 267–307, p. 269.

⁴⁷⁸ Grassby, *Kinship and Capitalism*, pp. 48, 53–54.

⁴⁷⁹ *Ibid.*, p. 92.

⁴⁸⁰ For the importance of wives' involvement, see also Craig Muldrew, "'A Mutual Assent of Her Mind"? Women, Debt, Litigation and Contract in Early Modern England', *History Workshop Journal*, 55 (2003), 47–71, pp. 50–51; Hannah Barker, *The Business of Women: Female Enterprise and Urban Development in Northern England 1760–1830* (Oxford, 2006), p. 6.

away'.⁴⁸¹ Sweet and Lane maintain that 'women were a significant presence in the eighteenth-century urban economy'.⁴⁸² Involvement in business was not limited to shopkeepers and similar retail trades, according to Anne Murphy: 'women from all strata of society operated autonomously in business and displayed competence both in running their own enterprises and contributing to those operated by others'.⁴⁸³ Murphy further maintains that because 'the wives of merchants often worked jointly with their husbands' this 'ensured that they would have been comfortable supervising business, negotiating credit and making and receiving payments'.⁴⁸⁴ Furthermore, she adds, 'wives of merchants and other tradesmen commonly found themselves in charge at home while their husbands were away'.⁴⁸⁵

With many wives accustomed to assisting their husbands in the running of their businesses, and some proving themselves the equals of their husbands,⁴⁸⁶ we should expect to find some being proactive during their bankrupt husbands' incapacitation. There was, however, anxiety in eighteenth-century England about the preparedness of members of trading families for the management of disaster, such as a husband becoming a bankrupt. In the case of wealthier traders, Hall notes that: 'Up to the Restoration it had been seen as quite natural that wives of merchants and large farmers should play an active part in business affairs but from 1660 onward this seems to become increasingly unusual'.⁴⁸⁷ Defoe was particularly concerned that his eighteenth-century male contemporaries in trade would neglect to ensure that their wives were sufficiently versed in their trades. He firmly believed that a wife should be 'let into the knowledge of their business...that she may be put into a posture to save him from ruin, if it be possible, or to carry on some business without him, if he is forc'd to fail, and fly; as many have been'.⁴⁸⁸ He worried that some wives would incline to 'being above taking notice of their husbands affairs'. He thought this poor judgement as life married to a tradesman entailed 'a state of

⁴⁸¹ Catherine Hall, *White, Male and Middle Class: Explorations in Feminism and History* (Cambridge, 1992), p. 179.

⁴⁸² Rosemary Sweet and Penelope Lane (eds), *Women and Urban Life in Eighteenth-Century England: 'on the town'* (Aldershot, 2003), p. 10; on the significant participation of middling women in commercial life, see Barker, *The Business of Women*, p. 9.

⁴⁸³ Murphy, 'Working Life of Elizabeth Jeake', p. 1191.

⁴⁸⁴ *Ibid.*, p. 1197.

⁴⁸⁵ *Ibid.*

⁴⁸⁶ *Ibid.*, p. 1190.

⁴⁸⁷ Hall, *White, Male and Middle Class*, p. 54.

⁴⁸⁸ Defoe, *Tradesman*, p. 294.

life full of accidents and hazards, and that innumerable families in as good circumstances as theirs fall every day into disasters and misfortunes'.⁴⁸⁹

Nevertheless, Defoe did not lack confidence in bankrupts' wives' capabilities:

How many widows of tradesmen, nay, and wives of broken and ruin'd tradesmen do we daily see recover themselves and their shatter'd families, when the man has been either snatch'd away by death, or demolish'd by misfortunes, and has been forced to fly to the *East* or *West-Indies*, and forsake his family in search of bread?⁴⁹⁰

Certainly, becoming a bankrupt prevented a husband from continuing to run his business. They were often absent from their family and home for periods and their executive powers were curtailed. This meant, in some cases, their wives became instrumental in certain matters. It should be noted that wives did not take over the running of their bankrupt husbands' enterprises as everything necessary to the continuation of their business was seized following the declaration of bankruptcy.

Almost without exception what is known about the subjects' wives and what they were doing before the bankruptcies, and to what extent they were involved in the family business, is limited. More generally, according to Vickery, evidence of wives' roles from account-books, for example, is sparse as the books of families who 'went to the wall' ended up on the bonfire.⁴⁹¹ However, the records of bankruptcies do reveal something of wives' roles and experience within middling-sort households during distressed financial circumstances. Bankrupts' wives were often in the front line when creditors came to call, and this is reflected in the most basic depositions in commission records. In September 1739 when a creditor called twice at absconded King's Lynn merchant George Clay's house, it fell to his wife to inform the creditor that her husband was not at home.⁴⁹² In March 1743 in Somerset a sheriff's officer arrived at the home of yarn washer Richard Hutchings to arrest him for a debt of £20, but it was Hutchings wife, Philadelphia, who met the officer, her husband having already fled.⁴⁹³ How well he had prepared her, if at all, seems doubtful

⁴⁸⁹ *Ibid.*, p. 302.

⁴⁹⁰ *Ibid.*, p. 303.

⁴⁹¹ Vickery, *Behind Closed Doors*, p. 112.

⁴⁹² NRO, BL/CS/1/1/1, Bankruptcy of George Clay: deposition of Robert Chinnery, pp. 5–6.

⁴⁹³ SRO, DD/MR/107, Bankruptcy records, Richard Hutchings: deposition of Robert Fry, sheriff's officer, 2 April 1744, p. 6.

as according to Hutchings' wife, he only told her of his circumstances the day before he left.⁴⁹⁴ While David Brigstock was under arrest in Carmarthen his wife, Ann, faced the men who had come to nail up the door to her shop.⁴⁹⁵

In other cases, in the final days before bankruptcy wives sometimes ran the family business while their husbands were hiding to avoid arrest (or had already been arrested), or they took charge of other crucial matters. Other wives, having been widowed, endeavoured to continue a family business, before sometimes facing bankruptcy themselves, as was the case with Ann Harding. Then, after their husbands' bankruptcies wives sometimes took action regarding the bankrupt estate or with their bankrupt husbands' personal affairs.⁴⁹⁶

Ann Harding, the wife of Bristol haberdasher Thomas Harding, had to cover for him while he was hiding from his creditors. Harding was 'so much in debt and his affairs so deranged' that he was considered unlikely to 'shew himself in public for some months', yet 'the Shop is continued by his Wife'. Thomas Harding was not a bankrupt at this stage, but it was looming, and attorneys Bowen & Lucas were openly discussing the option of issuing a commission.⁴⁹⁷ It was not long before Harding died intestate leaving Ann with several young children. She not only had to contend with being administratrix of her late husband's estate, but she also had to deal with being made a bankrupt herself. Much trouble arose from the difficulty in separating Harding's assets and liabilities from those subsequently acquired by Ann when she carried on the family trade, after her husband's death, but prior to being declared a bankrupt.⁴⁹⁸

Even if some wives were little involved in running the family business, they were frequently drawn into and implicated in the set actions and behaviours that surrounded attempts at committing acts of bankruptcy. Acts had to be committed in conformity with the prevailing conventions, legal opinions, and

⁴⁹⁴ Ibid: deposition of Philadelphia Hutchings, wife of the bankrupt, p. 19.

⁴⁹⁵ BRO, JQS/P/44, Examinations of witnesses, 14 March 1774: deposition of Mary Morgan, servant.

⁴⁹⁶ For discussion of wives of frequently-absent merchants being left independently in charge of business, see Grassby, *Kinship and Capitalism*, pp. 322–23; for wives acting to raise finance for husbands, see Grassby, pp. 92–93.

⁴⁹⁷ BRO, 44352/2/1/13/4, Papers re Ann Harding: Bowen & Lucas of Cardigan to Clarke & Son of Bristol, n.d.

⁴⁹⁸ BRO, 44352/2/1/13/5, Papers re Ann Harding: Trustees to J. Smith and S. Romilly with case and two opinions on a lease dated 24 March 1804 between Thomas Harding and William Grigg, 30 December 1806.

judgements on what constituted a *bona fide* act of bankruptcy (discussed in chapter two). It is difficult to learn from the records if any agreements existed between spouses to act in a concerted way. I have to conclude, given that endeavouring to get a bankruptcy commission issued was often the best way for a family to protect itself, that there will have been considerable agreement between spouses in trying to get a commission. However, as this study should make abundantly clear, the consequences of decisions taken, and the course of events often did not proceed according to anyone's plans or expectations, and there remain questions about the extent to which act of bankruptcy 'etiquette' was understood, or misunderstood, by the different parties involved in a household.

One example of where a course of action might have been agreed by husband and wife occurs in the case of Thomas Lodge. On 10 January 1775 Mrs Lodge instructed a female servant, Ann Carter, to tell anyone asking for her husband that he was not at home, emphasising that Ann was to do this even if she knew her master to be at home. This she did when John Brown, the sheriff's officer, came to the house and asked to see Lodge.⁴⁹⁹ However, this action by Mrs Lodge was seemingly performed at high risk in that it could have invalidated an act of bankruptcy: legal opinion was that only a direct instruction from the bankrupt to a servant would be valid to demonstrate intent to evade a creditor. Lodge had already been arrested the day before, and Mrs Lodge was probably anxious to prevent a repetition. Lodge himself clearly did not want to be taken into custody, yet neither, as his actions made plain, did he wish to be made a bankrupt. It is unclear as to whether anything had been planned between husband and wife. It is possible that Mrs Lodge was acting, not from anything agreed between her and her husband, but on instructions from her father, Mr Stephens, who would subsequently position himself as one of the assignees in Lodge's commission. When other creditors came to call Mrs Lodge continued to insist that her husband was not at home while Lodge was visible to creditors through an outside window.⁵⁰⁰ The latter circumstance was not unusual in proving an act of bankruptcy, but the wife giving instructions was. Instructions had to come from the trader. However, if Lodge himself had never wished to be

⁴⁹⁹ HRO, 50M69/12, Winchester Assizes, assignees of Lodge v Sir Henry Paulet St John and others.

⁵⁰⁰ Ibid.

made a bankrupt, his wife in concert with her father could still have been contriving to paint Lodge as wilfully committing an act.

In a case like Brigstock's there is no evidence to suggest that there was disaccord between husband and wife, but in the case of Thomas Lodge, it is harder to be certain as Lodge seemed to want to keep matters from his wife, or so the following events suggest. On Monday 16 January Brown again had a warrant against Lodge for a debt of £107. That day Lodge was in his father's garden in Dogmersfield Park and Brown spotted him over a low wall. Brown asked to speak to Lodge, Lodge complied, and Brown told him about the warrant and Lodge asked to be allowed to meet Brown in Odiham. There Lodge paid him what was owed, but when the business was concluded Lodge asked Brown not to tell his wife about the matter.⁵⁰¹

Unsurprisingly, the records do not reveal much about Lodge's domestic life, save that he was frequently absent from home 'without it being known to his wife or family, where he was, and when he meant to return'.⁵⁰² Apart from possibly undermining relations with his wife, the fact also rather undermined the alleged act of bankruptcy. Sudden uncharacteristic and ostensibly unplanned departures from home were required for a reliable act. Someone who disappeared in the middle of the night as a matter of course was providing valuable evidence for anyone with an interest in alleging that no such act had ever been committed.

Lodge displayed his unpredictable behaviour one evening, possibly 22 January 1775 when he had just returned from London. His sister Jane recalled the evening's events:

she dined and drank tea and supped with her late father, Mr Lodge, the wife of the Bankrupt, and other company at Mr Round's at Dogmersfield...her brother came to them about 8 o'clock in the evening and staid there some time drank several glasses of wine, and then left telling Mrs Lodge that he should be back again to supper and would go

⁵⁰¹ HRO, 15M50/1216/35, Paulet St John's Case: from Broome for the opinion of James Mansfield, June 1776, p. 2.

⁵⁰² HRO, 15M50/1216/37, Broome of Grays Inn to Russell of Basingstoke, 3 March 1777.

home with her but did not return and that... Mrs Lodge went home about 10 o'clock.⁵⁰³

Lodge was increasingly absent by the spring of 1775, therefore what happened in his home was inevitably determined by Mrs Lodge. On 1 April she sent for John Ring and Edward Lane, who had taken the original inventory of Lodge's effects after they were seized for Sir Henry. She declared to Ring and Lane that 'she could not be happy unless she shewed them sundry effects which they [the Lodge family] had concealed', and she revealed 'a considerable quantity of plate, Linen, China & other Effects'.⁵⁰⁴ Ring and Lane took some of these items and sold them. In the records it is remarked that this action could not be explained, as more than enough money to meet the demands had already been raised by the previous sale of effects, and with the *fiery facias* returned, no more effects were liable to seizure and sale. Mrs Lodge's conscience, in the absence of Lodge, may have got the better of her, or she may have simply wanted ready money. It is impossible to know her true intentions here as they are obscured by partiality and incomplete records, but we do learn something about the kind of decisions taken by a bankrupt's wife in his absence.

Once a bankruptcy was declared a trader's business ended with immediate effect and he was 'professionally' incapacitated as the former trader's entire assets and stock were seized, thus rendering a continuation of his trade by any family member a legal and practical impossibility. Furthermore, bankrupts were sometimes forced to be absent from their homes, and thus it would be wrong to assume that wives of bankrupts were even less protagonists than their husbands or were without role or agency amidst the muddle and chaos. One such spouse was John Brickdale's wife Anne, who took a significant role while her husband was hiding.

An apparently more cooperative relationship between husband and wife is evident in the case of the Somerset banker John Brickdale. At the time of Brickdale's bankruptcy he was unable to move about as he feared arrest. His wife became the conduit for communications to and from him; she was also his agent in his attempts at maintaining a semblance of control over unfolding

⁵⁰³ HRO, 15M50/1216/45, Case for the defendant (draft copy), n.d., p. 9.

⁵⁰⁴ HRO, 50M69/12, Winchester Assizes, assignees of Lodge v Sir Henry Paulet St John and others.

events. On 12 November 1819 he informed his friend and solicitor, Robert Beadon that he did not want Mr Fortescue, his brother-in-law, to know his whereabouts: 'I do not wish him to be told where I am, but that he can communicate with me through Mrs Brickdale'.⁵⁰⁵ Whilst endeavouring to remain incognito Brickdale despatched regularly to his wife communications for others. On 25 November in a letter to Beadon he told the attorney, 'Mrs Brickdale will send you this with two letters'. Brickdale then urged Beadon to meet his wife the next Sunday to discuss where they might all be able to meet on the Monday'.⁵⁰⁶ Mrs Brickdale also scribbled a hurried note to Beadon on the morning of the twenty-fifth saying she had 'heard from her Husband' and asking Beadon to visit her at the rectory in Monkton.⁵⁰⁷ The next day Beadon wrote to Brickdale informing him that he had met Mrs Brickdale, who had passed various letters to him; further meetings with Mrs Brickdale were mentioned.⁵⁰⁸ In Brickdale's reply of the next day he refers to the need for further meetings with his wife.⁵⁰⁹

The following day Mrs Brickdale sent an urgent message to Beadon informing him that she had relayed to Brickdale a summons and urged Beadon to inform her husband regarding his protection from arrest when attending the summons.⁵¹⁰ Mrs Brickdale continued to get warnings to her husband about the danger he was in. Clearly, although circumstances were keeping them apart, she expressed to Brickdale, 'I should be delighted to see you if you could do it with safety – you shall hear from me at Avishayes'.⁵¹¹ Once the threat of arrest receded Mrs Brickdale's role seems to have receded, and we do not find further evidence of her acting on her husband's behalf.

The wives of the most elite bankrupts were much less likely to have had direct involvement in the day-to-day of their husbands' businesses, although they might have had their own interests and projects as Elizabeth Fry did. If their husbands did not discuss trading concerns with them then the sudden manifestation of a state of bankruptcy could come as a shock. Such was the

⁵⁰⁵ SRO, DD/DP/6/4, Brickdale papers, 1819–1821: John Brickdale to Robert Beadon, 12 November 1819.

⁵⁰⁶ *Ibid.*, John Brickdale to Robert Beadon, 25 November 1819.

⁵⁰⁷ *Ibid.*, Mrs John Brickdale, to Robert Beadon, 25 November 1819.

⁵⁰⁸ *Ibid.*, Robert Beadon to John Brickdale, 26 November 1819.

⁵⁰⁹ *Ibid.*, John Brickdale to Robert Beadon, 27 November 1819.

⁵¹⁰ *Ibid.*, Mrs John Brickdale to Robert Beadon, 28 November 1819.

⁵¹¹ *Ibid.*, Mrs John Brickdale to John Brickdale, 29 November 1819.

case for banker Alexander Fordyce's wife and family. The arriviste Fordyce had courted and married Lady Margaret, an Earl's daughter, with promises of 'wealth, and style, and grandeur'. Following their marriage his wife did enjoy 'the luxuries and gorgeous appointments of an establishment, magnificent as a palace, near the metropolis', such was the description of Fordyce's 'splendid residence' in Roehampton.⁵¹² However, when he returned home on the day his bank failed Fordyce's strange behaviour and words at dinner clearly frightened his wife. 'What, what!', Margaret cried in alarm as she grasped his arm in response to Fordyce's 'I am...am...'. Fordyce 'famously' answered that he was 'A man!'. One thing is clear, that what Fordyce could not, or would not, utter before his wife, brother, and sister-in-law, was that he was a bankrupt.⁵¹³ The words 'bankrupt and beggar' were supplied on the following page of his sister-in-law's memoir. The next day Fordyce fled to the continent. No less shocked at the development were Fordyce's brother James and wife who had been 'in the serene enjoyment of domestic pleasures, when their quiet received an interruption as terrible as it was unexpected'. This 'shook their comforts and independence to the base'.⁵¹⁴

The examples above have only presented fragments of bankrupts' wives' experience. However, one subject in this study provides a narrative account of bankruptcy from a wife's point of view. Elizabeth Fry cannot be said to be representative of the lives and circumstances of most bankrupts' wives in England in the long eighteenth century. Her privileged connections protected her from any real privations and permitted her to pick up her reform work again. However, her internal experience of coping with economic and social changes caused by forces beyond her control will not have been so very different from that of other bankrupts' wives. Fortunately for the purposes of this study Elizabeth kept a journal.

Since the mid-nineteenth century Elizabeth Fry's journal has served as a source for biographers who, despite their broader motivation, have not ignored the failure of her husband Joseph's bank and what she thought about the

⁵¹² Fordyce, *Memoir*, pp. 35, 39. Fordyce's mansion was located on the Putney Park Estate: see 'Putney', in H. E. Malden (ed.) *A History of the County of Surrey: Volume 4* (London, 1912), pp. 78–83.

⁵¹³ Fordyce, *Memoir*, pp. 54–55.

⁵¹⁴ *Ibid.*, p. 53. For another account of these events, see Langford, *Polite and Commercial People*, pp. 570–71.

bankruptcy and him, and the effect of events on her. However, because their objective has been to narrate the whole religious and reforming life of Elizabeth Fry, accounts of the bankruptcy have been to varying degrees, highly selective, summarised or paraphrased. Therefore, an analysis of Elizabeth Fry as an example of a bankrupt's wife has not been undertaken.⁵¹⁵

Elizabeth Fry was born a Gurney in the wealthy Norwich family of Quaker bankers. She married the Quaker merchant Joseph Fry, who subsequently moved into banking. Elizabeth had her own philanthropic projects and she does not appear to have had major involvement in the running of her husband's business, unlike the wives of humbler bankrupts such as Ann Brigstock or Ann Harding. She was, however, far from uninterested or unaware of how her husband's business was fairing. She was worried when things were going badly for Joseph Fry's bank in 1825 when the bank was being propped up with Gurney money. There was acrimony between Elizabeth and her brother-in-law William Fry, one of the partners in her husband's bank. She regarded her husband, Joseph, as 'expensive'. She was angry in February 1825 when Joseph returned from France with many costly purchases, and she feared the consequences of her husband's profligacy.⁵¹⁶ When the financial crisis of 1825 broke only support from her siblings, the Gurney bankers, saved Fry's bank.⁵¹⁷ According to Hatton, Joseph Fry was a 'reluctant businessman' and Elizabeth sometimes helped with the accounts. Between Fry and Elizabeth's brother, Joseph John Gurney, 'there was animosity that sometimes resulted in argument', and the Gurneys dealt only with Elizabeth and not with her husband.⁵¹⁸ During the 1825 crisis Elizabeth recorded: 'My brothers Joseph John and Sam came to tell me of it and to consult me whether they shd run the risk of some thousands to do it for that day only. This was taking a great weight on myself.'⁵¹⁹

⁵¹⁵ For this study I only looked at the journals for the years close to the bankruptcy in 1828, and I am therefore indebted to her biographers for reproducing some earlier and later extracts from the journals.

⁵¹⁶ Jean Hatton, *Betsy: The Dramatic Biography of Prison Reformer Elizabeth Fry* (Oxford, 2005), p. 237.

⁵¹⁷ Hatton, *Betsy*, p. 241.

⁵¹⁸ Hatton, *Betsy*, pp. 250–51.

⁵¹⁹ Averil Douglas Opperman, *While It Is Yet Day: The Story of Elizabeth Fry, the Forgotten Heroine of 19th-Century Britain* (Leominster, 2015), p. 256. Opperman's biography is an adaptation from an original work by Janet Payne Whitney published in the 1930s.

Concern about the family's finances were never far away. In June 1828 Elizabeth wrote:

I have had once more money anxieties feeling we were spending beyond our income and that we were once more in business difficulties – but thanks to that most gracious Lord... our income has this half year just covered our heavy expenses – and our business demands appear to be provided for...⁵²⁰

Although Elizabeth was clearly well aware of the role played by her siblings in keeping her husband afloat, she was at times conflicted over the extent to which she was willing to believe that providence intervened in their fortunes or human frailty and economic forces. By November of 1828 whilst on the one hand she wrote of 'the kind providential care of the everlasting shepherd and Bishop of souls', she also recorded '...but I find that outwardly and about me there are storms not at present so much in my very own borders as close to them'.⁵²¹

We know only a little about the discussions that she had about business with her husband and her Gurney brothers. Privately in her journals she recorded her thoughts and judgements about their business fortunes and performance. On 15 November 1828 she wrote:

The storm has now entered my own borders and my beloved brother's. I believe in degree quieted at least to his own feelings – Once more we are brought into perplexity and trial through imprudence in business and it is believed that without some assistance we cannot get through this winter. Those who have formerly done it appear quite unwilling to do it now therefore humanly speaking there appears little or no hope for us – in addition to this the expenses of the year have been so very heavy that it will be very difficult to make ends meet. My own monies not coming in as usual.⁵²²

On 20 November Elizabeth fleetingly put her faith in a family-brokered solution: 'There has certainly been some glimmering of light [arise] on our dark picture as to outward things but an awful uncertainty yet rests upon our prospects today it

⁵²⁰ LRSFB, Diaries of Elizabeth Fry, MS Vol. S267/2, Plashet, 10 June 1828.

⁵²¹ Ibid., 4 November 1828.

⁵²² Ibid., 15 November 1828.

is proposed that Overend's⁵²³ [house ... determine] our lot...'.⁵²⁴ Clearly, Elizabeth was being kept abreast of developments with her husband's bank. The pressure was quickly back on, and on 23 November she wrote:

We have passed through many ups and downs one deeply distressing day and night, yesterday a little better. Still we are comforted and upheld at times remarkably so – When I see my own family generally in full prosperity and see myself and my family laid low before them as dependents almost for daily bread and really in temporal things under their control. I feel almost ready to complain but this I believe I do not really do...⁵²⁵

With it likely that Joseph Fry and Elizabeth now knew that there was no alternative way out of their difficulties except bankruptcy, a 'deeply distressing day and night' was to be expected. Elizabeth recognised her husband's failings in business, but at the same time was conflicted in her feelings towards her siblings whose individual inclinations to assist Fry's bank were not consistent:

Fowell^[526] and Joseph have been kinder than I know how to express to me and Sam I am sure means the same but from his fearful mind and extreme caution in business he has not in this time of deep trial shown himself so strong and firm a helper as they have nor did he in 1825 partly I believe because his judgement is against helping us through and he is weary of the folly and great imprudence of our houses. However, no brother can be dearer to me...⁵²⁷

Elizabeth showed understanding of the business and financial goings on and was more than able to contrast the practices of the Frys and the Gurneys. Elizabeth would not say it explicitly, but she clearly understood that it was her brother Samuel Gurney's position that finished Fry's bank, yet she only went as far as to say that 'in business matters' they did not see 'eye to eye'. However, she still called him her 'beloved brother Sam', and noted that she had received her 'pocket money', which was income paid to her as a Gurney. She continued:

⁵²³ The Gurneys controlled the discounting house from 1827.

⁵²⁴ LRSFB, Diaries of Elizabeth Fry, MS Vol. S267/2, Plashet, 20 November 1828.

⁵²⁵ Ibid., 23 November 1828.

⁵²⁶ Thomas Fowell Buxton married Elizabeth's sister Hannah.

⁵²⁷ LRSFB, Diaries of Elizabeth Fry, MS Vol. S267/2, Plashet, 23 November 1828.

I believe I shall be favoured to make ends meet of my [expenditure] (This was entirely done and I had the satisfaction of having now kept the accounts and care of our expenditure since the beginning of 1826 and left the account at the bank better than I found it by nearly £50)⁵²⁸

Elizabeth appeared, obviously with the assistance of her independent Gurney money, to be holding the household economy together in a way that her husband clearly was not. Joseph Fry's bankruptcy was announced in the *London Gazette* on 25 November 1828.⁵²⁹ The same day Elizabeth wrote:

The awful and dreaded stroke is struck this morning and our banking house stops payment – it has brought me at times into little short of anguish of spirit not I think so much for what we must suffer ourselves as for what others may suffer through us. The whole thing appears fraught with distress...⁵³⁰

Elizabeth knew that bankruptcy entailed the loss of all material possessions, including her own house and the things within it that made it a home. Again, that November day she mused: 'How [striking] to look round upon many things and not know that I can call one thing my own (except my children) houses, lands, furniture'. All Elizabeth Fry's journal entries on the bankruptcy are intermingled with her religious reflections. Despite her sadness at the consequences of the bankruptcy she was resigned and saw what was taken from her as providential rather than a further instance of human agency within the context of the unsatisfactory bankrupt laws. 'If it be the Lord, let him do as seemeth him good!', she wrote.⁵³¹

Fortunately, and here Elizabeth's circumstances inevitably differed from the lot of the families of modest traders, Gurney money assisted her. She wrote: 'I am thankful to say I have still money for all private debts and for the present to live comfortably'. She later recorded the gifts of money that relatives made to her family: 'my dearest sister Hoare has given us in the most free and generous manner 286 pounds, brother Buxton 100 - [P...?] 25 – Anna Gurney and Sarah Buxton 50. Therefore we are now well provided for thanks to our heavenly

⁵²⁸ Ibid.

⁵²⁹ *LG*, 25 November 1828, issue 18526, p. 2191.

⁵³⁰ LRSFB, Diaries of Elizabeth Fry, MS Vol. S267/2, Plashet, 25 November 1828.

⁵³¹ Ibid.

father and may a blessing rest upon these most [s/r]easonable and kind helpers' In fact she further mused that with assistance from her Gurney brothers 'some allowance from the business may keep us for the rest of our lives comfortably'.⁵³²

Whilst she was relieved that her immediate family's privations could be ameliorated by wider family, she maintained a concern for those to whom the Frys owed money. She maintained that she had always been able to pay all her debts and, perhaps in defence of her own part in her family's enterprise, also declared: 'and as far as I have had to do with our business concerns I have most earnestly promoted not only doing [justly] but [brought honour] in all their transactions which I believe has been a good deal the case with them.'⁵³³

Throughout December and into the new year Elizabeth said little about the bankruptcy in her journal (some of the handful of references appear in other chapters of this study), but a few developments compelled her to record her feelings, particularly the events of 23 December 1828 when the Quaker meeting addressed her husband's bankruptcy. She wrote: 'Today the case of my beloved husband will be brought before our monthly meeting.' She hoped the meeting would treat her husband kindly before continuing:

I am sorry to say that some of our friends (as we supposed some of them) have already been cruelly slandering my husband and brother and Overend's house, at least so we hear it is a sad, very sad thing that any of so high a professing people should thus show a wrong spirit and walk unworthy of their high and holy calling...⁵³⁴

Although she later added in parenthesis on the page that she believed 'that this was not the case', Elizabeth Fry who cut pages out of her journal and heavily crossed out sections, still left this remonstrance intact.⁵³⁵

Close family continued to be the principal source of assistance and by March 1829 Elizabeth and family were living with one of her elder sons, who had his own household and his family at Mildred's Court in the City, until they could find

⁵³² Ibid., 5 December 1828.

⁵³³ Ibid., 25 November 1828.

⁵³⁴ Ibid., 23 December 1828.

⁵³⁵ Ibid. The date of her addition is unclear, but possibly 27 July 1829.

something more permanent.⁵³⁶ Mildred's Court had been Joseph and Elizabeth's home before they moved to spacious Plashet, their country residence. This property was clearly, unlike Plashet, beyond the reach of the bankruptcy commission; title may have lain with her son John Fry.

Although Elizabeth was not comfortable in this reduced space, she recorded how much she valued the assistance she and her family were receiving from 'Relations and friends who have cared for me and mine and provided for us so that we are not likely ever to want the necessary comforts of life – and many many sympathising spiritual friends'.⁵³⁷ She reflected on the efforts her brothers were making 'to arrange our outward affairs business' [*sic*], whilst she recognised that it was 'exceedingly difficult for them to please all parties'.⁵³⁸

Although Elizabeth did want fair treatment for those affected by the bankruptcy, she was constantly worried about the economic situation of her family. Late in March 1829 she had felt more optimistic, recording that there had been 'some favourable appearance as to the business as if there would still be a provision for us and our families'.⁵³⁹ Problems often lowered her mood, but repeatedly she acknowledged the assistance her family was receiving: 'I do most highly value the kindness of my relations and friends in our deep distress, some have done more than I could expect'.⁵⁴⁰

The financial assistance, the relaunch of the Fry family business in tea only, and the provision of a modest home at Upton next door to her brother Samuel Gurney's estate were all testimony to the role that family could play, if they had the means of course, in protecting middling-sort business failures from poverty, and in re-establishing them in trade. However, according to Rose, the Gurneys did not trust Joseph Fry again. Having saved the tea business they effectively constrained his scope for spending or ruining another business by making him an employee rather than a partner and paying him a monthly salary which was considerably less than they would pay Elizabeth.⁵⁴¹

⁵³⁶ LRSFB, Diaries of Elizabeth Fry, MS Vol. S267/3, Mildred's Court, 1 March 1829, p. 3. E. F. has numbered her pages in this volume.

⁵³⁷ *Ibid.*, p. 15.

⁵³⁸ *Ibid.*, 4 April 1829, p. 18.

⁵³⁹ *Ibid.*, 26 March 1829, p. 18.

⁵⁴⁰ *Ibid.*, Upton, 19 August 1829, p. 38.

⁵⁴¹ June Rose, *Elizabeth Fry* (London, 1980), p. 139.

5.4 Conclusions

Parents and siblings were often closely involved in the business and domestic lives and circumstances of the bankrupts in this study. Overall, the sources come down on the side of the family assisting their bankrupt members, and sometimes actively colluding with them. In most cases they were loyal, patient, and willing to put their hand in their pocket. The most likely sources of financial assistance amongst relatives were senior family members, typically fathers, fathers-in-law and male siblings and brothers-in-law. Younger siblings or adult children and adult nephews and nieces were less likely to provide pecuniary assistance, although they would often be valuable providers of other modes of support. Male siblings sometimes filled a kind of representational gap left by their bankrupt brothers and sisters or acted in an executive role for the otherwise arrested, embarrassed, or disempowered siblings and their wives.

When wives make appearances in bankruptcy records it can appear that their autonomy was limited, and matters were left to male relatives or male professionals. Yet at the same time bankrupts' wives at all social levels showed considerable understanding of their circumstances and some of them did get involved. They did not exercise the levels of agency possessed by male relatives or influential friends, but they could sometimes be seen, as Anne Brickdale was, to take the initiatives required to protect their bankrupt husbands.

The frequent practice of arresting people for debt in eighteenth and nineteenth-century England required the swift action of family and friends to quickly provide bail and secure their release from arrest. Evidence from all the cases in this study suggests most bankrupts did not find themselves cast adrift completely as frequently family did pull together to assist their afflicted kin. Although the help they received took many forms, and clearly some relatives and friends were in positions from which they could provide far greater support than others. Creditors anticipated this, and they were often, not without reason, suspicious that there was family involvement in underhand business and financial manoeuvring.

Nevertheless, families were not always being simply dutiful or compassionate in their efforts to assist kin in trouble. Invariably family members had a stake in

the bankrupts' affairs and finances, and therefore had much to lose. Therefore, interference or gaining control of assets was often simply an exercise of self-interest, and the rules governing bankruptcy commissions were well suited to facilitating such control with family creditors merely needing to get themselves chosen as assignees. However, there were exceptions as family patience and tolerance was not without limits. There were cases where family acted only out of ruthless self-interest, with apparently no regard for the bankrupt, such as in the actions of John Slade's sister, the 'cruel' Mrs Whittle. No assumptions should be made about bankrupts' relationships: relatives were not always friendly, but creditors were not always cruel.

Exactly how bankruptcy was experienced was conditioned by the nature and quality of family relationships and interactions. Family members and friends held, to a greater or lesser extent, an involvement and interest in bankrupts' domestic, commercial, and social existence prior to the onset of bankruptcy. This involvement rarely ended with the bankruptcies, but rather it continued and was frequently subject to major change as parties sought to protect their interests or cope with the consequences of bankruptcy and relationships became strained. A major problem with sources on bankruptcy is that they rarely tell us anything of the fortunes of most bankrupts, apart from the ones with the highest profiles, after the grant of certificates. We rarely learn whether relatives set their unfortunate kin up in business again, or filtered money and assets back to the ex-bankrupt and his family while ensuring they never got into trouble again.

In bankruptcies, family tended to be more on the spot and therefore more likely to act swiftly to assist, or to start meddling. Family were usually the first to 'be' friends. However, family was sometimes absent, or at least not enough. But neither did bankrupts always have to hand the kind of friends who could help them. Thus, bankrupts needed to find 'friends' by petitioning those they believed able to assist them.

Friends, unless they were also creditors, were less likely to be sufferers. What they were was a vital source of assistance and bankrupts expended much ink and anxious energy in finding those who were willing to be friends to them. Friends who were professionals, such as the solicitors, had to balance any feelings of compassion with their professional duty, and their own pecuniary

objectives. The complicated and sometimes fraught relations between bankrupts and solicitors can be tracked across several of the cases in this study. If bankrupts could manage to maintain good relations with the commission solicitor, and sometimes with their own if they had one, it counted for a lot in ameliorating the discomforts of the bankruptcy process and expediting a tolerable conclusion.

The subjects of this study often expressed their need for a 'friend', or if they had friends pinned their hopes on the loyalty and trustworthiness of such relationships. Bankrupts frequently displayed the confidence that their 'friends' would readily come to their assistance. Other times they imagined a benevolent helper would come forward and reveal themselves to be a 'friend'. Such conviction was displayed again and again by Pyott, by Townsend, and by John Brickdale as the account of his interactions with family and friends revealed.

However, not all 'friends' turned out to be of the nature the bankrupts believed, or vainly hoped. Friends were sometimes shadowy figures about whom the bankrupts were not always forthcoming as to identities. Some of these friends seemed to have been far more ephemeral and self-interested than family. Bankrupts' difficulty was in identifying and securing the help of genuine friends and not falling prey to false 'friends' who covertly pursued advantage from bankrupts' predicament. These 'friends' merely saw an opportunity to take advantage of someone in distress, and as in the case of David Brigstock, made matters much worse for the bankrupt.

This chapter has examined the effect upon bankrupts' experience of the strengths and weaknesses of their personal alliances. The next chapter looks at their experiences in relation to place and space.

Chapter Six

Bankrupts in Space

6.0 Introduction

'No! No! I can submit to every thing but being in the power of others to put me into a Cage for Life', protested Thomas Pyott in the spring of 1767 as he contemplated the very real prospect of incarceration. Pyott, 'bred up to the profession of a Merchant' and trading wine and spirits to the New World, had only recently declared himself a man 'born and supported in a spirit of liberty'. However, that spring the threat of imprisonment depressed his mood. In his journal he harangued himself with the 'continual fear of Creditors, whom you cannot satisfy'. His creditors, he warned himself, were 'Harpies who might confine me in a jale'. Pyott, deserted, he believed, by his relatives, began to see leaving the country as the only way to preserve his freedom. With his imagination fired by the *Odyssey* he wrote out the line: 'A man opprest, dependant, yet a man'. Thus, he declared, 'I thought it less dangerous to throw myself into the Sea of Life, than hazard starving or a jale'. For Pyott 'jale' had to be avoided for he lamented to himself, 'I am certain no one will release me'. His only recourse was to be 'in the World', and 'to be at large, exercising my own liberty'.⁵⁴²

Pyott's nightmare of being deprived of his liberty and put in a 'Cage for Life' by terrifying 'Harpies' is characteristic of the melodramatic writing about his insolvency that fills his memoir and collection of letters, but this fear of incarceration was real for him and other failing traders who were on the verge of bankruptcy. There is a certain irony in that Pyott, the young gentleman merchant, never left the country nor was he imprisoned. In fact, in the end, he even managed not to resort to becoming a bankrupt despite being already resigned to it. What his complaints do demonstrate is the great anxiety felt by, particularly genteel traders, about the deprivations of gaol and the loss of their liberty to move freely. There is perhaps in Pyott and others a suggestion that gaol was a place inappropriate to their social station, but as Pyott understood only too well, creditors were not swayed by such sensibilities. To avoid long-

⁵⁴² SHL, MS 122, Pyott, pp. 66–74. The line from the *Odyssey* comes from Book XIV (Conversation with Eumaeus) of Pope's 1725–6 translation of Homer's *Odyssey*.

term imprisonment for debts they could never pay, terrified gentlemen could become bankrupts and thus hope to escape confinement in awful places. However, it was far from simple as this chapter will relate.

This chapter describes bankrupts' experience as it unfolded in a variety of places and spaces, and it further considers why and when these places and spaces became important for bankrupts and their families. The chapter highlights the fact that bankrupts' experience was not simply a legal and financial one, but rather it was an experience that played out in space, and as will be discussed in the following chapter, in time. The first way in which space within the experience of bankrupts will be explored is by looking at how the spaces that bankrupts had habitually inhabited and moved through freely contracted as they found themselves on the verge of bankruptcy, and following that phase, during the time in which they were legally defined and treated as bankrupts.

There has been a tendency for historiography to understand bankruptcy as a means of preserving liberty (i.e. avoiding imprisonment) when in fact bankrupts experienced a variety of confining experiences which in some cases was actual confinement, such that their experiences sometimes overlapped with those of 'ordinary' insolvent debtors. It was far from the case that only poorer insolvent traders went to prison and wealthier ones simply got away with it by becoming bankrupts (of course some did get away with it, either totally or at least relatively speaking). Whilst most bankrupts might not have experienced physical confinement, the constraints on their liberty often left them inhabiting a spatially contracted world. Most bankrupts generally careered along a spectrum on which at one end lay threatened, or actual, confinement and at the other was complete discharge (i.e. freedom).

Not surprisingly, 'liberty' was something that mattered a great deal to harassed and failing traders as they found themselves on the verge of bankruptcy or having become bankrupts. 'Liberty' was a demand not infrequently invoked by eighteenth-century bankrupts as they contemplated, in the words of Bristol bankrupt Joshua James in 1785, 'perpetual imprisonment'.⁵⁴³ Bankruptcy rarely entailed 'perpetual imprisonment', but getting the wrong side of the law and its

⁵⁴³ BRO, 44352/2/1/8, Papers re Joshua James, 1783–1793: Memorial of Joshua James, n.d.

proceedings had consequences that led to confinement for bankrupts. In 1759 one commentator writing in the *London Chronicle* who styled himself Honestus Moneyless, complained that a bankrupt faced ‘the perpetual loss of his liberty’ if he refused to answer the commissioners questions.⁵⁴⁴ In 1760 in a letter to a Member of Parliament another champion of unfortunate bankrupts complained about the cruel treatment of bankrupts by creditors ‘to whom they have given...all they had in the world; they cry out for life and liberty’.⁵⁴⁵ Returning to 1759, Honestus Moneyless was back the next week with a fresh angle on liberty, that it was something an ‘unhappy bankrupt’ deserved. When such a bankrupt had ‘done all in his power’ to comply with the requirements of his commission, then he ‘really merits his liberty’, but still a few ‘unchristian, morose, and revengeful’ creditors could ‘deny him his liberty’.⁵⁴⁶ Moneyless invoked liberty, and more to the point denial of liberty, repeatedly. Invoking liberty in the sense it was understood in the ancient world, he equated the state of a bankrupt denied a certificate with that of enslavement.⁵⁴⁷ In his call for liberty Moneyless made special mention of the bankrupt merchant or manufacturer ‘who may have employed many thousands of persons, and many thousands of pounds annually, to the great advantage of his country’. These major traders, as bankruptcy and other records show, will also have had interests in the Atlantic slave trade and the enslaved populations of plantations. We do not know whether Honestus, who confessed to suffering ‘storms, tempests, and shipwreck’ in his own affairs, ever had in mind the freedom of these people when he wrote that he hoped to ‘see the glorious dawn of liberty appear’.⁵⁴⁸

The second exploration of space in this chapter will take the reader into, quite literally, the physical places which bankrupts experienced. Bankruptcy sources tell us things about the spaces (domestic and commercial – public and private) that traders (before and after they became bankrupts) inhabited and used. It is hoped that the sources may provide some insights into eighteenth-century people’s use of, and experience of, space; and how bankruptcy influenced

⁵⁴⁴ ‘Moneyless’, *London Chronicle*, 24–27 March 1759, issue 350, p. 289.

⁵⁴⁵ ‘Antinomus’, *State of Bankrupts under the Present Laws*, p. 38.

⁵⁴⁶ ‘Moneyless’, ‘Reflections on the Hardships of Bankrupts Concluded’, *London Chronicle*, 27–29 March 1759, issue 351, p. 297.

⁵⁴⁷ Efraim Podoksik, ‘One Concept of Liberty: Towards Writing the History of a Political Concept’, *Journal of the History of Ideas*, 71 (2010), 219–40, p. 224.

⁵⁴⁸ ‘Moneyless’, *London Chronicle*, 27–29 March 1759, issue 351, pp. 297–98.

perceptions and uses of these spaces. The chapter is organised in two parts. The first part 'Changing Spaces' is divided into the following sections: 6.1.1 addresses the most powerful influence on how bankrupts experienced space: the ever-present possibility, and sometimes reality, of imprisonment; 6.1.2 addresses the ways in which bankrupts sought to evade their creditors and conveniently commit acts of bankruptcy at the same time; 6.1.3 addresses how bankrupts' ability and confidence in moving freely was affected; 6.1.4 examines these issues in greater detail in the case of the bankrupt Hampshire brewer Thomas Lodge. The second part 'Going Places' is divided into the following sections: 6.2.1 is a discussion of bankrupts experience of movement between commercial and domestic spaces; 6.2.2 looks at the public and private spaces in which bankrupts were examined, particularly in the experience of bankrupt London dry-salter Isaac Scott.

Part One

Changing Spaces

6.1.1 Bankrupts and imprisonment

In recent historiography on long eighteenth-century insolvency bankrupts are little mentioned, and when they are, they are considered to have been secure from that severe treatment that was inflicted on many insolvent debtors, i.e. arrest, imprisonment and the loss of their liberty. V. Markham Lester maintains that 'a bankrupt could not be imprisoned'.⁵⁴⁹ This view is enlarged by Margot Finn who observes: 'Bankruptcy proceedings, restricted by law to merchants and traders who owed substantial sums, allowed substantial commercial men both to avoid imprisonment and to extinguish their debts in full'.⁵⁵⁰ Of merchants struck by disaster who were unable to settle their accounts Jerry White states 'they could take advantage of the bankruptcy laws and sell up in gentlemanly sessions with Commissioners in Bankruptcy, without any humiliations of arrest or imprisonment that less wealthy people suffered'.⁵⁵¹ In recent writing on eighteenth-century imprisonment for debt Tawny Paul and

⁵⁴⁹ Lester, *Victorian Insolvency*, p. 88.

⁵⁵⁰ Finn, *Character of Credit*, pp. 110–11.

⁵⁵¹ Jerry White, *Mansions of Misery: A Biography of the Marshalsea Debtors' Prison* (London, 2016), p. 2.

Alexander Wakelam are more accurate in that they suggest that imprisonment was a measure that impinged little on bankrupts, rather than not at all.⁵⁵²

Imprisonment of bankrupts is worthy of consideration as some bankrupts were arrested and imprisoned and more significantly, although not quite the same thing, most feared incarceration to distraction. That said, this study does not seek to suggest that the embarrassed circumstances of bankrupt merchants and bankers, or even lesser traders, were on a par with the privations of minor shopkeepers and humble artisans gaoled for months in lamentable conditions for trivial sums, but this study does seek to show that being made a bankrupt only ever offered partial immunity from arrest and imprisonment. For many bankrupts it all actually started with arrest.

When Bristol colour manufacturer Uriah Haddock was on the verge of bankruptcy and was fearing arrest by one Jones, he was heard by a servant to declare ‘that not only Jones would arrest him but another and another and that he should take himself off’.⁵⁵³ It was fear of this certain imprisonment that drove many traders to seek the protection that bankruptcy could afford them. One of the assumptions this study is examining is that bankruptcy offered protection from arrest and imprisonment; and while this would seem to have been substantially the case, it was not always. Fundamentally in eighteenth-century England all personal financial obligations were entered into in the knowledge that, were there ever to be default, imprisonment could be used to coerce settlement of debts. It was according to Paul Haagen ‘a dominant reality of life in England and Wales’.⁵⁵⁴ A few in eighteenth-century society were spared the awful prospect. They were of course the ‘nobility of *England*’ and Members of Parliament, as well as certain special categories of person such as foreign Ambassadors, otherwise anyone could be held in gaol if they did not settle with their creditors.⁵⁵⁵

⁵⁵² Paul, *Poverty of Disaster*, pp. 37, 65; Alexander Wakelam, ‘Imprisonment for Debt & Female Financial Failure in the Long Eighteenth Century’ (unpublished doctoral thesis, University of Cambridge, 2018), p. i.

⁵⁵³ BRO, 44352/2/1/17, Papers re Uriah Haddock, 1811–1812: deposition of John Magford, 9 May 1811.

⁵⁵⁴ Paul Haagen, ‘Imprisonment for Debt in England and Wales’ (unpublished doctoral dissertation, Princeton University, 1986), pp. iv–v.

⁵⁵⁵ Anon., *The Under-Sheriff: Containing the Office and Duty* (London, 1766), p. 103, and for the plethora of privileges from arrest, pp. 72–193 passim.

As was explained in chapter two, commencing an action to imprison a debtor was the cheapest and quickest method of recovering debts. The results creditors got, whereby most debtors coughed up, suggested to creditors generally that the mere threat of imprisonment worked, and that the next steps to imprisoning a debtor were unnecessary. There was the further benefit for a fast-moving creditor of recovering the entirety of what they were owed without regard to the interests of other creditors. This was dangerous for debtors because if little remained in their estate for the other creditors, they could be rearrested again and again by other creditors for whatever remained to them before finally being incarcerated in unsavoury conditions with their creditors betting that compassionate family and friends would meet the outstanding obligations. Therefore, the existence of aggressive creditors, along with the relative ease of obtaining a warrant to arrest a debtor, meant that for most failing tradesmen, imprisonment was a real prospect.

For tradespeople in long eighteenth-century England, exceptional circumstances apart, prudence, skill in business and finance, or simply lack of misfortune would usually keep insolvency at a distance. When trouble did loom, benevolent family and friends often came to the rescue. If more comfortable safety nets failed there were measures and regimes that also kept imprisonment at bay, such as reaching compositions with creditors or, if all else had failed, bankruptcy.⁵⁵⁶ Under bankruptcy, which was intended to benefit all creditors equally in proportion to their debts, a bankrupt was required to give up all their assets upon being declared a bankrupt. The regime, therefore, afforded protection to bankrupts as, at least in theory, there was no need to coerce money out of them with imprisonment because on becoming bankrupts they 'discovered' and then conveyed to assignees all their property. Yet bankrupts were still to be found in English prisons although by the eighteenth century they only constituted a small proportion of the gaol population. Tawny Paul has calculated for several date ranges between 1736 and 1772 that about one percent of the debtor population of the Fleet and King's Bench prisons were procured discharge by coming under the bankruptcy regime.⁵⁵⁷ It is not clear how many of these prisoners in these two gaols entered as bankrupts or

⁵⁵⁶ See Hoppit, *Risk and Failure*, pp. 29–31 for employing compositions and other 'unofficial' regimes for dealing with insolvency.

⁵⁵⁷ Paul, *Poverty of Disaster*, pp. 104, 106, 108.

became bankrupts while in gaol under the two-month lying in gaol rule. The average number of days incarcerated, sixty-one days, fits the rule.

One percent is a small proportion of the prison population, but if the definition of a bankrupt is understood as a little more fluid than the strict legal one (by which a trader was only a bankrupt from the moment the commissioners declared him or her to be one), and the definition is allowed to include traders on the verge of bankruptcy (i.e. traders whose circumstances were so ruinous that, and assuming they qualified under the statutes, were de facto bankrupts), and uncooperative bankrupts gaoled by commissioners for not making full discoveries and who were deemed likely to abscond, and also recaptured absconding bankrupts, then prison was a place that may have hosted more bankrupts than simply those coming under the two-month rule. I do not include fraudulent bankrupts in this speculation as they would have been imprisoned as felons. Although interesting in themselves, fraudulent bankrupts are not the object of this thesis.⁵⁵⁸ This chapter is enquiring into how bankrupts came to be in prison under civil process. The following sections suggest answers.

In late October 1751 Wiltshire linen draper David Kennedy was being held by a creditor in Salisbury Gaol where he received correspondence from John Stabler, one of his principal London creditors.⁵⁵⁹ John Stabler Esq. was ‘an eminent wholesale linen-draper in Watling Street’.⁵⁶⁰ Stabler, who at this point thought a composition might be best in Kennedy’s case, said he ‘was sorry to hear’ that Kennedy was in prison and sought to give Kennedy hope saying, ‘I doubt not but your affairs might soon be brought to a conclusion and you set at liberty.’⁵⁶¹ However, by early 1752 Stabler and other creditors were of the view that it would serve their interest to keep Kennedy in gaol. Stabler wrote: ‘I have consulted the London creditors about it and we all are of the opinion it will be best to...detain Kennedy in prison till the second payment is discharged.’⁵⁶² We do not know how Kennedy felt about his wait for ‘liberty’ being extended, but the

⁵⁵⁸ See Kadens, ‘Last Bankrupt Hanged’, pp. 1–43, for an account of a fraudulent bankrupt.

⁵⁵⁹ WRO, 492/280, Bankruptcy of David Kennedy: John Stabler to David Kennedy, 29 October 1751.

⁵⁶⁰ For accounts of Stabler, see ‘Obituary of considerable Persons; with Biographical Anecdotes’, in *The Gentleman’s Magazine AND Historical Chronicle* (London, 1788), 58, Part 1, p. 182, and also James Peller Malcolm, *Londonium Redivivum or an Ancient History and Modern Description of LONDON*, 2 vols (London, 1803), II, p. 92.

⁵⁶¹ WRO, 492/280, Bankruptcy of David Kennedy: John Stabler to David Kennedy, 29 October 1751.

⁵⁶² *Ibid*: John Stabler to [probably Robert Cooper or Arthur Edwards], 21 January 1752.

conditions for debtors in provincial gaols were often poor, such that some imprisoned debtors got themselves transferred from the counties to London debtors' prisons, such as the Fleet.⁵⁶³ The Fleet and the King's Bench were the more 'desirable' London debtors' prisons, but generally debtors' prisons, or debtors' sections of county gaols, were feared for their squalid and unhealthy conditions. Stabler and the other creditors eventually took out a commission against Kennedy and made him a bankrupt which probably superseded the original action against him, making his release as a bankrupt possible. This was quite possibly how they secured his cooperation with the commission as will become clearer later in this chapter.

There was a second reason why bankrupts could be found in prisons. Within the civil process of bankruptcy there were requirements that, if not complied with, could land a bankrupt behind bars by order of the commissioners. Such was the case in 1797 of Wiltshire corn dealer John Kempster. A bankrupt was expected to cooperate fully with the proceedings of a commission. However, the commissioners in Kempster's bankruptcy declared that his answers were not satisfactory, and his 'refusing to give any further or other answer' meant the commissioners required and authorised the sheriff's officer to:

immediately upon receipt hereof to arrest and take into your custody the body of the said John Kempster and him safely to convey to the Common Goal at Fisherton Anger in and for the County of Wilts and him there to deliver to the Keeper of the said prison who is hereby required...to receive the said John Kempster into his custody and him safely to keep and detain without bail or mainprize until such time as he shall submit himself to us the said Commissioners...and full answer make to our or their satisfaction to the question so put to him by us...⁵⁶⁴

Kempster's place of confinement was the county gaol in Fisherton Anger, just outside Salisbury, where the prison had been since the early sixteenth century. Fortunately for Kempster, debtors and felons were accommodated separately in the prison. However, the place that Kempster would have experienced cannot

⁵⁶³ 'The Fleet Prison', in Tim Hitchcock, Robert Shoemaker, Sharon Howard and Jamie McLaughlin, *et al.*, *London Lives, 1690–1800* <<https://www.londonlives.org>>, version 2.0, March 2018 [accessed on 15 March 2018].

⁵⁶⁴ WRO, 1033/194, Papers re John Kempster's bankruptcy: Declaration of bankruptcy and warrant to arrest, 17 April 1797.

have been very comfortable, as even after 'enlargement and the reconstructions of the late 18th century the gaol remained inadequate, its site constricted and its buildings old'.⁵⁶⁵

Nevertheless, Kempster remained in the county gaol for more than two years as in October 1799 the commissioners despatched another warrant to the keeper to have Kempster brought up to Highworth to be examined. To the keeper the commissioners proclaimed their authority declaring that Kempster 'is not in your Custody upon Execution but only under our said Warrant'. The examination was being held at Kempster's request. He had written to the commissioners in August 1799 assuring them that he wished 'to answer the Questions that shall be there put to him to our Satisfaction'. The meeting was set for 29 November 1799, and the commissioners therefore required the keeper 'to bring the Body of the said John Kempster the younger before the Commissioners'.⁵⁶⁶ It is not clear why Kempster preferred two years in gaol to answering the commissioners' questions, or in what conditions he resided during that time. What is clear is that there were many hazards in the bankruptcy process for the furtive or uncooperative bankrupt, and that bankruptcy commissioners had the power to confine bankrupts, and in some cases did. Imprisonment was of course also a means to prevent flight, and subsequent non-appearance before the commissioners, if the possibility was suspected. The long-term imprisonment of bankrupts was perhaps not the most usual restriction on liberty that bankrupts had to contend with, whereas short confinements as bankruptcy loomed were more frequent and at this pre-bankruptcy stage traders were being treated no differently from insolvent debtors as the next section will explain.

6.1.2 Confinement, evasion, absence and exile

The long confinements of Kennedy and Kempster were not typical for bankrupts; more typically bankrupts were likely to experience degrees of confinement as they approached bankruptcy when they were increasingly becoming the object of actions by individual creditors. Often matters went only

⁵⁶⁵ 'Fisherton Anger', in Elizabeth Crittall (ed.) *A History of the County of Wiltshire: Volume 6* (London, 1962), pp. 180–94.

⁵⁶⁶ WRO, 1033/194, Papers re John Kempster's bankruptcy: Warrant to keeper of gaol at Fisherton Anger to bring up bankrupt to complete his examination on 29 November, 29 October 1799.

as far as holding a debtor in a temporary place of confinement for a relatively short time. This happened to Carmarthenshire shopkeeper David Brigstock, who in July 1773 whilst still pre-bankruptcy, was arrested in Carmarthen 'at the suit of' Nathaniel [W___], a Bristol grocer, for the sum of £85. There he 'was in Custody of a Bailiff' for a few days, probably in the bailiff's house, until at the petition of Brigstock's wife, another major creditor agreed to 'assist in getting him out of Custody'.⁵⁶⁷ Brigstock experienced confinement, but not in a gaol; this sort of confinement was not untypical for subjects in this study. His brief confinement loosened the purse strings of a 'friend' who, it subsequently turned out, was acting with more than a little self-interest.

To brush with confinement, it was not necessary to be held in a gaol or lock-up at all, even temporarily, for a bankrupt to experience some loss of liberty. They could experience constraint on their freedom by merely being kept in the company of an officer, sometimes in their own home (I am yet to encounter instances of physical restraint being employed). In 1752 David Kennedy wrote to one of the assignees of his estate and mentioned 'my imprisonment at my own house'.⁵⁶⁸ In 1819, while on the verge of bankruptcy, banker John Brickdale was held in custody in his own home. At one point he fled the house and hid himself in a shed in the kitchen garden (sheds could afford certain protections from arrest). Although after being pursued and retaken, he denied that he had the intention of escaping.⁵⁶⁹ The fact that Brickdale had escaped and then was discovered and retaken, albeit all in the privacy of his own home, suggests receiving a treatment commensurate with being a prisoner.

Because of the legal requirement to commit an act of bankruptcy traders engaged in a variety of behaviours to evade their creditors which could be subsequently construed as valid acts. As related above in 1773 David Brigstock had been caught badly unprepared for the moves of his creditors, and his efforts to get himself made a bankrupt merely got him into greater trouble.

⁵⁶⁷ BRO, JQS/P/44, Proceedings against David Brigstock, Examinations of witnesses, 14 March 1774: David Brigstock, pp. 1–3; Examinations of witnesses, 16 April 1774: John Philipps, pp. 1–5.

⁵⁶⁸ WRO, 492/280, Bankruptcy of David Kennedy: David Kennedy to Robert Cooper, 17 September 1752.

⁵⁶⁹ SRO, DD/DP/7/6, Bankruptcy of John and Matthew Brickdale: Draft affidavit of George Nuttall, January 1820.

As he desperately insisted that he could easily be made a bankrupt, he recounted a meeting he had on his way to his shop and home:

I committed the Act of Bankrupt on one of our neighbour's wedding Day as I may have proof and the man may take his oath if need for, for he did see me and did talk to me and though I was coming to my own house after him, but I turned aside because I had not the money to pay him...⁵⁷⁰

Brigstock could not return directly to his own house but had to deviate from the route he was taking in order not to be engaged by a creditor about a debt. On this occasion in order to evade a creditor Brigstock was compelled to be absent from his home, when the more usual scenario for bankrupts was to be confined at home in order to evade creditors. This, Brigstock would also experience and is related below.

Stricken traders frequently secreted themselves in rooms in their dwelling houses as they frantically tried to avoid arrest and imprisonment, or simply to correctly commit an act of bankruptcy. There is always an ambiguity around these self-confinements, in that it can often only be deduced from the details of each individual case whether the motivation was primarily to avoid arrest, or whether it was an entirely contrived behaviour intended only to be witnessed as the committing of an act of bankruptcy or, as was probably often the case, both. These periods of self-confinement lasted hours, a whole evening, or were sometimes overnight. Traders did this in order to meet, at least as they understood them, the requirements under the bankrupt laws for committing an act of bankruptcy. Shopkeeper David Brigstock confined himself in a variety of manners as he tried to both evade his creditors and to commit a credible act. In 1773 when a creditor called on Brigstock, Brigstock was found by his own servant hiding in a nearby field in order to avoid the creditor. The creditor was determined to locate Brigstock, declaring that, 'he could not be far off and that he would go and see for him'. Then, somewhat nimbly, Brigstock 'came in from the field and went upstairs into a Room', but seemingly close on his heels the creditor returned to the house and 'continued for a considerable time there' in expectation of seeing Brigstock, but he did not come downstairs for the whole

⁵⁷⁰ BRO, JQS/P/44, Proceedings against David Brigstock: David Brigstock to Richard George, 17 November 1773.

evening, eating his supper in his bedchamber, then going straight to bed to avoid the creditor.⁵⁷¹

As acts of bankruptcy were subject to disputation by unfriendly creditors, traders were often zealous in their interpretation and observance. One such was Sherborne maltster John Slade. Around Easter 1830 Slade called his domestic servant, Ann Luffman, 'to his bed room and desired [she] would not leave it 'till he was asleep'. Once Slade was asleep, she left the room 'fastening him in' and putting the key under the door. This she had done for him on several occasions.⁵⁷² This repeated locking in of Slade was probably because of his anxiety to comply, in a way that would not be challenged, with the requisites of the law for committing acts of bankruptcy. At the same time his behaviour revealed his insecurity about the legal safety of what he was putting into practice.

Self-confinement was very much a phenomenon of the act of bankruptcy, but the need could remain even after a trader had been declared a bankrupt. Such was the case for Isaac Scott who in August 1767 sought protection from arrest in 'The Place...Where Freedom makes her last Retreat'.⁵⁷³ This was the Verge of the Court where debtors, including bankrupts, could enjoy protection from arrest. Historically the extent of the Verge had covered twelve miles around the seat of the monarch's court, but by the mid-eighteenth century it had reduced to 'that ground about Whitehall and St. James's which belongs to the crown', under whose jurisdiction it was. John Trusler described it as a 'privileged place'. It was not a liberty, nor was it a place within the rules of a gaol, but it was a place 'privileged from arrests' which made it popular with debtors.⁵⁷⁴ Trusler further maintained that a 'sheriff's-officer arresting a man in the Verge, will be punished by an application to the Board of Green Cloth', the officiating Court body. However, such impunity could be curtailed, as the 'Board of Green

⁵⁷¹ Ibid., Examinations of witnesses, 14 March 1774: deposition of Mary Morgan, servant.

⁵⁷² DRO, D/FFO/27/103, John Slade, proceedings in bankruptcy: deposition of Ann Luffman, 14 May 1830.

⁵⁷³ Mr Wh----d [Paul Whitehead], *The GREEN-CLOTH: or, the Verge of the Court an Epistle to a Friend* (London, 1739), p. 4. According to Paul-Gabriel Boucé (for Boucé, see *R. Random* below), the author was satirist and secretary to the Hellfire Club Paul Whitehead (1710–1774).

⁵⁷⁴ John Trusler, *London Adviser and Guide* (London, 1790), pp. 169–170; Henry Fielding, *Amelia* (1752), ed. by David Blewett (London, 1987), p. 558 fn.38; John C. Stephens, Jr., 'The Verge of the Court and Arrest for Debt in Fielding's *Amelia*', *Modern Language Notes*, 63 (1948), 104–09, p. 106. According to Stephens the Board of the Green Cloth, the Palace Court, and the Marshall's Court were one and the same.

Cloth' if petitioned by a creditor, could expel or have its own officer arrest a debtor who would not enter into terms. The Verge, in marked contrast to former liberties to the east and south of the Thames such as the liberty of the Mint, only offered a debtor a conditional 'privilege' at a price, rather than a place of indefinite sanctuary. The Verge also had a literary existence: it featured as a place of refuge for Captain Booth and family in Fielding's *Amelia*,⁵⁷⁵ and for Smollet's Roderick Random.⁵⁷⁶ The Verge, located in the 'West-end of the Town' close to St James's, probably more readily served the 'pretty' gentlemen described by Addison in the *Spectator* in his allusion to the Verge, than it ever served tradesmen.⁵⁷⁷ Although we do not know if Isaac Scott was such a gentleman as well as a dry salter, we know that as a bankrupt he chose to protect himself there.

Early in the summer of 1767 Scott's assignees had secured his attendance at a meeting with assurances that the creditors would sign his certificate, but at this supposedly last examination, contrary to Scott's expectation the creditors did not sign his certificate. Scott 'apprehending some ill natured Intent' and 'with the Advice of his Friends' took 'a Lodging in the Verge of the Court' where he would be privileged from arrest. When subsequently asked to meet the assignees in the City he declined and sent his brother George to explain his refusal.⁵⁷⁸ Scott remained in the Verge all summer waiting to have his certificate signed. On 14 August he complained to one of his estate's assignees that 'he must be sensible, living in these Places are as dear as they are disagreeable'. On receiving an unsatisfactory answer, he wrote again the same day complaining of 'the most disagreeable uncertain Situation I am in, confined within the Rules of the Court'.⁵⁷⁹ Scott's 'Lodging' afforded him little liberty.

⁵⁷⁵ Fielding, *Amelia* (1752), ed. by Blewett, see p.144 for Booth taking up residence in the Verge.

⁵⁷⁶ Tobias Smollet, *The Adventures of Roderick Random* (London, 1748), ed. by Paul-Gabriel Boucé (Oxford, 2008), see p. 374 for Random getting 'safe into the verge of the court'.

⁵⁷⁷ Addison's reference to the Verge was made in *Spectator*, 105, 30 June 1711, in *The Works of the Right Honourable Joseph Addison, Esq.*, 4 vols (London, 1721), III, p. 29; also see Winfield H. Rogers, 'The Significance of Fielding's Temple Beau', *PMLA*, 55 (1940), 440–44, p. 440. 'The West End' as an identifier of an area of London largely makes its appearance from the mid-nineteenth century, but 'the West-end of the town' can be found in earlier texts, e.g. Boyle's *The Fashionable Court Guide...with the addition of...The respectable Hotels at the West-end of the Town* (London, 1797).

⁵⁷⁸ Scott, *Case of Anne and Isaac Scott*, pp. 32–35.

⁵⁷⁹ *Ibid.*, pp. 37, 40.

The flipside of confinement for bankrupts at home was absence from home. Just as at times they were compelled to be inside their home, even locked inside it, they were also compelled to be outside it. David Brigstock's 'turning aside' to avoid the attention of a creditor was little compared to the major evasive action that some bankrupts took to avoid arrest, which often involved removing themselves entirely from their own locality and placing themselves at a great distance. When on 14 March 1743 sheriff's officer Robert Fry went to Richard Hutching's home in Somerset to arrest him under a warrant 'at the suite of John Bovett Gent. for a debt of £20', Fry found only Hutching's wife and son at home. When he asked them where Hutchings was, they replied that he was not at home then asked Fry if he had a warrant against Hutchings. Fry replied that he had, 'whereupon they said that he was afraid of being arrested by his creditors and was therefore gone to his son's beyond London to raise money to pay his debts with a resolution never to return home again if he could not raise money sufficient for that purpose'.⁵⁸⁰ Travelling in the opposite direction in 1814 was bankrupt Covent Garden wine and cider merchant Edmund Townsend who had left his family in London and removed to Bath for fear of arrest, later observing:

if I had not left London at the time I did leave it, I should have been thrown into prison, (of which I had before had nearly two years experience), and probably, in the very severe winter...⁵⁸¹

For failing traders, not becoming a bankrupt and therefore having to resort to flight from creditors intent on imprisoning them, was a factor that threatened to remove them indefinitely from the places in which they wanted to remain. In November 1773 as David Brigstock worried that his pleas to a creditor to make him a bankrupt would not succeed, he lamented that he was 'loth to go and leave my Country'.⁵⁸² Some bankrupts were capable of imagining themselves not just as unhappy fugitives, but even as tragic exiles not only within their own country, but also beyond. In 1763 Thomas Pyott saw leaving the country as one way out of his troubles: 'I offered to banish myself from my Wife, my

⁵⁸⁰ SRO, DD/MR/107, Bankruptcy records, Richard Hutchings: deposition of Robert Fry of Chard, sheriff's officer, 2 April 1744, p. 6.

⁵⁸¹ B&NESRO, 0253, Edmund Townsend, bankrupt: 'Cash Account of E. Townsend'.

⁵⁸² BRO, JQS/P/44, Proceedings against David Brigstock, David Brigstock to Richard George, 17 November 1773.

connections, and all other dear ties of the Human affections; to go to Martinique, destitute of Friends, of Interest, connection or knowledge of a single Person upon the Island'.⁵⁸³ He of course did not go as Martinique was returned to the French. Although the actions or imaginings of these 'exiles' represented the loss of freedom to reside in the places of their own choosing in order to avoid what they saw as the greater evil of incarceration, many other bankrupts did not go so far as to 'banish' themselves. However, they did absent themselves from their homes for periods long enough to be construed as committing acts of bankruptcy. Such was the case in 1817 when the son of Romsey brewer John Latham swore that his father had secreted himself in the house and stayed away from his business because he feared arrest by his creditors. Prior to this Latham had left his home in Romsey and stayed away for eight to ten days, and when he did return home it had been after dark (presumably because he believed he could not be arrested at night).⁵⁸⁴

Clearly the freedom of traders on the verge of bankruptcy to remain in their own homes was restricted, with permanent absence a real possibility. They were also compelled to range over a larger area while absent from familiar places. Information on these periods of absence, about where they hid and what they did, is not abundant. However, we have a few insights into these periods of absence when bankrupts moved between different hiding places and traversed the country's roads on horseback or by chaise and they are discussed below. This researcher must observe that he is yet to come across an account of a bankrupt walking any great distance, which says something about their relative financial means even when their businesses were failing or had failed. A person on foot would of course have been very vulnerable to arrest by officers waiting on the road. The above sections have discussed varieties of physical confinement experienced by bankrupts and how they were sometimes compelled to absent themselves; they experienced being closed in or driven out. However, constraints on bankrupts' liberty to move freely was not experienced simply when in gaol, being held by officers, trying to evade arrest, or when they confined themselves at home or in privileged places. Therefore, the next section discusses how constraint was also experienced by bankrupts

⁵⁸³ SHL, MS 122, Pyott, Pyott to Charles Pyott Esq. ('my Wife's Father'), 12 November 1763, p. 33.

⁵⁸⁴ HRO, 4M92/PL/A4, Latham Bankruptcy: Affidavit of John Latham the younger.

as a general loss of freedom to move around even after they had officially been declared bankrupts and we might expect them to be free from arrest.

6.1.3 Freedom of movement

As bankruptcy commissioners did not imprison cooperative bankrupts, were they then in principle at liberty? It is pertinent to examine just how much they were and if there were constraints on their freedom of movement which derived from their simply being bankrupts. This section discusses how bankrupts' attempted to exercise freedom of movement and how much they were still constrained by fear of arrest. In keeping with the rest of the study the definition of a bankrupt is widened in order to include the pre-bankruptcy period.

The fear that the threat of arrest and imprisonment instilled in traders generally inclined them towards bankruptcy, under which they expected, or at least hoped, to 'enjoy' some protection. Certainly once de facto 'bankrupts' had been officially declared bankrupts in law by the commissioners they were entitled to statutory protections from arrest under their commission. In principle bankrupts were protected in the following way: A bankrupt could not be arrested during the forty-two days following his receipt of the order to surrender to his commission, nor when travelling to and from commission meetings. If he were to be arrested for debt, on production of his summons to attend the commission, the arresting officer would be obliged to release him. Furthermore, if a bankrupt was still fearful of being arrested on his way to the meeting he could obtain 'a warrant of protection for his person' from the commissioners, which would 'secure his person from arrest and imprisonment'.⁵⁸⁵ In February 1774 David Brigstock, being informed that he was required to surrender himself to the commissioners on 14 March and to 'fail not at your Peril', received into his hands 'at his dwelling house at Whitland forge' a 'Warrant of Protection'.⁵⁸⁶ Holding such a warrant meant Brigstock could at least exit the inside of his house and move outside, if only to attend his own commission.

⁵⁸⁵ Anon., *Solicitor's Guide* (London, 1768), pp. 17–18.

⁵⁸⁶ BRO, JQS/P/44, Proceedings against David Brigstock: summons and warrant of protection, 26 February 1774.

However, in law, if ever there was a silver bullet against slippery bankrupts then it was the feared writ of extent (*extendi facias*). It was an action against which it was extremely difficult to protect a bankrupt. The writ was an ‘execution upon debts of record due to the crown’.⁵⁸⁷ An ‘extent’ was a particularly powerful writ and could take body, chattels and lands. In the face of this writ, bankrupts could not easily rely on the usual privileges from arrest.⁵⁸⁸ Of bankrupts facing an extent, one early nineteenth-century manual writer declared, ‘he is not privileged from arrest by virtue of an extent, even whilst under examination; for the crown is not bound by the bankrupt laws’.⁵⁸⁹ The crown as a creditor could outrank all other creditors. In this study both John Brickdale and John Slade, bankrupts in 1819 and 1830 respectively, were in part brought down by writs of extent. Brickdale, even before he managed to become a bankrupt, was taken into custody by a sheriff’s officer, ‘by virtue of writ of Extent’.⁵⁹⁰ Slade, in his absence, had his stock in trade sold ‘under a writ of Extent’ to pay the tax he owed.⁵⁹¹ To what extent privileges from arrest were respected by powerful and aggressive creditors, is a matter which requires more research.

Particularly constraining was a double-edged sword that sometimes hung over bankrupts: not only did they fear the consequences of missing a meeting of their commission having been told that they failed to attend at their peril, but they also feared being arrested on the way to and from meetings because there were creditors prepared to use legal powers and jurisdictions to challenge the commissioners and the bankrupts’ assignees. Commission meetings at which bankrupts were required by law to attend were advertised in the *London Gazette* and other newspapers, therefore anyone wanting to arrest a bankrupt had the perfect opportunity when the bankrupt was making his way to the advertised place.

The constant fear of arrest that these circumstances caused, and bankrupts’ frustration at not being able to move freely, were the cause of great resentment.

⁵⁸⁷ Alexander Burrill, *A Law Dictionary and Glossary* (New York, 1859), pp. 591–92; William Blackstone, *Commentaries on the Laws of England*, 4 vols (London, 1794), III, pp. 419–20.

⁵⁸⁸ William Tidd, *The Practice of the Courts of King’s Bench and Common Pleas in Personal Actions*, 7th edn, 2 vols (London, 1821), II, pp. 1072–73.

⁵⁸⁹ John Gifford, *The Complete English Lawyer; or Every Man his own Lawyer*, 8th edn (London, 1823), p. 619.

⁵⁹⁰ SRO, DD/DP/7/6, Bankruptcy of John and Matthew Brickdale: Draft affidavit of George Nuttall, January 1820.

⁵⁹¹ Sale of John Slade’s goods ‘under a writ of Extent, for the recovery of King’s Duty’, *Sherborne Mercury*, 17 May 1830, issue 4868, p. 4.

Isaac Scott, as mentioned above, had no illusions about his safety. In 1767, despite having been declared a bankrupt, Scott remained fearful of arrest when he was ordered by the assignees to his commission to attend a meeting at a coffee house in Chancery Lane, but 'it was apprehended by *Mr Scott*, that it was a Scheme concerted to arrest him'. The assignees informed Scott that he 'need be in no Fear of an Arrest'. However, he was not confident he would enjoy protection from arrest and replied that 'he did not think...that he could possibly attend with Safety to himself'.⁵⁹² In October 1772 during a sitting of the commissioners at the Guildhall in the commission against banker Alexander Fordyce, Fordyce's examination was interrupted by an announcement from a commissioner declaring that he had 'reason to apprehend that an attempt will be made to arrest Mr. Fordyce on his going from this place'.⁵⁹³ He spent some time expounding on the law's protection to a bankrupt while attending a meeting of the commission, but clearly some creditors, unhappy with the terms they might receive from a commission, still sought to recover debts via the route of arrest and imprisonment.

Bankrupts had good reasons to want to move freely. They wanted to get the process of bankruptcy over as soon as possible and to be released from the purgatorial state of being a bankrupt so that they could try and set themselves up again in their trade or seek a living by some other means. Unfortunately, bankrupts had little capacity to challenge or in some way deflect the actions of those still determined to arrest them. In the first instance as bankrupts, they had no assets and no credit, so they could not easily defend themselves by either paying off creditors or paying lawyers to obstruct them, unless they were assisted by family and friends to do so. All this was problematic as bankrupts not only had to attend commission meetings, but they still needed to conduct their affairs and above all meet their own solicitors. Bristol distiller Joshua James wrote to his solicitor in February 1785 wanting to know when he would be 'safe from any Arrest in coming to Town'.⁵⁹⁴ In 1820 John Brickdale was wary of arrest and was reluctant to attend a meeting with his own solicitor, and he complained that he was 'unable to expose myself whilst matters remain as

⁵⁹² Scott, *Case of Anne and Isaac Scott*, pp. 45–46.

⁵⁹³ 'Examination of Mr Fordyce, as a Bankrupt', *Gentleman's and London Magazine*, for October 1772 (London, 1772), p. 644.

⁵⁹⁴ BRO, 44352/2/1/8, Papers re Joshua James: Memorial of Joshua James, n.d.

they are'.⁵⁹⁵ These kind of complaints were typical of those that figured in bankrupts' correspondence with their solicitors.

So often the certificate was the problem. Release from the state of being a bankrupt was not possible until they obtained their certificate. Some bankrupts helped to collect debts owed to their estate, which could require free movement about the country. One such bankrupt who was very anxious to obtain his certificate was David Kennedy, who the reader may recall was kept in gaol, and then released, by his creditors. As a bankrupt he then, for the benefit of his creditors, traversed the country to collect debts owed to his estate. In order to do this, he needed to be free from arrest. He wearily recounted his movements to Robert Cooper:

I [went?] beyond [R]eading after John [Therestin?] of [Oackbourne] and Frome thence to the Earl of Berkley seat at Cranford Bridge after [Macklevers?] but could meet with no success and from thence to London...PS I have been round amongst the people owing the remainder on the books and done as much to push them in as possible but with little success hitherto.⁵⁹⁶

Kennedy enjoyed freedom of movement while he was a bankrupt because he was harnessed to his creditors' agenda. When it had suited them earlier, they had kept him in prison for their own convenience. Creditors were able to block bankrupts' movement if they chose. In August 1763 Thomas Pyott saw a solution to his problems through employment in the colonies. However, he feared one of his principal creditors, Joseph Pease, would not permit him to leave England, unless he could obtain a 'letter of License' from the creditor. Having the letter would mean, Pyott maintained, that Pease would not be able to prevent him going to India.⁵⁹⁷ Pease wouldn't let him have a letter, and Pyott never got to India. Another factor that restricted bankrupts' movement was financial as, in theory, although not always in practice, a bankrupt had no money or assets. In 1820 John Brickdale complained that he could not attend a meeting because '[I] have not the pecuniary means of transporting myself

⁵⁹⁵ SRO, DD/DP/6/14, Correspondence, 1810–1820: John Brickdale to Robert Beadon, 20 February 1820.

⁵⁹⁶ WRO, 492/280, Bankruptcy of David Kennedy: David Kennedy to Robert Cooper, 17 September 1752.

⁵⁹⁷ SHL, MS 122, Pyott, Pyott to Thomas Rennard, 8 August 1763, p. 21.

about'.⁵⁹⁸ One trader who encapsulated many of these aspects of confinement, absence and freedom of movement in the 1770s was Hampshire brewer Thomas Lodge.

6.1.4 The Case of Thomas Lodge

A trader who was arrested repeatedly as he lurched inexorably towards bankruptcy was Hampshire brewer Thomas Lodge. Debtors like Lodge were at particular risk of arrest while traversing a street or highway. They had to move evasively, or covertly by night, or limit themselves to those days on which the law did not permit arrests, principally Sundays. Initially, on arresting a debtor, there was no need to take him directly to a place of holding as terms could be agreed on the spot, although as a highway was not the best of places for drawing up agreements it was necessary to repair to a place equipped for the drawing up of appropriate documents, such as an inn or an attorney's office. An example of this took place in January 1775 when Thomas Lodge was arrested for £960 under the suits of five creditors. At Lodge's request he was taken to an inn where his brother-in-law gave a 'note' for £1,000 to indemnify Brown a sheriff's officer, and thus secure Lodge's freedom for a couple of hours so he could go home to get some title deeds to properties so that a conveyance to his brother-in-law could be prepared to raise money to pay the debts. Once the paperwork was done, Lodge was released.⁵⁹⁹ Lodge was never confined in a place intended for custody, but his person was in the custody of the sheriff's officer. Because there were stiff penalties against an officer for letting an arrested debtor escape, Brown was given the substantial indemnity while Lodge had his liberty conditionally returned to him. Clearly the matter had been the subject of negotiation, and it shows that there was a certain elasticity to the space available to debtors, provided that someone assumed the risk of sustaining a penalty in the event that the debtor absconded.

⁵⁹⁸ SRO, DD/DP/6/14, Correspondence, 1810–1820: John Brickdale to Robert Beadon, 20 February 1820.

⁵⁹⁹ HRO, 15M50/1216/35, Paulet St John's Case: from Broome for the opinion of James Mansfield, June 1776, p. 2.

On another day in January 1774 Thomas Lodge narrowly avoided being arrested. Sheriff's officer Brown, who had a warrant against Thomas Lodge for a debt, was skirting the boundaries of Lodge's father's property when he spotted Lodge over a low wall in his father's garden. If Brown could have reached over the wall and simply touched Lodge, it would have been an arrest in law. However, Brown asked to speak to Lodge and Lodge complied, whilst quite possibly remaining at a safe distance on his side of the wall. On this occasion an arrangement to pay was made across the boundary and Lodge remained secure in his father's garden.⁶⁰⁰

Lodge was arrested on other occasions and events took similar turns. Lodge's freedom of movement was punctuated by repeated arrests, and he only maintained his liberty by conveying assets each time. On occasions, as above, his capacity to move about in conducting his own affairs was conditional upon fulfilling an obligation. If at any time he had failed to make terms with his creditors he would have remained in custody, probably in a local lock-up or in the house of an officer, and then been taken to the corresponding county gaol to be held on *mesne* process.

Few traders on the verge of bankruptcy could have secreted themselves to avoid arrest the number of times that Thomas Lodge did. He responded to the approaches and actions of his creditors with multiple concealments in, and disappearances from, different domestic spaces. On Tuesday 10 January 1775 Lodge's wife told her servant, Ann Carter, to tell anyone asking for Lodge that he was not at home, even though the servant might know him to be at home and in fact 'locked up in his parlour for fear of being again arrested', Lodge having been arrested the Monday before. Later, when Ann tried to enter the parlour with the breakfast things, she found Lodge locked inside.⁶⁰¹

Lodge, unlike many failing traders, did not want to be a bankrupt although creditors who included family members were keen to make him one.⁶⁰² However, neither did he seem to want to engage with his creditors or be arrested. He therefore repeatedly locked himself in rooms. On Wednesday 25

⁶⁰⁰ Ibid.

⁶⁰¹ HRO, 50M69/12, Winchester Assizes, assignees of Lodge v Sir Henry Paulet St John and others: deposition of Ann Carter, 15 February 1775.

⁶⁰² HRO, 15M50/1216/35, Paulet St John's Case: from Broome for the opinion of James Mansfield, June 1776, p. 3.

January Lodge had locked himself in the 'best parlour' of the house for fear of being arrested when his servant, Richard Allee, tried to open the parlour door. Finding it locked, he asked who was in the room, and as he spoke the door opened and Lodge let him in. He told Allee to shut the door again and Allee 'locked the door because he found it locked'.⁶⁰³ Lodge continued to seek secure spaces in domestic environments. Later, on the same Wednesday 25 January Lodge went to his father's house and concealed himself there until the following Sunday. Then on the following Saturday morning Allee saw Lodge 'in a room up one pair of stairs' at his father's house, and 'to the best of his recollection' the door was locked.⁶⁰⁴

Lodge continued to fear Brown's intentions and feared that merely locking himself in a room at home might not be sufficient protection. According to another servant, John Thomas Chandler, Brown had already taken Lodge's 'effects' into his possession before 25 January, and now Lodge believed that Brown wanted to take Lodge's person. He feared that Brown had a warrant to enter any room in his house and arrest him, and that was why he remained at his father's house upstairs. Chandler said he also saw Lodge once in 'a room below stairs'.⁶⁰⁵ Lodge seemingly was the master of concealment when it came to the visits of his creditors. When on one occasion a creditor asked a servant to see if Lodge was at home, the servant went to the parlour, but 'found the Candles burning and his Master not there', which inverted the whole ritual of self-confinement by leaving an empty space.⁶⁰⁶

Lodge did not in fact resort exclusively to concealing himself in domestic spaces. He also absented himself. When in early 1777 the whereabouts of Thomas Lodge was requested it was revealed that he was frequently 'about the County for days together'.⁶⁰⁷ In March that year when a direct attempt was made to contact Lodge the only answer that could be obtained from a neighbour was that he was 'somewhere near Dogmersfield', the village where he lived.⁶⁰⁸

⁶⁰³ HRO, 50M69/12, Winchester Assizes, assignees of Lodge v Sir Henry Paulet St John and others: deposition of Richard Allee, 15 February 1775.

⁶⁰⁴ Ibid.

⁶⁰⁵ Ibid: deposition of Thomas Chandler, 15 February 1775.

⁶⁰⁶ Ibid: deposition of Richard Allee, 15 February 1775.

⁶⁰⁷ HRO, 15M50/1216/37, Broome of Gray's Inn to Russell, 3 March 1777.

⁶⁰⁸ Ibid.

Lodge's problems were protracted, and the nature and chronology of events seem problematic. In the end he did experience longer-term confinement. Although Lodge appears to have received his bankrupt's certificate of discharge in 1788,⁶⁰⁹ this was not before it seems he was held in 'the Sheriff's Ward of Goal at WINCHESTER' from where he sought relief under an Insolvent Debtors' Act in August 1781.⁶¹⁰ Could Lodge have been gaoled by creditors while still an undischarged bankrupt? The apparent contradiction needs clarification: there may have been an earlier discharge of which this researcher has found no record, which was followed by imprisonment (after bankruptcy Lodge would in theory have had no property or assets with which to meet demands), and then another bankruptcy commission from which he was discharged in the late 1780s.

Lodge's experience, and that of other bankrupts, suggest that it was the unpleasantness and indignity of arrest, as well as its coercive force, that primarily threatened bankrupts such that they felt confined and their liberty curtailed. Imprisonment was a real possibility and did happen to some traders despite being made bankrupts in law, but generally as bankrupts in law, along with family support, it was an outcome they managed to avoid. The first part of this chapter has concentrated largely on how bankrupts endeavoured to evade arrest and imprisonment by either confining themselves in spaces like locked rooms or the corners of fields, or alternatively absenting themselves altogether from the domestic and commercial spaces they usually inhabited. Part two of this chapter explores different categories of physical space in which bankrupts found themselves.

⁶⁰⁹ *LG*, 8 July 1788, issue 13006, p. 336.

⁶¹⁰ Second Notice under the Insolvent Debtors' Act in *LG*, 14 August 1781, issue 12216, p. 8.

Part Two

Going Places

6.2.1 Crossing boundaries: domestic spaces, commercial spaces

The second exploration of space in this chapter will take the reader, quite literally, into the physical places in which being a bankrupt was experienced. Bankruptcy sources tell us things about the spaces (domestic and commercial – public and private) that traders (before and after they became bankrupts) inhabited and used. Hannah Barker has recently commented on the insufficient attention currently given by historians to how spaces were actually used.⁶¹¹ It is hoped that the sources in this study may provide some insights into eighteenth-century people's use of, and experience of, domestic and commercial space; and how bankruptcy transformed perceptions and experiences of these spaces.

Because of the importance of proving that an act of bankruptcy had been committed by a trader, thousands of sworn statements were taken before bankruptcy commissioners. Few of these records survive, but where these proofs do survive, they tell us things about the places inhabited and used by bankrupts and their families. Records of acts of bankruptcy relate to the 'on the verge of' bankruptcy stage of insolvency when creditors and officers of the law visited the homes and commercial premises that tradespeople inhabited. The records of acts of bankruptcy were usually detailed witness statements about what had happened in a variety of domestic and commercial places and were intended not only to prove an act of bankruptcy, but also to prevent, or at least make difficult, any subsequent challenges to the jurisdiction of the bankruptcy commissioners and a bankrupt's status as a bankrupt in law. In taking these details from witnesses, information about events in, and movements in and out of, different domestic and commercial spaces were also recorded. Regardless of the frequent contrivance and the panicky individual interpretations of the perceived requirements of the statutes that were so integral to the 'narratives' of the committing of acts of bankruptcy, without these records we would not have these additional insights into the spaces in and around traders' homes, and details of interactions and relationships that took place within them. Often as a result of disputes these records from early in the bankruptcy process were

⁶¹¹ Barker, *Family and Business*, p. 158.

complemented by later documents, usually letters or further depositions. Although this later evidence was used to dispute earlier events, it provides additional insight into the domestic and commercial spaces of bankrupts' environment.

Records of acts of bankruptcy can tell us things about the buildings lived in by bankrupts. Most bankrupts, at least until they became bankrupts, lived with their families in their 'dwelling house'. These houses had some, or all, of the domestic spaces typically associated with homes of middling-sort traders in the long eighteenth century. However, some spaces featured more in the records than others. Frequently cited were spaces which were principally used by servants or frequently shared with servants and visitors (halls, kitchens, ground-floor parlours, stairs); and more private spaces, often on upper floors and primarily used by masters and mistresses (bedrooms, chambers, studies). Salons, dining rooms and closets are little mentioned, possibly because few bankrupts were elite enough to have them; it may also be the case that the events that mattered tended to occur in other household spaces. Thresholds were also important. A lot of the choreography of bankruptcy played out in and around the home and especially at or near the entrances to houses. Events inside houses were also sometimes observed through windows from outside the houses. The exterior spaces of dwelling houses (drives, gardens, paddocks, fields, and outbuildings) also featured in legal documents which were generated to prove acts of bankruptcy.⁶¹²

Traders' dwelling houses and their commercial premises were frequently the places where events unfolded on their trajectory to becoming bankrupts. Karen Harvey has remarked of 'eighteenth-century British visual and written culture' that the house and the domestic interior became 'increasingly a richly detailed setting for human dramas'.⁶¹³ Arguably as the problems resulting from insolvency and bankruptcy unravelled, these non-fictional houses and interiors of bankrupts became settings for generating written narratives of real dramas. Creditors who were anxious to get accounts settled visited both commercial premises and dwelling houses and sometimes both. In several of the cases in

⁶¹² For examples of the distribution and division of space in the houses of trading families, see Barker, *Family and Business*, pp. 170–79.

⁶¹³ Karen Harvey, *The Little Republic: Masculinity and Domestic Authority in Eighteenth-Century Britain* (Oxford, 2012), p. 1.

this study the dwelling house and commercial premises were structurally part of the same building, or at least on the same site, or located little distance from each other.⁶¹⁴ When creditors called, they were pursuing a commercial matter and in doing this they often crossed boundaries and entered domestic spaces where their actions became part of the unfolding narrative of bankrupts' experience.

If a creditor called to speak with a trader about an account, he was sometimes informed by a servant that the master was not at home (this was especially the case if an act of bankruptcy was being contrived). There is often no evidence to suggest that this brief exchange took place anywhere else other than on the threshold of the dwelling house after which the creditor departed. However, many of the records examined in this study suggest, and often clearly indicate, that creditors and officers of the law were admitted into the interior spaces of bankrupts' homes by servants. What is harder to know is where they remained and what they did once admitted, and whether they spoke directly with the mistress in the absence of the master, or whether communications were relayed to them by servants. Details are vague in some cases, much more specific in others. After creditors had called to speak to King's Lynn merchant George Clay in 1739 a witness deponed that they 'could not see him' which only means that the caller was not able or permitted to speak to him, rather than that they were admitted and had some sight of the interior of the house in which Clay was not to be seen.⁶¹⁵ On another occasion Clay's wife told a creditor that Clay had 'left nobody at home to transact his business'.⁶¹⁶ The latter might suggest a message relayed to the front door, rather than the creditor being admitted to converse with Clay's wife, although in the deposition no servant is mentioned conveying the message, in which case Clay's wife might have spoken to the creditor on the threshold. The limited detail in this case does not allow us to know with certainty whether the creditors crossed the threshold or remained on the doorstep from where they could only peer into the space beyond.

⁶¹⁴ See Hannah Barker and Jane Hamlett, 'Living above the Shop: Home, Business, and Family in the English "Industrial Revolution"', *Journal of Family History*, 35 (2010), 311–28, pp. 312–13 for discussion of commercial and domestic use of the same building; and also, Barker, *Family and Business*, p. 157.

⁶¹⁵ NRO, BL/CS/1/1/1, Bankruptcy of George Clay: deposition of John Cooper, mariner, p. 2.

⁶¹⁶ Ibid: deposition of Robert Chinnery, pp. 5–6.

In a similar case on 14 March 1743 Robert Fry, a sheriff's officer, went to the home of Richard Hutchings, a Somerset yarn washer, to arrest Hutchings under a warrant. Fry found Hutchings' wife and son and asked them where Hutchings was, and they replied that he had gone 'beyond London'. It is possible that Fry spoke on the threshold to Mrs Hutchings and son, but it is also possible that as Fry was probably known to the Hutchings, and given the matters discussed (Hutchings fearing arrest, his being gone to his other son's 'beyond London' to raise money to pay his debts, and his being resolved 'never to return home again if he could not raise money sufficient for that purpose') that this exchange with two people was conducted in the interior of the Hutchings' dwelling house.⁶¹⁷ In the above two cases one reason for suspecting that creditors may have entered the bankrupts' homes is the absence of any reference to servants as carriers of communications between the callers on the thresholds and the inner spaces of the dwelling houses. Creditors' visits typically triggered a sequence of movements (by callers, servants, masters and mistresses) in and out of, and up and down the domestic spaces within bankrupts' dwelling houses. Servants (domestic and trade) also frequently gave evidence, not only for the proofs of acts of bankruptcy, but also about subsequent events. When they had a role in these events, they tended to give more precise information about the movements of individuals between commercial and domestic spaces. If bankrupts' commercial premises (interior and exterior) featured in accounts, it was generally when domestic and commercial premises were part of the same building (or complex of buildings) or were located near each other. A bankruptcy that played out across commercial and domestic space was that of Sherborne maltster John Slade, who lived alongside a complex of commercial buildings. Early in 1830 one Gillingham, a creditor owed money by Slade for hay, came to Slade's yard and spoke to his servant and maltster William Luffman, whose wife Ann was Slade's domestic servant. Luffman recalled the movements that then ensued between the yard and Slade's house:

I went and told my wife of it and desired her to tell Mr Slade that Gillingham wanted to have his Account settled, She went to him in the

⁶¹⁷ SRO, DD/MR/107, Bankruptcy records, Richard Hutchings: deposition of Robert Fry of Chard, sheriff's officer, 2 April 1744, p. 6.

Parlour, and then brought a message to me to say, that Master had not his Bill and that he Gillingham was to call again in a fortnight...⁶¹⁸

Gillingham was not convinced by this answer having already left the bill with Slade's clerk, and so, Luffman continued: 'he went to the Office for it and having it then delivered to him, he, the same day, brought it to my wife, who in person carried it to Master'.⁶¹⁹ Gillingham only communicated with Slade through the servants that day and it does not appear he called at the house. Luffman did not know whether Gillingham got any further response from Slade, but some days later Gillingham had clearly decided that he was getting no result from the servants in the yard and, according to Luffman, he 'called at the House, but it was after Slade had departed'.⁶²⁰ Another bankrupt who lived close to his commercial premises was Romsey brewer John Latham who on 13 November 1817 received some letters 'at around 9 o'clock in the morning'. It is not clear whether Latham was at home or in his brewery when he received them, but he was quickly able to speak to 'his son, who was in the Counting House' and tell his son that he had to leave home for fear of arrest, and he left that same day.⁶²¹ Both Slade and Latham as provincial maltsters and brewers of no great scale, lived close to their commercial premises. In the case of large bankruptcies in this study, typically major merchants and bankers (Fordyce, Muilman and Nantes, Brickdale, Wakeford, Fry), who lived with their families in suburban villas or at their country seats, separation of domestic and commercial space was much more pronounced. This only meant, as will be seen below, that matters developed in places separated in time, and hence such rapid exchanges between commercial and domestic spaces did not occur.

An instance of creditors clearly entering a dwelling house to negotiate terms, and the movements that took place within that domestic space, is provided in the case of the failing soap manufacturer and soon-to-be bankrupt William Everhard Baron Von Doornik. The events and movements took place one day

⁶¹⁸ DRO, D/FFO/27/103, John Slade, proceedings in bankruptcy: deposition of William Luffman, 14 May 1830, pp. 3–4.

⁶¹⁹ Ibid.

⁶²⁰ Ibid.

⁶²¹ HRO, 4M92/PL/A4, Latham Bankruptcy: Affidavit of John Latham the younger. A description of the domestic and commercial complex occupied by Latham is given in a local history study: Barbara Burbridge, 'The Latham Bankruptcy, 1817', *Pots and Pans* (Journal of the Lower Test Valley Archaeological Study Group), 6 (1994), 21–32. NB The author provided me with a pdf copy of her article which does not have page numbers, so I give only the full page range of the article's entry in the *Pots and Pans* journal.

in November 1806 on the ground floor of soap manufacturer James Taylor's house in Whitechapel. Von Doornik was visiting his friend Taylor who was also in the company of Taylor's business partner Thomas Lorkin. The three men were in the house which had a front and back parlour. Von Doornik was in the back parlour, but it is not clear where the other men were. A maid servant asked Lorkin if he would go and see Von Doornik, which Lorkin did. Von Doornik told Lorkin that a creditor and 'another Person' (probably a lawyer) wanted to see Von Doornik. Lorkin offered to go and speak to the two men on Von Doornik's behalf and 'went immediately into the front parlour of the said House being the room adjoining that in which...[Von Doornik]...then was'. Lorkin maintained a discussion with the two men about Von Doornik's arrangements 'for the benefit of his Creditors' which the men were unhappy about. Lorkin resisted the men's request to see Von Doornik, then, there being no agreement, and the two men 'being about to leave the room' Lorkin declared that Von Doornik 'was there [in the adjoining room] and that they might see him if they liked'. The men declined and left. What is likely to have been happening here is that the creditors were trying to foist an act of bankruptcy on Von Doornik, and Lorkin realising this suddenly attempted to give them access to Von Doornik.⁶²²

So far in this account creditors or their agents have seemed relatively patient and little intrusive as they stood on the thresholds of bankrupts' homes and commercial premises. However, this was not always the case, and it certainly was not representative of all bankrupts' experience. In bankruptcy the ownership and control of spaces quickly became inverted as property was conveyed away from bankrupts, and where once the bankrupts had been masters and directed their businesses, now in those same spaces others entered and took control. In 1797 bankrupt London merchant Henry Nantes found himself answering awkward questions about the failure of his merchant house and the suicide of his partner in a place that had formerly been his own 'Accompting House in Warnford Court', located off Throgmorton Street.⁶²³ Under English bankruptcy law accompting houses and other pre-existing

⁶²² TNA, C217/58, Matter of Von Doornik, a bankrupt: affidavit of Thomas Lorkin, 19 November 1806.

⁶²³ TNA, B3/3688, Bankruptcy of Henry Nantes, Examination of Henry Nantes, 30 March 1797, pp. 1–5.

commercial spaces (shops, stores, warehouses, offices, works yards and buildings, breweries etc.) could be seamlessly conveyed to new owners, or simply rendered empty spaces by fire sales of stock and utensils.

Bankrupts sometimes experienced the summary seizure of their commercial premises. In the summer of 1773 trouble descended on David Brigstock's shop when two men, who represented a creditor, entered and demanded from Ann, Brigstock's wife, the books and the keys to the shop. They then locked and nailed up the door to the shop, thus excluding Brigstock and his family from the space in which they and their servants habitually interacted socially and commercially with neighbours and customers.⁶²⁴ Given that Brigstock's commercial premises formed part of his dwelling house the creditors had effectively erected a secure boundary in a house which previously may have barely demarcated commercial space from domestic. This seizure of the commercial part of the house removed the interface between the family's public social space and their more private domestic space.

The Brigstocks were provincial shopkeepers with probably limited status in the locality, and therefore aggressive creditors who understood the debt laws easily shut them out of their shop front and part of their home; if cross words were exchanged, they were not recorded. However, there were many other kinds of shops or commercial spaces, and in some places matters became wholly more fraught. In one respectable place of business, a bank which also served as a space for polite social interaction, the sudden pressures of financial failure and imminent bankruptcy transformed the establishment's spaces into an arena of conflict and physical confrontation. Thus in 1826 behind the public space at the front of the Wakeford brothers' Andover Old Bank, there was a library where more private business matters were conducted. What unfolded in this inner chamber of the bank on the morning of 4 March, was more than acrimonious. The catalyst for some un-genteel behaviour was the impending bankruptcy of Wakefords' and the attempt by William Heath, a creditor of Wakefords' and proprietor of another Andover bank, to gain an unfair advantage ahead of the bankruptcy by demanding immediate settlement of his account. Clerks, lawyers, members of the respective banking families repeatedly entered and

⁶²⁴ BRO, JQS/P/44, Examinations of witnesses, 14 March 1774: deposition of Mary Morgan, servant.

exited the library at the rear of the banking house while attempts were made to reach an agreement over payment to Heath. But when only the Wakefords' solicitor and Heath were alone in the room, Heath snatched a pile of money from the table and made for the library door, only briefly being obstructed at the threshold by the lawyer, after which he 'bolted as hard as he could' from the library and the bank.⁶²⁵ That morning the library, in a place supposedly of public reputation and probity, became a space in which men, bankers no less, and leading members of the local business community, grappled with each other like common thieves over a pile of notes and bills. On that day bankruptcy changed their behaviour and how they used the space they were in.

Other cases suggest that creditors, or their agents, did not hold back from entering directly into bankrupts' domestic space and the processes of bankruptcy often entailed not merely a crossing of thresholds with commercial objectives, but a rolling back of domestic boundaries altogether. An instance of this occurs in the Ann and Isaac Scott bankruptcy in which there were very poor relations between the bankrupts and the commission, and particularly with the assignees. On a Saturday evening in 1767 a commission attorney entered Anne Scott's home and 'pushed by the Maid up Stairs, into the Room' where Mrs Scott and her daughters were, and delivered a summons to appear before the commissioners the next Monday morning.⁶²⁶ When creditors, officers acting under civil law, or other agents of creditors or commissions succeeded in crossing thresholds and gaining access to domestic or trade premises, it was usually because they were admitted by a servant.⁶²⁷ If servants did not permit access it was because they had received instructions to deny access, but disadvantage in age, status, and sometimes gender, will have often meant that it was hard to carry out their instructions, especially when faced with pushy men in pursuit of money. Ann Scott's maid could not detain the attorney on the threshold, so he was able to enter Mrs Scott's private space uninvited and accomplish his intended business. Entry to the dwelling house might

⁶²⁵ HRO, 52M84/60, Wakeford Bankruptcy 1826, Examination of witnesses: Robert Henry Aberdein, 22 July 1826, pp. 363–66.

⁶²⁶ Scott, *Case of Anne and Isaac Scott*, p. 124.

⁶²⁷ See Christopher Heyl, 'We are Not at Home: Protecting Domestic Privacy in Post-Fire Middle-Class London', *London Journal*, 27 (2002), 12–33, for an interesting discussion about attempts to gain entry to, and prevent entry to, eighteenth-century homes.

sometimes have been prevented, but creditors and other agents easily moved in gardens and grounds.

One subject of this study who felt the crossing of the boundaries around her domestic and private space was Elizabeth the wife of bankrupt banker Joseph Fry. In November 1828, as her husband's bank failed, Elizabeth recorded in her journal: 'The storm has now entered my own borders'.⁶²⁸ Elizabeth meant that the mundane and tainted world of trade and financial embarrassment had invaded her private world. At the same time her words presaged the assault on her domestic space by the agents of her husband's creditors, who were soon to cross into her house and gardens in order to take possession of them. The officers arrived early the next month.⁶²⁹

At least for a while Elizabeth was able to remain in her home and observe (and write her journal) while the appraising took place. No such courtesies were extended to David Kennedy. In February 1752, a team of appraisers descended on Kennedy's property and made an inventory. Then to ensure that the contents of the house stayed put and were secure from any rival actions, they 'barricaded the respective doors and entries belonging to the said house, turned every body out, and lock'd it all up'.⁶³⁰

Actions within bankruptcy crossed boundaries between the commercial and the domestic because the law permitted creditors and their agents to exercise excessive and disproportionate power over bankrupts. Furthermore, the actions of creditors and their agents collapsed domestic and private spaces into the commercial arena, in the sense that all that was private and personal, both space and things with their private and personal meanings, became mere assets to be traded by creditors, lawyers, and auctioneers.

6.2.2 Meetings in places: the public and the private

The previous section in this chapter examined events and actions that unfolded largely in and around the domestic or commercial places owned by bankrupts. Many of these events transpired while traders were on the verge of bankruptcy

⁶²⁸ LRSFB, Diaries of Elizabeth Fry, MS Vol. S267/2, Plashet, 15 November 1828.

⁶²⁹ Ibid., 3 December 1828.

⁶³⁰ WRO, 492/280, Bankruptcy of David Kennedy: Burgesse to a creditor (probably Cooper, Edwards or Stabler), Marlborough, 22 February 1752.

and prior to their being declared bankrupts in law. However, once a trader's bankruptcy commission had been officially announced in the *London Gazette* and promulgated by national and regional newspapers to notify creditors up and down the country, the trader turned bankrupt was required to attend statutory meetings. The meetings were important because they gave creditors an opportunity to prove what they were owed, and thus register their right to participate in the pro-rata distribution of bankrupts' liquidated estates. The meetings of creditors with the bankrupt and the commissioners which were advertised in the *Gazette* were public meetings in so far as they were open to all creditors and were held in public places. These official public meetings were intended to ensure transparency in, and scrutiny of, the proceedings by all creditors with a claim on a bankrupt's estate. The meetings included formal examinations of bankrupts before the commissioners. Propriety and order were expected, and the proceedings were recorded. They also allowed bankrupts the chance to explain themselves in a safe place, but they could also expect to be challenged by creditors.

The first meeting of commissioners to carry out the preliminaries (e.g. swearing themselves in, examining witnesses for the proof of bankruptcy) 'is usually at a tavern, coffeehouse, or other convenient place'.⁶³¹ The offices of solicitors to commissions were also used. For the public meetings with creditors London commissions met at the Guildhall in the City; in the country the meetings were held in suitable inns and taverns. There were exceptions to this, for example, the commissioners in George Clay's 1739 bankruptcy met at the Guildhall in King's Lynn. In major towns and cities, a single inn or tavern might serve commissions handling a much wider geographical area than the immediate municipality and environs. A place that served the latter function was 'the Dwelling House of John Weeks Vintner commonly Called or known by the name of the Bush Tavern' in Corn Street, Bristol. There the commissioners in the case of bankrupt Carmarthenshire shopkeeper David Brigstock sat. Brigstock was one of a number of Welsh bankrupts whose commissions met in Bristol.⁶³² It was not, however, the case that small bankruptcies in rural locations were

⁶³¹ Anon., *Solicitor's Guide*, p. 7.

⁶³² The records of Bristol solicitors Brice and Burges c. 1775 to c. 1905 (BRO, 44352) contain commission documents for a number of Welsh bankrupts whose commissions sat at the Bush Tavern in Bristol.

always taken to major towns or cities. Yarn washer Richard Hutchings, a bankrupt in rural Somerset in 1744, who lived in a small village had only to make an appearance in the small town nearby at ‘the Dwelling house of Ambrose Cecill at Crewkerne...a publick Inn and known by the sign of the George’.⁶³³

Inns and taverns, as typical places for hire, were conveniently able to provide refreshment and victuals for the commissioners and others with roles in the commission (in country commissions commissioners were still allowed to charge their dining and refreshment to the bankrupt estate). In cities coffee houses were also places where business related to bankruptcies was transacted. In January 1775, a month before his bankruptcy, Hampshire brewer Thomas Lodge travelled to London with a servant. According to his servant Lodge stayed at Joe’s Coffee House in Mitre Court, whilst the servant was lodged at the Bell and Sunn Inn in Fleet Street. Joe’s was well located for Lodge to consult gentlemen of the law and he spent several days there. The servant ‘waited on’ Lodge at Joe’s a number of times, joining him in the ‘publick room’ where they supped, and the ‘Coffee Room’ where they breakfasted.⁶³⁴ Coffee houses located close to London’s legal district naturally served commission solicitors. In June 1782 Bristol solicitor Daniel Burges lodged at the Baptist’s Head Coffee House in Chancery Lane. The Baptist’s Head in Chancery Lane was a coffee house ‘Frequented by gentlemen of the law’, it was also said of it that ‘Commissioners of Bankrupts sit here’.⁶³⁵ From there Burges conducted business on behalf of bankrupt Bristol distiller Joshua James.⁶³⁶ Inns, taverns and coffee houses also offered a variety of spaces for meetings and fulfilled other functions in the bankruptcy process, typically as venues for the sale of bankrupts’ assets by public auction. For example, on 6 July 1789 bankrupt distiller Joshua James’s home was advertised for auction, with the venue for the sale being the Exchange Coffee House in Bristol.⁶³⁷ When in 1828 struggling Sherborne brewer John Slade’s home and premises were first put up for sale by auction, the venue was the Antelope Inn,

⁶³³ SRO, DD/MR/107, Bankruptcy records, Richard Hutchings, p. 1.

⁶³⁴ HRO, 15M50/1216, Bankruptcy of Thomas Lodge, depositions: manservant’s deposition, p. 9.

⁶³⁵ Richard Phillips, *The Picture of London* (London, 1804), p. 354.

⁶³⁶ BRO, 44352/2/1/8, Papers re Joshua James: Memorial of Joshua James, n.d.

⁶³⁷ Ibid: Dwelling house sale notice and conditions of sale, 6 July 1789.

Sherborne.⁶³⁸ The Antelope Inn would also be the place for the meetings of his bankruptcy commission two years later.

In as far as this researcher understands public meetings of the commissioners were not open to the merely curious public, but a claim to have a debt to prove would gain admission. Most bankruptcies would have attracted interest only at a local level, or within trade networks and communities. However, in cases of bankruptcies of notoriety, usually ones where the scale of the failure and debts were considerable and where many creditors were affected, public interest was alerted in the press and crowds gathered outside the meeting places rendering them very public. This was particularly the case with the commission meetings of well-known bankers Alexander Fordyce (1772) and Joseph Fry (1828), which drew both crowds and journalists.

In the case of the bankruptcies of partners in note-issuing banks, anyone left holding an unusable banknote was a creditor and needed to prove their debt at commission meetings (or through a power of attorney). There could be hundreds, if not thousands, of holders of notes, therefore large gatherings of the public were inevitable at meetings. The bankruptcy records of Wakefords' Old Andover Bank fill volumes with entries recording the claims of holders of small denomination notes.⁶³⁹ Meetings of creditors also brought together a moderately diverse cross-section of the population (creditors could include: aristocrats, gentlemen and gentlewomen, widows and single women, professionals, tradespeople, and servants and labourers who were owed wages), bankrupts were therefore thrust into very public arenas in which they were examined before a sometimes ill-disposed audience.

Whether a guildhall or a tavern, these physically constructed places provided the spaces in which bankrupts experienced the proceedings of the commissions issued against them. A bankruptcy commission, wherever it met, created its own unique space by doing something with, or about, a bankrupt. Phil Hubbard makes the observation that what matters about 'space and place is not what they are, but what they do'. What a tavern did, amongst other things, was hold proceedings against bankrupts.⁶⁴⁰ Equally, what was supposed to be done in

⁶³⁸ DRO, D/FFO/27/102, Bankruptcy of John Slade: auction details, 1 May 1828.

⁶³⁹ HRO, 52M84/54–71, Wakeford of Andover bank.

⁶⁴⁰ Phil Hubbard, 'Space/Place', in David Atkinson and others (eds), *Cultural Geography: A Critical Dictionary of Key Concepts* (London, 2005), p. 47.

certain places, sometimes could not be done. On 16 October 1739 George Clay did not surrender to the commissioners who had gathered at the Guildhall in King's Lynn at two o'clock to examine him, and thus the gentlemen commissioners could only record 'nobody appeared'.⁶⁴¹ No bankrupt meant no examination, and therefore no public arena. Almost a century later in similar circumstances the commissioners in John Slade's bankruptcy noted that Slade had failed to surrender to the third meeting at the Antelope Inn in Sherborne:

although we attended at the place above mentioned in expectation of such Surrender till past three o'clock in the afternoon of the same day, and although due notice in writing, requiring him to surrender on the day and at the place above mentioned, had been left for him at his usual places of abode...⁶⁴²

We do not know with any certainty why some bankrupts chose not to surrender to their commissions. However, formal meetings in the presence of the commissioners were surely preferable to meetings without commissioners and held only with assignees. Assignees were also creditors, so meetings had all the potential to be acrimonious. By the late eighteenth century, the reputation of these meetings was sufficiently embedded with the reading public, if not also in popular culture, for contemporary satirical artists, principally Thomas Rowlandson, to represent such events. Below appear two of Rowlandson's images of bankrupts in meetings. The former, *Examination of a Bankrupt*, shows the event presided over by commissioners and being conducted with relative decorum in a seemingly spacious London Guildhall.⁶⁴³ The adequate space and relative order in the hall does not tally with all accounts.

With the greatest number of bankruptcies in England occurring in London the number of bankrupts taken through London Guildhall was immense, and few seemed contented with the accommodation the Guildhall offered. Sir James Bland Burges grumbled in 1783 that using the hall was 'productive of great

⁶⁴¹ NRO, BL/CS/1/1/1, Bankruptcy of George Clay: sworn depositions, p. 15.

⁶⁴² DRO, D/FFO/27/103, John Slade, proceedings in bankruptcy.

⁶⁴³ Thomas Rowlandson and Augustus Charles Pugin, *Examination of a Bankrupt before his Creditors in the Court King's Bench, Guildhall*, 1808, aquatint on paper, London Metropolitan Archives, Pr.281/GUI/law, q6008014. The title of the image is a little confusing, an explanation may be that as London bankruptcy commissions had to find space where they could in the Guildhall (see Welbourne on space), they sometimes occupied the courtroom more habitually used by the Court of King's Bench; note the central bench is unoccupied.

inconvenience. The apartments...are in general small'. Add to this an over concentration of separate commissions, each one trying to hear several cases in these rooms such that the result was an 'immense crowd' as well as noise and heat. Burges asked:

the confusion which such a crowd must create, it will rather appear surprising that the Commissioners should be able to breath[e], than that they should hurry over an unpleasant business...In such a chaos of papers and of a clamour, how can a due attention be preserved?⁶⁴⁴

Isaac Scott had noted in 1767 'the Hurry of Business that Day at the *Guildhall*'.⁶⁴⁵ Things did not improve in the nineteenth century. One commissioner grumbled in 1816 that the overcrowding: 'produces such confusion, that the crowds round the tables resemble more the rabble round the stalls at Smithfield, than an assemblage of persons interested in the decent and orderly administration of justice'.⁶⁴⁶ One speaker in Parliament said that the Guildhall on a busy day 'could be compared to nothing but a cock-fight'.⁶⁴⁷ And as for country commissions, Burges thought they were on 'a still worse footing'.⁶⁴⁸

⁶⁴⁴ Burges, *Law of Insolvency*, p. 339.

⁶⁴⁵ Scott, *Case of Anne and Isaac Scott*, p. 39.

⁶⁴⁶ Edward Christian, *Practical Instructions for Suing Out and Prosecuting a Commission of Bankrupt* (London, 1816), in Hoppit, *Risk and Failure*, p. 38.

⁶⁴⁷ *Parl. Deb.*, Vol. 38 (1818), col. 981, quoted in Weiss, *Hell of the English*, p. 42.

⁶⁴⁸ Burges, *Law of Insolvency*, p. 340.

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Figure 3.1. *Examination of a Bankrupt before his Creditors in the Court of King's Bench, Guildhall* (1808), by Thomas Rowlandson (1756 – 1827). © London Metropolitan Archives

During the liquidation of a bankrupt's estate there were official meetings advertised in the *London Gazette* which were presided over by the commissioners. Although more likely to attract wider public attention, formal meeting places had certain advantages for both bankrupts and creditors. Apart from the general procedural order imposed by the commissioners, bankrupts enjoyed certain protections when attending; and creditors would hope transparency and equitable treatment in the liquidation of bankrupts' estates was maintained by the commissioners' supervision of the assignees. These meetings with the commissioners can be regarded as 'public' meetings (or sittings), but there were other meetings which were considered 'private' meetings. These were meetings at which the commissioners carried out essential proceedings, such as the initial meetings to examine witnesses in order to declare a trader a bankrupt. There were other private meetings in the

presence of only one commissioner at which, according to Sheila Marriner, 'proceedings were frequently not recorded'.⁶⁴⁹

More ambiguous in status were 'private' meetings with assignees, but without commissioners. The assignees as administrators of bankrupt estates were entitled to meet without the commissioners, and these meetings could be held with or without the bankrupt, and with or without some, or all, of the creditors. In London, due to the demands on the Guildhall's overcrowded space, alternative places were used. These places were typically inns, taverns and coffee-houses.⁶⁵⁰ Many of these places were in or near localities that were significant in the administration of the law or the treatment of debtors.

Relative to places like the Guildhall there was a certain ambiguity to meetings in taverns and coffee houses without the presence of commissioners and there existed some doubt as to whether bankrupts would be protected when attending these meetings.⁶⁵¹ In September 1767 the assignees in Isaac Scott's bankruptcy tried to get Scott to attend a number of places including the Paul's Head and Rolls Coffee-House in Chancery Lane.⁶⁵² These places were less formal and less public than the Guildhall where commissioners would be present. Private meetings in taverns and coffee houses without commissioners may have permitted assignees to conduct business in a manner that served their own interests.

As related in part one above, Scott did not believe he could attend these private meetings with safety. He insisted that he would only attend a place that was within the Rules of the Court. When offered a meeting at Nando's Coffee-House, which was a haunt of the legal profession in Fleet Street, it appears he accepted, although unlike the Cardigan-head tavern, it was outside the Rules of the Court. He may on this occasion have accepted the assignees assurances that they would 'immediately bail' him were he to be arrested.⁶⁵³

⁶⁴⁹ Marriner, 'English Bankruptcy Records', p. 362 fn.4.

⁶⁵⁰ *Ibid.*, p. 352.

⁶⁵¹ The doubt is expressed by Cooke, *Bankrupt Laws*, II, p. 21. Cooke's original text on which later editions were based was first published in 1785. An annotation at the foot of pp. 21–22 (n.d., but post 1812) maintains the bankrupt's protection at a private meeting was no longer in doubt.

⁶⁵² In 1810 commissioners were meeting at Rolls Coffee House, see Cooke, *Bankrupt Laws*, II, p. 149.

⁶⁵³ Scott, *Case of Anne and Isaac Scott*, pp. 43–49.

Not only was Scott and his family uneasy about these private meetings with the assignees, creditors were too. Private meetings of assignees and creditors as opposed to public meetings in the presence of commissioners were sometimes opportunities for assignees, who it must be remembered were also creditors, to put their own interests above those of other creditors, and of course above the bankrupt's. In January 1768 some of Scott's creditors 'began to be inquisitive' about the assignees' handling of assets. The assignees advertised 'a publick Meeting', but 'publick' did not necessarily mean with the commissioners, so various principal creditors demanded the meeting be held 'before the Commissioners, when Parties might be interrogated on Oath' and because 'a Meeting before the Commissioners' would 'tend more to the Benefit of the Estate than a private Meeting'.⁶⁵⁴

For one impression of what these private meetings and the places they were held in might have been like it is useful to look at Rowlandson's *A Meeting of Creditors*, which shows a scene in marked contrast to the Guildhall meeting. Despite some clearly intended symbolism in Rowlandson's drawing, the picture shows a private meeting in what might conceivably be a private room in a tavern or coffee house at which an insolvent debtor or bankrupt, is being questioned before a group of creditors; the creditors remonstrating at the front may be assignees. In the small crowded and cluttered room, the mood appears both acrimonious and slumberous, while intrigues are hatched in the background.⁶⁵⁵ Rowlandson will have been aware that back or upstairs rooms in London taverns or coffee houses were hired for these events. Places of hospitality and sociability offered a variety of separate spaces that were useful to clients with complex agendas, and it was probably a venue like the one portrayed by Rowlandson that hosted some of the many meetings complained about by Anne and Isaac Scott in their pamphlet.

⁶⁵⁴ Ibid., pp. 91–92.

⁶⁵⁵ Thomas Rowlandson (1756–1827), *A Meeting of Creditors* (c. 1785–90), Fitzwilliam Museum, Cambridge.

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Figure 3.2. *A Meeting of Creditors* (c.1785 – 90) by Thomas Rowlandson (1756 – 1827). © Fitzwilliam Museum, Cambridge

The way the variety of spaces that a tavern offered were exploited at one of these private meetings was described by the Scott brothers. One evening in November 1767 Isaac, Daniel and George had agreed to meet the assignees at the ‘*Cardigan Tavern*’, a place where, the assignees declared to Isaac, ‘we imagine you may attend with Safety’. How safe the place itself was, might have been questioned, as the ‘*Cardigan Tavern*’ had been the scene of dramatic events. In 1760 the ‘*Cardigan head tavern, Charing-Cross*’ featured as a meeting and dining place for those involved in the violent treatment of Anne Bell which led to her death.⁶⁵⁶ A year later it was the scene of a duel in which one Captain Jasper was fatally shot.⁶⁵⁷ However, this tavern should not be considered a place ill-suited to expediting bankruptcy business, partly because it was a place to which a bankrupt could go in safety. The ‘*Cardigan Head*

⁶⁵⁶ T. Holland, *A Circumstantial Account Relating to that Unfortunate Young Woman Miss Anne Bell...who died at St. Mary le Bone* (London, 1762?), pp. 10–11, 18; *Gentleman’s Magazine* (London, 1760), 30, p. 560.

⁶⁵⁷ *Universal Magazine* (London, 1761), 38, p. 333.

tavern at *Charing Cross*...being in the verge of the court' features in the 1768 edition of *The Solicitor's Guide, AND Tradesman's Instructor, CONCERNING BANKRUPTS*.⁶⁵⁸ From the events that night in November 1767 at the Cardigan we gain some sense of the nature of the spaces within a London tavern and how they were used during a meeting of creditors.

The Scott brothers waited at the tavern, then the assignees called Daniel 'down into another Room to them' separating him from Isaac and George. When they had finished with Daniel 'one of the Assignees, went up Stairs to pay a Visit to Mr George Scott', and he sometime later again 'joined his Company below'.⁶⁵⁹ On another occasion when George Scott entered the chamber in which a meeting of assignees and creditors was being held (Isaac did not attend for fear of arrest), he found his presence unwelcome and he was 'desired by some Creditors to go and wait in another Room till he was called for' which Scott did not consider the 'genteel Treatment' and he 'therefore left the House, although he had as much right there as any other Creditor'.⁶⁶⁰

There was another occasion when Isaac Scott was summoned to appear before commissioners at the Guildhall, which was the established place of appearance before commissioners in London, but he would not attend for fear of arrest. It would be thought that Scott could safely attend a public sitting of the commissioners at the Guildhall, but the reader will recall the intelligence of an intended arrest of Alexander Fordyce received at his examination at the Guildhall in 1772 (related in part one above). This time it was the commissioners who agreed to change places and to meet at the Cardigan which was within the Rules of the Verge of the Court where Scott was residing. Had it not been for this privileged place, Scott might not have attended the meetings of his commission at all. At this meeting Scott managed to have 'the Assignees and their Clerk sent into another Room' before he would make a discovery before the commissioners. They returned to the main chamber later in order to examine Scott.⁶⁶¹

⁶⁵⁸ Anon., *Solicitor's Guide*, p. 26. Ian Kelly says the tavern had 'a dubious reputation' and that some considered it a molly-house, but he provides no sources to support these observations, see Ian Kelly, *Mr Foote's Other Leg* (London, 2012), p. 209.

⁶⁵⁹ Scott, *Case of Anne and Isaac Scott*, pp. 76–79.

⁶⁶⁰ *Ibid.*, pp. 95–97.

⁶⁶¹ *Ibid.*, pp. 113–14.

6.3 Conclusion

This chapter has highlighted the extent to which bankrupts felt acutely aggrieved at being deprived of their liberty, a right to which they felt entitled. For them, a loss of liberty was no fiction. Failing traders genuinely feared arrest and imprisonment, and it was this threat that often spurred them on to seek at least partial protection under the bankruptcy regime. However, merely becoming a bankrupt did not afford complete deliverance from the threat of imprisonment. Bankrupts who failed to satisfy commissioners could be imprisoned. On the verge of bankruptcy, they were locked up or held in some form of custody, or they confined themselves in their own homes. Even a place like the Verge of the Court, which offered partial protection, did so only in return for substantial sacrifices both pecuniary and in personal liberty. As an alternative to confinement a bankrupt might absent or even exile themselves from their habitual places. Where protections for bankrupts were offered, they were limited to specific journeys, which meant that otherwise bankrupts were largely confined to wherever they had been taken in as former homes were invaded by officers and auctioneers.

Bankruptcy collapsed all boundaries. Bankrupts needed to move about to conduct their affairs and to go to meetings which they were legally bound to attend. However, the ambiguity in the status of many of these places and the uncertainty around bankrupts' protections meant they continued to feel at risk of arrest and possible imprisonment. The resulting sense of being trapped in a confined space, in which their liberties were suspended, was an experience that bankrupts wished to have over as soon as possible. This, however, was often not to be the case. Bankrupts thoughts and feelings about the time they spent in what Isaac Scott called a 'most disagreeable uncertain Situation' are the subjects of the next chapter.⁶⁶²

⁶⁶² Ibid., pp. 40.

Chapter Seven

Bankrupts in Time

7.0 Introduction

In May 1814, the twice-bankrupted Edmund Townsend petitioned some one hundred noblemen and members of parliament with a complaint about how long the proceedings of the second commission, which had been issued against him in 1805, were taking. He protested:

There was a meeting of the commissioners on Saturday the 21st instant, to make (according to advertisement) a final dividend, which was, as I understand, further deferred till November next. This will make about the forty third meeting of the commissioners, besides twelve to fifteen meetings of the assignees and solicitors, at an expense of £300 or upwards to the estate, exclusive of other expenses to the amount of several hundred pounds more, during the long period of nearly NINE YEARS AND A HALF.⁶⁶³

At the bottom of a printed copy of his petition was scribbled:

Since the above were circulated the Meetings of the Commissioners amount to about fifty and the time has extended to more than Ten years.⁶⁶⁴

Then in July 1814, as his commission ground on, Townsend directed his next complaint to the trade community, lamenting: 'The long course of time it has taken, and the great expense I have been at in prosecuting this matter, have brought me into most awful situations and great inconvenience'.⁶⁶⁵ Then in 1824, despite the passage of another ten years, the *London Gazette* was still advertising meetings of his 1805 commission.⁶⁶⁶ Over the decades an unhappy Townsend had continued to petition parliament for reform of laws which, he maintained, had subjected him to such a protracted process. A petition in 1818 presented by Sir Samuel Romilly 'praying a consideration of the Bankrupt Laws'

⁶⁶³ B&NESRO, 0253, Edmund Townsend, bankrupt: Petition to Noblemen and Members of Parliament, 26 May 1814.

⁶⁶⁴ Ibid.

⁶⁶⁵ B&NESRO, 0253, Edmund Townsend, hand bill addressed 'to the BANKERS, MERCHANTS, &C. of Great Britain', 22 July 1814, annotated 24 September 1815.

⁶⁶⁶ LG, 16 November 1824, issue 18080, p. 1897.

only got as far as being ordered ‘to lie on the table’.⁶⁶⁷ Again he petitioned in 1825 ‘complaining of the Bankrupt Laws’.⁶⁶⁸ The following year his only daughter, 22-year-old Elizabeth, who had lived her entire life under the shadow of her father’s bankruptcy and who had long been ill, died ‘in a consumption and great distress’.⁶⁶⁹ Townsend and his family experienced the consequences of protracted bankruptcy proceedings and his being prevented from recommencing his trade. We know about Townsend because he attempted through his petitions to take his plight directly to those with power and influence. But what about other bankrupts? How did they experience the passage of time during their bankruptcies?

Standing back for a moment from the many events that have unfolded so far in this study of the experience of eighteenth-century bankrupts, it is not difficult to notice the friction that existed on the one hand between the process side of bankruptcy which was driven by the bankrupt laws and by the de facto institution constituted by the commissioners (who were empowered with the Lord Chancellor’s authority) along with the vested interests of assignees, creditors, legal professionals, and on the other hand the bankrupts. They, like Townsend, experienced delays and saw matters protracted during their long wait to get their certificates and to be finally freed from the state of being bankrupts. The certificate, for Defoe, was ‘a kind of performing of the *obsequies* of the dead, and praying him out of *purgatory*’.⁶⁷⁰ The sustained friction over the years between the two sides involved in bankruptcy can be understood, in part, as being the result of the structural tensions that existed between two different conceptualisations of time.

Looking at the legal process of bankruptcy, and then at the actions and events within the experience of bankrupts, it is possible to perceive a distinction between two different dynamics of time. These two dynamics, or natures, have been categorized as chronological time, and as lived time.⁶⁷¹ The difference can

⁶⁶⁷ *Examiner*, 1 March 1818, issue 531, p. 135.

⁶⁶⁸ *Morning Advertiser*, 31 March 1825, issue 10532, p. 2.

⁶⁶⁹ *Public Ledger and Daily Advertiser*, 28 March 1826, issue 20261, p. 4.

⁶⁷⁰ Defoe quoted in Nigel Stirk, ‘Fugitive Meanings: The Literary Construction of a London Debtors’ Sanctuary in the Eighteenth Century’, *British Journal for Eighteenth-Century Studies*, 24 (2001), 175–88, p. 184.

⁶⁷¹ The two categorizations used above are given in Frank Ankersmit, *Meaning, Truth, and Reference in Historical Representation* (Ithaca, 2012), p. 29, but are also broadly used by many other scholars who essentially make the same distinction (NB Ankersmit also has a third category for the metaphysical). For extensive discussions of many aspects of time see Alfred

also be represented by the distinction made in classical Greek between *chrónos* and *kairós*.⁶⁷² Under these two categorizations of time a variety of descriptions and paraphrases have been suggested by which *chrónos* can be understood as all or any of the following: clock or calendar time, physical, quantitative, routine and rational time, as enlightenment time, as time recorded in a diurnal. It can also be the 'linear time of the Judeo-Christian tradition'.⁶⁷³ In contrast, the nature of *kairós* is quite different: it is the time of lived experience and of sentiment.

Scholars have interpreted the distinction in a wider variety of ways, which further support the application of the differing natures of time to the experience of bankrupts. Again, largely reflecting the *chrónos-kairós* distinction Hassard produces two main images or metaphors for time: 'linear-time and circular-time', the former representing 'an industrial, objective and chronological form (clock-time), while the latter represents a more anthropological, experiential and epochal one (social-time).'⁶⁷⁴ Hassard also understands social time 'in the sense of Durkheim's concept of "qualitative time" as opposed to "quantitative time" of "measured duration"'.⁶⁷⁵

Once these two categories of time are applied within the context of bankruptcy it becomes easier to see how tensions surfaced. Hassard, for the two categories of time, points to the opposition that George Gurvitch made between "'micro-social-times" of "groups and communities" v. "macro-social-times" of systems and institutions'.⁶⁷⁶ It is not too hard to see bankrupts and their families as groups or communities in opposition to the power of 'systems and institutions'. Add to this Cipriani's observation that: 'The real drama, however, occurs during the clash between *chrónos* and *kairós*, that is, between social exigencies and individual needs.' He continues: 'The latter are certainly disregarded and devoured by the pace imposed by *chrónos*.'⁶⁷⁷ The 'real drama' in bankrupts' experience occurred, as this chapter will show, when their individual needs,

Gell, *The Anthropology of Time* (Oxford, 1992); John Hassard (ed.), *The Sociology of Time* (Basingstoke, 1990).

⁶⁷² For extensive discussion of the Greek categories see Roberto Cipriani, 'The Many Faces of Social Time: A Sociological Approach', *Time & Society*, 22 (2013), 5–30.

⁶⁷³ Hannah Spahn, *Thomas Jefferson, Time and History* (Charlottesville, 2011), p. 35.

⁶⁷⁴ Hassard, 'Sociological Study of Time', in Hassard (ed.), *Sociology of Time*, pp. 8–9.

⁶⁷⁵ *Ibid.*, pp. 2–3.

⁶⁷⁶ *Ibid.*, pp. 4–5.

⁶⁷⁷ Cipriani, 'Faces of Social Time', p. 12.

above all for their certificates, were subordinated, or even frustrated, by more powerful social actors. Part one of this chapter explores the time of the process of bankruptcy and of its professionals and institutions, in other words, legal time. This part is organised into the following sections: 7.1.1 Length of bankruptcies; 7.1.2 Times, numbers, and duration of bankruptcy commission meetings; 7.1.3 Timing (the significance of when events occurred). Part two considers social time through bankrupts' perceptions of time and their experience of waiting and delay. The sections are as follows: 7.2.1 Lost time (time as a commodity that could be lost or misspent); 7.2.2 Impatience for news; 7.2.3 Delay (the effect of it upon bankrupts); 7.2.4 Obtaining the certificate: the experience of David Kennedy.

Part One

Legal Time

7.1.1 Length of bankruptcies

Having already learned about the protracted bankruptcy of Edmund Townsend, the reader of this study might ask just how long eighteenth-century English bankruptcies usually lasted, and also if other English bankrupts were affected to similar degrees by the kind of long waits that Townsend experienced. The kind of answer which might be given to this question depends on whether we look at the bankrupt or the bankruptcy. When discussing the length of bankruptcies, it is important to make a clear distinction between two distinct periods in law: a) the time a trader spent as an undischarged bankrupt, i.e. the period from the day of being declared a bankrupt until the day of being granted a certificate of conformity;⁶⁷⁸ and b), the time a bankruptcy commission remained open, i.e. the period from the issuing of a commission to the closing of the commission. The first period, provided that a certificate was granted, was shorter and was what mattered most to bankrupts. The intention of the statutes was to prevent frauds by bankrupts, not to prevent honest and conforming bankrupts from returning to useful economic activity. Technically, according to the statutes and bankruptcy manuals, a trader need only have remained a bankrupt in law for forty-two days. So, because bankrupts were primarily preoccupied with getting discharged as

⁶⁷⁸ Marriner, 'English Bankruptcy Records', p. 364.

soon as possible and returning to trade or some other living, the second period mattered less. However, that it did not matter at all to discharged bankrupts was not the case for various reasons.

There was potentially a residual financial interest (allowance) for bankrupts after the proceeds from their estate had been realised. Marriner maintains a bankrupt's allowance from the estate would be paid after the granting of the certificate (and therefore not after the final dividend), e.g. 5 per cent allowed if effects produced 8s in the pound or more up to max. of £200.⁶⁷⁹ But for the commission to be in such a position after only forty-two days would have been almost impossible. It could take years to know how much a bankrupt estate would produce because of how long it took to get in the debts owed it. If an allowance were paid after the grant of certificate, then it may only have been levied upon what the fire sales of bankrupts' property and possessions raised (i.e. their homes and household furniture, commercial stock and premises).

In narrating bankruptcies there is a third period, in its entirety beyond the scope of this study, which is the whole period from when a trader began to experience business and financial difficulties, through to the point in their life when they ceased to be touched by the consequences of their bankruptcy (if such a point was ever reached, it wasn't for Defoe). Not enough is known about how bankrupts were involved with, and felt about, the long slow liquidations of their bankrupt estates after they had received their certificates. In this chapter much of the content relates to the time in which bankrupts waited for their certificates and how they often waited much longer than forty-two days.

Long after a bankrupt was discharged, or even if they were not discharged, the liquidation of the bankrupt's estate was continued by the assignees, the solicitor to the commission and the commissioners. Whilst many bankrupt traders' affairs and estates were simple, some estates were large and complex which slowed the process down. A notice in *The Sunday Times* in February 1829 under the title 'Extensive Failure' notified readers of a postponement of a meeting of creditors due to 'the magnitude and intricacy of the Bankruptcy'.⁶⁸⁰ Larger bankrupt estates were often owed lots of illiquid and difficult to collect

⁶⁷⁹ Ibid., p. 364 fn.2.

⁶⁸⁰ *Sunday Times*, 22 February 1829, issue 331, p. 3 (bankruptcy of Kirkman and Co); 'Commission of Bankrupt ... awarded and issued forth against Henry Richard Kirkman ... Silk-Warehouseman', *LG*, 17 April 1829, issue 18568, p. 727.

debts; debtors to bankrupt estates could be spread across the country, and sometimes the globe. All debts due to the estate that could be got in, had to be got in, and the commission could not be closed until a final dividend was paid. Marriner observes that there were often several 'final' dividends, which highlights the difficulty of getting to finality in bankruptcy.⁶⁸¹

Add to this an uncooperative bankrupt (or even a fraudulent or fugitive one), throw in devious assignees (as Townsend alleged his to be) acting in their own interests and not those of the majority of creditors, and estate liquidations could drag on for years while expensive and interminable actions were pursued in Chancery. In 1803 Frances James, the daughter of Bristol distiller Joshua James, who had become a bankrupt in 1785, petitioned in Chancery against the assignees of her father's estate. James, the bankrupt, died in 1795. Between 1791 and 1796 all the assignees died, except one. Yet disagreement over the liquidation of the bankrupt estate was continued in the courts by the next generation.⁶⁸² Bankrupts themselves did not always facilitate progress.

Slowing proceedings down in 1828, for example, was a bankrupt sheltering in Calais who made an application in Chancery for another three months before he surrendered to the commissioners. It was alleged that the bankrupt, who had already obtained one extension and who was apparently 'seized with paralysis', had got from London to Calais in two days, and furthermore that the bankrupt was in possession of one thousand pounds. The Lord Chancellor gave him two weeks and ordered him to come over in that time.⁶⁸³ Not without reason did a trade manual warn creditors to think before they took out a commission of bankrupt 'as multiplied experience has fully proved, that no other advantages arise from such proceedings in general, but small dividends at remote periods of time'.⁶⁸⁴

Some liquidations of bankrupt estates far exceeded the lives of all concerned with only successors and descendants completing the process or receiving any residual benefits. Basil Montagu, an advocate for the reform of the bankrupt

⁶⁸¹ Marriner, 'English Bankruptcy Records', p. 365.

⁶⁸² James, *Ex parte* (1803, March 30, 31; April 9), in *Reports of Cases Argued and Determined in the High Court of Chancery 1799–1817* (Boston, 1844), pp. 337–53.

⁶⁸³ 'Law and Equity Reports', *Sunday Times*, 30 November 1828, issue 319, p. 1.

⁶⁸⁴ Joshua Montefiore, *The Trader's and Manufacturer's Compendium* (London, 1804), p. 101.

laws, recounted in Parliament in 1831 the case of a commission that had dragged on so long that:

the Assignees, creditors, and all parties had disappeared: – some were dead, the rest could not be found; not a single party interested could be discovered, and there was not one single farthing to be divided, the whole proceeds of the estate having evaporated in litigation...⁶⁸⁵

A similar observation might be made of cases in this study. We have heard already from Edmund Townsend whose bankruptcy straddled three decades. Another long bankruptcy was that of Thomas Lodge who became a bankrupt in 1775, but the liquidation of his estate continued until at least 1800, by which time he was dead.⁶⁸⁶ Already in 1793 the original assignees were dead, necessitating a meeting of creditors to elect successors.⁶⁸⁷ Of even greater length was the liquidation of the bankrupt estate of the partnership that had existed between Richard Muilman and Henry Nantes (bankrupts in 1797) which rumbled on into the latter half of the nineteenth century. In 1860 a *London Gazette* notice asked creditors (if living, or if dead their representatives) who had been named on a schedule in 1800, to come forward and prove their debts, a mere six decades having elapsed.⁶⁸⁸ Some representatives of successors of creditors were still collecting dividends from this estate as late as 1879.⁶⁸⁹

The reader might wonder what expectations bankrupts had with regard to how long they would have to live as bankrupts before they were granted a discharge. The law and practice of bankruptcy as set out and prescribed in contemporary advice literature described a clearly, on the face of it, linear time-bound, as well as timely, process which would promptly deal with bankrupts and set about the liquidation of their estates. *The Bankrupt's Directory* in stating commissioners' duties declared that 'as soon as they have sate...and declar'd the Bankrupt, to give Notice in the *Gazette*'; at the same time summonses were to be served on

⁶⁸⁵ Basil Montagu, Parl. Deb., 3 ser., Vol. 7 (1831) col. 901, quoted in Weiss, *Hell of the English*, p. 42.

⁶⁸⁶ A 1793 advertisement for the sale of properties belonging to Lodge has him as 'Bankrupt, deceased', *Reading Mercury*, 28 October 1793. However, the same sale advertised in the *Evening Post* does not mention his demise, *London Evening Post*, 24–26 October 1793.

⁶⁸⁷ *LG*, 20 April 1793, issue 13521, p. 327.

⁶⁸⁸ *LG*, 11 May 1860, issue 22384, p. 1816.

⁶⁸⁹ See also orders for payment of dividends from the 'Estate of MUILMAN & NANTES, Bankrupts', various dates from June 1861 to 23 December 1879, in (possibly misfiled) TNA, B3/3675, the commission records of Neale, James, Fordyce & Down.

bankrupts and thus the process for bankrupts began.⁶⁹⁰ Once the *London Gazette* notice had appeared, a bankrupt was allowed forty-two days to surrender before the commissioners. However, this should not be understood as an allowance of forty-two days in which a bankrupt could appear at his, or her, convenience. Within those forty-two days the bankrupt was called to three meetings on specified days, and the final meeting had to be on the forty-second day.⁶⁹¹ At this third and final meeting bankrupts hoped that four-fifths of their creditors would assent to allowing them their certificates and thus they could be discharged from the state of being a bankrupt. The estate, however, continued to be liquidated by the assignees until the final dividend could be paid and the commission closed. They were bound to make a first dividend within twelve months of the bankruptcy, and a second within eighteen months.⁶⁹²

For the bankrupt, the time frame was clearly advertised in a commission's first *London Gazette* notice. Expectations about the time frame of the bankruptcy process might also have been shaped by the authors of advice manuals, who intended their guides for the use of debtors and bankrupts as well as lawyers and creditors. The brisk and practical phrasing of the advice literature made a prompt, orderly, and linear process seem plausible, or even likely. However, if bankrupts had been regular readers of the *Gazette* (and other newspapers with 'bankrupts' columns) they would have noticed, perhaps as creditors themselves in the bankruptcies of others, how the notices for many bankruptcies proliferated and how commissions continued in existence for years. Knowledge and experience in trade communities and networks will have made bankrupts aware that the notional time frame for a commission was a best-case scenario and that far more protracted commissions were common. Evidence discussed so far in this study suggests that bankrupts generally relied on the advice of solicitors and 'friends', who would probably have had experience of other bankruptcies, and even seen a few to their conclusions.

⁶⁹⁰ Anon., *The Bankrupt's Directory: OR, Suitable Rules and Directions, BOTH FOR Bankrupt and Creditor* (London, 1708), p. 10.

⁶⁹¹ Anon., *Solicitor's Guide*, pp. 2, 8. The forty-two days applied after 5 Geo. 2. C. 30, that is from 1732 (the commencement of the period of this study).

⁶⁹² *Ibid.*, p. 4.

If hearsay or the experience of others had not sufficiently cautioned bankrupts, then there was at least one manual that sounded an immediate note of warning to any bankrupt hopeful of swift discharge, when it declared that 'he may patiently submit, and in the end be relieved of his oppressions'.⁶⁹³ Furthermore, it is hard to believe, given the growing number of bankruptcies in the latter half of the eighteenth century and given the ready circulation of knowledge or beliefs about bankrupts and bankruptcy, as well as the growing body of literature complaining about the bankrupt laws, that many bankrupts could have harboured illusions about getting speedily discharged. The bankrupt laws set out a notional time frame, but the statutes, and the powers and jurisdictions of other courts, allowed for every sort of delay and protraction, often much to the distress of bankrupts as this chapter will show. What made time matter so much in bankruptcy was not so much the legal obligation to strictly observe the framework of meetings and deadlines, but rather it was the unintended consequences that came about because of the clash between a rigidly prescriptive legal framework with its linear trajectory, and the infinite possibilities thrown up by individual human agency. The next section considers the meetings that punctuated the duration of a bankruptcy commission.

7.1.2 Times, numbers, and duration of bankruptcy commission meetings

By statute a commission had to hold a minimum of three meetings in the presence of the commissioners, but frequently more were held if they were deemed necessary (as in the case of Townsend presented above). One reason for exceeding the statutory three meetings was that commissioners or assignees required more information from bankrupts, and they could call bankrupts to as many meetings as they saw fit to justify. From early in the eighteenth century it was understood that commissioners could have bankrupts 'submit themselves to be examin'd, from Time to Time'.⁶⁹⁴ In 1772 when Alexander Fordyce was to be examined, the commissioners clearly stated that Fordyce could be examined by the assignees 'as often as they pleased'.⁶⁹⁵ One

⁶⁹³ Paul, *SYSTEM of the LAWS*, p. xiii.

⁶⁹⁴ Anon., *Bankrupt's Directory*, p. 10.

⁶⁹⁵ 'Narrative of Mr. Fordyce's Examination before the Commissioners of Bankruptcy, on Saturday, Sept. 12', in *The London Magazine or Gentleman's Monthly Intelligencer* (London, 1772), 41, p. 433.

advice manual stated categorically: 'It is the duty of the bankrupt to attend the commissioners at all times till his affairs are finished, to be examined' and 'after his surrender, he is required to attend the assignees upon every reasonable notice in writing'.⁶⁹⁶ 'All times' often turned out to be many times. When Andover bankers the Wakeford brothers, had a 'Commission of Bankrupt' issued against them on 11 March 1826 the *London Gazette* announced that they were to surrender to the commissioners on three dates: the 10, 11 April and 2 May, at the Star and Garter Inn, Andover.⁶⁹⁷ The meeting of 2 May, at which the bankrupts were to have finished their examinations was, however, not to be the last: it was adjourned and set for 21 July 1826.⁶⁹⁸ Then on 21 July the commissioners met at 10 o'clock, sat for four hours, wrote a memorandum of adjournment, met again at 3 o'clock the same day, then adjourned again until 10 o'clock the next day.⁶⁹⁹ Many further meetings followed, which were in turn adjourned. The reader may recall in the previous chapter the repeated demands assignees made upon Isaac Scott to attend meetings with them. Yet when the Scotts wanted a meeting they had to wait. They clearly felt they had waited long enough for a meeting at which Isaac's brother was to attend, when they wrote 'at last the Day came, when Mr. Daniel Scott was to appear before the Commissioners'.⁷⁰⁰

Meetings of bankruptcy commissions attended by commissioners were held both in mornings and afternoons. Some commissioners were not averse to getting to grips with a case promptly: on 1 October 1739 the commissioners in the bankruptcy of George Clay having declared Clay a bankrupt, summoned witnesses to 'personally be and appear before' the commissioners at 8 o'clock in the morning that same day at the Guildhall in King's Lynn and 'submit themselves to be examined' by the commissioners. Attendance was non-negotiable 'as they will answer the contrary at their peril'.⁷⁰¹ Another day those same commissioners gathered at the Guildhall at two o'clock in the afternoon in the expectation of Clay's surrender; time passed until they recorded that

⁶⁹⁶ John Gifford, *The Complete English Lawyer; or Every Man his own Lawyer*, 8th edn (London, 1823), p. 618.

⁶⁹⁷ *LG*, 21 March 1826, issue 18231, p. 669.

⁶⁹⁸ *LG*, 7 July 1826, issue 18266, p. 1702.

⁶⁹⁹ HRO, 52M84/60, Wakeford Bankruptcy 1826, Memoranda of adjournments, 21 July 1826.

⁷⁰⁰ Scott, *Case of Anne and Isaac Scott*, p. 85.

⁷⁰¹ NRO, BL/F 7/76, Warrant to summons witnesses in hearing about bankruptcy of George Cley [Clay] of King's Lynn, 1 October 1739.

'nobody appeared', Clay clearly having chosen peril in preference to the appointment.⁷⁰²

Whilst meetings were usually held in mornings and afternoons, there were also evening meetings. These were more ambiguous in nature and more likely to be held privately between assignees and bankrupts (and away from the official commission venue, as discussed in the previous chapter). Some instances of protracted meetings drew criticism. One evening encounter with the Scott brothers dragged on as it 'was late before the Meeting broke up'.⁷⁰³ The dissatisfaction of the Scott family with the actions of the assignees was levelled at repeated nocturnal meetings 'every Thursday Evening at the Tavern, to eat a Bit of Supper'.⁷⁰⁴ Of one meeting the Scotts complained 'three Hours time had been expended in a fruitless Examination, till the Commissioners appeared quite tired'.⁷⁰⁵

Other sources suggest that commissioners, particularly at London's Guildhall, attempted to work through heavy schedules of one commission after another.⁷⁰⁶ These meetings could not have lasted three or four hours and smaller bankrupt estates with few creditors probably facilitated quicker meetings, but some allowance was clearly made for major bankruptcies at which large numbers of creditors were expected to attend. Being large and complex affairs, long examinations would have to be conducted. As mentioned above, the commission in the Wakeford bankruptcy sat one morning for four hours. The Wakefords were bankers so the time was necessary to take the details of the many holders of banknotes. Meetings were sometimes long because examinations were long. This was the case with not only the Wakefords, but also another bankrupt banker, Alexander Fordyce. At one of Fordyce's examinations in September 1772 at the Guildhall, Fordyce had been standing while answering many questions. When the commissioners allowed him to take a seat, a creditor jeered 'bring him a cushion to sit upon'. This jibe at Fordyce suggests that in the view of some, examinations should have been just as long

⁷⁰² NRO, BL/CS/1/1/1, Bankruptcy of George Clay: commission memoranda, p.15.

⁷⁰³ Scott, *Case of Anne and Isaac Scott*, p. 69.

⁷⁰⁴ *Ibid.*, p. 112.

⁷⁰⁵ *Ibid.*, p. 85.

⁷⁰⁶ Burges, *Law of Insolvency*, p. 339.

and demanding as it took to get the required information out of bankrupts.⁷⁰⁷ It is worth observing that a single bankruptcy commission meeting could far exceed in length the trial of a felony at the Old Bailey, which were notoriously speedy, rarely lasting more than thirty minutes.⁷⁰⁸

7.1.3 Timing

Not only times, but also timing (good or bad), mattered in bankruptcy. Getting the day right or wrong, in for example committing an act of bankruptcy, could make all the difference. On this legal minefield the nineteenth-century 'legal writer' Humphry Woolrych, basing himself on many precedents and statutes from the eighteenth century or earlier, observed it had often been 'a matter for argument, whether a day should be counted exclusively or inclusively, and sometimes there is an entire interval;— the day from which a calculation is to proceed, and the day upon which an act is to be done, being, in both instances, shut out of the enumeration'.⁷⁰⁹ Not surprisingly, it was usually bad timing that had the greatest impact on bankrupts' experience. The path to bankruptcy was littered with missed dates for payment of bonds, notes of hand, or other obligations. It was often the non-performance of these obligations by the agreed time that decided creditors to seek redress with actions for debt. In 1739 King's Lynn merchant George Clay was late paying bonds and notes of hand for sums running into hundreds of pounds to several local merchants and tradesmen, and therefore some of these creditors obtained a commission of bankrupt against him.⁷¹⁰

Dates when things were done, and the sequences in which they were done, mattered. Mistakes or bad timing could mean failure to prove an act of bankruptcy – failure to do so might benefit a few creditors at the expense of those that stood to benefit from a more equitable bankruptcy commission. Worse still for bankrupts, an act not proved could mean the real possibility of

⁷⁰⁷ 'Examination of Mr Fordyce, as a Bankrupt', *Gentleman's and London Magazine*, for October 1772 (London, 1772), pp. 634–45.

⁷⁰⁸ Hans-Joachim Voth, *Time and Work in England 1750–1830* (Oxford, 2000), p. 34.

⁷⁰⁹ W. Courtney and E. Metcalfe, 'Woolrych, Humphry William (1795–1871)', *ODNB* (Oxford, 2004); Humphry W. Woolrych, *A Treatise of Legal Time, with its Computations and Reckonings* (London, 1851), p. iii.

⁷¹⁰ NRO, BL/CS/1/1/1, Bankruptcy of George Clay: depositions of John Bonnet, George Hogge, William Bagge, James [Bordman], James Robertson, pp. 8–12.

imprisonment looming again, therefore there was much fretting around dates. A bankrupt anxious to keep a date was David Brigstock who wrote in 1773: 'I committed the Act of Bankrupt on one of our neighbour's wedding Day as I may have proof and the man may take his oath if need for... I have sent two men to the church to know the Day of the month and the day was on July 20th'.⁷¹¹ In 1751 David Kennedy's creditors were concerned about proving Kennedy was a bankrupt from a date that would best favour their interests. John Stabler, one of Kennedy's principal London creditors, wrote to Robert Cooper, one of the principal Wiltshire creditors:

we must desire the favour of you to take out the commission, if possible before the delivering up of the goods value 150 pounds – his boy told Mr Currey he [denied] his master this 19th October. And his man says he denied him the Tuesday followed, but when they was desired to make oaths of it they refused it, but perhaps you may get them to make affidavits of it which is before the time the goods was delivered up...⁷¹²

The preoccupation with getting the optimum date for a commission continued and was expressed by Arthur Edwards who was acting for Stabler in Wiltshire:

now you are to know Kennedy has not committed any act of bankruptcy that can be proved, the 2 months imprisonment makes him one; then the question is; if the commission will bear date at the time of his being arrested or at the expiration of the imprisonment; now I think the former, and did insist on it before an attorney in the town,...I am pretty sure the commission will bear date from the time of the arrest...⁷¹³

As alluded to above there were periods (e.g. time spent in gaol) as well as dates which mattered. On the same day Edwards wrote to Cooper about the dates:

Kennedy as yet has committed no act of bankruptcy; tho' 2 months imprisonment makes him; and then the question is whether the date of

⁷¹¹ BRO, JQS/P/44, Proceedings against David Brigstock: David Brigstock to Richard George, 17 November 1773.

⁷¹² WRO, 492/280, Bankruptcy of David Kennedy: John Stabler to Robert Cooper, 5 November 1751.

⁷¹³ Ibid: A[rthur] Edwards to John Stabler, 11 December 1751.

the commission will be at the time of the arrest or at the end of the 2 months imprisonment. I apprehend the former.⁷¹⁴

Kennedy's creditors proposed to use the period exceeding two months that he had lain in gaol to make him a bankrupt in law and gain advantage over those who had originally imprisoned him. The two-month qualifying period was also used in the case of a Bristol bankrupt, Joseph Pedley, who in 1781 had 'lain in Jail upwards of two months at the suit of several of his Creditors' and was therefore deemed to have committed an act of bankruptcy.⁷¹⁵

As part of the forty-two days, bankrupts were allowed time to prepare themselves before making their appearances before commissions, but whilst most bankrupts were careful to present themselves within the time stipulated, one who did not was George Clay. Clay, having been duly declared a bankrupt, 'did not appear within the forty two days' allowed him to surrender.⁷¹⁶ Nearly a century later John Slade likewise disappointed the commissioners by failing to appear in the time allowed him. He may also have left the country altogether. In an opinion on his case it was stated: 'John Slade has, I understand, become a Bankrupt and has left the Kingdom'.⁷¹⁷ The first part of this chapter has been concerned with legal, linear and institutional time (and periods of time) over which bankrupts had next to no control. The second part explores 'social time' and bankrupts' experience within it.

⁷¹⁴ Ibid: A[rthur] Edwards to Robert Cooper, 11 December 1751. A discussion of this point is to be found in Woolrych, *Treatise of Legal Time*, p. 7.

⁷¹⁵ Anon., *Creditors of Joseph George Pedley*, p. 28.

⁷¹⁶ NRO, BL/CS/1/1/1, Bankruptcy of George Clay, p. 18.

⁷¹⁷ DRO, D/FFO/27/103, John Slade, proceedings in bankruptcy; DRO, D/FFO/25/55, Opinion of B. W. Procter of 10 Lincoln's Inn, 9 August 1830.

Part Two

Social Time

7.2.1 Lost time

Bankrupts wanted to get to that time when their certificates were granted so the number of meetings commissions held, how long they lasted, and how many times they were adjourned or rescheduled all really mattered. Townsend's complaints and those of others typified how bankrupts believed *their* time was appropriated and mis-spent by others while the legal process of bankruptcy ground on over months and years. It is to the 'ownership' of time, and the experience of the loss of it, that this chapter now turns.

Of time Daniel Defoe wrote:

The life of man is or should be a measure of allotted time; as his time is measured out to him, so the measure is limited, must end, and the end of it is appointed. The purposes, for which time is given, and life bestow'd, are very momentous; no time is given useless and for nothing; time is no more to be unemploy'd, than it is to be ill employ'd.⁷¹⁸

Defoe's words were a warning to tradesmen and intended to encourage practices that would avert failure. The advice that time was not 'to be unemploy'd' will have been reflected upon with discomfort by bankrupt traders during the, not infrequently long, wait for discharge. In fact, with their loss of control over their own time, Defoe's words highlighted the harsh reality that bankrupts' relationship to time was even worse than if they were simply 'ill-employing' it in leisure. Bankrupts still held nominal possession of a kind of time, but it was a time that was 'useless and for nothing'.

In England from the sixteenth century to the nineteenth century there was a prevalent view, particularly amongst non-conformists, that time was 'God's time'. It was a precious commodity not to be wasted in leisure and idleness, but rather employed diligently in work; and individuals were accountable to God for how they spent time.⁷¹⁹ In the seventeenth century, according to Matthew Kadane, the religious writer Richard Baxter whose 'readership in early modern

⁷¹⁸ Defoe, *Tradesman*, pp. 49–50.

⁷¹⁹ Hugh Cunningham, *Time, Work and Leisure: Life Changes in England since 1700* (Manchester, 2014), pp. 16–17, 20.

England was surpassed only by that for the Bible and John Bunyan', made 'piety synonymous with methodical work, even when work was practically unnecessary'.⁷²⁰ Work was far from unnecessary for bankrupts, but due to their status as bankrupts, it was practically impossible. Kadane observes that it was English Puritans 'who Weber thought firmly brought work and life into a collective project and sanctified economic striving'.⁷²¹ The bankrupts in this study were not only people used to industry, but also some of them were, or their families had been originally, of a Puritan or non-conformist persuasion. Evidence of religious affiliation is clear for Joseph and Elizabeth Fry, who were well-known Quakers. In other cases, affiliation is less clear, but from some of the language employed in correspondence non-conformity can be suspected.⁷²²

Even if not influenced by a religious imperative, bankrupts still felt the loss of their time. Benjamin Franklin's injunction to 'Remember that Time is Money' suggests why they felt that the loss of time could also be felt in the pocket.⁷²³ Franklin's maxim was intended to influence young tradesmen in the mid-eighteenth century not to waste time, when making good use of it could be to their financial advantage. Bankrupts would have experienced an aspect of Franklin's wisdom that even Franklin might not have contemplated: that once made bankrupts, they would not have had the luxury of being able to waste time as they would not have possessed time in any useful sense. To say bankrupts did not 'possess' time requires clarification. Paradoxically bankrupts, stripped of their businesses and not allowed to work, had time in abundance. Yet it was time that they could not do anything useful with. Control over how long they remained bankrupts belonged to their creditors and for as long as their creditors pleased. Creditors held them in circular time during which bankrupts could not advance their affairs themselves or turn their time into money. Just as bankrupts lost control over their space, they also lost control over their time.

⁷²⁰ Matthew Kadane, *The Watchful Clothier: the Life of an Eighteenth-Century Protestant Capitalist* (New Haven, 2013), p. 86.

⁷²¹ *Ibid.*

⁷²² For a discussion of Methodists, see Cunningham, *Time, Work and Leisure*, pp. 18–19.

⁷²³ Benjamin Franklin, 'Advice to a Young Tradesman', 21 July 1748, in George Fisher [added to and printed by Benjamin Franklin], *The American INSTRUCTOR, or Young Man's Best Companion* (Philadelphia, 1748), p. 375.

Many of the bankrupts in this study would have served apprenticeships or been schooled in good trade practices; among the instructive manuals available to them for much of the eighteenth century were the many London editions of George Fisher's *The Instructor: Or, Young Man's Best Companion*. One of the text's cautionary verses on valuing time intoned, 'Most precious Time esteem, which no one can redeem'.⁷²⁴ This inculcation in trade culture not to lose time as if it were money or another valuable resource, undoubtedly exacerbated how pernicious they felt it was to be prevented from carrying on their trades and to be kept inactive while 'precious' time seeped away. Inactivity can have done bankrupts little good. Idleness and ennui were considered by Thomas Jefferson to be 'the most dangerous poison of life'.⁷²⁵ Hannah Spahn observes of Jefferson, Franklin and many contemporaries that they thought of time as both scarce and precious, and as 'it could be lost, wasted, or saved, time appeared connected to some idea of individual ownership'.⁷²⁶ So even if bankrupts were more inclined to consider time *their* property, rather than God's, to employ as they pleased, the reality of bankruptcy was that their time was one more asset appropriated by their creditors. Already appropriated were their business assets, homes, household possessions, and their freedom to trade. Although, as should be clear below, it was not so much the loss of time *per se* that exercised bankrupts, it was, with Franklin's meaning, the loss of money that hurt them above all. Defoe put it still more bluntly: 'This loss can never be restor'd: this expence of time was a fatal expence of money'.⁷²⁷ One factor more than any other was the cause of this fatal expense for bankrupts. That factor was getting their certificates of conformity, without which they could never be discharged from the state of being a bankrupt.

7.2.2 Impatience for news

Bankrupts wanted the unwelcome period of time, which as bankrupts they were prevented from employing usefully, to be brought to an end as soon as possible by being granted their certificates. The reader might wonder if any bankrupts,

⁷²⁴ George Fisher, *The Instructor: Or, Young Man's Best Companion* (London, 1735?), p. 48.

⁷²⁵ Thomas Jefferson quoted in Hannah Spahn, *Thomas Jefferson, Time and History* (Charlottesville, 2011), p. 41.

⁷²⁶ Spahn, *Thomas Jefferson*, p. 43.

⁷²⁷ Defoe, *Tradesman*, pp. 122.

given that they could not employ this time industriously, might have attempted to enjoy their enforced 'leisure'. By the eighteenth century there existed attitudes among the upper and middling ranks that positively embraced the enjoyment of leisure time.⁷²⁸ It is difficult to know what bankrupts did with the time on their hands, although cases in this study shed some light. The enjoyment of leisure is conspicuously absent, but what is apparent is that the more complicated and contested the affairs of a bankrupt estate, the more time bankrupts passed in writing and answering letters or complaining and fretting about not getting answers. Generally, the records left behind by bankrupts, and sometimes their creditors, reveal a sense of urgency, of time being lost, and fretting while wanting their affairs to progress and be concluded swiftly.

Bankrupts were impatient for news and answers, and the waiting that this necessitated was integral to bankrupts' experience of circular time. It was of some comfort that the eighteenth century saw improved land transportation routes in England, which meant letters could be carried and delivered with greater speed and frequency.⁷²⁹ By the late eighteenth century the city of Bristol's principal post office, for example, had seven out-offices which opened from 7 a.m. to 9 p.m., and post was delivered three times a day.⁷³⁰ Regular and faster postal services thus enhanced the pace at which bankrupts and others involved could be receiving, answering and forwarding correspondence on the same day. On 21 January 1752 David Kennedy's London creditor John Stabler immediately forwarded a communication to another creditor, writing: 'The enclosed is a letter this day received from Marlborough'.⁷³¹ Inevitably, an improved postal service also meant that parties, if they did not receive news in sufficient time to ease their anxiety, could more frequently pester one another with their demands and complaints.

Such communications were often received and replied to with great expectation and haste, at the same time promptness and speed were urged. In 1774 David

⁷²⁸ Cunningham, *Time, Work and Leisure*, pp. 20–24.

⁷²⁹ Gerhard Dohrn-van Rossum, *History of the Hour: Clocks and Modern Temporal Orders*, Trans. Thomas Dunlap (Chicago, 1996), p. 344.

⁷³⁰ Paul Glennie and Nigel Thrift, *Shaping the Day: A History of Timekeeping in England and Wales 1300–1800* (Oxford, 2009), p. 106.

⁷³¹ WRO, 492/280, Bankruptcy of David Kennedy: John Stabler to [probably Robert Cooper or Arthur Edwards], 21 January 1752.

Brigstock wrote to a creditor ‘with speed & care’.⁷³² Notes were dashed off on scraps of paper and delivered up to departing mail coaches. In the 1780s Bristol bankrupt Joshua James scribbled to Daniel Burges, the solicitor of his commission, ‘I’ve just this moment received yours...for God’s sake prevail on him to take what you have offered and get time for the payment of it’. James hurried to end his note as ‘the Coach [is] going off’.⁷³³ On James’s more frantic days when he was receiving communications from various correspondents, friendly or otherwise, he wrote to Burges up to several times a day, sometimes enclosing relevant documents. He closed his notes with the exact hour of his writing, such as the note about his memorial which he sent from Stokes Croft at ‘5 o’clock’,⁷³⁴ or when he scribbled ‘I have this moment received the enclosed from Mr [Lowle?]... Stokes Croft 7 o’clock monday Evening’.⁷³⁵ Naturally, creditors also wanted swift responses. For example, when in September 1808 William Hall wrote to Samuel Ash, assignee in the bankruptcy of William James of Swansea, to complain about the state of James’s stock, he wrote on the outside of the missive under Ash’s address ‘to be open’d Imm^{ly}’.⁷³⁶

A new eighteenth-century ‘punctuality-focused civility’ may have encouraged feelings of impatience.⁷³⁷ Bankrupts, just as much as their creditors, did not like waiting. Bankrupts frequently expressed their desire for their interests to be attended to swiftly, but they were often frustrated in this. In 1807 Von Doornik, being impatient for his certificate, insisted, ‘It is high time for me to be released [from being an undischarged bankrupt]’.⁷³⁸ However, for bankrupts there was something far worse than simply waiting: there was the experience of delay. Delays were of course beyond their control.

7.2.3 Delay

An attorney in Smollett’s *Peregrine Pickle* declares that it is ‘an old observation, that delay breeds danger’, which were words that bankrupts would have

⁷³² BRO, 44352/2/1/5, Papers re David Brigstock, 1772–1777: Brigstock to Richard George, n.d., probably late 1773/early 1774.

⁷³³ BRO, 44352/2/1/8, Papers re Joshua James: Joshua James to Daniel Burges, n.d.

⁷³⁴ Ibid: Joshua James to Daniel Burges, n.d., ‘5 o’clock’.

⁷³⁵ Ibid: Joshua James to Daniel Burges, n.d., ‘7 o’clock monday Evening’.

⁷³⁶ BRO, 44352/2/1/14/2, Papers re William James: William Hall to Samuel Ash, 22 September 1808.

⁷³⁷ Glennie and Thrift, *Shaping the Day*, p. 223.

⁷³⁸ TNA, C217/58, Matter of Von Doornik, a bankrupt: Von Doornik to Mr Abbott, 20 June 1807.

understood well.⁷³⁹ Bankrupts feared and detested delay. As stated above, bankrupts' priority was to extricate themselves from the state of being a bankrupt and they therefore felt a strong sense of both urgency and frustration, which is evidenced in their communications. Delay was often an unintended, but inevitable, by-product of a flawed linear legal process. Its effect was independent from the linear process that uncomfortably and unhappily joined process to bankrupts. It was a factor that worked upon bankrupts in their homes and places of refuge while they waited for news or developments. If as they waited, they cared to employ their 'leisure' time in the reading of a few novels, they would have found their own feelings about the harm delay did to their interests and health clearly echoed.

The feelings bankrupts expressed were not dissimilar to those expressed by characters in popular contemporary fiction who readily complained of the pernicious consequences of delay on their fortunes. For these characters delays were 'dangerous'⁷⁴⁰, they made people 'uneasy',⁷⁴¹ they made people fret,⁷⁴² and caused some the 'greatest Uneasiness'.⁷⁴³ Delays 'vexed',⁷⁴⁴ 'mortified',⁷⁴⁵ 'shocked',⁷⁴⁶ and 'enraged' them.⁷⁴⁷ Delays were 'painful',⁷⁴⁸ some could not 'bear' them,⁷⁴⁹ whilst others were reduced to 'a State of Desperation'.⁷⁵⁰ For some 'a delay was worse than death'.⁷⁵¹ It is almost impossible to know what individual bankrupts read let alone if they read novels, and whether novels influenced their modes of expression. The authors employed contemporary modes of expression, and therefore we might reasonably expect those involved in bankruptcy to have expressed their abhorrence of delay in a manner similar to their contemporaries. For example, in early 1820 bankrupt banker John Brickdale who was ever in hope of

⁷³⁹ Tobias Smollett, *Peregrine Pickle*, 4 vols (London, 1751), I, p. 107.

⁷⁴⁰ Penelope Aubin, *THE LIFE AND Amorous Adventures OF LUCINDA, An English Lady* (London, 1739), p. 168; Frances Brooke, *The History of Emily Montague*, 4 vols (London, 1769), I, p. 238.

⁷⁴¹ Smollett, *Peregrine Pickle*, I, p. 57.

⁷⁴² Mrs Manley (Mary de la Rivière), *The New Atalantis* (1709), 182.

⁷⁴³ Henry Fielding, *Amelia*, 4 vols (London, 1752), I, p. 64.

⁷⁴⁴ Henry Fielding, *Tom Jones*, 6 vols (London, 1749), IV, p. 275.

⁷⁴⁵ Frances Brooke, *The History of Emily Montague*, 4 vols (London, 1769), I, p. 156.

⁷⁴⁶ Fielding, *Amelia*, III, p. 138.

⁷⁴⁷ Sarah Scott, *The History of Sir George Ellison*, 2 vols (London, 1766), I, p. 86.

⁷⁴⁸ Brooke, *Emily Montague*, III, p. 155.

⁷⁴⁹ Fanny Burney, *Evelina, or, a Young Lady's Entrance into the World*, 3 vols (London, 1778), I, p. 214; II, p. 186.

⁷⁵⁰ Fielding, *Tom Jones*, VI, p. 174.

⁷⁵¹ Sarah Scott, *Millenium Hall* (London, 1762), p. 116.

progressing the administration of his complex affairs did not receive good news from the commission solicitor who informed him:

It is with much sorrow I inform you that we heard from our Agent on Saturday “that the Vice Chancellor will not sit again upon Bankrupt Petitions before 20th. March”. A most ruinous delay to you & vexatious to us...⁷⁵²

Brickdale was perhaps unfortunate in that his bankruptcy occurred during the office of Lord Chancellor Eldon whose chancellorship was ‘marred’, according to David Lemmings, by ‘delays in suits and backlog of business’.⁷⁵³ Eldon was Chancellor for most of the years between 1800 and 1830, which coincides with a good number of cases in this study. On this question of delay Horwitz observes that in the first decades of the nineteenth century the Court of Chancery saw a revival in its business ‘after a half-century or more of stagnation’, and ‘its creaking machinery was now under heavy strain’. Horwitz also attributes this to the ‘distinctive character’ of Lord Eldon, but also maintains that this state of affairs was contributed to by Eldon seeming ‘to have preoccupied himself with time-consuming but more profitable bankruptcy proceedings’.⁷⁵⁴ It should be remembered that bankruptcy commissions were under the Lord Chancellor, not the Court of Chancery, but if bankruptcy proceedings were time consuming then the Lord Chancellor had less time for Chancery business, which meant less time for the matters at law that bankruptcy commissions sometimes put into Chancery. Chancery had gained a reputation for its delays long before Eldon. In the mid-eighteenth century, Christine Churches notes how litigants could slow down the progress of the law if it suited them. One litigant complained in 1739 that another had vowed to keep him ‘in Chancery all his lifetime’. In 1748 Sir James Lowther complained that people were ‘tired with delays’ such that they were inclined to ‘make up their matters’ with the result that there was ‘very little business’ in Westminster

⁷⁵² SRO, DD/DP/6/14, Correspondence, 1810–1820: Robert Beadon to John Brickdale, 22 February 1820.

⁷⁵³ David Lemmings, *Professors of the Law: Barristers and English Legal Culture in the Eighteenth Century* (Oxford, 2000), pp. 184–85. For other comments on delays in Chancery, see Lemmings, pp. 32, 100.

⁷⁵⁴ Henry Horwitz, *Chancery Equity Records and Proceedings 1600–1800* (Kew, 1995), p. 49.

Hall.⁷⁵⁵ Delays were perhaps a contributor to the ‘stagnation’, referred to by Horwitz, before the return to ‘heavy strain’.

Delay did not agree with another bankrupt. David Brigstock was made to fret when responses to his letters were slow. He was anxious to be made a bankrupt as soon as possible to avoid imprisonment and he had been writing to Richard George who he desperately hoped would take out a petition against him. He was relieved when he finally received a response from George on 16 November 1773. Brigstock replied to his ‘friend’ the following day, explaining that while he had been ‘so long waiting’ for a reply to his request, he had been ‘void of all hopes’.⁷⁵⁶ Brigstock would have a further long uncomfortable wait for news from George, and on 8 January 1774 he expressed in his letter to George that he had been ‘so long without having answer’ and that he hoped George ‘will not fail with the first opportunity...to let me have an answer, whether I am to be made a Bankrupt or no’.⁷⁵⁷ So just as it was ‘vexatious’ to wait to be released from the status of being a bankrupt, it could be vexing to wait to be made a bankrupt! In general, delays in proceedings and developments heightened the experience of loss of control and therefore exacerbated bankrupts’ feelings of powerlessness and anxiety.

A thought though should be spared for creditors, especially smaller ones. Time was also an issue for them. Bankrupts and their families were not alone in being impatient for news or feeling the frustration of delay. Creditors liked to be kept abreast of developments with bankruptcies. An announcement in the *Sunday Times* in 1823 sought to reassure those of its readers ‘to whom the List of Bankrupts is important’ and who had complained about the absence of the list in ‘Saturday’s Edition of the SUNDAY TIMES’, that it was ‘NOT POSSIBLE to obtain the *Gazette* sufficiently early, but on payment of ‘One Halfpenny, which is the charge for putting a Paper into the Post after Six o’Clock’, the readers could easily be supplied with the list.⁷⁵⁸ Readers would have been anxious to know, not only who had become a bankrupt because of the need to

⁷⁵⁵ TNA, C11/2459/39, the answer of James Jackson; the correspondence of Sir James Lowther and John Spedding, CRO, D/Lons/W2/1/54–116, Lowther to John Spedding, 23 May 1748, in Christine Churches, ‘Business at Law: Retrieving Commercial Disputes from Eighteenth-Century Chancery’, *Historical Journal*, 43 (2000), 937–54, pp. 944, 952.

⁷⁵⁶ BRO, JQS/P/44, Proceedings against David Brigstock: David Brigstock to Richard George, 17 November 1773.

⁷⁵⁷ Ibid: David Brigstock to Richard George, 8 January 1774.

⁷⁵⁸ *Sunday Times*, 24 August 1823, issue 45, p. 4.

prove debts but also where bankrupt estates were already being liquidated, if there were to be further meetings or orders made to pay dividends.

As this thesis is written to a considerable extent from the point of view of bankrupts it is too easy to give the impression that creditors were cruel, grasping and opportunistic. This is not the intention of this study and there is also evidence that creditors showed patience and forbearance, although patience did wear thin sometimes. For example, finally growing impatient, a group of creditors wrote in 1808 to the assignees of bankrupt Swansea shopkeeper William James complaining, 'we have long expected as promised a statement of this man's affairs, accompanied with proposals, and have waited patiently but have never received it. This virtue being now exhausted...'⁷⁵⁹ The patience of some creditors was a good deal shorter. A creditor of John Brickdale's wrote tersely to the commission solicitor in April 1821 complaining, presumably of Brickdale, 'the Man is making me Mad'.⁷⁶⁰

7.2.4 The certificate

In 1808 an indignant William Hill, angry about what he considered the dishonest behaviour of bankrupt Swansea shopkeeper William James, wrote to Bristol creditor Samuel Ash saying, 'I hope his Certificate will never have your Signature to it'.⁷⁶¹ Although written in statute, the application of the right to a discharge for bankrupts depended on the consent of their creditors. In regard to bankrupts waiting for their certificates, Sheila Marriner states: 'Sometimes creditors signed quickly; frequently there was delay of some years before the necessary proportion agreed; many bankrupts were never granted certificates.'⁷⁶² She further maintains that even if the required proportion of creditors' signatures were obtained the Lord Chancellor could be petitioned not to grant a bankrupt a certificate by alleging an irregularity. Marriner gives Basil Montagu's 1818 figures for bankrupts being allowed certificates: 'between 1786 and 1795 62 per cent of bankrupts were allowed certificates', and between 1796

⁷⁵⁹ BRO, 44352/2/1/14/2, Papers re William James: Heineman Ash & Co to Messrs. Davies & Berrington, May 1808.

⁷⁶⁰ SRO, DD/DP/6/11, Miscellaneous correspondence re Brickdale's bankruptcy, 1820–1822: W. N. Leigh to Robert Beadon, 24 April 1821.

⁷⁶¹ BRO, 44352/2/1/14/2, Papers re William James: William Hall to Samuel Ash, 29 September 1808.

⁷⁶² Marriner, 'English Bankruptcy Records', p. 364.

and 1805 ‘the percentage was 57’.⁷⁶³ From a bankrupt’s point of view the scenario this paints cannot have been a very reassuring one: first there were frequent delays of ‘some years’, then by the end of the century the odds were still little better than fifty-fifty on getting a certificate at all.

If a very approximate parallel is drawn between the time a bankrupt spent waiting for a certificate and the time an insolvent debtor spent in gaol, then given the figures above, undischarged bankrupts probably experienced the longer wait. Jerry White states for 1811 at the Marshalsea 87 percent of debtors were out within three months, and in 1816 it was 70 per cent. He also records that in 1776 Dr William Smith had reported that most prisoners ‘seldom remain long’.⁷⁶⁴ Based on numbers for London’s Fleet and King’s Bench prisons and Lancaster Castle between 1720 and 1770, Tawny Paul challenges the popular trope of the debtor languishing in prison and maintains that there was ‘a constantly evolving prison community and a substantial population of short-term inmates’ with only about one third of prisoners being imprisoned for over a year.⁷⁶⁵ We know that bankrupts did not want to be incarcerated, but how did they feel when they began to fear that they might never be discharged as bankrupts? This section examines this prospect in greater detail.

Without creditor consent there was no discharge and therefore no end to the time spent as a bankrupt. If a creditor was unhappy with a bankrupt’s conduct, he could not be obliged to sign the bankrupt’s certificate and, as exemplified by William Hill, might lobby others to ‘never’ sign it and thus compel a bankrupt to be forever a bankrupt. Bankrupts’ anxiety to obtain their certificates was no doubt fuelled by knowledge that they so easily might not. Unfortunately, in eighteenth-century England creditors were known for dragging their feet over signing certificates. One advice manual remonstrated with creditors in general:

why keep a poor man in suspence? when, if ‘tis their intent to sign at all, they may as well sign it at first as at last...how common and unreasonable it is in one man to cry, I won’t sign it, till such a one has signed; I will sign it, when the rest have...⁷⁶⁶

⁷⁶³ S. C. *on Bankrupt Laws* (P. P. 1818, VI), p. 97, in Marriner, p. 364 fn.4.

⁷⁶⁴ White, *Mansions of Misery*, pp. 169–70.

⁷⁶⁵ Paul, *Poverty of Disaster*, p. 43.

⁷⁶⁶ Anon., *Solicitor’s Guide*, p. 20.

Honestus Moneyless in addressing the notorious matter of certificates, related the case of Thomas Beaven a bankrupt clothier of Melksham in Wiltshire, who had been of ‘great reputation’.⁷⁶⁷ Beaven, having done ‘all that the law required of him ... from time to time begged and desired, that his certificate might be granted, but could not obtain it, though no reason could be given, nor just cause shewn to the contrary, with relation to him.’ Beaven ‘[t]ired out at length’ of being an undischarged bankrupt, left England for Spain.⁷⁶⁸ Bankrupts were desperate to exit the status of bankrupt and therefore hated the long waits for developments on the way to getting their certificates.

Given the extent of his complaints about the granting of certificates, it is hard to imagine that Moneyless cannot have had difficulties in obtaining his own certificate. He maintained that while a bankrupt still had the prospect of his certificate being signed, he might get a little credit from friends against the expected allowance. ‘But alas!’, lamented Honestus, ‘after one, two, or more years, he is not able to obtain it’.⁷⁶⁹ Some looked to Parliament for assistance for bankrupts. ‘Nomius Antinomus’ was ‘upon the general prayer...of the humane necessity there is of granting them their certificates’. What would the consequences be, he asked, if bankrupts ‘not having obtained their certificates, be disappointed in the present hopes and expectations they have so long placed in the goodness of parliament!’. They would ‘flee into foreign kingdoms’ and be a loss to their country.⁷⁷⁰

It is difficult to generalise about how quickly certificates were granted. It was not always the case that a large and complex bankruptcy would not see the grant of a certificate for years. The Brickdale bankruptcy in November 1819 was large, complex and fraught with litigation, but John Brickdale was to receive his certificate a mere six months later in May 1820.⁷⁷¹ It had been a close-run thing as there had been a petition to the Lord Chancellor not to allow the

⁷⁶⁷ Thomas Beaven (of Melksham, Wilts., clothier, bankrupt) appears in *London Gazette* notices from 1748 to 1765. Thomas Beaven the elder was a Quaker, see ‘Melksham’, by H. F. Chettle, W. R. Powell, P. A. Spalding and P. M. Tillott, in R. B. Pugh and Elizabeth Crittall (eds), *A History of the County of Wiltshire, Volume 7* (London, 1953), pp. 91–121.

⁷⁶⁸ ‘Moneyless’, *London Chronicle*, 24–27 March 1759, issue 350, pp. 289–90.

⁷⁶⁹ ‘Moneyless’, *London Chronicle*, 27–29 March 1759, issue 351, p. 297.

⁷⁷⁰ Anon., *Observations on the State of Bankrupts under the Present Laws in a LETTER to a MEMBER of PARLIAMENT* (London, 1760), p. 30.

⁷⁷¹ *Morning Chronicle*, 26 April 1820, issue 15910.

certificate on the grounds of collusion in the bankruptcy.⁷⁷² Troubles for Brickdale did not end there however, and the liquidation of the bankrupt estate ground on until at least 1853.⁷⁷³ Two bankrupt bankers, the Wakeford brothers Joseph and William, waited some five years before being given their certificates.⁷⁷⁴ The endeavours and disappointments of one bankrupt in particular, the Wiltshire linen draper David Kennedy, to obtain his certificate are related below.

7.2.5 Obtaining the certificate: the long experience of David Kennedy

Kennedy had been made a bankrupt while in gaol and was then released. Kennedy was no longer confined, but he was not to be released from the 'purgatory' of being a bankrupt as soon as he would have liked. Kennedy had been set to work by his creditors to get in debts due to his former estate, and he would appear to have also sought signatures for his certificate.

Initially in the records in Kennedy's case we only hear the voices of his creditors as they discuss what to do with his debts and with him. Suddenly in June 1752, possibly coinciding with his release from prison, Kennedy appears amongst the correspondents in a letter to Robert Cooper, one of his principal creditors. Kennedy was clearly already setting about assisting the assignees with the liquidation of his estate and, amongst other business, he communicated that he was paying visits 'in order to collect some debts'. However, at the very beginning of his letter Kennedy declares to Cooper that he 'will be vastly obliged to you should you get my certificate signed'.⁷⁷⁵ It is to be wondered, given the above discussion, whether Kennedy held unrealistic expectations about how speedily his creditors would oblige him.

The cause of Kennedy's certificate would seem to have had some early success as by 3 July 1752 creditor Joseph Bun was signing his consent to

⁷⁷² SRO, DD/DP/6/23, Miscellaneous Brickdale correspondence (1820, 1833), Re Brickdale, Ex parte Pounsberry, 4 August 1820.

⁷⁷³ LG, 11 October 1853, issue 21484, p. 2752; *Morning Chronicle*, 17 December 1853, issue 27140, p. 3.

⁷⁷⁴ HRO, 52M84/61, Memoranda of certificates of discharge of Joseph and William Wakeford, 23 August 1831.

⁷⁷⁵ WRO, 492/280, Bankruptcy of David Kennedy: David Kennedy to Robert Cooper, 20 June 1752.

Kennedy obtaining the certificate.⁷⁷⁶ Meanwhile, Kennedy, writing to Cooper again on 12 July assured him, 'I will use my endeavours in getting in the debts as much as possible', although at the same time he complained to Cooper about how slow progress was with the liquidation of his bankrupt estate and how this prevented him from getting a living, he wrote, 'you know it is very hard on me for to have those things delayed and cannot enter into any business'.⁷⁷⁷ Kennedy wrote again on 17 September updating Cooper on his efforts and travels. He got to London where he reached some of his creditors but 'was looked very indifferent by some of them with regard in signing my certificate'. Consequently, he found himself imploring Cooper to 'stand my friend in regard to it [the certificate] against the next meeting'.⁷⁷⁸

When Kennedy wrote again to Cooper in January 1753, he updated Cooper on his progress getting signatures: 'According to your request Mr Hawkes have signed the petition'. However, Kennedy was getting ever more anxious to get his certificate and delays were caused by many factors, as Kennedy found. He lamented that a 'Mr Greenfield being extremely bad with the gout that he could not do it', and that another creditor was 'gone to London or else he would [have signed]'. Yet another creditor very nearly wouldn't sign being disgruntled at 'the unreasonableness of the creditors delaying to prove their debts as there was such timely notice given according to law'.⁷⁷⁹ Accommodating these latecomer creditors may have caused further delay which was not wanted by many creditors either. Kennedy was also passing the list of signatures to Cooper as he asked him 'to forward it as fast as possible' so that Kennedy, on getting his certificate or at least having the certainty of getting it, might 'get into some way to get a subsistence for my family it being very hard with me at present having neither money nor credit'.⁷⁸⁰ Months past and Kennedy still did not get his certificate. Then in July 1753 Kennedy wrote again to Cooper: 'I have sent the enclosed which I have received from Mr [Corrile?] and beg you will forward the affair with all speed with regard to my interests and I beg that you would get Mr John Cooper [solicitor to the commission] to draw up my certificate and send it

⁷⁷⁶ Ibid: Joseph Bun 'To the Assignees of the Estate and Effects of David Kennedy a Bankrupt', 3 July 1752.

⁷⁷⁷ Ibid: David Kennedy to Robert Cooper, 12 July 1752.

⁷⁷⁸ Ibid: David Kennedy to Robert Cooper, 17 September 1752.

⁷⁷⁹ Ibid: Kennedy to Robert Cooper, 27 January 1753.

⁷⁸⁰ Ibid.

by the bearer that I may go with it and what expense it may cost I [am] very willing to be accountable to you'.⁷⁸¹ Kennedy seemed more than willing to do all the footwork if he could only get the certificate.

On 15 September 1753 Kennedy wrote to Robert Cooper again:

Sir

I should be very glad to [know] when my certificate will be properly executed. I should be very glad to be in some way of business you [know] Sir that I can do nothing till it is properly finished. I would beg the favour of you to forward it as fast as possible and in so doing

Sir you will oblige your most obedient humble servant to command David Kennedy

PS Sir

Please favour me with a line by the first opportunity of the [day]⁷⁸²

Kennedy was still waiting in December of 1753 so wrote to attorney John Cooper:

Sir

I have not received the paper nor the certificate. Please to send them by the bearer and I will take care to get them executed according to your directions and I beg that you would forthwith get it executed...and in so doing sir you will oblige your most obedient humble servant to command

David Kennedy⁷⁸³

It often seemed as if Kennedy was getting nowhere. The time that he was in seems divorced from any linear progress in his bankruptcy. He was stuck in circular time, in a disagreeable experience of waiting anxiously for his release and waiting for answers. Delay, whatever the reason, caused the process to fall silent leaving bankrupts to simply wait and fret until they were recoupled to legal time. Kennedy employed his time, with the assignees' consent, in assisting with the liquidation of their estate by getting in debts. He may have received 'a

⁷⁸¹ WRO, 492/280, Bankruptcy of David Kennedy: Kennedy to Robert Cooper, 28 July 1753.

⁷⁸² Ibid: Kennedy to Robert Cooper, 15 September 1753.

⁷⁸³ Ibid: Kennedy to John Cooper, 6 December 1753.

reasonable salary, as a clerk' to the assignees, and even been 'allowed half a crown per day' as Honestus Moneyless thought the case ought to be.⁷⁸⁴ If bankrupts wanted to get their certificates it was certainly in their interests to help the assignees get the books and accounts into an acceptable state for presentation at bankrupts' third and supposedly final appearance before the commissioners. Kennedy traversed the country trying to get signatures on his certificate. Where he needed the assistance of others to add to the list of signatures, he was assiduous in his correspondence and use of the eighteenth-century postal system. The impression his surviving correspondence gives is that he was kept busy by all this, although there are sometimes gaps of months between the letters. The tone and content of his writing suggest that during his wait for the certificate he was much preoccupied by his circumstances.

Wider sources, like the *London Gazette*, often do not reveal whether bankrupts definitively got their certificates, although TNA series B5 and B6 contain records of certificates issued, but these have not been checked for this study.⁷⁸⁵ The numbers given by Marriner suggest that many bankrupts did not get there certificates. For the subjects in the case studies of this thesis the evidence is patchy. Occasionally a commissioners' memorandum displays a recommendation to grant a certificate or even a list of creditors lending their signatures survives in a commission file. More generally, in the *London Gazette* notices can be seen in which commissioners certified that bankrupts had conformed under the bankrupt laws and that their certificates were to 'be allowed and confirmed...unless Cause be shewn to the contrary'. Such a notice appeared for Kennedy on 29 January 1754.⁷⁸⁶ It is not possible to know whether cause to the contrary was shown. There is a final document in Kennedy's file which has no date. The appearance and substance are those of draft notes taken at a meeting and it ends stating: 'Kennedy wants the House he lived in and Mr Hawkes is willing of it that he should have it but then Kennedy don't care

⁷⁸⁴ 'Moneyless', *London Chronicle*, 24–27 March 1759, issue 350, pp. 289–90.

⁷⁸⁵ TNA, 'Bankrupts and Insolvent Debtors': 'Indexed Registers of Certificates of Conformity for 1733–1817 and deposited Certificates for 1815–1856 are in B 6 - entries give the name and address of the bankrupt and the date of the certificate. Enrolled copies of some certificates of conformity, 1710–1846...1825–1834...are in B 5.'

⁷⁸⁶ *LG*, 29 January 1754, issue 9342, p. 4.

to take it unless he can have his Certificate signed which he desires may be soon'.⁷⁸⁷

Kennedy may have got it in the end, but it is worth adding that the 1732 statute which applied almost unreformed to all the cases in this study, was not understood as intending that a discharged bankrupt's liberty should be absolutely free from obligation. The assignees could still call a discharged bankrupt 'to attend them to settle the accounts of his estate, or to attend any court of record to be examined...or for any other business the assignees judge necessary for getting in his estate'. Were this to be the case, at least the bankrupt had to be allowed 2s 6d a day.⁷⁸⁸ Should, however, a former bankrupt be disinclined to respond to the assignees call, then 'the commissioners may issue their warrant for apprehending him and commit him to the county goal, till he does conform'.⁷⁸⁹ Was it not a gaol where Kennedy commenced his journey as a bankrupt? Was this not circular time, more Kairos than Chronos?

7.3 Conclusion

How long we understand a bankruptcy in the long eighteenth century to have lasted depends very much on whether we look at it from the point of view of people (principally bankrupts), or process. The liquidation of bankrupt estates continued long after bankrupts had been discharged, but this was substantially the work of lawyers and administrators for which fees or other benefits were taken. The workings of a bankruptcy commission took time, but largely progressed in linear fashion to an eventual conclusion when a 'final' final dividend was distributed to creditors.

The shorter time that bankrupts waited for their certificates was not shorter for them in experiential terms. While bankrupts remained undischarged, they were held in a kind of purgatory and could not practise their trade or support their families. They wanted control of their time, just as they would like to have kept control of their property. They understood that time lost could not be redeemed. A priority then for bankrupts was to dispose of their own time once more,

⁷⁸⁷ WRO, 492/280, Bankruptcy of David Kennedy: Notes made probably at or after a meeting of creditors, n.d., but probably in 1753.

⁷⁸⁸ Paul, *SYSTEM of the LAWS*, pp. xviii–xix (Paul is interpreting 5 Geo. II, c. 30, sec. 36).

⁷⁸⁹ *Ibid.*

something they could only do after they finally obtained their certificates. The waiting, delay and disappointment experienced by David Kennedy when set against the sometimes arbitrary or seemingly bloody-minded disposition of some creditors not to sign certificates, highlights how the loss of personal agency and independence trapped a bankrupt like Kennedy in circular time that seemingly delivered him time and again back to where he had started.

The overlap and friction between the time of the linear legal process of bankruptcy (legal time) and the time of lived experience of bankrupts (social time) was constant. Bankrupts were effectively trapped in both times. They could not escape the process which repeatedly demanded that they 'be and appear' on the day and at the time established. *Their* time was to be at the disposal of the institutions and individuals that held power over them and that required them to wait idly while *their* time slipped away until 'in the end' being relieved of their 'oppressions'.⁷⁹⁰ Yet whenever the process seemed to pause or fall silent bankrupts found themselves stopped, 'void of all hopes',⁷⁹¹ in temporal confinement. It was often the relentless wasting away of their time while they waited in hope of getting their certificates that caused bankrupts so much anxiety. The repercussions of the experience of bankruptcy on bankrupts' health are discussed in the next chapter, along with the final question of what ultimately happened to bankrupts.

⁷⁹⁰ Paul, *ibid.*, p. xiii.

⁷⁹¹ BRO, JQS/P/44, Proceedings against David Brigstock: David Brigstock to Richard George, 17 November 1773.

Chapter Eight

Loss

8.0 Introduction

Just a couple of weeks before being advertised as a bankrupt in the *London Gazette*, a clearly worried London merchant, Havilland Le Mesurier, wrote on 17 March 1793 to the then Speaker of the House of Commons Henry Addington.⁷⁹²

Sirs,

I have no apology to make for this intrusion – but misfortune.

My brother Thomas is now on the circuit, and can only hear this day of my unhappy situation; if therefore this step I now take be improper, if I have no more claim to indulgence (for perhaps why should I?) than the many persons now rendered as unhappy as myself...

I was attempting the cause of writing it, but I feel unequal to the task: I will only say that the failures yesterday in the City have dragged me into their vortex and from being a Merchant of respectability when I last saw you, with a Capital of £15,000: and a business of two to £3,000: a year, I was yesterday in a moment reduced to want a shilling, with a wife and five children to provide for.

The God in whom I trust has not however left me destitute! He has given me a wife able to encounter mediocrity, and He has given me hands to act and some experience to direct me in the new scene His Providence has allotted me...

I have been taught by experience, Mr Speaker, that a Capital is indispensably necessary in Trade, and I am incapable of borrowing when I have no security to offer: you will not wonder therefore at my anxiety to get into some other line of life. I merely seek a Living, and if A place of £300: a year, with an opportunity of rendering myself useful would make myself happy: for less I fear I cannot live with a wife and five children, but with that salary we even could purchase comfort.⁷⁹³

⁷⁹² *LG*, 9 April 1793, issue 13518, pp. 295–96.

⁷⁹³ DHC, 152M/C1793/OZ22–25, Le Mesurier to the Speaker, 17 March 1793.

Havilland Le Mesurier started out in life with many advantages. Born in Guernsey in 1758, he was the son of the hereditary governor of Alderney. In the 1770s he joined the family merchant house which profited from privateering in the American War of Independence. Commercial problems when war broke out with France in 1793 were, apparently, the main cause of his house's financial crisis and bankruptcy.⁷⁹⁴ Usefully, Le Mesurier's letter to Addington suggests most of the headings under which the notion of loss is explored in this chapter. Le Mesurier loses his 'situation' as 'a Merchant of respectability', which he exchanges for the very 'unhappy situation' of a bankrupt. He loses his money and is 'reduced to want a shilling'. His 'misfortune' threatens to leave him 'destitute' and of course dependent. He is therefore reduced to having to claim 'indulgence' from an influential patron for 'a Living', although so overcome by events he feels 'unequal to the task'. The letter contains much of the type of self-abasing rhetoric employed by bankrupts in their petitions to more powerful friends and patrons. He, as a matter of course like many other bankrupts, attributes his 'unhappy situation' to 'misfortune' rather than any personal failings or poor business practices; and he trusts to 'Providence' to allot him a 'new scene'. Providence manifests itself through Addington, who gets him the £300 a year he is seeking. Fortunately, he is also able to bear some downward social mobility, in part because God has given him 'a wife able to encounter mediocrity'. Le Mesurier also gives importance to 'rendering myself useful' which is indicative, not just that he wanted to believe that his experience in trade meant that he had something to offer, but also his wish was rooted in contemporary beliefs about the importance of industry and not being inactive or worse still, idle.

Le Mesurier's private letter to Addington, like other correspondence examined in this study, reveals something of the shock and anxiety that individuals experienced as they sought to cope with the consequences of bankruptcy. Le Mesurier was a bankrupt who recovered quickly from his failure by finding, with the help of Addington, a commissariat commission in the army. He soon became deputy commissary-general to the army.⁷⁹⁵ No later than 27 July 1793 he wrote to Addington to express gratitude for the position, which as eighteenth-

⁷⁹⁴ W. R. Meyer, 'Le Mesurier, Havilland (1758–1806)', *ODNB* (Oxford, 2004).

⁷⁹⁵ *Ibid.*

century bankruptcies went was a pretty quick turnaround.⁷⁹⁶ Why Addington proved such an obliging patron to Le Mesurier is less clear. Le Mesurier might have been a well-connected and useful client amongst mercantile interests, and a war was commencing of course.⁷⁹⁷ This study, however, finds only limited evidence of patronage working for bankrupts.

Le Mesurier's usefulness in his new situation during a major war went a long way to repairing the loss of wealth and reputation he had sustained as a result of the bankruptcy, and this enabled him to recover his independence.⁷⁹⁸

Matthew McCormack has observed that 'independence through work resonated with the Protestant work ethic and freed middling men from the ignominy of patrician patronage'.⁷⁹⁹ However, in Le Mesurier's case it was patronage alone that permitted him to regain his independence.⁸⁰⁰ Without such influential friends other bankrupts would not find recovering from what they had lost so quick or easy.

This final chapter looks at the consequences, both immediate and long term, of bankruptcy for failed traders. The chapter discusses a variety of social factors that will have worked, to varying degrees, on bankrupts' experience and their sense of themselves. This chapter also inevitably brings the study to the point at which legal and business history intersects with multiple scholarships within social history (e.g. identity, medical, gender, masculinity), and although explicit references in the study's sources that address these scholarships are few, there are probably sufficient to go some way towards answering queries that may be arising in the mind of the reader regarding this intersection.

⁷⁹⁶ DHC, 152M/C1793/OZ22–25, Le Mesurier to the Speaker, 27 July 1793.

⁷⁹⁷ Nicholas Rogers, 'The Middling Sort in Eighteenth-Century Politics', in Jonathan Barry and Christopher Brooks (eds), *The Middling Sort of People: Culture, Society and Politics in England, 1550–1800* (Basingstoke, 1994), p. 160; for why patrons might procure offices for 'clients' in the first place, see Frank O'Gorman, *The Long Eighteenth Century: British Political & Social History 1688–1832* (London, 1997), p. 25.

⁷⁹⁸ The theme of independence is discussed in more detail later in this chapter. For extensive discussions of why states of independence or dependency mattered to men in eighteenth-century England, see: Matthew McCormack, *The Independent Man: Citizenship and Gender Politics in Georgian England* (Manchester, 2005); Henry French and Mark Rothery, *Man's Estate: Landed Gentry Masculinities, 1660–1900* (Oxford, 2012); Mark Rothery and Henry French (eds), *Making Men: The Formation of Elite Male Identities in England, c. 1660–1900* (Basingstoke, 2012); Henry French and Mark Rothery, 'Male Anxiety among Younger Sons of the English Landed Gentry', *Historical Journal*, 62 (2019), 967–95.

⁷⁹⁹ McCormack, *Independent Man*, p. 17.

⁸⁰⁰ For the patron-client dynamic in eighteenth-century England, see J. C. D. Clark, *English Society, 1660–1832*, 2nd edn (Cambridge, 2000), pp. 11, 20.

Bankrupts rarely left evidence in which they explicitly declared that their experience of becoming bankrupts compromised their sense of status, independence or identity. They were, however, much more explicit about their states of mind and physical health. It is probable that compromised status, independence or identity contributed to the overall effect on the minds and bodies of bankrupts and also paved the way for some of the graver experiences that befell them. It is also plausible that what bankrupts said about the effects on their minds and bodies were coded expressions of the injury they felt to their status, independence and identity.

Because the sources for this study offer only limited evidence to support an exploration of the themes mentioned above, I take a step further back and bring these themes under the overarching heading of 'Loss' as all the subjects in this study lost aspects of their lives and their selves as a result of their bankruptcies. Also choosing this heading allows other factors to be brought into the analysis such as the downward social mobility that came with the loss of property, income and material things, and which not only affected the status and identity of the subjects but also worked upon their emotions. The chapter is divided into the following sections: 8.0 Introduction (above); 8.1 Loss of status, reputation and civic roles; 8.2 Loss of wealth, property, and downward social mobility; 8.3 Loss of independence and the experience of becoming dependent; 8.4 Loss of health; 8.5 Beyond bankruptcy: endings and new beginnings; 8.6 A sense of loss: Elizabeth Fry, a bankrupt's wife; and 8.7 Conclusion.

8.1 Loss of status, reputation and civic roles

If a trader had had a bankruptcy commission issued against him or her, then one of the first important changes they experienced was that of not simply being declared a bankrupt, but also more existentially, *becoming* a bankrupt. For example, in 1772 Alexander Fordyce at his examination spoke of when he 'became a bankrupt'.⁸⁰¹ Failed traders became something different from what they had formerly been. *London Gazette* bankruptcy notices first declared a named trader to be a bankrupt and thereafter referred to him or her as 'the said

⁸⁰¹ 'Examination of Mr Fordyce, as a Bankrupt', *Gentleman's and London Magazine, for October 1772* (London, 1772), p. 644.

bankrupt'. In legal documents and notices in other periodicals simply 'the bankrupt' was the identifier frequently employed in place of the trader's name.⁸⁰²

It being known that a trader had become a bankrupt could elicit compassion from some, but equally the sudden and concentrated attention and scrutiny of a bankrupt's conduct, failure, and public persona could be negative. Writing to Lady Hesketh in 1788 William Cowper delivered his appraisal of a local trader who had recently become a bankrupt:

Rogers the Great, the Waggoner I mean, is gone all to pieces. I do not mean that he is Burst (which, adverting to his size you might suppose to be my meaning) but that he is Broken. In other words, a Bankrupt. The consequence is an universal uproar in this country, some poor people are ruined and some rich ones shaken, Maurice Smith among others is likely to be much a Loser. I have mention'd this catastrophe in terms that do not bespeak much pity for Rogers, and because, in truth, I do not feel much. Negligence and Drink have undone him, and just before he fell and even while he was falling he contrived by imposing on others and inveigling them to indorse his Bills, to pull them down with him. But the Waggon still goes, though under whose auspices I am not at present able to say — probably those of the Creditors.⁸⁰³

Cowper's words and tone suggest a pre-existing disdain for trade and especially for traders who might have succumbed to hubris (and too much beef and ale) during their rise. Describing a bankrupt trader as 'gone all to pieces' was not an uncommon contemporary way of describing the transformation of a previously coherent individual and business into something broken and fragmented. Defoe had already written of failed tradesmen being 'dash'd all in pieces'.⁸⁰⁴ In 1758 Thomas Turner, when he contemplated arresting a long-standing debtor, regretted that the person would be 'entirely torn to pieces'.⁸⁰⁵ This rending apart of the trader can be understood as implying more than simply that the constituent parts of his enterprise had ceased to interact and function

⁸⁰² Repeated examples of this appear in the case of Thomas Lodge, HRO, 50M69/12, Winchester Assizes, assignees of Lodge v Sir Henry Paulet St John and others, pp. 12–14.

⁸⁰³ William Cowper to Lady Hesketh, 3 June 1788, in King and Ryskamp (eds), *Letters and Prose Writings of William Cowper*, III, pp. 170–71.

⁸⁰⁴ Defoe, *Tradesman*, p. 144.

⁸⁰⁵ David Vaisey (ed.), *The Diary of Thomas Turner 1754–1765* (East Hoathly, 1994), p. 149.

harmoniously, each piece in turn to be carried off by creditors; it implied the disintegration of the trader's place in the world, their wealth, their home, their status and reputation, and possibly their entire sense of self which was replaced by a simple new identity, that of being a bankrupt.

Rogers 'the Waggoner' was unlikely to have relished his new status as a bankrupt nor the imputation of his fall to 'Negligence and Drink' or the charge that he behaved fraudulently and maliciously in getting others 'to indorse his Bills'. However, Rogers' 'story' would not have been under his control. Rafael Efrat argues that it was the widespread abhorrence felt at the breach of trust and the concomitant threat to a credit-based society that so determined the contempt in which bankrupts were held.⁸⁰⁶ Given the evidence presented here and in the foregoing chapters it should be clear by now that in the long eighteenth century English people did not like bankrupts. They liked becoming bankrupts themselves even less. They certainly did not like to be named as bankrupts in the press. For example, in 1827 a bankrupt by the name of Alexander Bruce, an army clothier, secured the publication of a notice in the *Sunday Times* which corrected 'unintentional errors into which various papers have fallen'. The notice stated:

In the first place, Mr. Bruce says he is not an individual bankrupt, but a joint bankrupt under the firm of Bruce, Brown, and Scott.

This was clearly not enough clarification for Bruce as the notice continued:

Mr. Bruce adds, that he is no bankrupt either in effect or form, and the joint effects of the firm were always more than sufficient to pay the joint debts. Mr. B. denies that he is liable to arrest or imprisonment...⁸⁰⁷

Bruce's name had been published dozens of times in bankruptcy commission notices in the *London Gazette* over the preceding ten years. However, he still maintained that once certain affairs were settled, he would 'be worth 40,000*l.* after paying all his debts'.⁸⁰⁸ So he should be neither thought of as a bankrupt nor as worthless.

⁸⁰⁶ Rafael Efrat, 'The Evolution of Bankruptcy Stigma', *Theoretical Inquiries in Law*, 7 (2006), 365–94, p. 368 fn.7.

⁸⁰⁷ 'Vice-Chancery, Tuesday', *Sunday Times*, 6 May 1827, issue 237, p. 4.

⁸⁰⁸ *Ibid.*

As bankruptcy tended to stop dead the trajectory of traders' lives, it inevitably disrupted their pre-established public lives, roles and responsibilities. This was even more the case if bankrupts had been of the wealthier members of the middling sort and had been substantial traders in their towns or parishes. Historical records do not often tell us if bankrupts resigned or were obliged to abandon roles and responsibilities. However, it is likely that this would have been the case given the damage to reputation, loss of trust and the poor relations that unpaid debts would have engendered. Alexandra Shepard says of men in the early modern period, that their 'reputations were most frequently attacked through questioning their economic integrity in terms of plain dealing, reliability, and personal worth'.⁸⁰⁹ Bankrupts could not then be trusted with public responsibilities, for example: in 1744 bankruptcy left Somerset yarn washer Richard Hutchings unable to pay land tax arrears which were due from him 'as collector thereof for the tything of Woolmestone'.⁸¹⁰ In 1775 Hampshire brewer Thomas Lodge was not only steward and agent for Sir Henry Paulet St John's Dogmersfield Park Estate, he was also responsible for paying Sir Henry's 1772 county of Southampton election expenses, except that he did not pay them.⁸¹¹ As a result of Lodge's deceptions in the accounts and his imminent bankruptcy Sir Henry 'removed Lodge from his Stewardship'.⁸¹² In London in the 1790s merchant Henry Nantes had been a subscriber to the Veterinary College, a member/subscriber to the Philanthropic Society, and a governor/subscriber of both the London Hospital and the Magdalen Hospital (all of which was a remarkable amount of philanthropy for one so heavily involved in the Atlantic slave trade and ownership of plantations!).⁸¹³ Following his bankruptcy in 1797 his name disappeared from later lists,⁸¹⁴ although he was still appearing on the Magdalen lists in 1798 and 1803 by which time he was

⁸⁰⁹ Alexandra Shepard, *Meanings of Manhood in Early Modern England* (Oxford, 2006), p. 164.

⁸¹⁰ SRO, DD/MR/107, Bankruptcy records, Richard Hutchings: deposition of Job Hutchings, linen weaver, 7 May 1744, p. 17.

⁸¹¹ HRO, 50M69/12, Winchester Assizes, assignees of Lodge v Sir Henry Paulet St John and others.

⁸¹² HRO, 15M50/1216/35, Paulet St John's Case: from Broome for the opinion of James Mansfield, June 1776, p. 3.

⁸¹³ *An Account of the Veterinary College* (London, 1792), p. 62; *A List of the Members of the Philanthropic Society* (London, 1793), p. 4; *A General State of the Corporation of the London Hospital...with a List of Governors* (London, 1796), p. 39; *A List of the Governors of the Magdalen Hospital* (London, 1798), p. 24, and *Magdalen* (London, 1803), p. 16.

⁸¹⁴ For the example of a convicted forger resigning from a philanthropic trust, see Randall McGowen, 'From Pillory to Gallows: The Punishment of Forgery in the Age of the Financial Revolution', *Past & Present*, 165 (1999), 107–40, p. 125.

probably already on the Isle of Man, a place favoured by insolvent debtors.⁸¹⁵ From at least 1814 bankrupt brewer John Latham had been a justice at the County of Southampton Quarter Sessions. As a magistrate in Romsey in September 1817, only two months before becoming a bankrupt, he sentenced a man for defrauding a turnpike keeper of 3d.⁸¹⁶ Before their bankruptcy in 1819 Messrs. Brickdale & Co. were bankers to the Taunton and Somerset Hospital.⁸¹⁷ One of the more modest traders in this study, Sherborne maltster John Slade, having in 1830 absconded altogether rather than face his bankruptcy commission, would not have returned to his role as steward for Sherborne's 'Annual Diversions'.⁸¹⁸

The names of bankrupts and the stories and issues that surrounded their failures got about through the press, through correspondents like Cowper, and by word of mouth. In no time town, district, and sometimes the whole country would learn who was a bankrupt and with whom they were in dispute. As the bankrupts Anne and Isaac Scott declared in their 1768 self-exculpatory pamphlet: 'The Affair was now publick'.⁸¹⁹ To a greater or lesser extent all the bankrupts in this study had been active participants in their trade networks and communities and will have practised middling-sort sociability within the various associations and institutions to which they belonged and subscribed. Their failure as traders will have diminished or ended the public standing of many and potentially scarred their reputations indefinitely. Of Jane Austen's brother Henry, a bankrupt banker, E. J. Clery maintains that Jane 'knew the bankruptcy had left an indelible mark on Henry'.⁸²⁰ Although as we have seen in the case of Le Mesurier there were sometimes successful and restorative afterlives.

8.2 Loss of wealth, property, and downward social mobility

Prior to their failures, traders, especially those set up by established trading or gentry families, lived in dwelling houses which they furnished with the requisite

⁸¹⁵ Regarding the Isle of Man and insolvent debtors, see T. C. Hansard, *Parliamentary Debates 1813–1814* (London, 1814), 18 November 1813, p. 157.

⁸¹⁶ *Salisbury and Winchester Journal*, 24 October 1814, issue 4048, p. 1; *Salisbury and Winchester Journal*, 29 September 1817, issue 4200, p. 4.

⁸¹⁷ *Bath Chronicle*, 16 April 1812, issue 2617, p. 1, 'Taunton and Somerset Hospital: Meeting of the Governors, Treasurer's Accounts'.

⁸¹⁸ *Salisbury and Winchester Journal*, 27 July 1829, issue 5633, p. 1.

⁸¹⁹ Scott, *Case of Anne and Isaac Scott*, p. 91.

⁸²⁰ Clery, *Austen*, p. 292.

domestic niceties which enabled them to project status and credit in their localities. Thomas Pyott, who had been apprenticed in the timber trade, married Anne in 1760. His 'fortune' was 'a third share in the north Brewhouse in Hull', and he also accumulated capital from other sources. He tells us that in setting up home in Hull he took a house in the high street. He furnished it and procured 'Plate, China...a Post Chaise and Horses, all of which cost £1,000, and then contemplated to what use to put his capital.'⁸²¹ As the reader will recall Pyott failed in the wine trade and would lose his house and contents, although as will be seen below he endeavoured to keep his plate from his creditors by placing it with a friend to whom he wrote; 'If it is not inconvenient to you, [I] desire you would keep my Plate sometime longer, as I have yet remaining many expectancies, and if I should die my wife would choose to have it'.⁸²² The plate was a store of value for his wife in reduced circumstances, and it was also a material way to resist a loss of status.

Earlier in the eighteenth century, Daniel Defoe had warned traders to be prepared to sacrifice status and domestic comforts in order to ensure their survival. Defoe imagined the conversation between a tradesman and his wife:

Wife: I hope you are not more asham'd to retrench, than you would be to have your name in the *gazette*.

Husb. It is sad work to come down hill thus.

Wife. 'Twould be worse to fall down at one blow from the top: better slide gently and voluntarily down the smooth part, than to be push'd down the precipice, and be dash'd all in pieces.⁸²³

Unfortunately, many traders, Pyott included, were 'push'd down the precipice'. Immediately a trader became a bankrupt, they were not only subject to the kind of negative representation expressed by Cowper above, they also experienced being 'dash'd all in pieces' through the loss of all their property. Under the authority of the bankruptcy commissioners all they owned was conveyed to the assignees who would effectively take apart a bankrupt's estate piece by piece.

⁸²¹ SHL, MS 122, Pyott, pp. 4–5.

⁸²² *Ibid.*, p. 20; Pyott to Edmund [Bramston?], 8 August 1763.

⁸²³ Defoe, *Tradesman*, p. 144.

Bankrupts not only immediately lost their commercial premises, trade stock and utensils, they lost their home and everything in it. For example, in February 1752 an agent for the assignees of bankrupt Wiltshire linen draper David Kennedy got possession of all of Kennedy's property. The agent informed that '[s]oon after we came from Salisbury our trusty and well beloved Charles went and took to everything he could lay his hands on at Kennedy's'.⁸²⁴ The loss of personal objects and possessions was distressing and painful to bankrupts and their families, although bankrupts did not always have goods removed immediately from their homes with the speed that smaller debtors suffered.⁸²⁵ At a deeper level the psychological impact was more than merely personal and emotional; it had wider social implications for them. If they lost their 'necessaries', in the sense intended by Adam Smith whereby such things were 'whatever the custom of the country renders it indecent for creditable people, even of the lowest order, to be without', then being seen to have lost their property with the resulting poverty could only imply 'extreme bad conduct'.⁸²⁶

Having lost possession of their reputation and property, bankrupts often saw their property being sold in fire sales intended to raise cash quickly. In 1782 a catalogue offered for sale 'A Great Variety of Ancient and Modern Books' which had been 'the Stock in Trade of Henry Payne, Bookseller, a Bankrupt; Which Will Be Sold Very Cheap...By Order of the Assignees'. The books were to 'be sold for Ready Money only' and discounts were offered 'for the encouragement of Purchasers'.⁸²⁷ In 1829 *The Sunday Times* ran an advertisement that claimed that the stock of bankrupt drapers Kirkman and Co. not only consisted 'of the best and most costly manufacture' but that it would also be sold in a 'Grand and unreserved SALE' in which the public would enjoy 'advantages unequalled since the panic of 1825'. The auctioneers proposed to sell some goods at 'one-fifth of the late proprietors' prices'.⁸²⁸ Sales of debtors' and bankrupts' property also readily attracted curiosity, and judgement. James Woodforde recorded in

⁸²⁴ WRO, 492/280, Bankruptcy of David Kennedy: Burgesse to (probably R. Cooper, Stabler or Edwards), 6 February 1752.

⁸²⁵ For an account of the trauma of having goods distrained, see Sara Pennell, 'Happiness in Things?: Plebeian Experiences of Chattel "Property" in the Long Eighteenth Century', in Michael J. Braddick and Joanna Innes (eds), *Suffering and Happiness in England 1550–1850: Narratives and Representations: A Collection to Honour Paul Slack* (Oxford, 2017), pp. 220–21.

⁸²⁶ Adam Smith, *Wealth of Nations*, quoted in Alain de Botton, *Status Anxiety* (London, 2004), pp. 195–96.

⁸²⁷ Henry Payne, *A Catalogue of Several Valuable Libraries* (London, 1782), w/n.

⁸²⁸ 'Ludgate Hill Bankruptcy', *Sunday Times*, 1 March 1829, issue 332, p. 4.

his diary on 8 October 1793 that: 'Before dinner we all walked into Bruton to a Sale – Mr. Bonds, who is an Attorney but lately absconded being very much in debt, by living away highly.'⁸²⁹ Largely the evidence suggests that bankrupts were resigned to the loss of their property, although in 1775 bankrupt Hampshire brewer Thomas Lodge was not willing to accept the loss of *his* property at auction. When the event commenced on 8 May the sale was subject to many interruptions by Lodge who 'appeared and forbid any ones purchasing upon the Opening (and in the very Face of the Assignees) which Occasioned an Extraordinary Expence and delay'.⁸³⁰ Possibly the fact that some bankrupts notoriously secreted things of value with family or friends, like Pyott and his plate above, rendered the sales a little less painful. Nevertheless, such behaviour was fraud, and it should not be assumed that all bankrupts secreted goods as a matter of course.

Because all household things could be turned into cash, the loss of the most basic necessities like beds for sleeping or chamber pots was more than simply inconvenient, it was also humiliating. The inventory of Thomas Lodge's household goods included '3 blue & white Chamber pots'.⁸³¹ The assignees in the case of Anne and Isaac Scott were 'so enraged' by their suspicion that the Scotts were hiding assets that they were rumoured to be intending to 'not leave Mrs Scott a Bed to lay on'.⁸³² When it came to potentially losing one's bed from under one, as a bankrupt Mrs Scott may have enjoyed less protection than an insolvent debtor householder subject to a distraint, because a conventional distraint did not in theory permit the seizure and sale of beds.⁸³³ Following her bankruptcy Anne Scott was staying 'in a Lodging, in a bad State of Health' and was concerned about her estate which was in the hands of the assignees from whom she could not get a confirmation that her 'Estate should not be touched by the Creditors'. Whilst not entirely losing her property she had lost control of it. It was agreed 'that she might have the Furniture of her House'. She was willing to give up the lodging and move 'into a cheaper one in the Country, but

⁸²⁹ John Beresford (ed.), *The Diary of a Country Parson: The Reverend James Woodforde*, 5 vols (Oxford, 1924), IV, p. 63.

⁸³⁰ HRO, 15M50/1216/35, Paulet St John's Case: from Broome for the opinion of James Mansfield, June 1776, p. 3.

⁸³¹ HRO, 50M69/12, Winchester Assizes, assignees of Lodge v Sir Henry Paulet St John and others.

⁸³² Scott, *Case of Anne and Isaac Scott*, pp. 100–01.

⁸³³ See Pennell, 'Happiness in Things?', p. 218.

could not till she had leave to move her Goods'. The chief assignee would not let her do this 'unless she would find somebody that he approved of that should be answerable for the Goods whenever he should please to demand them'.⁸³⁴ Anne valued her furniture and her goods, but she stood to lose them at the whim of the assignees. And lose their personal property bankrupts did.

In January 1818 following the bankruptcy of Romsey brewer John Latham, the assignees got started on the Latham family's home and domestic possessions. To be sold by auction on 28 January was Latham's 'genteel and modern' furniture. As well as practical items, under the hammer were to go his family's: 'lofty French window curtains, with rich silk hangings' and the pianoforte; then thirty dozen bottles of 'choice old Port', and as many 'superior old British Wines'. All these signifiers of the family's genteel status were to be lost to others who would have the benefit and enjoyment of them. The family silver was condensed to '200 ounces of modern plate'. Their tea china, books, paintings, pistols, and even Latham's 'brace of Pointers' would become the property of others.⁸³⁵

Traders struggling with debt and facing impending bankruptcy could quickly lose the material paraphernalia of domesticity by being forced to use it like cash to pay creditors' demands and stave off bankruptcy a while longer. This use of moveable goods as cash was more typical of the sixteenth and seventeenth centuries.⁸³⁶ However, cash-strapped traders can be found resorting to it in the early nineteenth century. In 1819 as the Brickdale family attempted to pacify an increasingly insistent creditor, who was their own estate bailiff George Nuttall, John Brickdale's wife offered to give him 'some articles of Plate in part satisfaction of his debt'. So, Nuttall maintained, on 24 October 1819 she gave him some 'Silver Forks, Spoons and other articles of Plate belonging to ... John Brickdale'.⁸³⁷ Nuttall converted the flatware from the Brickdales' table into £73.10. 0, which was the most he could get after shopping around. He also received 'a plated Skewer and Fish Slice' from Mrs Brickdale, which he sold to

⁸³⁴ Scott, *Case of Anne and Isaac Scott*, pp. 102–05.

⁸³⁵ *Salisbury and Winchester Journal*, 26 January 1818, issue 4227, p.1.

⁸³⁶ Alexandra Shepard, *Accounting for Oneself: Worth, Status, and the Social Order in Early Modern England* (Oxford, 2015), pp. 44, 279.

⁸³⁷ SRO, DD/DP/7/6, Bankruptcy of John and Matthew Brickdale: draft affidavit of George Nuttall, January 1820.

Thomas Thorne for £7.⁸³⁸ These payments in plate were not sufficient to satisfy Nuttall as he still took out a petition of bankruptcy against John and Matthew Brickdale later that year.

How attached Mrs Brickdale was to her plate the records do not tell us. Records do tell us, however, in the case of a Mrs Down. She was the wife of Richard Down, one of the bankrupt partners in Alexander Fordyce's bank failure of 1772. She did not want to lose household items with personal associations. She listed: 'A Tea Board, and old Piece of Family Plate, a Coffee Pott, a Cross, and Lamp, an Urn, Sauce Boats and Bread Basket, 2 P^r of Candlesticks and 3 salvers'. She petitioned the creditors for their return declaring, 'all the above being Presents from relations and friends'.⁸³⁹ Sara Pennell raises the question of whether for eighteenth-century English people it was worth getting emotionally invested in material things because as a result of distraint (or bankruptcy), things could be gone tomorrow.⁸⁴⁰ Nevertheless, losing personal objects, especially if they were sentimentally valued, must have caused some sense of loss (see the account of Elizabeth Fry's experience of loss below). Still more painful than losing valued possessions was losing absolutely everything. Thomas Pyott wrote in 1767, 'five long years of uncertainty, fears, hopes, doubts...I have been unfortunate, all my worldly goods are wasted away'.⁸⁴¹ Bankrupt banker Henry Austen declared that as a result of his failure in 1816: 'I lost everything' and was 'totally ruined'.⁸⁴² Yet status, position, property and possessions were still not all that bankrupts lost. In losing their trades and financial assets they became dependent on others, thus losing their independence, which is discussed below.

8.3 Loss of independence and the experience of becoming dependent

Chapters six and seven discussed bankrupts' experience of loss of control over space and time. However, the constraining effect of being a bankrupt went still

⁸³⁸ *Ibid.*

⁸³⁹ TNA, B3/3675, In the matter of Henry Neale, William James, Alexander Fordyce and Richard Down of Threadneedle Street, London, bankers, bankrupts.

⁸⁴⁰ Although bankrupts may not have had goods removed immediately from their homes with the speed that small debtors suffered, for an account of the trauma of having goods distrained, see Pennell, 'Happiness in Things?', p. 226.

⁸⁴¹ SHL, MS 122, Pyott, April 1767, p. 69.

⁸⁴² Henry Austen to the Marquess of Hastings, 23 May 1839, quoted in Clery, *Austen*, p. 317.

further and severely limited their ability to act for themselves or have any control over the social and economic aspects of their own lives. Prior to their bankruptcies the subjects of this study were all independent traders in command of their own businesses, property, finances and personal and domestic possessions. The loss of these aspects of their lives cannot have been comfortable given that independence was, in McCormack's words 'a fundamental aspect of Georgian male identities'.⁸⁴³ Henry French and Mark Rothery have shown how the achievement of financial autonomy and thus manly status and independence mattered to the gentry families that put sons into trade.⁸⁴⁴ The corollary of this was that 'humiliating [financial] dependence' should be avoided.⁸⁴⁵ This was necessary because, in John Smail's words, 'an essential part of being a man was not to be burdensome to relations'.⁸⁴⁶ Bankruptcy entailed loss of independence and becoming, potentially at least, burdens on relatives.

After their failure bankrupts could not practise their trade as their business premises, stock and utensils of trade were conveyed to their assignees. Their homes or dwelling houses were also conveyed. The loss went still further. Any financial assets (cash, plate, and debts owed them), as well as other typical assets of the period such as land, buildings let to tenants, insurance policies, tradeable stock, government stock, stakes in lotteries, mortgages etc. were conveyed to the assignees. And of course, bankrupts could get no credit, as Le Mesurier said above: 'I am incapable of borrowing when I have no security to offer'.⁸⁴⁷

Following the surrender of all their property bankrupts could make no significant decisions because they lacked anything to make decisions about and therefore had little control over their own lives. Owning property was essential to a man's independent status.⁸⁴⁸ According to McCormack: 'In Georgian England, the *household* and the *householder* were the basic units of social

⁸⁴³ McCormack, *Independent Man*, p. 7.

⁸⁴⁴ French and Rothery, *Man's Estate*, pp. 57, 59, 112, 115–16, 122, 124. For further discussion of gentry younger sons' attempts at achieving and maintaining 'full masculine autonomy' through engagement in trade, see French and Rothery, 'Male Anxiety', 967–95.

⁸⁴⁵ French and Rothery, *Man's Estate*, p. 119–120.

⁸⁴⁶ John Smail, 'Coming of Age in Trade: Masculinity and Commerce in Eighteenth-Century England', in Margaret C. Jacob and Catherine Secretan (eds), *The Self-Perception of Early Modern Capitalists* (Basingstoke, 2008), p. 237.

⁸⁴⁷ DHC, 152M/C1793/OZ22–25, Le Mesurier to the Speaker, 17 March 1793.

⁸⁴⁸ McCormack, *Independent Man*, p. 24.

conceptualisation.⁸⁴⁹ A bankrupt no longer *held* a house nor had he a household having had to dismiss the servants and to disperse family members. They lacked the financial means to implement even minor choices. Probably the only serious decision making they could do (and for which we may have the best evidence) was about how best to cooperate with their commissions so that they could obtain their certificates. Overall, it is tempting to reduce the question of bankrupts' agency to the fact that they could not do or decide anything until they got their certificates, but this would be to ignore the complexities of their circumstances. When bankrupts could not act for themselves, they sometimes acted (or at least felt they ought to be able to act) through proxies, usually family, friends, or lawyers (roles for family and friends in communications and negotiations were discussed in more detail in chapter five). If bankrupts could not attend meetings themselves for fear of arrest, they sent a family member or friend, and sometimes their solicitor, to deliver a message or to negotiate on their behalf. In the meantime, bankrupts and their families still needed to live, eat and sleep on beds. So how did they manage? Essentially, they depended on others which hardly conformed to the Georgian ideal of independence.⁸⁵⁰

Bankrupts found themselves having to ask, if not effectively beg, for money in order to cover their basic necessities and those of their families. Henry Austen maintained that after his bankruptcy in 1814 he was 'reduced to beggary'.⁸⁵¹ It does, however, have to be asked to what extent many bankrupts were reduced to extreme poverty. 'Beggary' need not be synonymous with 'poverty'. Bankrupts unsurprisingly hated having to 'beg' from their more affluent relatives, but the self-abasement will have saved them from poverty. Although this study has shown some of its bankrupts being reduced to hard times like Townsend and Brigstock (and Stych who appears below), the poverty of many probably never resembled anything like that of some of the labouring poor who struggled to afford one loaf of bread a week.⁸⁵² Brigstock did lament that he did not have 'any way of living and have best to get bread to my family'.⁸⁵³

⁸⁴⁹ *Ibid.*, p. 25.

⁸⁵⁰ *Ibid.*, p. 2.

⁸⁵¹ Austen to Hastings, 23 May 1839, quoted in Clery, *Austen*, p. 317.

⁸⁵² For descriptions of survival strategies of the poor and the cost of food, see Peter King, 'Social Inequality, Identity and the Labouring Poor in Eighteenth-century England', in Jonathan Barry and Henry French (eds), *Identity and Agency in England, 1500–1800* (Basingstoke, 2004), pp. 70–71, 75–77.

⁸⁵³ BRO, JQS/P/44, Proceedings against David Brigstock: David Brigstock to Richard George, 17 November 1773.

Money for bankrupts was most likely to be forthcoming from family and it sometimes simply came in the form of gifts of cash. In 1828 Elizabeth Fry listed the amounts she and her husband received from their wealthy relatives: 'sister Hoare' gave £286 and 'Anna Gurney and Sarah Buxton' gave £50, such that she recorded 'we are now well provided for'.⁸⁵⁴ Although Elizabeth accepted her misfortunes as an act of providence, she was open to accepting relief.

Walsham (drawing on Paul Slack) notes that 'acknowledgement of providence was never incompatible with energetic initiatives to prevent and ameliorate the effects of catastrophe'.⁸⁵⁵

Given the dispositions of their respective families (Gurney and Fry), Elizabeth Fry and her husband Joseph may not even have had to ask for money before it was proffered. However, Thomas Pyott back in 1766 dreaded the consequences of asking his relations, for whom he clearly harboured some resentment, for money. He observed that they were:

all lost in the pleasures and employments of their good Fortunes, and whilst they see me contented and in good Spirits to keep them company, they treat me as their equal, and are all anxious to have me with them; but if I was to ask for money, from that moment they would use me as a Dependant, and as I could not brook that treatment, my company would soon become disagreeable, and I should lose all Hopes of preferment.⁸⁵⁶

Pyott's misgivings were well founded given, in McCormack's words, independence from obligation 'was regarded as a manly and honourable condition'.⁸⁵⁷ Pyott did enjoy the advantage of, as he put it, being connected to 'so many powerful Families' who he hoped would find him employment, but in the meantime he suffered the double indignity of not only being the poor relative who had had to make his way in trade, but also of having failed at it.⁸⁵⁸

If family and friends were not forthcoming with pecuniary assistance, then bankrupts depended entirely on what their assignees would allow them. In the summer of 1767 Isaac Scott had to write to the assignees in his commission 'for

⁸⁵⁴ LRSFB, Diaries of Elizabeth Fry, MS Vol. S267/2, Plashet, 5 December 1828.

⁸⁵⁵ Alexandra Walsham, 'Adversity, Providence, and Agency in Early Modern England', in Braddick and Innes (eds), *Suffering and Happiness*, p. 59. Walsham draws on Paul Slack, *The Impact of Plague in Tudor and Stuart England* (Oxford, 1990).

⁸⁵⁶ SHL, MS 122, Pyott, Pyott to Mr Darling, 1 February 1766, p. 50.

⁸⁵⁷ McCormack, *Independent Man*, p. 13.

⁸⁵⁸ SHL, MS 122, Pyott, Pyott to Darling, 1 February 1766, p. 50.

Money'. The request was repeated at a meeting on 9 September by his brother George who was acting for his bankrupt mother and brother. He felt compelled to ask the assignees 'if he thought his Mother and his Brother could live on Air'. He thought 'they would be intitled to something from the Estate'. The next night 'at the Meeting of Assignees' George presented a note from Anne and Isaac Scott in which they offered to give a receipt for 'our Allowance from the Commission...which will be of much Use, and greatly oblige'.⁸⁵⁹ They were granted some of their allowance at the meeting on 10 September 1767 as the assignees 'promised that they would send some Money' and later that same night they provided 'Mrs Scott with twenty Guineas for her, and ten for her Son'.⁸⁶⁰

Another cash-strapped bankrupt who asked, in effect begged, for money was Carmarthenshire wool stapler John Stych who in 1811 wrote to his commission solicitor Daniel Burges from Llanilly to ask 'for a remittance':

I wrote you last Sunday but have received no Answer which makes me very uneasy as the woman is going from [Luarry] Immediately and I have no money to send the Children up by her if you would be so kind as to get the Assignees to allow even as little to send them up by her I should be extremely obliged for if they are left there they will Certainly Starve. My Stock is entirely out and I have not even a Shilling left to pay postage of a Letter if you would be so kind as to send me a little Immediately I should be extremely obliged as I am Entirely pennyles. I have had Several Applications for [Luarry] but no Offer...⁸⁶¹

It is not known whether Stych was sent 'a little'. Assignees, however, were not bound to allow bankrupts subsistence money, but they could choose to do so if they were inclined. Therefore, a bankrupt in Stych's position had to ask nicely and somewhat importunately. At the same time Stych was careful to remind Burges that he was trying to assist the commission by (probably) facilitating viewings of [Luarry], which may have been a property or farm that he had owned prior to his bankruptcy and which had to be sold. It was not unusual to

⁸⁵⁹ Scott, *Case of Anne and Isaac Scott*, pp. 42–43.

⁸⁶⁰ *Ibid.*, pp. 42–44.

⁸⁶¹ BRO, 44352/2/1/15/7, Bankruptcy of John Stych, 1811–1812: Stych to Daniel Burges, 8 September 1811, 'for a remittance'. The letter was written from 'Llanilly' which is most likely to be today's Llanelli (rather than Llanelly) as the postmark is nearby Swansea.

leave a bankrupt in charge of viewings of a property they had previously owned. Where there were good relations with assignees, they sometimes allowed bankrupts to continue living in their homes until the homes were eventually sold.

Bankrupts' relations with assignees were not always cordial and if living allowances were not forthcoming for some bankrupts then they were forced to petition whoever would listen to them. In 1785 bankrupt Bristol distiller Joshua James wrote a desperate 'Memorial', possibly to an office holder in the Excise. He wanted it to be known that: 'By a Chain of Events so calamitous, so afflicting and so unforeseen your memorialist and his family are reduced from a state of affluence and comfort to a state of ruin and Beggary'. James explained that the only assets he had left were the distilling equipment ('utensils') with which to pay the Excise, after which he would be 'left to the mercy of his provoked and injured Creditors'. James ended basically opting to 'throw himself upon the Clemency of a Minister' to spare him from exposure to 'the horrors of want'.⁸⁶² Because James's memorial is written in a fair hand the document was probably written for him by a lawyer or his clerk. In contrast to this type of petition, bankruptcy records generally show bankrupts writing their own letters in which they petitioned for assistance. According to Faramerz Dabhoiwala over the eighteenth century, people increasingly wrote their own petitions rather than the early modern reliance on scribes.⁸⁶³ If bankrupts were unsure of how to couch their petitions there were manuals to help them. For the humbler 'decayed' and 'reduced' tradesmen, George Brown's *New and Complete English Letter-Writer* had some handy models of petitions.⁸⁶⁴ Then there was Thomas Cooke's *Universal Letter-Writer*, which in addition to providing similar models to Brown's, also provided a model letter for a bankrupt merchant's widow seeking the 'smallest matter' towards her 'immediate subsistence or future support' from 'a distant Relation'.⁸⁶⁵ The hardship typically claimed in these model petitions is reflected in the language of James's memorial, as it was in the appeals or remonstrances of many bankrupts. Dabhoiwala notes that the language of suffering was 'a common petitionary trope'.⁸⁶⁶ This should

⁸⁶² BRO, 44352/2/1/8, Papers re Joshua James: Memorial of Joshua James, n.d.

⁸⁶³ Faramerz Dabhoiwala, 'Writing Petitions in Early Modern England', in Braddick and Innes (eds), *Suffering and Happiness*, pp. 142–43.

⁸⁶⁴ George Brown, *The New and Complete English Letter-Writer* (London, 1780?), p. 190.

⁸⁶⁵ Thomas Cooke, *The Universal Letter-Writer; or, New Art of Polite Correspondence* (London, 1770?), p. 208, pp. 212–13.

⁸⁶⁶ Dabhoiwala, 'Writing Petitions', p. 145.

be borne in mind when endeavouring to 'hear' the voices of bankrupts. In some cases, we only hear their petitioning voice.

James is not the only bankrupt in this study who was compelled to appeal to strangers. In 1813 Edmund Townsend, the bankrupt Covent Garden wine and cider merchant, was quite systematic when it came to petitions. He employed his own printed forms which he addressed to, for example, 'THE OPULENT AND BENEVOLENT' and closed them declaring that 'he therefore begs most humbly to throw himself upon the bounty and kindness' of those who might be sympathetic towards his 'afflicting case'. He intended a third party 'to receive contributions' on his behalf, but it is not clear if anything was collected as Townsend abandoned London for Bath.⁸⁶⁷ Soon after his arrival in Bath he started to keep an account of his receipts and expenditure. His account shows a variety of gifts and borrowings, as well as the sale or pawning of minor possessions. He received from 'Sir W. J. bart.' a 'gratuity' of 10s 6d; another 'gratuity' from a 'Mr. M.'; he 'Borrowed of Mr. J.' 2s; 'a friend' gave him a present of 3s 6d and he received a 'present from a Gent.' of 1s; two further gentlemen gave him 5s each; and after 'A number of Tradesmen, &c. at the Raven Tavern' had a whip round he took home £1 2s; in the final entry he borrows 3s 'of Mr. H.'. In the statement with which he closes his account he states: 'My Family in London were equally distressed, till *my very benevolent Patron afforded me still further and repeated means of procuring us clothes and other necessaries, of which we were in extreme want.' From the account Townsend would seem to have 'pledged' most of his clothes. The asterisk indicated a gift of £5 entered in the accounts from 'T. H. esq.'.⁸⁶⁸ Townsend had clearly become dependent, not only on his basic survival strategies of selling books and pawning clothes, but more vitally on direct gifts of money. Possibly 'A number of Tradesmen, &c. at the Raven Tavern' did better for Townsend than 'THE OPULENT AND BENEVOLENT'. In the absence of family, trade may have been more sympathetic to trade than gentry and aristocracy.

Another survival strategy of bankrupts was to petition for employment. If, as expressed by Le Mesurier at the beginning of this chapter, they did not believe they would again enjoy sufficient credit to be able to raise enough capital to

⁸⁶⁷ B&NESRO, 0253, Edmund Townsend, bankrupt: Townsend, *Case of Extraordinary Oppression*.

⁸⁶⁸ B&NESRO, 0253, Edmund Townsend, 'Cash Account of E. Townsend'.

start afresh in trade, then employment was their only alternative to complete dependency. Le Mesurier was successful in side-stepping from the ruins of his business into well-remunerated employment as an army commissary. Other bankrupts took very different directions. After his bankruptcy in 1816 Henry Austen settled for taking Holy Orders and became a curate at an annual stipend of fifty-two guineas.⁸⁶⁹

Another bankrupt who saw his survival in employment was one Richard Yeoward, a bankrupt linen draper who had traded from Ironmonger Lane in the City. He decided in 1796 to petition to succeed the late incumbent 'Clerk to the Court of Requests'. He affirmed his good reputation and imputed his losses to 'unforeseen events'. He had lost his wife and he had eight children '*unprovided for*'. He ended:

Under these heavy Calamities, I trust I am justified in soliciting your Protection; and should I be honoured with your Support, the most steady Attention to the duties of the situation, should prove my lasting Gratitude for the Favor.⁸⁷⁰

Bankrupts not only wanted to be able to provide for themselves and their families, either through recommencing a trade (although they did not always return to the same trade) or through employment, they also wanted to lose the stigma of being bankrupts. It should be remembered that a bankrupt was something that a trader *became*. If they were one kind of man (or woman) before bankruptcy, they were regarded as a different kind of man afterwards. However, this new identity was one they wished to shed. According to Defoe in 1727 a bankrupt wanted to be 'a clear man' such that he 'may begin the world again'.⁸⁷¹

This same anxious desire was expressed in 1753 by Wiltshire linen draper David Kennedy when he wrote from Marlborough to the commission attorney John Cooper. He urged Cooper to get him his certificate so that 'I may be once more a clear man in the world'.⁸⁷² From his choice of words it is to be wondered whether Kennedy had read Defoe's *Tradesman*. For Joshua Montefiore in 1804

⁸⁶⁹ Clery, *Austen*, pp. 289–91.

⁸⁷⁰ Richard Yeoward, *Sir I BEG leave...* (London, 1796), p. 1.

⁸⁷¹ Defoe, *The Complete English Tradesman* 2nd edn (London, 1727), p. 167.

⁸⁷² WRO, 492/280, Bankruptcy of David Kennedy: David Kennedy to John Cooper, 6 December 1753.

if a bankrupt obtained his certificate he became 'an unincumbered man'.

However, Montefiore continued:

on the contrary, if the commission be unfriendly, the bankrupt not only does not receive that liberal treatment to which his situation entitles him; but after all these difficulties, which the prejudice of mistaken interest casts in his way, he is ultimately refused his certificate, and stigmatized as a proscribed man...⁸⁷³

These examples of contrasting designations for the kind of man a bankrupt was, may for the reader, raise a question about bankrupts' masculine identity. Did the male bankrupts feel that their manliness or masculinity was compromised and did others regard them or treat them as being compromised or diminished? Not very surprisingly the subjects in this study did not express themselves explicitly on this subject, or at least not in forms that survive. To a considerable extent we can only surmise what they might have felt by trying to read between the lines, which risks imputing more to their words than the subjects intended. However, whether the subjects recognised it or not in Georgian England loss of independence was doing a lot of the work towards undermining masculinity anyway, as McCormack maintains the 'independent man' was identified with 'maleness itself', and only independent men had full control over their identities.⁸⁷⁴ Part of wanting to be 'once more a clear man in the world' was about recovering that lost identity. One thing is certain: bankrupt men waiting for certificates were not independent men. According to McCormack being dependent connoted 'a degrading lack of manliness, virtue and free will' and dependence on 'a patron, an employer...was enough to call an individual's manliness and freedom into question'.⁸⁷⁵ Was this what Le Mesurier meant when he declared to his patron that he felt 'unequal to the task'?⁸⁷⁶

It is not easy, however, for the purposes of this study to find instances of bankrupts explicitly reflecting on their imperilled masculinity or to find instances of specific attitudes to, and treatment of, bankrupts for their dereliction of male duty to both family and wider society. For the eighteenth-century anglophone world, one of the few scholars to directly address the question of imperilled

⁸⁷³ Montefiore, *Trader's and Manufacturer's Compendium*, I, p. 100.

⁸⁷⁴ McCormack, *Independent Man*, pp. 18, 24.

⁸⁷⁵ *Ibid.*, p. 13.

⁸⁷⁶ DHC, 152M/C1793/OZ22–25, Le Mesurier to the Speaker, 17 March 1793.

masculinity amongst male debtors, failed merchants and bankrupts is Toby Ditz.⁸⁷⁷ Ditz gives an account of a young merchant who in 1794 confided that his business reversals 'had "wholly unmanned" him'.⁸⁷⁸ Ditz's example of the young merchant raises the question of whether more examples of this kind of self-perception by failed traders can be found.⁸⁷⁹ For this study, evidence of this nature has proved difficult to find although Thomas Pyott gives us an example of the question from the debtor's point of view. In 1766, despite his dependent situation Pyott was ready to censure the male members of his family for, to his way of thinking, not being able to step up to the challenge of assisting *him*. He lamented: 'If I had a Relation that was capable of feeling any Manly sentiments of Generosity, I should receive an uncommon satisfaction in being obliged to him'.⁸⁸⁰ All the factors that have been identified and discussed in the preceding sections clearly had a wearing effect on bankrupts and inevitably gave rise to negative consequences for their minds and bodies. These consequences are discussed in the next section.

8.4 Loss of health

In 1727 Daniel Defoe in *The Complete English Tradesman* related a dialogue that he maintained had come to his ears between a failing trader and his wife. The trader had been 'melancholy, and oppress'd with the thoughts of his declining circumstances'. His wife would hear him 'fetch a deep sigh' and 'at another time say *he wish'd he was dead*'.⁸⁸¹ This ought to have been enough to worry any wife and she therefore asked him what the matter was, but found she had a struggle to get anything out of him. In exasperation at his evasions, she exclaimed:

⁸⁷⁷ Toby L. Ditz, 'Shipwrecked; or, Masculinity Imperiled: Mercantile Representations of Failure and the Gendered Self in Eighteenth-Century Philadelphia' in *Journal of American History*, 81 (1994), 51–80.

⁸⁷⁸ Robert Lamar Bisset to Henry Hill, July 2, 1794, correspondence file, 1790s, Lamar, Hill, Bisset, & Company Box 1, Sarah A. G. Smith Family Papers, 1732–1826, collection no. 1864 (Historical Society of Pennsylvania, Philadelphia) in Ditz, 'Shipwrecked', p. 51.

⁸⁷⁹ For a discussion of 'the emasculating ramifications of business failure for the commercial sorts', with the antiquary, topographer and unsuccessful merchant Ralph Thoresby, (1658–1725) as an example, see Owen Anderson Brittan, 'British Masculinities Beyond Patriarchy, 1689-1702', (unpublished doctoral thesis, University of Cambridge, 2017), pp. 168–70; and see also Paul, 'Credit, Reputation, and Masculinity', 226–48, pp. 239, for instances of business failure and bankruptcy being 'framed in gendered terms that linked failure in trade with failure at home'.

⁸⁸⁰ SHL, MS 122, Pyott, Pyott to Darling, 1 February 1766, p. 50.

⁸⁸¹ Defoe, *Tradesman*, p. 144.

Don't put me off with such stuff as that; *I tell you*, 'tis not for nothing that you have been so concern'd, and that so long too; I have seen it plain enough, why you have droop'd upon it for this fortnight past, and above...SURE 'tis some terrible thing then, why must not I know it? [W]hat, are you going to break? ⁸⁸²

To break, as the reader will already know, was to become a bankrupt. This was what the wife feared was oppressing the mind of the trader. Defoe's dramatic sequence is not unlike an extract from one of his novels' more troubled episodes, but as this chapter will endeavour to show his melancholy tradesman and wife prefigure the mental and psychological experience related by many insolvent debtors and bankrupts over the ensuing hundred years. In this section we hear directly from bankrupts as they describe their states of mind and their physical symptoms. We will also learn about some of the graver psychological and physical events that were probably directly or indirectly the consequence of their financial circumstances.

In 1739 someone felt the need to publish these lines:

How heavily Time moves away.
 Sometimes e're Morn begins to peep,
 For Debt was never Friends with Sleep ⁸⁸³

The words suggest that contemporaries understood only too well that loss of sleep was an inevitable consequence of anxiety over debt. Unsurprisingly, the most common state of mind reported by bankrupts was an anxious one, which of course did nothing for their ability to sleep. The pernicious effect of debt on spirits and health was recognised in England well before the eighteenth-century expansion of credit and debt, and the growth in insolvency and bankruptcy that followed. The seventeenth-century astrologer and physician Richard Napier recorded that of 767 people who told him about their problems, 99 spoke of financial troubles. Over half feared ruin, and it was debt that was the cause of

⁸⁸² Ibid., p. 136.

⁸⁸³ Mr Wh----d, *GREEN-CLOTH*, p. 8.

their anxiety.⁸⁸⁴ The subjects of this study recorded their anxious states during one or more of the three broad stages of bankruptcy.

Firstly, there was the anxious period as money troubles built. The anxiety will have been the greater if traders were engaged in speculative ventures and feared financial losses. This was the view, in 1802, of physician and scientist Thomas Beddoes. He believed the British mercantile class was prejudicing its health by ‘participating in speculative schemes and “scenes of trade at London or at Bristol”’.⁸⁸⁵ Alternatively, traders may already have been in fear of arrest and imprisonment by one or more of their creditors. This was a time for traders when ‘*apprehension* instantly arises in his mind, and his imagination, by representing to him what may happen, shall cause apprehension to terminate in *dread*’.⁸⁸⁶ This period of dread might be endured for months or even years prior to a bankruptcy, and all the time the trader, according to Defoe, lived a ‘miserable, anxious, perplexed life...before he Breaks’.⁸⁸⁷ For example, Thomas Pyott the failing Yorkshire wine merchant who got into major difficulties in 1762, and who was in constant fear of bankruptcy, having already had his personal property sold by his creditors, and after taking refuge with his father-in-law, fretted: ‘I found it possible I might be left without a Shilling and have two Annuities to pay; this consideration alone gave me sufficient pain and anxiety’.⁸⁸⁸ In addition to mere anxiety he often cited ‘pain’ as one of his symptoms. A year later in a letter to his partner, Pyott apologised for not having written before saying, ‘the anxiety of my mind and the indifferent state of my Health prevented me’.⁸⁸⁹ The following month he was desperate for a way out

⁸⁸⁴ Michael Macdonald, *Mystical Bedlam: Madness, Anxiety, and Healing in Seventeenth-Century England* (Cambridge, 1981), p. 67. For an account of the effects of anxiety about money on the health of seventeenth-century men, including loss of sleep, see Olivia Weisser, *Ill Composed: Sickness, Gender, and Belief in Early Modern England* (Yale, 2015), pp. 82, 93–4; also on merchants worrying about money and losing sleep, see Mary Lindemann, ‘The Anxious Merchant, the Bold Speculator, and the Malicious Bankrupt: Doing Business in Eighteenth Century Hamburg’, in Margaret C. Jacob and Catherine Secretan (eds), *The Self-Perception of Early Modern Capitalists* (New York, 2008), pp. 171–72.

⁸⁸⁵ Thomas Beddoes, *Hygëia: or Essays Moral and Medical, on the Causes Affecting the Personal State of our Middling and Affluent Classes* (Bristol, 1802), quoted in George C. Grinnell, *The Age of Hypochondria: Interpreting Romantic Health and Illness* (Basingstoke, 2010), p. 123.

⁸⁸⁶ Alexander Crichton, *An Inquiry into the Nature and Origin of Mental Derangement*, 2 vols (London, 1798), II, p. 253.

⁸⁸⁷ Defoe, *Tradesman*, p. 79; for a case study of a merchant during such a period of anxiety, see Lindemann, ‘Anxious Merchant’, pp. 168–69.

⁸⁸⁸ SHL, MS 122, Pyott, n.d. January 1762, p. 10.

⁸⁸⁹ *Ibid.*, 8 August 1763, p. 16.

as he became weary of being pressed by his creditors, and he declared 'I am determined to be a Bankrupt, rather than endure so much pain and anxiety'.⁸⁹⁰

By 1766 Pyott had become debilitated by several years of anxiety. When he was being threatened with imprisonment for debt, he immediately thought of the implications for his physical health. He declared: 'I am to expect the worst consequences of the Law...I am told I must expect the Fleet, if I do not pay the Debt. I cannot conceive of what service my lean, lank, and bony Body will be to them'.⁸⁹¹ After the pressure had laid him low he recalled: 'and when I was thought to be upon my Death-Bed, worn out by Care and Anxiety they never heard one single complaint escape my Lips, and tho' I was for fourteen days in a doubtful State'.⁸⁹² Becoming a bankrupt might have spared him debtor's prison, but one wonders whether given the experience of the bankrupts described here, whether he would have been any happier. In the next few years his troubles persisted and reflecting on 1766 he recorded 'feelings of self-mortification, in continual dread of being confined by my creditors'.⁸⁹³

Again, sleep and equanimity were great casualties of debt as exemplified by Bristol distiller Joshua James who, in late 1784 was on the verge of bankruptcy. He wrote to Bristol solicitor Daniel Burges in the hope that Burges's agency might be 'of great ease to my mind for I cannot rest day nor night am like a distracted man therefore I hope in your next you'll give me some comfort'.⁸⁹⁴ In the 1790s Joseph Brasbridge, a keeper of a silverware shop on Fleet Street, began to have financial difficulties. He recalled, 'I found myself oppressed with fatigue and care'.⁸⁹⁵ In July 1817 John Brickdale, writing to his solicitor Beadon, expressed his desire for 'a short respite from incessant fatigue of body and mind, which is rapidly wasting my frame'.⁸⁹⁶ Matters did not improve for Brickdale as two years later, and only weeks from becoming a bankrupt, he wrote early one morning in October 1819 to Beadon first apologising for troubling him straight after breakfast, and then revealed he had 'a sad complaint

⁸⁹⁰ Ibid., 2 September 1763, p. 23.

⁸⁹¹ Ibid., 1 February 1766, pp. 48–9.

⁸⁹² Ibid., 1 February 1766, pp. 49–50.

⁸⁹³ Ibid., late 1766, p. 55.

⁸⁹⁴ BRO, 44352/2/1/8, Papers re Joshua James: Joshua James to Daniel Burges, 20 November 1784.

⁸⁹⁵ Joseph Brasbridge, *The Fruits of Experience, or Memoir of Joseph Brasbridge* (London, 1824), pp. 84–85. I am grateful to Jonathan Barry for drawing this source to my attention.

⁸⁹⁶ SRO, DD/DP/6/14, Correspondence, 1810–1820: John Brickdale to Robert Beadon, 22 July 1817.

in my bowels from anxiety & fatigue - Let nothing of this transpire'.⁸⁹⁷ His request to Beadon to keep the lid on the fact of his state of health suggests that news escaping of a banker's ill health could only further damage confidence and credit, which would in turn have further ramped up Brickdale's anxiety and ailments. Brickdale's anxieties were well founded as the next month failure could no longer be staved off and he became a bankrupt.

The arrival of bankruptcy ushered in a usually briefer, but more traumatic, period of shock and distress at the realisation of absolute failure and the loss that accompanied the calamity. This was when bankruptcy was 'attended with so many mortifications, and so many shocking things'.⁸⁹⁸ Defoe advised strongly that this sort of shock should be averted, but if it was inevitable, he cautioned traders to prepare their wives such that they 'might not be overwhelmed with the suddenness and the terror of it'.⁸⁹⁹ Michael MacDonald observes that early modern 'writers of all kinds warned that fear and grief, especially when they were sudden and intense, sometimes caused madness and even death.'⁹⁰⁰

Defoe explicitly feared for traders' wives, but his warning could have applied to all family members. In the late 1760s the states of mind of members of the family of bankrupt Isaac Scott were greatly affected by the bankruptcy, if his creditors are to be believed. When the assignees of Isaac Scott wrote to him on the continent in an attempt to persuade him to return to London, they took it upon themselves to inform him of the sufferings of members of his family. One wrote, 'Oh! *Isaac*, had you seen...the wretched, miserable, distressful Scene that I saw! Your worthy Mother overwhelmed with Grief...to see your poor Sister faint away, overpowered with Shame and Grief'. Thus, they urged him to return, repeating 'if you could behold the Distress of your poor aged Mother, and distracted Sister, you would not hesitate a Moment'.⁹⁰¹ The 'Scene' painted might have been purely emotional blackmail perpetrated on Scott by the assignees to induce him to return so that they could arrest him, but it was reproduced in the Scotts' own pamphlet. The account of his family's 'Grief' may

⁸⁹⁷ SRO, DD/DP/6/7, Brickdale correspondence, 1819: John Brickdale to Robert Beadon, 28 October 1819.

⁸⁹⁸ Defoe, *Tradesman*, p. 69.

⁸⁹⁹ *Ibid.*, p. 144.

⁹⁰⁰ Macdonald, *Mystical Bedlam*, pp. 72–73.

⁹⁰¹ Scott, *Case of Anne and Isaac Scott*, pp. 11–12.

have worked on Scott as he did return to London. If we are to believe the complaints expressed above by bankrupts and the accounts of scenes of distress and distraction should we accept that the arrival of bankruptcy was for contemporaries an overwhelming shock? One bankrupt for whom events seemed overwhelming was Sherborne maltster and carrier John Slade.

Slade had been struggling under financial pressures in the late 1820s and by Easter 1830 it was all over. He fled Sherborne in the dead of night. Only afterwards when his servants were examined for the purposes of declaring him a bankrupt was light shed on his state of mind. His domestic servant described his increasingly anxious state in the days preceding his bankruptcy, and she told the bankruptcy commissioners that Slade had called her 'to his bed room and desired I would not leave it 'till he was asleep'. She then revealed, as matters further deteriorated, how his mental state appeared to her on the night he fled: 'he appeared to be distressed in his mind' and 'for some time before he seemed very low' with his mind 'rather lost'. Before he left, she asked him where he was going, but he said he did not know. To her it seemed that Slade, as he departed 'appeared like a deranged man'.⁹⁰² Slade was probably trying to commit an act of bankruptcy as he understood it, but such a specific witness statement about his state of mind is unusual in depositions of this kind. This suggest that the antics that night were not mere theatre but indicative of real distress. Slade never returned to face his commission and his fate remains unknown. Surely, like thousands of other bankrupts Slade only had to attend the routine meetings of the bankruptcy commissioners when called, be examined, and then wait patiently to obtain his certificate. Was it really so dreadful to become a bankrupt?

In long eighteenth-century England bankruptcy held a position similar to death in the ranking of calamities. For example, a bond from master to the Corporation of Gloucester was drawn up on apprenticing a boy with charity money in the event of death or bankruptcy.⁹⁰³ Defoe went further and in one of his imaginary exchanges a 'Lady' customer returns to a mercer's shop, which is shut. She asks how long the shop has been shut and is told about a month.

⁹⁰² DRO, D/FFO/27/103, John Slade, proceedings in bankruptcy: deposition of Ann Luffman, 14 May 1830.

⁹⁰³ GRO, GBR/C10/6, [archivist's description] Bonds from master to Corporation, on apprenticing a boy with charity money, in case of death or bankruptcy, 1758–1778.

She asks if the mercer is dead and receives the reply, 'No, Madam, he is not dead...SOMETHING worse, Madam, he has had misfortunes.' According to Defoe 'her mercer was broke'.⁹⁰⁴ There were traders who did not want to be bankrupts and who, on learning that they were bankrupts or were soon to become bankrupts, took their own lives. They chose death rather than bankruptcy.

Before the period of this study the trope of the bankrupt-speculator suicide was already well established. The suicide of goldsmith-banker and financier Sir Stephen Evans (or Evance as he was more widely known) in 1712 attracted attention. Lady Mary Wortley Montagu remarked: 'Deaths or marriages I know of none, but Sir Stephen Evans, that hanged himself'.⁹⁰⁵ Not long before he hanged himself, he had been declared a bankrupt. He had engaged in speculations which failed and reputedly owed more than £100,000.⁹⁰⁶ Evance's suicide was explained by Thomas Bruce, Earl of Ailesbury with the remark: 'as ill got money never thrives, he broke... by grasping at too much'.⁹⁰⁷

Defoe's caution to contemporaries about the dangers of sudden financial shocks was not misplaced, although in this study we learn far more about the consequences for husbands than of the effects on family members.⁹⁰⁸

Nevertheless, concern about family distress (like that of Isaac Scott's sister and mother) and protecting them may have been a consideration in the choices that some bankrupts made. For some the shock and the shame as they confronted the reality of bankruptcy was too overwhelming. It can only be conjecture that there was a correlation between scale of bankruptcy (Evance had owed £100,000) and the probability of a bankrupt 'laying *violent* hands upon himself!'

⁹⁰⁴ Defoe, *Tradesman*, pp. 89–90.

⁹⁰⁵ Lady Mary Wortley Montagu to Mrs. Frances Hewet, c. 8 March 1712, in Robert Halsband (ed.), *The Complete Letters of Lady Mary Wortley Montagu*, 3 vols (Oxford, 1965), I, 1708–1720, pp. 118–19.

⁹⁰⁶ Henry Lancaster, 'Evance, Sir Stephen (1654/5–1712)', *ODNB* (Oxford, 2004).

⁹⁰⁷ Thomas Bruce, Earl of Ailesbury, *Ailesbury Mems.*, pp. 241–42, quoted in Paula Watson and Henry Lancaster, 'EVANCE, Stephen (c. 1655–1712), of the "Black Boy", Lombard Street, London', in D. Hayton, E. Cruickshanks and S. Handley (eds), *The History of Parliament: the House of Commons 1690–1715* (Cambridge, 2006).

⁹⁰⁸ For discussions of contemporaries' understandings of the psychological effects of economic shocks, see John Gozna's register as used by William Black in his *Dissertation on Insanity*, 2nd edn (London, 1811), pp. 22–23, which is discussed in Roy Porter, *Madmen: A Social History of Madhouses, Mad-Doctors & Lunatics* (Stroud, 2006), pp. 50–51, also see Weisser, *Ill Composed*, pp. 82, 93.

as William Scott had said of Evance.⁹⁰⁹ Minor traders who owed much smaller sums also killed themselves, for example a keeper of a coffee house in 1715.⁹¹⁰

As the eighteenth century progressed and the numbers of bankruptcies grew, it was not unusual for London papers to draw a connection between bankruptcy and suicide. During the credit crisis of 1772, according to Paul Kosmetatos 'lurid tales abounded in the press for a time of merchants cutting their throats, shooting or hanging themselves, and jumping out of the window "in agony of mind arising from the failure of the Bankers"'.⁹¹¹ The *Star and Evening Advertiser* declared in 1788 that 'the progress of *bankruptcy* and that of *suicide* seem to keep pace with each other – and both are to be ascribed to the same causes, dissipation, extravagance' and once again, 'speculation'.⁹¹² In eighteenth-century England it was true, bankruptcy did 'progress'. Annual numbers of bankruptcies increased through much of the long eighteenth century and, according to the press, suicides were also increasing for the reasons alleged above. Certainly, the trope of the bankrupt-suicide (like Sir Stephen Evance who failed after speculating for gain) occupied a place in the contemporary cultural landscape, particularly novels.⁹¹³

⁹⁰⁹ Scott, *Sermon on Bankruptcy*, p. 27.

⁹¹⁰ Reported in the *Weekly Packet*, 17 September 1715, in Paul Seaver (ed.), *The History of Suicide in England 1650–1850*, Part 1, 4 vols (London, 2012), IV (1717–1750), p. 5.

⁹¹¹ Kosmetatos surveyed *Morning Chronicle*, 24 June 1772; *Bingley's London Journal*, 4–11 July 1772; *London Chronicle*, 17–19 November 1772; *General Evening Post*, 2–4 July 1772, in Paul Kosmetatos, 'Financial Contagion and Market Intervention in the 1772–3 Credit Crisis', *Cambridge Working Papers in Economic and Social History*, Working Paper No. 21 (2014), p. 18.

⁹¹² *Star and Evening Advertiser*, 6 June 1788, in Donna T. Andrew, *Aristocratic Vice: The Attack on Duelling, Suicide, Adultery, and Gambling in Eighteenth-Century England* (Yale, 2013), p. 100. The other papers were the *English Chronicle*, 3–5 June 1788 and the *Times*, 6 June 1788.

⁹¹³ For a discussion of eighteenth-century literary manifestations of the trope, see Katherine Gaudet, 'Liberty and Death: Fictions of Suicide in the New Republic', *Early American Literature*, 47 (2012), 591–622, p. 595. For eighteenth-century beliefs about the link between speculation and suicides, see Archibald Hutcheson, *A Collection of Calculations and Remarks Relating to the South Sea Scheme & Stock* (London, 1720), p. 8, and then for critiques of Hutcheson's economics, see Helen J. Paul, *The South Sea Bubble: An Economic History of its Origins and Consequences* (Abingdon, 2011), passim. For discussions of bankruptcies and/or suicides after the shock of sustaining losses following the bursting of the Bubble, see Julian Hoppit, 'The Myths of the South Sea Bubble', *Transactions of the Royal Historical Society*, 6th ser., 12 (2002), 141–65, pp. 153–55, 158 and 158 fn.48 (Hoppit shows the change in bankruptcy numbers over the years 1719–1721 with the following numbers, 1719: 193; 1720: 206; 1721: 226); Pat Rogers, 'South Sea Bubble Myths', *Times Literary Supplement*, 9 April 2014; Michael MacDonald and Terence R. Murphy, *Sleepless Souls: Suicide in Early Modern England* (Oxford, 1990), pp. 267–68, 276–78. For discussion of how much South Sea 'sufferers' (e.g. Isaac Newton) really suffered, see Paul, *South Sea Bubble*, pp. 6–11, 53–54, 71, 90, 114.

However, this study is concerned with real, rather than literary, bankrupts. In 1797 one bankruptcy had tragic consequences for Anglo-Dutch merchant and Member of Parliament, Richard Muilman Trench Chiswell (formerly just Richard Muilman). On 9 February that year French Laurence broke the news to Edmund Burke writing ‘for there is one tragical incident in my story. You may have heard that a great Dutch House in the city, that of Muilman, Nantes, & Co. has failed. The occasion is now the talk of the Exchange. They had in their hands 44,000*l.* received from Holland on account of Mrs. Hastings.’ Mrs Hastings’ money ‘was all gone’ and Laurence continued: ‘I am sorry to add, Mr. Muilman, finding an exposure of his affairs unavoidable, shot himself; his partner has disappeared, and the house has broken to pieces.’⁹¹⁴ Again the metaphor of the shattered fragments in the context of bankruptcy as highlighted earlier. In this case it was not just the house that was in pieces, it was Chiswell. Chiswell had killed himself on 3 February only four days before his name would have appeared in a *London Gazette* bankruptcy notice along with his partner. He was still named, but as ‘Chiswell...Merchant, deceased’.⁹¹⁵ Chiswell’s partner Nantes did do one thing before he ‘disappeared’, he wrote to Marian Hastings:

From the papers of publick report you must ‘ere now have heard of the dreadful shocking catastrophe of my friend and Partner Mr. Chiswell having made away with himself: a sudden derangement of his intellects only could have induced him to commit this rash action.⁹¹⁶

There were good reasons, which are discussed below, for maintaining that a suicide owed its cause to a ‘derangement’ of ‘intellects’. However, it was also an explanation that circumvented inevitable questions about bankrupts’ business practices and speculations. Following Chiswell’s death Nantes was clearly sensing that responsibility was being attributed to him and he defended himself to Marian: ‘God knows that I freely forgive the invectives launched out against me in the world, knowing myself to be innocent.’ In much of the rest of his letter to Marian Hastings Nantes insisted that, had he been allowed by Mrs

⁹¹⁴ French Laurence to Edmund Burke, Letter L, 9 February 1797, in *The Epistolary Correspondence of The Right Hon. Edmund Burke and Dr. French Laurence* (London, 1827), p. 114.

⁹¹⁵ *LG*, 7 February 1797, issue 13978, p. 139.

⁹¹⁶ BL Add MS 29175, Vol. XLIV, 1797 to February 1798, f. 35, Henry Nantes to Marian Hastings (wife of Warren Hastings), 8 February 1797.

Chiswell's legal advisers to employ the Mulman Chiswell's 'immense personal property' as 'collateral security', then 'the house would have been able to stand it's ground', and Marian Hastings would not have been a 'sufferer' and her money would not have been 'not now existing'.⁹¹⁷ This was again the bankrupt's argument that they were in fact solvent, and that it was the actions of others in refusing credit and security that finally brought down their edifice.

The suicide of high-profile bankrupts like Chiswell drew considerable attention in the press, and reporting was often quite graphic. Was the failure of 'the House' the cause of Chiswell's suicide? The press attempted to explain Chiswell's conduct, for example, the *Gentleman's Magazine* explained that his suicide 'was occasioned by a chain of unsuccessful speculations on West-Indian estates'.⁹¹⁸ The implication being that failed speculations and bankruptcy explained suicides. They also tried to explain events in terms of madness. The *Gentleman's Magazine* continued that after Chiswell had 'discharged a brace of balls from a pistol through his head', that close to his body a note was found 'penned in a very confused way, and as by one greatly agitated in mind'.⁹¹⁹ By taking his life Chiswell did not have to answer to the commissioners or suffer further public scrutiny, and he may have believed that he could in some sense take his liabilities with him into eternity. His family would have needed a coroner's verdict of lunacy (*non compos mentis*) to avoid a finding of *felo de se* (rational suicide or 'self-murder' as contemporaries called it).⁹²⁰ However, Chiswell would not have protected his family from the creditors nor really evaded bankruptcy even in death, for as one legal writer had already observed earlier in the century, 'that Statute which gives Continuance to the Commission when the Bankrupt dies, makes it all one, as if the Bankrupt died not; for though he be dead, yet as to this Purpose he is still taken to be living'.⁹²¹ These deaths caught the public's attention, but on the basis of the cases in this study, suicides as an immediate response to the shock of bankruptcy, were very much the exception rather than the norm.

⁹¹⁷ Ibid.

⁹¹⁸ *Gentleman's Magazine* (London, 1797), 67, Part 1, p. 173.

⁹¹⁹ Ibid., pp. 249–50.

⁹²⁰ For discussion of coroners' reports on suicides with financial troubles, see Seaver (ed.), *History of Suicide in England*, II (1674–1699), pp. 57–58; IV (1717–1750), pp. 7–9.

⁹²¹ Anon., *Law For and Against BANKRUPTS*, pp. 59–60.

This distressing period when traders first broke and the shock was absorbed, or not, was soon superseded by the stage which was experienced as a kind of 'purgatory' because of its uncertain duration. In this time fresh anxieties awaited traders. These fears were generated by new pressures: impatient creditors who did not wish to be governed by commissions and who preferred actions in the courts; the knowledge that bankruptcy commission and lawyers' fees were eating up their estates; and the anxiety about obtaining a certificate of conformity. During this time bankrupts and their families had to survive without their homes and possessions, without financial assets or the means to carry on their trade and support their families. While they waited for the often-elusive certificate there was no certainty as to when they would be freed from the constraints that caused them so much of their anxiety. John Brickdale survived the shock of his inevitable bankruptcy in November 1819, yet the pressures continued. In February of the next year while he waited for news of developments, he related to his solicitor, Robert Beadon, that he was '[h]arrassed and almost worn out with suspense'.⁹²² Anxiety was identified as the direct consequence of the bankruptcy process in another letter to Beadon, he wrote: 'My anxiety is most acute about the certificate upon which my whole future destiny depends'.⁹²³ Such a statement reveals the pressure the need for the certificate exercised over bankrupts.

Bankrupt soap manufacturer William Everhard Von Doornik was, at the beginning of 1807, enmeshed in a web of obligations to different individuals and in writing to a solicitor to ask for financial assistance he expressed his concern that if one of the individuals were 'put to expenses' it would 'destroy my peace of mind'.⁹²⁴ It was not untypical for bankrupts to describe their states of health in their correspondence with the commission solicitors. For example, on 18 March 1807 Von Doornik, who was holed up off Leicester Square and in need of £10, opened his letter to the solicitor Mr Abbot confessing: 'I have been obliged these two days to take medical assistance finding myself much indisposed'. Von Doornik was caught between a legal action that involved a 'trial' (possibly in Chancery) and the proceedings of his bankruptcy commission. Such

⁹²² SRO, DD/DP/6/14, Correspondence, 1810–1820: John Brickdale to Robert Beadon, 20 February 1820.

⁹²³ SRO, DD/DP/6/6, Brickdale papers, John Brickdale to Robert Beadon, 23 January 1820.

⁹²⁴ TNA, C217/58, Matter of Von Doornik, a bankrupt: Von Doornik to Mr Abbott, 6 January 1807.

circumstances may well have been enough to undermine his health. He closed his letter to Abbot declaring: 'I should wish for heaven's sake to see my present situation altered I fear it will break my heart at last'.⁹²⁵

The ambiguous broken heart (for was it in the end mind or body that suffered most deeply the consequences of debt and failure?) had long been invoked in narratives of debt. Fatal consequences of long-term anxiety about debt had been recorded a century earlier by William Stout in regard to the death of his master in 1698. Stout wrote:

his circumstances became so burdensome to him that he daily expected to be made a prisoner. Which, with the shame of forfeiting his former reputation, it drew him into despair and broke his heart, so that he kept to his house some time and dyed for grief and shame...⁹²⁶

Von Doornik did not die but lived to become a bankrupt yet again in 1810. He was during the following years once more immersed in litigation which continued to take its toll on him and family. In a deposition sworn at Serjeants' Inn in Chancery Lane in May 1814 he declared his wife was 'ill and in bed', and that 'both himself and Family are in the greatest Distress'.⁹²⁷ Edmund Townsend, also mired in protracted disputes and whose long wait for an end to his bankruptcy was discussed in the previous chapter, wanted to campaign to reform the bankrupt laws and for his own case to be reviewed, but was hampered in his efforts due to 'Ill health and other adverse circumstances'.⁹²⁸ Again in 1817 he complained about how the extended process he was trapped in, including 'petitioning the Court of Chancery as a pauper', 'so injured his health'.⁹²⁹

The post-bankruptcy period could be long, as discussed in the previous chapter, and it could be unhappy and unhealthy. Where the sources tell us, we can see the subjects in this study faring differently in the months, and sometimes years, that followed the initial shock of bankruptcy. There is evidence that this stage of

⁹²⁵ Ibid., 18 March 1807.

⁹²⁶ J. Harland (ed.), *Autobiography of William Stout, of Lancaster, Wholesale and Retail Grocer and Ironmonger, a Member of the Society of Friends. A.D. 1665–1752* (London, 1851), p. 47. I am grateful to Tawny Paul for bringing this extract to my attention.

⁹²⁷ TNA, C217/59, Exhibits relating chiefly to Baron Von Doornik, in the King's Bench, the King against William Everhard Marcus Von Doornik, 4 May 1814: deposition of Von Doornik.

⁹²⁸ B&NESRO, 0253, Townsend: 'to the BANKERS, MERCHANTS, &C.', 22 July 1814, annotated 24 September 1815.

⁹²⁹ Ibid: hand bill addressing 'BANKRUPT-LAWS', 5 July 1817, p. 1.

the experience came to an end and was followed by new and changed lives. What were these lives like after bankruptcy?

8.5 Beyond bankruptcy

On many subjects in this study, once their commissions ended or fizzled out, historical records are hard to find. Even where we do know something of bankrupts' afterlives, far more is not known than is known. In the 1790s Le Mesurier, as related above, successfully turned his misfortune around after being placed in advantageous employment by an obliging patron. Other subjects, for example Joseph and Elizabeth Fry, who are discussed further below, led well-documented lives for years after Joseph's bankruptcy in 1828. The path of many others is less clear.

The arguably infamous Alexander Fordyce, for example, lived another seventeen years after the disastrous failure of his bank. Despite his circumstances no longer being those of a prosperous banker, he was still married to the daughter of the 5th Earl of Balcarres. According to Mrs Thrale, Fordyce and his wife 'were luckily *Scotch* people, so had a Pension settled upon them on which they now live, and face the World with a Degree of Confidence'.⁹³⁰ Despite the damage to his reputation in the 1770s Fordyce still attempted for the second time, without success, to be elected Member of Parliament for Colchester.⁹³¹ In the years before his death in 1789 he seemed to fade from view. Elizabeth Sheridan, having spotted Fordyce's wife driving about Tunbridge Wells, wrote to her sister in 1785 observing, 'I have not been able to learn even where he is'.⁹³²

By the 1770s Thomas Pyott was finally helped out of his difficulties by his relative Sir Robert Burdett who gave him a place to live on his estate. The twice widower Burdett, did not contemplate a third marriage, and wished Pyott and family 'would think of no other Home'. Wrote Pyott: 'My little Establishment consisting of my Wife, maid Servant, Self, and little black Dog of the true King

⁹³⁰ Mrs Thrale quoted in Frank Brady, 'So Fast to Ruin: The Personal Element in the Collapse of Douglas, Heron and Company', *Ayrshire Collections* (Ayrshire Archaeological and Natural History Society), 11 (1973), p. 37.

⁹³¹ Price, 'Fordyce'. For Fordyce's strange behaviour, see Langford, *Polite and Commercial People*, pp. 569–71.

⁹³² Elizabeth Sheridan quoted in Brady, 'So Fast to Ruin', pp. 37–38.

Charles breed, were now fixed at Sir Robert Burdett's'.⁹³³ The idyll with Burdett did not last due to servants' gossiping about Burdett keeping Pyott and wife 'out of Charity'.⁹³⁴ He again fell back on his father-in-law's support. Pyott enthused one last time:

Now my Friend, you will think that my hopes and fears; all those anxious hours of dependant fortune are terminated in a fixed abode with a Father, whose happy independence I may succeed to. An excellent House, a pleasant situation, an agreeable country surrounding, a sociable neighbourhood, inhabited by men of Letters and of Manners; all contributing to the real and adorned pleasures of Life.⁹³⁵

Reading between the quite wide lines this was still dependence, but evidently Pyott was able to reconcile the bitter pill with the fact that family connections had secured him a modestly genteel life, which was clearly important to him. Pyott of course narrowly evaded bankruptcy which had the downside that despite his retreat to 'a pleasant situation' in a 'sociable neighbourhood' he got a letter from a creditor now and then.⁹³⁶ There is no indication that he ever returned to trade or would have wanted to revisit what had been an unhappy experience judging by some of the final words in his memoir: 'Here ends all my anxious Hours and constant oppression of mind whenever I reflected on my Transactions in Trade and the Balance that then subsisted against me'. Pyott declared that his mother's legacy was gone 'and all other Property I was ever possessed of to this day; for then I am called to the Great account...'⁹³⁷

Matthew and John Brickdale's post-bankruptcy experience was long and complicated and the detail is beyond the scope of this study. They were survivors, if in reduced circumstances. Despite the bankruptcy in 1819 Matthew lived another twelve years reaching the age of 96.⁹³⁸ His son John, who shortly before his bankruptcy had procured himself the position of 'Comptrollership of

⁹³³ SHL, MS 122, Pyott, p. 122.

⁹³⁴ SHL, MS 122, Pyott, pp. 124–29.

⁹³⁵ SHL, MS 122, Pyott, p. 133.

⁹³⁶ *Ibid.*, p. 145.

⁹³⁷ *Ibid.*, p. 146.

⁹³⁸ P. D. G. Thomas, *Brickdale, Matthew (1735–1831) of Clifton, Glos. and Taunton, Som.*, in L. Namier and J. Brooke (eds), *The House of Commons, 1754–1790*, 3 vols (London, 1964), pp. 115–16; Williams, *Parliamentary History of the County of Gloucester*, p. 128; SRO, DD/X/RON/9, Correspondence etc. relating to the genealogy of the Brickdale family, c. 1680s–1800s.

the Customs' at the port of Bristol and having obtained his certificate quickly, was able to live upon this employment.⁹³⁹ He died in Bristol in 1840 aged 81.⁹⁴⁰ Another bankrupt from this study, Joseph Brasbridge, was able to resume trade and later to retire in 1819 and write his autobiography *The Fruits of Experience*, which usefully included an account of his experience of bankruptcy.

Having failed in banking, two of Andover's three Wakeford brothers (William and Robert) acquitted themselves modestly well becoming wine merchants in Southampton. Joseph Wakeford, however, would seem to have continued less happily. Having settled in Devon he did not re-enter business and money was tight leading to 'difficulties and unpleasantness'.⁹⁴¹ Joseph was the eldest brother and would have been approaching 40 at the time of the bankruptcy. For discharged bankrupts to return to trade was not considered by some an easy prospect, especially where age was a factor. On this matter 'Nomius Antinomus' wrote:

the undesigning, truly unfortunate man, whose only fault is having too long struggled with adversity, and too much weakened himself in the contest, to which he was ashamed to yield, is often left destitute of friends (for them perhaps he has already used) and of credit: for without friends to speak for him, a man, perhaps, advanced in years, finds a self-recommendation to the world very hard.⁹⁴²

An offer of future assistance was made to Wiltshire linen draper David Kennedy, who was probably in his late thirties at least by the time of his bankruptcy. In the early stages of bankruptcy, he received overtures about being subsequently helped back into trade. One of his major creditors wrote to him while he was still being held in gaol and told him:

I always took you for an honest man and I hope I shall always find you so[. T]his method that I propose is the likeliest way to make your composition the larger, which will be a means of your getting fresh credit

⁹³⁹ *Bristol Mercury*, 4 October 1819, issue 1540, p. 4; *Bath Chronicle*, 5 November 1857, issue 5193, p. 8.

⁹⁴⁰ *Woolmer's Exeter and Plymouth Gazette*, 4 July 1840, issue 2529, p. 3.

⁹⁴¹ Diana Coldicott, 'Andover Old Bank and the Wakeford Family', *Hatcher Review*, 51 (1996), 12–30, pp. 26–27.

⁹⁴² 'Antinomus', *State of Bankrupts under the Present Laws*, p. 10.

when you begin business again. If I find you acted with honour and honesty I will assist you hereafter.⁹⁴³

However, we do not know what became of Kennedy and whether he was helped to set up in business again in the manner intimated above. Other bankrupts neither returned to trade nor satisfactorily relaunched themselves in new employments, although there were things that they tried their hands at. The eighteenth century in England saw many traders who had previously been bankrupts simply set up as attorneys, which was cause for some complaint in the legal profession.⁹⁴⁴ One bankrupt desperate for a living who attempted a similar path was the ever-resourceful Edmund Townsend who chose to put his own bad experience to good purpose when he advertised at the Antigallican Coffee House in Threadneedle Street. His notice offered ‘his advice and services to Merchants, Manufacturers or Traders, whose affairs may be in any manner deranged’, as well as advice with accounts and drawing up agreements. He was to be remunerated ‘upon terms adapted to the nature and extent of the concerns and the means of the parties’.⁹⁴⁵ We do not know if Townsend ever eked out a living from trading in his experience.

Other London bankrupts seemed to quietly slip away from attention in the capital. After attending examinations in the Spring of 1797, the subsequent life of the late Mulman Chiswell’s partner Henry Nantes remains opaque. His wife Marianne died in 1800 in Battersea.⁹⁴⁶ However, it is unclear exactly when he removed to the Isle of Man, but there he remained for as long as a decade marrying twice as well as fathering an illegitimate child.⁹⁴⁷ Exactly when or how he came to leave the Isle of Man is not clear, but from the early 1810s and until at least 1822 Nantes was the tenant of Kenwith Lodge, which was according to

⁹⁴³ WRO, 492/280, Bankruptcy of David Kennedy: John Stabler to David Kennedy, 29 October 1751.

⁹⁴⁴ Schmidt, ‘Country Attorney’, p. 239; Michael Miles, ‘“Eminent Attorneys”: Some Aspects of West Riding Attorneyship, c. 1780–1800’ (unpublished doctoral thesis, University of Birmingham, 1982), pp. 31–33.

⁹⁴⁵ B&NESRO, 0253, Edmund Townsend, bankrupt: handbill n.d. For Antigallican places, see D. G. C. Allan, ‘The Laudable Association of Antigallicans’, *RSA Journal*, 137 (1989), 623–28, including the Antigallican Coffee House, p. 624.

⁹⁴⁶ *True Briton* (1793), 22 February 1800, issue 2238, p. 1.

⁹⁴⁷ Isle of Man: Parish of Maughold, Baptisms: Elizabeth Corlette, 18 March 1810 (parents: Henry Nantes, ‘Ann Corlette [Illegitimate]’, Manx National Heritage, Manx Museum and National Trust, ‘iMuseum’ <https://www.imuseum.im/search/agent_record/view?id=mnh-agent-1246189&type=agent&tab=all&from=0&term=Nantes&size=20&sort=&filter=&view=&images=&ttmgrp=0&rfname=&rlname=&machine=&race=&raceyear=&linked=0&pos=13> [accessed 29 October 2020].

an advertisement a desirable residence near Bideford in North Devon.⁹⁴⁸ This researcher has failed to find evidence of Nantes ever obtaining his certificate, but one of his son's school register enters him in the mid-1820s as 'merchant' of Bideford. It is conceivable therefore that he may have obtained his certificate, which meant he could abandon the Isle of Man and trade again in mainland England free from the possibility of arrest for past debts.⁹⁴⁹

Although in London the bankruptcy commission issued against Nantes and Muilman Chiswell in 1797 ground on, there is little evidence that it any longer impinged on a (possibly) discharged bankrupt's new provincial life. A letter received in January 1819 inquiring about a sum of £62,000 did not seem to cause Nantes any disquiet. The letter was sent by Richard Dann who had been solicitor to the commission in 1797 inquiring about the sum owed to Mrs Marian Hastings. Dann declared, 'from the length of time which has elapsed since the Commission issued I have entirely forgotten the circumstances under which the debt had originated'. Nantes answered, 'I lose no time in replying' and explained that Mrs Hastings' money had been invested 'in the 3 perC consolidated bank annuities'. He also informed Dann: 'My son Daniel will be in Town next week', which raised the possibility of further liaison with Dann over the matter, but no specifics were stated.⁹⁵⁰ However, the short letter to Dann does not suggest a bankrupt still oppressed by his circumstances. More than twenty years after the death of Muilman Chiswell, and despite his words to Marian Hastings in February of 1797, it is difficult to get a sense of whether Nantes really carried with him any sense of responsibility or regret for the death of Chiswell, or any other matters. It is easier to know bankrupts' experience during their bankruptcies, but much harder to know their reflections in the subsequent years. These were some of the quieter afterlives of bankrupts. For others the years that followed their bankruptcies brought further tragedies, as was the case for the Latham family.

⁹⁴⁸ *Salisbury and Winchester Journal*, 3 June 1822, issue 4428, p. 1.

⁹⁴⁹ 'Mr. Henry Nantes, merchant, Bideford', see Arthur Fisher (ed.), *The Register of Blundell's School* (Exeter, 1904), no. in register 1924.

⁹⁵⁰ TNA, B3/3686, Bankruptcy of Henry Nantes, Richard Dann to Henry Nantes, n.d. January 1819; Henry Nantes to Richard Dann, 8 January 1819; the question of Mrs Hastings' debt is explored in greater detail in P. J. Marshall, 'The Private Fortune of Marian Hastings', *Bulletin of the Institute of Historical Research*, 37 (1964), 245–53.

Bankrupt brewer John Latham of Romsey in Hampshire had become a bankrupt in December 1817. He obtained his certificate within a couple of months.⁹⁵¹ However, five years later he was dead by his own hand. According to the *Morning Post* of 22 October 1822 he discharged ‘a pistol, loaded with ball, into his mouth...literally blowing his brains out’. The act was explained as ‘a sudden fit of derangement’, and the county coroner and jury returned a verdict of ‘Lunacy’.⁹⁵² There is possibly another explanation and that is that the deceits Latham perpetrated upon his ‘renowned’ ornithologist father to obtain the money necessary to stay afloat weighed upon him in the years following his bankruptcy. The once wealthy Dr Latham was effectively ruined by his son.⁹⁵³ In the absence of Latham the younger’s own reflections on his state of mind post-bankruptcy, it is impossible to explain his choice. It does show, however, that across the long eighteenth century suicides continued to be a response resorted to by a minority after major financial failures, which of course for them were also personal failures. Latham’s death did not fit the more established ‘defenestrating’ trope in which bankrupts immediately took their lives, like Chiswell, upon learning of their losses.

At this point it has to be observed that the greater part of this chapter has been about the experience of Georgian men and the things and attributes they lost as a result of bankruptcy; and also, whether they were able to re-establish themselves in any form. However, this account of the different forms of loss experienced by bankrupts is not restricted entirely to men. Women, especially wives, were greatly affected in ways that went far beyond merely parting with the household silver. Therefore, the final section seeks to remedy this deficit with an account of how a bankrupt’s wife, namely Elizabeth Fry, experienced loss.

8.6 A sense of loss: Elizabeth Fry, a bankrupt’s wife

At the centre of most bankrupts’ experience was the family home. This was not simply because their ‘dwelling house’ was often structurally part of the same

⁹⁵¹ *LG*, 17 January 1818, issue 17323, p. 140.

⁹⁵² *Morning Post*, 25 October 1822, issue 16103, p. 3.

⁹⁵³ See local historian Barbara Burbridge’s account of ‘The Deception of Dr Latham’ in Burbridge, ‘Latham Bankruptcy’, pp. 21–32 (“renowned” is Burbridge’s adjective).

building in which, or from which, their trade was conducted, but because the dwelling house, or the dwelling parts of the house, were the private spaces that were so often first assailed by creditors, and then often completely and permanently lost to the bankrupt and family.

Most of the bankruptcy records and related source material examined for this study tell us little to nothing about how bankrupts and their families felt about losing the personal and domestic aspects of their home. Fortunately for the purposes of this study, a sense of place and a sense of loss was expressed by Elizabeth Fry through her experience of her husband Joseph's bankruptcy. His bank had failed, and he was declared a bankrupt in November 1828. The Fry family were obliged to give up spacious and comfortable Plashet House in East Ham, which was then a pastoral environment outside London. Elizabeth Fry recorded her reflections as she experienced change over the months in which her family's home, and home life, was dismantled. In her journal Elizabeth barely mentioned the proceedings of the bankruptcy commission issued against her husband and focussed almost entirely on the direct consequences for her private, and to a lesser extent, public experience.

She knew in November 1828 that her life was going to change and that much of the way of life and the comforts and many of the possessions that had surrounded her were about to be lost. On 25 November she reflected: 'How [striking] to look round upon many things and not know that I can call one thing my own (except my children) houses, lands, furniture [+/etc] [well] if it be the Lord, let him do as seemeth him good!'.⁹⁵⁴ On 27 November she wrote to her daughter Rachel saying, 'parting with servants, the poor around us, schools, and our dear Place. These things overwhelm me; indeed I think naturally I have a very acute sense of sorrow'.⁹⁵⁵

She experienced the evaporation of all boundaries around her and her family's home while the expropriation of their private and personal space and possessions took place. Whilst still residing at Plashet in early December 1828 Elizabeth wrote in her journal:

⁹⁵⁴ LRSFB, Diaries of Elizabeth Fry, MS Vol. S267/2, Plashet, 25 November 1828.

⁹⁵⁵ Katharine Fry and Rachel Elizabeth Cresswell (eds), *Memoir of the Life of Elizabeth Fry, with Extracts from her Journal and Letters, Edited by Two of her Daughters*, 2 vols (London, 1848), II, p. 34.

Here I am in my own room expecting an officer who is going round the house to take an inventory of all that we possess for our creditors. Another about the grounds and taking an account of all that we have there. Another in another part of the house watching over the rest of our property – So it is but after all it is a trial that goes but to a certain extent, houses, lands, possessions. If all be gone...⁹⁵⁶

Her journal lapsed quickly back into prayer. Although her resignation to providence helped her to accept events, she still experienced a sense of loss as a result of the change to her and her family's material and financial circumstances, and events had an effect on Elizabeth's mood. She would write later of 'her low spirits and depression'.⁹⁵⁷

While still at Plashet on 16 December 1828 she recorded: 'I continue in the low valley, and naturally feel too much, leaving this sweet home, but not being well makes my spirits more weak than usual.' Although, her religious belief told her how she should understand and accept the loss of things to which she was attached, she still found the experience difficult. She expressed her willingness 'to give up whatever is required of me, and in all things patiently submit to the will of God', yet she confessed and was somewhat uncomfortable 'to find how much I cleave to some earthly things – health, ease, places, possessions'.⁹⁵⁸ However, what she had to give up at Plashet was far from merely material; it was also a way of life which included patron-client relationships. Of this time her daughters later wrote: 'With leaving Plashet came much that was sad – uprooting habits, long-formed tastes and local associations, parting with servants, and leaving many old pensioners and dependants.'⁹⁵⁹

On finally leaving Plashet, Elizabeth and family were installed at her son John's City home in Mildred's Court, Poultry. Of this relocation her daughters recalled that: 'It was no easy thing to arrange for a very large family party, accustomed to country habits, and liberty of space, when confined to a city dwelling; and that under circumstances of such peculiar pain.'⁹⁶⁰

⁹⁵⁶ LRSFB, Diaries of Elizabeth Fry, MS Vol. S267/2, Plashet, 3 December 1828.

⁹⁵⁷ LRSFB, Diaries of Elizabeth Fry, MS Vol. S267/3, Ashworth, 30 July 1829, p. 33.

⁹⁵⁸ Gil Skidmore (ed.), *Elizabeth Fry: A Quaker Life-Selected Letters and Writings* (Lanham, 2005), p. 160.

⁹⁵⁹ Fry and Cresswell, *Life of Elizabeth Fry*, II, p. 42.

⁹⁶⁰ *Ibid.*, p. 43.

During this time Elizabeth wrote repeatedly about 'place'. For her, 'place' was a focus of loss, although sometimes it was the loss of convenience that she felt. She wrote:

We are remaining in this place with John, Rachel and their children until there is some opening for having a settled home in some place. It is certainly a striking event at this period of our lives to have to seek a home and to have experienced as we have our outward prospects to be broken up and to leave places that have given us so much pleasure.⁹⁶¹

Elizabeth did not start her 1829 journal until March, attributing the delay to 'the numerous interruptions to which I am liable in this place'. It was a place where she meant to remain only 'until there is some opening for having a settled home'.⁹⁶² When at last a permanent home was found to replace Plashet and the final move from Plashet was in progress Elizabeth recorded again the absolute sense of loss that the experience of bankruptcy had caused her:

We are in the midst of moving from this most commodious long loved home, it to my mind partakes of the nature of a funeral and most strongly brings home to me the time when our places here will know us no more on this side the grave – I have such deep interesting associations attached to almost every thing about us that it certainly is a great change and a real trial...⁹⁶³

She went on to affirm that she was resigned to bear the 'great changes' with patience declaring: 'The Lord giveth and the Lord taketh away'.⁹⁶⁴ Clearly, Elizabeth Fry, partly because she was Elizabeth Fry, deferred to providence. However, again and again she acknowledged that she felt the material loss.

Elizabeth and family were finally settled at The Cedars at Upton, a property belonging to her brother Samuel Gurney, and next door to his own grander Ham House.⁹⁶⁵ Elizabeth was determined to come to terms with their reduced circumstances and in June 1829 declared, 'Place is a matter of small importance' and 'I may say although a large garden is not my portion I feel

⁹⁶¹ LRSFB, Diaries of Elizabeth Fry, MS Vol. S267/3, 1 March 1829, p. 3.

⁹⁶² Skidmore, *Elizabeth Fry*, p. 161.

⁹⁶³ LRSFB, Diaries of Elizabeth Fry, MS Vol. S267/3, Plashet, 1 June 1829, pp. 18–19.

⁹⁶⁴ *Ibid.*

⁹⁶⁵ Rose, *Elizabeth Fry*, p. 141; Janet Payne Whitney, *Elizabeth Fry, Quaker Heroine* (Boston, 1936), p. 292.

pleasure in having even a small one'.⁹⁶⁶ She was on the one hand thankful, but on the other she still lamented 'the extreme disorder our things have been got into by all our changes, the pain of leaving Plashet, the difficulty of making new arrangements has at times worried and tried me. But I trust that it will please a kind Providence to bless my endeavours to have and keep my house in order'.⁹⁶⁷ Although Elizabeth recorded that they were comfortable at The Cedars, the process of adapting to the loss of Plashet was not without recurring regret and she wrote on 25 June 1829: 'We are now still more settled into our new habitation which is comfortable and much better than we deserve. The principal things that I miss are space in the garden in walking about and the retirement of that dear home'. She conceded, however, that under the circumstances their present abode was 'the right place'.⁹⁶⁸ There is a sense in Elizabeth Fry's thought that 'place' for her in this context was also a social place, a new station in life, that under the circumstances was deserved by her family because they had erred.

As can be seen from the examples above, Elizabeth returned in her thoughts again and again to the loss of Plashet. Although it was only one of a number of losses that her husband's bankruptcy caused, it clearly had an impact on Elizabeth that went far beyond the mere financial. In October 1829 unexpected events called Elizabeth back to Plashet. The dwelling houses of bankrupts were not usually left empty, even if they were destined to be sold by the assignees. Either a bankrupt and family were allowed to stay for a period, or a trusted person was installed in the house. A woman known to Elizabeth 'who had charge of the house' was suddenly taken ill and died. Elizabeth travelled to Plashet and, arriving in the evening, encountered the doubly painful experience of loss by returning to behold what once had been hers, and was no longer. Of her return to her former home, she later recorded:

It was different. I arrived there after dark, drove once more into the dear old place – no one to meet me but the poor man who lived in the house, no dog to bark, nor any life nor sound, as used to be. Death seemed

⁹⁶⁶ LRSFB, Diaries of Elizabeth Fry, MS Vol. S267/3, Upton, 10 June 1829, pp. 19–21.

⁹⁶⁷ *Ibid.*

⁹⁶⁸ *Ibid.*, 25 June 1829, p. 22.

over the place, such was the silence – until I found myself up stairs in the large, and once cheerful and full house...⁹⁶⁹

Bankruptcy did not only give rise to loss of property and social status it could have an impact beyond a bankrupt's local trade and social milieu, or that of his or her immediate family. The account of loss given by Elizabeth above related to her internal and private experience. She of course also had had a very public life before the bankruptcy, and this was also subject to change. Elizabeth Fry had been active in the prison reform movement, but her husband's bankruptcy, whilst not completely halting her activities, meant she lost her leading role. She had also been a prominent member of the Quaker community and inevitably many Quakers were creditors of her husband's bank.

At the beginning of September 1829 Elizabeth was hoping to attend Quaker meetings in Suffolk, but

as some of the largest creditors of our bank lived at Ipswich and some of these friends who I highly esteemed and who I thought esteemed me and who I truly love some of them particularly I thought it safer to write to them to know whether the affecting events in our family would render my visit unacceptable to them fully expecting in reply that however they might express themselves hurt by those in the bank that they would in Christian love want to receive me as having been a sufferer as well as themselves, instead of which the answer was very discouraging expressing [a] desire not to [hinder] the right thing, but they all felt in reference to the late affecting circumstances there are some things difficult to reconcile no doubt alluding to myself. This has certainly given me real pain and brought me very low... I could not but say to myself what a change! A family that used to be so glad to see me, so warm in pressing me to their houses and not even the least hint of a wish for my company... Taking me in a low and fatigued state I have no doubt made me feel it more – My [sober?] mind upon it now is not to be too much cast down...'⁹⁷⁰

⁹⁶⁹ Fry and Cresswell, *Life of Elizabeth Fry*, II, p. 57.

⁹⁷⁰ LRSFB, Diaries of Elizabeth Fry, MS Vol. S267/3, Upton, 1 September 1829, pp. 59–61.

Because of her husband's bankruptcy Elizabeth had not only lost her respected position amongst the 'Friends', but she had also lost *friends*. A glance at the passage above in Elizabeth's hand in her manuscript journal suggests a person much affected by the things they are relating. As she expressed her thoughts on this part of her experience, she covered several pages in the journal with little punctuation and barely discernible breaks. The outer public experience had caused her a private and inner experience, one which she chose to set down directly onto the page. She felt an injustice in her treatment and lamented:

I may have appeared to do wrong to others in some things where I really have not done it but from the very peculiar nature of my circumstances have been blamed for things that I was perfectly innocent of and therefore cannot clear myself without implicating others therefore perhaps had better leave it. I did not ask the [monthly meeting] for a minute because I did not think it right to do it while such friends thought [some] things in my conduct difficult to reconcile – for so I understand the dear friends letter.⁹⁷¹

Because of his bankruptcy Joseph Fry lost his 'membership' of the Society of Friends. This was because bankruptcy was reason for disownment in Quaker society and was considered a sin on a par with excessive drinking, dishonesty and adultery. A disowned 'Friend', who would be in disgrace, was not permitted to be present at business meetings or to participate in the Society's decision making, although they were still allowed to worship in meetings. Reinstatement was only possible after public apology for their errors.⁹⁷² Elizabeth wrote in March 1829: 'Our time of trial continues – Now it [comes near] to the [peril?] I feel the prospect of my husband's disownment very much. It is strikingly a cut down to our family in so many ways'. She found one 'friend and his wife greatly raised in life and he insisting my husband as a delinquent!'. From the various comments in her journal Elizabeth was clearly very unhappy about the disdainful manner of some of the 'Friends'.⁹⁷³ According to Janet Whitney, Joseph Fry was 'cast out unjustly'. Not only he but Elizabeth bitterly felt the

⁹⁷¹ Ibid., p. 63.

⁹⁷² Skidmore, *Elizabeth Fry*, p. 7.

⁹⁷³ LRSFB, Diaries of Elizabeth Fry, MS Vol. S267/3, 18 March 1829, pp. 13–14.

blow to pride and even to self-respect'.⁹⁷⁴ In the 1830s Joseph Fry started to keep a journal, and in his entry for 14 May 1837 he declared:

Our Monthly Meeting, which had disowned me (not I think on sound or at all just grounds) at the time of our failure in 1828, my honour or uprightness never having been even called in question or ground given, has, during the past year, re-instated me in membership. I apprehended it my duty to apply for it...⁹⁷⁵

The reconciliation of the Frys with the Society of Friends was not an easy process. Because of the treatment of their parents, gradually all but one of the Fry children left the Society.⁹⁷⁶ Although Joseph Fry got his certificate fairly promptly and was able to return to business (but not banking) he was marked by the experience of bankruptcy. In Whitney's words: 'Something that belonged to his essential self was killed, and never raised its head again.'⁹⁷⁷ Despite the bankruptcy in the 1830s Elizabeth Fry was able to continue her prison reform and philanthropic work.⁹⁷⁸ There is a certain irony in that Elizabeth Fry and her brother Joseph John Gurney had visited many debtors in prisons in England in 1819, yet little did Elizabeth know that less than a decade later she and her husband would become sorts of debtor themselves. Her concerns on those visits were for the imprisoned debtors' conditions, rather than how they came to be there (i.e. law of imprisonment for debt). Her concerns specifically addressed space and 'comfort' for the debtors, issues which emerged later in her own experience, in a very distant sense, of being a bankrupt's wife.⁹⁷⁹

The reader may question to what extent Elizabeth Fry can ever represent the experience of a typical bankrupt's wife, or a bankrupt woman, or indeed a bankrupt man. Born into the Gurney banking family, she had only ever known privilege and once the dust had settled from Joseph Fry's bankruptcy, she only had to adjust to modestly reduced circumstances owing to generous family support. Nevertheless, I argue that the sentiments she expressed about the

⁹⁷⁴ Whitney, *Elizabeth Fry*, p. 291.

⁹⁷⁵ Extract from Joseph Fry's Journal, 14 May 1837, quoted in Whitney, *Elizabeth Fry*, p. 293.

⁹⁷⁶ Whitney, *Elizabeth Fry*, p. 292.

⁹⁷⁷ *Ibid.*, p. 293.

⁹⁷⁸ De Haan, Francisca, 'Fry [née Gurney], Elizabeth (1780–1845)', *ODNB* (Oxford, 2004).

⁹⁷⁹ Joseph John Gurney, *Notes on a Visit Made to Some of the Prisons in Scotland and the North of England in the Company of Elizabeth Fry* (London, 1819). I am grateful to Richard Ward for drawing this text to my attention.

loss of things, places, and relationships were the kind of sentiments that could plausibly have been felt and expressed by any person subject to the same experience, even if from within more modest circumstances. Most of the subjects in this study lost possessions and property and probably experienced loss in similar ways to Elizabeth Fry, they just did not record the experience in a journal that we can read.

8.7 Conclusion

This chapter has emphasised how different aspects of loss were integral to the experience of bankrupts in the long eighteenth century. Money and property were only a part of what they lost. Bankrupts and their families lost many more things that they valued: status, public roles, homes, comforts and valued possessions. Some lost their health, temporarily or permanently. Some, by their own hand, lost their lives.

Three related factors impacted negatively on bankrupts' health: the cumulative effect of constant anxiety about money; the shocks and distress resulting from sudden losses or suddenly becoming bankrupts; and finally, a combination of the former along with all the reputational and identity pressures. Bankrupts' health, in both mind and body, bore the repercussions of constant anxiety which was greatly exacerbated by the experience of loss of control over just about every aspect of their lives. In describing their mental and physical symptoms bankrupts were trying to draw attention to what they believed to be the objective consequences upon them of what they considered to be the harsh and unjust interpretations and practices that the English bankrupt laws permitted and by which many bankrupts were trapped for sometimes protracted periods.

Regarding the extreme outcomes after bankruptcy, bankrupts clearly did not kill themselves simply because they had become bankrupts. Society did not expect it of them, but neither was society surprised when they did. Although coroners' verdicts were usually 'lunacy' (a diagnosis which today we would give a variety of different names), they took their own lives because of a fatal combination of factors, such as the various forms of loss discussed above, and some aspects of 'lunacy'.

It would be hard to make an argument for bankrupts' lives being naturally shortened as a result of the cumulative effect of anxiety over their financial situation, or as Defoe put it being 'harass'd and tormented for money'.⁹⁸⁰ The case studies suggest that the more common bodily consequences of worries about debt and bankruptcy endured while the difficulties lasted. There is evidence for bankrupts recovering from their failures and living to ages that belie any notion that in the long eighteenth century debt and failure must necessarily have brought on an early demise. What we know little of are bankrupts' subsequent lives which were neither abruptly ended nor happily continued, but rather more probably something between the two.

⁹⁸⁰ Defoe, *Tradesman*, p. 79.

Chapter Nine

Conclusions

Bankrupts, real or fictive, were ubiquitous in eighteenth-century English society, but they did not constitute a social group because as individuals they were too socially diverse and geographically dispersed. However, what bankrupts did have in common with one another was their experience: that of being subject to bankruptcy proceedings, losing everything and having to make their lives anew. To become a bankrupt was a real prospect that hung over the lives of large numbers of the English middling sort who were engaged in trade. Word of mouth, the press and publications, and increasingly popular novels, meant that contemporaries knew what it was like to be a bankrupt. This knowledge exacerbated their fear of bankruptcy. For some there was no need to 'hear' about it, as they experienced being bankrupts firsthand. However, this common experience of people in the eighteenth century has been largely forgotten with only the more 'technical' discussions of bankruptcy being included in the historiography.

Because of this historiographical gap I have, in so far as possible, endeavoured to tell the stories of bankrupts and not the story of bankruptcy, although this account of bankrupts has only been possible by building on solid pre-existing scholarship on debt and bankruptcy. Therefore, this study has: firstly, identified information about bankrupts so that we may have greater acquaintance with them; and secondly, related and analysed their experience as bankrupts. Knowing more about bankrupts and exactly what their experience was like matters because by doing so we can gain more insight into why narratives of disaster played on the minds of so many members of the English middling sort and caused them so much anxiety. Eighteenth-century people did not even need to become bankrupts to be distressed, the thought of it was enough. Furthermore, the experience of becoming a bankrupt was always to a greater or lesser degree public, with bankrupts being cast as either villains or victims. Of course, most were neither one thing nor the other, but fell haphazardly between the two descriptions, although those that opined were rarely so nuanced in their views.

In order to really know who English bankrupts were and what they were like this study has brought together a diverse body of historical evidence which, whilst still being a collection of snapshots, opens a window on the forgotten experience of so many financially afflicted individuals in the long eighteenth century. An important part of the process of carrying out this research has been the cross referencing of contemporary insolvency and bankruptcy literature with the lived experiences of real bankrupts; thus, it has been possible to show how the bankrupt laws were implemented 'on the ground', and how individuals reacted to and interacted with them, therefore contributing to our understanding of how this branch of civil law actually affected the lives of indebted people in the long eighteenth century. The study has also shed light on the roles and interactions of obscure actors in insolvency actions, such as commission solicitors, messengers, and sheriff's officers.

Although this study is concerned with bankrupts rather than the more frequently studied occupants of debtors' prisons, an unexpected conclusion of this study is that the boundaries between imprisonment for debt and bankruptcy were far more blurred and overlapping than is often assumed. For many members of the English middling sort there was a fine line between becoming an insolvent debtor in prison and a bankrupt at relative liberty. The case studies here have made it very clear that the mere possibility of imprisonment was frequently the catalyst for bankruptcy proceedings to be initiated. Moreover, the many accounts in the preceding chapters of bankrupts' negative experience should also have shown that becoming a bankrupt was not, relative to imprisonment, a soft option solely for the wealthier sort of trader, but that it was an unpleasant and feared prospect for a wide spectrum of English people in the long eighteenth century. We have also seen bankrupts (Brigstock, Kennedy) in the absence of sound legal advice and the right sort of friends, having their expectations of what bankruptcy would mean for them frustrated. It was often bankrupts' attempts at interpreting what they had been told about the constraints and demands of the bankrupt laws that led them to bungle matters, typically acts of bankruptcy, and consequently to fall foul of the law.

With the exception of the failed speculators (Fordyce, Nantes) precise reasons for bankruptcy such as poor bookkeeping or bad business practices rarely surface in the cases in this study. Political and economic factors exerted a

constant influence on all traders across the period of this study and there were some common factors in the causes of their failures. We know that major factors in the long eighteenth century, principally wars, caused credit squeezes. These negatively impacted on the large speculators as much as the small traders, undermining their solvency. Creditors, who had to satisfy demands from their own creditors, were also affected by contractions in credit and so they were more likely to call for the prompt payment of debts. Nevertheless, this still does not explain individual failures.

There is evidence in this study that traders were in fact sometimes not insolvent or failing. They, or their friends, did not consider they were failing, but a single creditor rendered them insolvent by demanding settlement of a debt when they did not have sufficient liquidity (Clay, Brigstock, Brickdale, William James, Slade). A creditor's threat to imprison, or indeed actually attempting it, triggered a resort to bankruptcy. It was often creditors' behaviour that surfaced in the explanations and complaints of bankrupts. Relations between bankrupts and these creditors were invariably poor. The story of bankrupts' failure in this study is above all about the breakdown of relationships over money rather than impersonal economic and financial factors. Bankrupts' fear of being imprisoned by a hostile creditor, or the fears of groupings of their more restrained creditors that a single creditor might gain advantage over the rest of them, were the factors that precipitated the issuing of bankruptcy commissions. Friendly groups of creditors effectively protected bankrupts from hostile creditors, which demonstrated the importance of friends to survival in an often hostile credit environment.

Family relationships also mattered a lot to bankrupts. Family were crucial in cushioning bankrupts' fall and protecting them from poverty. Furthermore, as family members were often important creditors, they were sometimes able to position themselves as assignees in order to protect bankrupt estates from hostile non-family creditors and thus protect the wealth of the wider family network. A friendly commission run by a bankrupt's relatives (Harding, Latham, Lodge) was not only infinitely preferable to imprisonment by a hostile creditor, it was preferable to an unfriendly commission run by hostile assignees (Scott, Townsend). Where bonds with family and friends were strong, and if enough creditors were patient and reasonable, then bankrupts' experience was more

comfortable and satisfactory recovery was more likely. This study has also shown that when family and friends were opposed to a bankrupt, or just absent, matters went much harder (Brickdale, Slade, Townsend). Evidence in this study suggests that despite the development of more 'institutional' and less personal types of financial entities and 'services' like the private banks of the later eighteenth and early nineteenth centuries, when major financial problems were experienced it was still family and friends that provided financial support and places of refuge. Indeed, the bankers themselves had to turn to family for assistance and protection from poverty (Fry), although bankers' families were not always obliging or patient (Brickdale).

Women bankrupts were relatively few in number compared to men.

Nevertheless, in this study two bankrupts are women (the widows Anne Scott and Ann Harding). Scott and Harding took active roles in their bankruptcies and did not leave all matters to male relatives or lawyers. Anne Scott took the very public action of publishing a pamphlet challenging the actions of the male assignees of her bankrupt estate. In this study we have also seen bankrupts' wives not being passive 'victims' of misfortune but rather taking action on behalf of their husbands and families. Bankruptcy was clearly not a matter that only concerned and involved men. For example, we have seen that a bankrupt's wife, Anne Brickdale, corresponded with and met the commission solicitor while her husband was in hiding. Other wives, again in the absence of their husbands, dealt with insistent creditors. Nevertheless, despite the scarcity of evidence either way, the probability is still that many bankrupts' wives experienced bankruptcy privately and unhappily in the confines of their diminishing domestic spaces. Elizabeth Fry's inner reflections are testimony to this aspect of the wider family experience of bankruptcy. Yet she also entered very public spaces where, despite being clearly identified as a bankrupt's wife and suffering some opprobrium for it, she continued her religious and philanthropic activities.

The experience of bankrupts unfolded in space and over time. This study has shown how a variety of traders moved through the domestic and commercial spaces they habitually occupied and used, and how they responded to, tried to negotiate with, or simply hid from creditors in the spaces that remained available to them. Because bankruptcy commissions hauled bankrupts into

specific public places (e.g. inns, taverns, coffee houses) we can see how these places were used, especially in their roles as fora for the resolution of financial relationships and obligations between members of the English middling sort. Bankrupts' experience of these places also changed. If they had previously experienced inns, taverns, and coffee houses as places of refreshment, association and sociability, they subsequently experienced them as places of process and inquiry with themselves as the objects. Time was also central in bankrupts' experience. Bankruptcies were not simply sudden traumatic episodes, they were often very protracted experiences, especially if followed from the beginning of business and financial difficulties and then through the life cycle of the bankruptcy commission to when a final dividend was paid. Commission proceedings and the liquidation of a bankrupt estate often continued for years and sometimes for decades. Commissions could exceed the lives of all involved and then were visited upon successor generations, which gave bankruptcies a somewhat gothic quality.

In terms of what a trader might expect from their experience of being a bankrupt little changed over the whole period of this study (1732–1831). There were adjustments to the bankrupt laws, but these would not significantly alter the experience. When we look at the first case in this study (George Clay, 1739) and the final case (John Slade, 1830), and how similar their commissions were in proceedings and in the outcomes, we can conclude that both cases may as well have taken place in consecutive years for the difference the passage of almost a century made. There were other continuities such as the critical roles of friends and family, the centrality of lawyers, and the acrimony between creditors and debtors whereby failure to meet obligations continued to be judged a breach of trust and a personal and moral failure, rather than the being the consequence of misfortunes and an adverse credit environment.

What happened to the bankrupts of England's long eighteenth century? Of course, in most cases, we do not know because they have left so few traces of themselves other than entries in the *London Gazette*. Adam Smith declared bankruptcy to be the 'greatest and most humiliating calamity'.⁹⁸¹ But to what extent was it so? This study has shown very clearly, but not surprisingly, that the long-term anxieties and the sudden shocks sustained by bankrupts and their

⁹⁸¹ Smith, *Wealth of Nations*, I, p. 415.

families, regardless of the scale of their difficulties and losses, impacted negatively on their states of mind and health. Some bankrupts and their family members, until their failures, had never known privations and the absence of comforts, and therefore their perceptions of their own misfortune and 'poverty' were relative.

The subjects in this study varied greatly in their wealth and connections and this influenced their ability to recover from failure. Some subjects probably still lived better after their bankruptcies than other bankrupts ever did before theirs, for example Fordyce (after) relative to Brigstock (before). So even the experience of being a bankrupt was never a level playing field. Nevertheless, on the basis of this study, even if bankruptcy did not leave all failed traders in poverty, bankruptcy almost guaranteed downward social mobility. This study did not see any bankrupts doing better after their bankruptcies than they were doing before, and it was probably the enormity of their fall, rather than the relative poverty or 'beggary' they experienced, that hurt bankrupts the most. Certainly, the trope of the bankrupt in contemporary fiction bore some resemblance to the reality in the cases studied here. But most bankrupts were far more mundane, and the study has only shown a few bankrupts going the way of Bunyan's *Mr Badman*.

Despite the relentless pressure and the delays, most bankrupts in this study cooperated with their commissions and confronted their circumstances repeatedly (the complaining correspondence is testimony to that). Few took their lives or turned fugitive. Clearly, there was life beyond bankruptcy and plenty of failed traders returned to lives that were not impoverished. However, because of the difficulty of accessing new capital, few of the bankrupts in this study returned to their old trades. The more competent traders were not without useful experience and they were able to transfer their skills from one sector to another. This shows that bankruptcy forced individuals out of businesses which were insufficiently robust, or at which they were insufficiently competent, and into new situations which were either salaried employment or trades in which there was less opportunity for assuming major risks and therefore better chances of survival. After the experience of bankruptcy, which was often lengthy, failed traders were older, and possibly wiser, and therefore less likely to engage in the same risk taking or giving and taking excessive credit. Sadly, not enough ex-bankrupts were inclined to set down their experiences in writing as

Anne and Isaac Scott, Thomas Pyott, and Joseph Brasbridge did, so beyond their bankruptcies most subjects fade from view.

This study has only examined in depth the experience of a couple of dozen bankrupts; and the influence and impact of some subjects on this account has been greater than that of others. Hannah Barker has remarked that 'close analysis of individual experiences ... naturally raises issues of typicality'.⁹⁸² So, there remains the question of the representativeness of bankrupts' experience as it has been presented in this study. I do not claim at the end of this thesis to have synthesised the experiences of the subjects into a single comprehensively representative account of the typically occurring experiences of English bankrupts in the long eighteenth century. However, it is work in progress towards that end – more can be achieved with more research. Now with the digitisation and searchability of the pages of the *London Gazette* a quantitative study is a much more viable proposition than it was when Hoppit researched bankruptcy in the 1980s. It is hoped that this study has succeeded in showing that a qualitative history of bankrupts can be told, and that scope remains to combine these more personal stories of insolvents and bankrupts with the bigger data that a quantitative study could provide.

Notwithstanding the further potential for broadening this research and the limitations of this study I argue that although the cases are not many in number relative to the totality of traders that became bankrupts, this study has brought together the experiences of a diverse group of bankrupts. Certainly, the study has included some notorious London bankrupts like Alexander Fordyce, who can only really represent the small and somewhat perverse category of 'elite bankrupts'. Yet at the same time the study has included cases of obscure members of the provincial middling sort. It is this latter sort of bankrupt who would blend seamlessly into any one of the weekly lists of bankrupts that graced the pages of the *London Gazette* over the long eighteenth century. However, more crucially for the validity of this study, I maintain that at least some elements and aspects from amongst the experiences of all the bankrupts I have analysed here, will have been the case for each and every one of the

⁹⁸² Hannah Barker, 'Soul, Purse and Family: Middling and Lower-Class Masculinity in Eighteenth-Century Manchester', *Social History*, 33 (2008), p. 16.

many thousands of English people who became bankrupts between 1732 and 1831.

Appendices

Appendix One

Principal Subjects of the Study

Below is a list of the twenty-four bankrupts I use as the principal case studies in this thesis; the year entered before the bankrupt's name is the year of bankruptcy. The location following the name is the place where the bankruptcy commission was held. If the place where the bankrupt traded was different from where the commission was held, the locality of trade appears in parenthesis. Short biographical information on the principal subjects is provided in appendix 2. For other bankrupts who make only brief appearances in this study biographies are not provided, instead brief information is provided in the text and/or footnotes.

Year	Name of Bankrupt	Commission Held	Trade
1739	George Clay	King's Lynn	Merchant
1744	Richard Hutchings	Crewkerne (Wilminstone)	Yarn Washer
1752	David Kennedy	Marlborough	Draper
1763	Thomas Pyott ⁹⁸³	Hull	Merchant
1767	Ann and Isaac Scott	London	Dry Salters
1772	Alexander Fordyce	London	Banker
1774	David Brigstock	Bristol (Carmarthen)	Shopkeeper
1775	Thomas Lodge	Farnham (Dogmersfield)	Brewer

⁹⁸³ Thomas Pyott did not in the end become a bankrupt but is included in this study for reasons that are explained subsequently.

1783	Joshua James	Bristol	Distiller
1783	Joseph George Pedley	Bristol	Brewer
1793	Havilland Le Mesurier	London	Merchant
1797	Henry Nantes	London	Merchant
1797	Richard Muilman	London	Merchant ⁹⁸⁴
1797	John Kempster	Highworth (Marston)	Corn Dealer
1800	Joseph Brasbridge	London	Silversmith
1805	Edmund Townsend	London	Spirit Deal ^r
1806	Ann Harding	Bristol	Haberdasher
1808	William James	Bristol (Swansea)	Shopkeeper
1810	'Baron' Von Doornik	London	Soap Manuf ^r
1817	John Latham	Romsey	Brewer
1819	John & Matthew Brickdale	Taunton	Bankers
1826	Wakeford Brothers	Andover	Bankers
1828	Elizabeth Fry	Bristol	[wife ⁹⁸⁵]
1830	John Slade	Sherborne	Maltster

⁹⁸⁴ Richard Muilman avoided becoming a bankrupt in law by taking his own life before the declaration could be made.

⁹⁸⁵ It was of course Joseph Fry, Elizabeth's husband, who was the bankrupt. However, as Elizabeth provides the primary source she is treated as the subject in this study.

Appendix Two

Short Biographies of the Subjects

This appendix provides a complement to the discussion of sources in chapter one of this thesis; it also locates background information on the subjects in one place for ease of consultation. The extent to which biographical information is available on the subjects varies greatly, but in general the greater the scale of the bankrupt's trade, wealth and connections, then the greater the amount of information available on them; some major bankrupts feature in the *Oxford Dictionary of National Biography* and/or *History of Parliament* and have lengthy entries dedicated to them. Therefore, where information is substantial only a selection of the most relevant content is reproduced here. Contrastingly, small provincial traders usually left few traces behind them, and their entries here are correspondingly small. Where possible dates of birth, marriages and deaths have been included, although in several cases it has not been possible to obtain this information. Unless other sources are cited key events and dates have been obtained from www.ancestry.co.uk. For the convenience of the reader biographies appear in alphabetical order of surname.

Joseph Brasbridge⁹⁸⁶ (1744–1832) was an 'eminent' silversmith in Fleet Street. He was 'eccentric in his manners, and singular in his opinions', he was also capable of 'shrewd observation', so said one obituary.⁹⁸⁷ Born in Buckinghamshire, the son of a farmer, he moved to London where he married the sister of his first business partner, a Mr Slade, in 1771. A son was born in 1776, but soon after Mrs Brasbridge died. She was followed by the son who died in around 1784. This 'precipitated a crisis in his life and led to the dissolution of the partnership and a period of unwise living'.⁹⁸⁸ With the help of 'friends' he was able to resume business. In 1788 he married Elizabeth Greenhill.⁹⁸⁹ Brasbridge had two children with Elizabeth but neither child lived beyond the early nineteenth century. Brassbridge had bankruptcy commissions

⁹⁸⁶ I am grateful to Jonathan Barry for drawing my attention to this case.

⁹⁸⁷ *Leamington Spa Courier*, 17 March 1832, issue 189, p. 4.

⁹⁸⁸ Paul Foster, 'Brasbridge, Joseph (1744–1832)', *ODNB* (Oxford, 2009).

⁹⁸⁹ *Ibid.*

issued against him in 1800, and again in 1804.⁹⁹⁰ After the death of Brasbridge's son in 1819 he and Elizabeth gave up trade and retired to Herne Hill where Brasbridge wrote his autobiography *The Fruits of Experience*, which was published in 1824.

Matthew Brickdale (1735-1831) and John Brickdale (1760-1840) were father and son and both became bankrupts in 1819. They had been partners and proprietors of the Taunton Bank in Somerset, which failed in 1816. Since the failure they had been experiencing an accumulation of financial problems and in 1819 personal bankruptcy could be averted no longer. The bankruptcy was very much a family affair: three generations were affected by debt actions with both a father and son being made bankrupts; and various other family members being drawn into legal disputes or otherwise negatively affected.

Matthew Brickdale was the son of John Brickdale (d. 1765) a Bristol draper. He married Elizabeth Smith, daughter of Thomas Smith of Clifton. Matthew Brickdale was left a fortune, reputedly of £100,000 by his father. He retired from trade as a Bristol clothier, woollen draper and undertaker to enter politics. He was a Common Councillor for Bristol 1767 – 1784; and he was Member of Parliament for Bristol on two occasions, 1768 – 1774 and 1780 – 1790, when he opposed Edmund Burke. He kept a political diary from 1770 – 1774 which covered domestic, national and international matters.⁹⁹¹ His activity in Westminster was not great, but amongst other things he put before Parliament bills, such as that to regulate chimney sweepers in 1788.⁹⁹²

Matthew Brickdale thus had an accomplished public profile, not just at Westminster but more significantly for this study of his bankruptcy, in his parliamentary seat of Bristol and amongst Somerset county society. His name

⁹⁹⁰ *Kentish Weekly Post or Canterbury Journal*, 9 December 1800, issue 2178, p. 3; *LG*, 5 April 1806, issue 15907, p. 445. NB The 1806 *Gazette* notice makes reference to a commission dated 4 December 1804.

⁹⁹¹ Thomas, 'Brickdale, Matthew', pp. 115–16; Williams, *Parliamentary History of the County of Gloucester*, p. 128; SRO, DD/X/RON/9, Correspondence etc. relating to the genealogy of the Brickdale family. This last record includes M. E. Roynan, 'A Brief Biography of Matthew Brickdale' (serialised in a local church periodical), which largely relies on Thomas and Williams but also complements with material from SRO. Roynan compiled the biography while Rector of West Monkton in the 1960s.

⁹⁹² *The Times*, 4 June 1788, issue 1090, p. 2.

could be found on the front page of *The Times*. On Monday 10 October 1791 he was listed amongst the provincial 'Bankers and Gentlemen in the Country' who would receive subscriptions on behalf of the Veterinary College, London: Brickdale's bank received for Taunton while Baring's received in Exeter.⁹⁹³ In that same year of 1791 there appeared in the Rev. J. Collinson's *The History and Antiquities of the County of Somerset* an engraving of Matthew Brickdale's country seat in West Monkton near Taunton, which was described as 'an elegant modern building called *Court House*'.⁹⁹⁴ In 1793 he was Chairman of the meeting called to discuss the building of a canal to link the Devon Exe with the Gloucester Severn; his son John also sat on the committee.⁹⁹⁵ In 1801 a clergyman's letter to the *Gentleman's Magazine* listed Matthew Brickdale amongst 'the most respectable gentlemen of the Eastern division of Somerset'.⁹⁹⁶

Brickdale had paid £8,000 for his country estate in 1775, and 'he spent much money laying out the garden and grounds of his residence' as 'he had ample resources and a family fortune'. According to M. E. Roynan his chief claims to distinction in the locality were his preparations to resist a French invasion, and 'his financial ventures which later led to disaster and ruin'.⁹⁹⁷ He lived to the age of 96, and according to W. R. Williams: 'He died on 8 September 1831, having spent enormous sums of money in his electoral contests, which left him in reduced circumstances in his old age'.⁹⁹⁸ Williams did not mention Matthew Brickdale becoming a bankrupt, although the bankruptcy in 1819 was widely reported at the time. The three biographies above also omit Matthew and John Brickdale's interests in the Atlantic slave trade and ownership of plantations.⁹⁹⁹

⁹⁹³ *The Times*, 10 October 1791, issue 2149, p. 1, col. A.

⁹⁹⁴ John Collinson, *The History and Antiquities of The County of Somerset*, 4 vols (Bath, 1791), III, p. 454.

⁹⁹⁵ *The Star*, 12 January 1793, p.1, col. 4, in L. S. Pressnell, *Country Banking in the Industrial Revolution* (Oxford, 1956), p. 377.

⁹⁹⁶ A letter to the Rev. Thomas Bere, Rector of Butcombe, by the Rev. J. Boak, Rector of Brockley in the *Gentleman's Magazine* (London, 1801), 71, p. 1116.

⁹⁹⁷ Thomas, *Brickdale, Matthew*, pp. 115–16; Williams, *Parliamentary History of the County of Gloucester*, p. 128; SRO, DD/X/RON/9, Roynan, 'Biography of Matthew Brickdale'.

⁹⁹⁸ *Ibid.*

⁹⁹⁹ Brickdale interests in the Atlantic slave trade and plantation ownership are documented in SRO, DD/DP/6/26 which contains details of a 'conveyance by Commissioners to assignees of...Hope estate and 90 negroes at St Andrew on Isle of St Vincent'; see also Madge Dresser and Andrew Hann (eds), *Slavery and the British Country House* (Swindon, 2013), pp. 31, 35–36, 41, 63, 66.

John Brickdale, Matthew Brickdale's eldest son, was the main protagonist during the bankruptcy. His father's role and experience matter for several reasons, not least his past as a Member of Parliament, but also the advanced age at which he had to confront becoming a bankrupt. However, it was his son John who maintained the principal engagement with the commission, the creditors, and the lawyers. The letters written by John Brickdale to many different correspondents speak openly of his experience as a bankrupt.

John Brickdale was born on 20 February 1760 and died 28 June 1840. He obtained a B.A. in 1781 after spending three years at Christ Church, Oxford. He continued at All Souls, Oxford, and graduated with a Bachelor in Civil Law in 1784.¹⁰⁰⁰ In 1787 he married Anne, daughter of Richard Inglett Fortescue of Buckland Filleigh, Devon. He would seem to have led a life much less public than that of his father and to have dedicated most of his time to the family banking house and other businesses (e.g. farms). L. S. Pressnell described John Brickdale as being the 'active partner' at the time of the beginning of the banking house's severe troubles in 1816.¹⁰⁰¹ In 1819, shortly before the bankruptcy, he was expected to succeed to the 'Comptrollership of the Customs' at the port of Bristol.¹⁰⁰²

According to L. S. Pressnell the Taunton bank held over £14,000 in Navy bills, and £7,750 in Transport bills between 1796 and 1800, which Pressnell described as a case of money flowing 'along rockier channels between lender and borrower'.¹⁰⁰³ Pressnell does not comment further on the bank's finances until there were problems at the banking house in 1816. Peace had returned that year, but unfortunately for West Country farmers this peace did not bring prosperity. According to Pressnell 'Taunton had decaying industries, and was set in a strongly agricultural background'. The slump hit the bank hard.¹⁰⁰⁴ That year Messrs. Bosanquet, Pitt, Anderdon & Co. of London, who kept Brickdale's London deposit, were sending Brickdale's their account every week. This, in the view of Pressnell, 'may possibly have been sent to a give a constant

¹⁰⁰⁰ Williams, *Parliamentary History of the County of Gloucester*, p. 128; *Catalogue of Graduates* [*sic*], entry for 'Brickdale (John)', p. 8.

¹⁰⁰¹ Pressnell, *Country Banking*, pp. 121–22.

¹⁰⁰² *Bristol Mercury*, 4 October 1819, issue 1540.

¹⁰⁰³ Pressnell, *Country Banking*, p. 427.

¹⁰⁰⁴ *Ibid.*, pp. 80–81.

reminder to the country firm of the wretched state of its London account'.¹⁰⁰⁵ Bosanquet's pressure led John Brickdale to protest 'you see how they catch at every [...] minutest turn of our account'. Bosanquet's in fact had already shown a great deal of patience, which allowed the Brickdales to avoid bankruptcy in 1816.¹⁰⁰⁶ However, bankruptcy could only be held off and finally it was in fact a debt owed by Matthew Brickdale to his estate bailiff that triggered the first moves to make the Brickdales bankrupts in late 1819.¹⁰⁰⁷ Their commission was held at the George Inn in Taunton.

David Brigstock (1747–1825) of Whitland Forge (in the parish of Whitland), Carmarthenshire, was a general shopkeeper (he was also sometimes described as a mercer and ironmonger) dealing in all manner of goods: wheat, oats, potatoes, tobacco and snuff, timber (e.g. logs of mahogany). His wife, Ann, who was already 'a country shopkeeper' and had probably been a widow prior to marrying Brigstock, had some fifty pounds worth of stock of goods that enabled Brigstock to set up in trade.¹⁰⁰⁸ Most of Brigstock's trading relationships were based in Wales. He employed a younger relative, Jeremiah Brigstock (1761-1844).

Some of Brigstock's creditors had been moving to arrest him, and one did succeed in holding him. These circumstances led Brigstock to seek help in being made a bankrupt. Unfortunately for him he had probably left it too late, and the kind of help he wanted was not forthcoming. Brigstock's attempts to get out of trouble merely got him into more, as he found his letters being exhibited at the Quarter Sessions. Brigstock's subsequent fate is unclear but by 1812 he was renting a 'messuage or dwelling house' for £35 p.a. in King Street Carmarthen.¹⁰⁰⁹ His commission was held at the Bush Tavern in Corn Street, Bristol.

George Clay was a merchant and ship owner in Kings Lynn, Norfolk. He dealt in a variety of commodities including corn, deals, iron and other goods; he was

¹⁰⁰⁵ *Ibid.*, p. 117.

¹⁰⁰⁶ *Ibid.*, pp. 121–22, 307–08.

¹⁰⁰⁷ *LG*, 4 December 1819, issue 17541, p. 2182–83.

¹⁰⁰⁸ BRO, JQS/P/44, Examinations of witnesses, 14 March 1774: examination of David Brigstock, p. 1; receipt for wheat, oats and potatoes is in BRO, 44352/2/1/5.

¹⁰⁰⁹ *The Cambrian*, 23 May 1812, issue 435, p. 1.

also part owner of two ships with William Bagge. His trading activities extended to London, Rotterdam, Norway and Friedrichstadt in Schleswig-Holstein. He married Mary [Landidg/e or Landitch] (d. 16 Nov. 1741) on 9 July 1714. While living in King's Lynn he may have rented properties in Tuesday Market Place and King Street (a property on King Street was recorded as being 'in Geo Clays use'.¹⁰¹⁰ Clay appeared in shipping news: on 1 March 1732 sailing from Lynn Regis for Norway in the *Susanna*.¹⁰¹¹ There are indications that Clay had already been made a bankrupt in 1738 or earlier.¹⁰¹² It was not unusual for a commission to be renewed or a second commission to be issued against a trader. The meetings of the commission issued against him were held at the Guildhall, Kings Lynn. His total debts ascended to around £2,200.

Alexander Fordyce (1729–1789), described by Paul Langford as, 'That prince of bankrupt bankers', achieved lasting notoriety with his contemporaries for the scale and impact of his failure.¹⁰¹³ He is also one of the few eighteenth-century bankrupts to be widely known by historians of the period. Fordyce was the youngest son of George Fordyce, provost of Aberdeen. He was initially apprenticed in stocking manufacture but moved to London where he worked his way up in the banking business. By 1768 he was a managing partner in the bank of Neale, James, Fordyce and Down. He made a great fortune trading stocks and was able to purchase an estate in Scotland and built 'a fine residence' at Roehampton, Surrey 'where he entertained in great magnificence'. In 1770 he married Lady Margaret Lindsay, the second daughter of the Earl of Balcarres. He also spent considerable sums trying to get elected to the House of Commons in 1768 and 1780.¹⁰¹⁴

His luck broke after sustaining heavy losses from short-selling East India stock in 1771–72. He used the bank's money to cover his exposure, fell out with his partners, and lost the backing of the Bank of England. Fordyce fled London on 10 June 1772, and the complete failure of his bank quickly followed. This bank

¹⁰¹⁰ NRO, 395, 'Notes on houses in the Riverside Streets of King's Lynn and their known owners and tenants up to 1849', pp. 72, 101. In 1736/7 a George Clay, mariner, was recorded at 14 Tuesday Market Place.

¹⁰¹¹ 'Ship News', *Daily Post Boy*, 15 March 1732, issue 6881, p.1.

¹⁰¹² *LG*, 18 March 1739, issue 7894, p 4. It was proposed to make a dividend 26 April 1739 which would suggest that a commission had probably been taken out in 1738.

¹⁰¹³ Langford, *Polite and Commercial People*, p. 421.

¹⁰¹⁴ Price, 'Fordyce'.

failure initiated a chain reaction of other banking failures, and a financial crisis 'considered the worst since the Bubble year of 1720'. Fordyce surrendered before a bankruptcy commission in September.¹⁰¹⁵ Some disagreement exists about the level of his losses or debts, an arithmetic that gets particularly complicated where partners in banks are concerned, but figures range from c. £150,000 to c. £550,000.¹⁰¹⁶ As with other London bankrupts his commission was held at the Guildhall, but unlike most bankrupts his examinations were reported in the press.¹⁰¹⁷

Elizabeth Fry (1780–1845) the social reformer, was not a bankrupt, but her husband Joseph was. However, it is from Elizabeth's journals and letters, not Joseph's, that we learn about a wife's and a family's experience of bankruptcy. Elizabeth Fry is naturally much better known for being a penal reformer and philanthropist than for being a bankrupt's wife. She was born into a wealthy Norwich Quaker family being the fourth child of merchant and banker John Gurney (1749–1809). Elizabeth received a good education but did not progress as well as she might as she suffered from her 'nerves'.¹⁰¹⁸ She reacted against the more secular direction of her well-to-do Quaker family by embracing the life of a plain Friend, both in dress and speech. According to de Haan: 'Her religious belief became the pillar of her life and pervaded all that she did.'¹⁰¹⁹

She married **Joseph Fry** (1777–1861) in 1800. They had eleven children. Fry was from another family of successful Quakers who dealt in wares from the colonies; he went into banking in 1808. In 1809 they began to reside at Plashet House in East Ham. Elizabeth engaged in a variety philanthropic works including visiting Newgate prison and endeavouring to improve conditions for female prisoners. From 1818 she travelled the country, both as Quaker minister, and for the purposes of visiting prisons to promote her reforms. In 1827 she published *Observations on the Visiting, Superintendence, and*

¹⁰¹⁵ Ibid.

¹⁰¹⁶ See discussions in Langford, *Polite and Commercial People*, pp. 569–71; Hoppit, *Risk and Failure*, pp. 135–36, and more recently Kosmetatos, 'Financial Contagion', passim.

¹⁰¹⁷ *London Magazine or Gentleman's Monthly Intelligencer* (London, 1772), 41, pp. 431–33.

¹⁰¹⁸ De Haan, 'Fry, Elizabeth'.

¹⁰¹⁹ Ibid.

*Government, of Female Prisoners.*¹⁰²⁰ The next year after difficulties at the bank, Joseph Fry was made a bankrupt.

The bankruptcy has generally received little attention from historians and biographers of Elizabeth Fry's life (de Haan, for example, only gives it four lines). This is not surprising as Elizabeth was not the bankrupt and it was not her fault. Joseph Fry was not a bankrupt for long, and there might seem little reason to let the incident overshadow Elizabeth's positive contributions to social reform. However, another view is possible. Firstly, like most bankrupts who were mostly men, Joseph Fry does not provide us with a record of his experience of bankruptcy, but Elizabeth does from the point of view of a wife and matriarch. Secondly, a close reading of Elizabeth's journal, rather than bowdlerized versions such as those edited by her daughters, shows her coming to terms with, and reflecting on, the effect of bankruptcy on her family and household. The personal flaws she owns to, and her anxiety for the well-being of her family, only show her as human and in no way cast a cloud over this episode in her life. We certainly learn more about the experience of bankruptcy for women than we do from the actual women bankrupts included in this study.¹⁰²¹ More recent biographies, although still tending to the hagiography, have not attempted to gloss over Elizabeth Fry's experience of money troubles within the family, and the inevitable bankruptcy.¹⁰²²

Joseph Fry received his certificate relatively quickly and Elizabeth returned to her philanthropic works in the 1830s and 1840s which, amongst various causes, included visiting prisons on the continent and campaigning for the abolition of slavery. She died in 1845 after a stroke.¹⁰²³

Ann Harding (1781–1851), the daughter of Isaac and Anne Orchard, was baptised on 13 May 1781 in the Somerset parish of Walcot St Swithin (now part of the city of Bath). She married Thomas Harding, a haberdasher, on 2 June 1799 in Bristol, but Harding died in 1803. Before his death Harding had become weighed down by debt and had been in hiding from his creditors. After

¹⁰²⁰ Ibid.

¹⁰²¹ LRSFB, Diaries of Elizabeth Fry, MS Vol. S267/2; MS Vol. S267/3.

¹⁰²² See Hatton, *Betsy*, pp. 235–56, and Opperman, *While It Is Yet Day*, pp. 255–76.

¹⁰²³ De Haan, 'Fry, Elizabeth'.

his death Ann attempted to continue the haberdashery business, but her late husband's creditors continued to pursue their debts and she found herself subject to an execution. Anne became a bankrupt in 1806. Her commission was held at the Bush Tavern, Bristol.¹⁰²⁴

Richard Hutchings (will proved 1746) was a yarn washer and lived in the small Somerset village of Wilmistone (now Wilminstone) near the country town of Crewkerne. The name was sometimes recorded as 'Hutchins'. A 1733 poll book and electoral register lists him as a yeoman. Classifying himself as a yarn washer was more likely to have qualified him for bankruptcy under the bankrupt laws. Hutchings was also collector of tythings for Woolmistone.¹⁰²⁵ A burial for Richard Hutchings was recorded on 22 February 1756 in Crewkerne. His wife Philadelphia was born in 1683 and her burial was recorded in Crewkerne on 10 May 1780. Hutchings had two sons, John, and Job (b. 10.08.1710 in Woolmistone). Job was subsequently baptized at the then Presbyterian South Petherton Old Meeting House on 22 August 1710. By 1744 Job lived in nearby Clapton and was recorded as a linen weaver. John moved away and lived 'beyond London'. Hutchings had another son, also called Richard, who entered into a bond with his father in 1737. Job also 'stood jointly bound' with his father.¹⁰²⁶ Richard and Philadelphia also had a daughter named Philadelphia (b. 1713/14).¹⁰²⁷

His petitioning creditor was Thomazina [Parker?], a widow. She had lent him several sums of money which accumulated to over £200, all of which had been outstanding for years; he was also unable to pay other creditors including his own attorney. He was declared bankrupt on 3 April 1744, and his commission met at the George Inn in Crewkerne.¹⁰²⁸ It is unclear whether he was discharged before he died. It is possible that because of Hutchings the elder's attempts to assign assets to his sons, and his sons also being bound with him

¹⁰²⁴ BRO, 44352/2/1/13, Papers re Anne Harding, 1806–1810; for the date of the 1806 bankruptcy, see LG 16 August 1808, issue 16172, p. 1136.

¹⁰²⁵ SRO, DD/MR/107, Bankruptcy records, Richard Hutchings.

¹⁰²⁶ Ibid.

¹⁰²⁷ South Petherton Old Presbyterian Meeting House, baptism records <http://www.southpethertoninformation.org.uk/old_meeting_house.htm> [accessed 9 May 2019].

¹⁰²⁸ SRO, DD/MR/107, Bankruptcy records, Richard Hutchings.

that after his death actions continued against his sons. Job Huchings has £1432 recorded against him, n.d.¹⁰²⁹

Joshua James (d. 1795) was baptised by the Lewin's Mead Society of Protestant Dissenters in Bristol, n.d. According to TNA: 'The Meeting remained Presbyterian until the late eighteenth century, but by the beginning of the nineteenth century had changed to Unitarianism, the first reference to this change being dated 1816.'¹⁰³⁰ James lived 'in *Stoke's Croft*, in the Parish of *St James*, in the City of *BRISTOL*' where he operated a distillery.¹⁰³¹ He also owned 'THE very valuable MANOR, or reputed MANOR and ESTATES of SOUTHMEAD' of some three hundred acres in Westbury upon Trym near Bristol.¹⁰³² Having lost a leg he left his business in the hands of others, but matters went badly and he was made a bankrupt in 1785. His commission was held at the Bush Tavern in Corn Street, Bristol.

William James was a shopkeeper in Swansea on the southwest coast of Wales. He became a bankrupt twice in 1808. A commission was first issued against him in April 1808, but it was superseded and a fresh commission was awarded in August that year.¹⁰³³ The ethics of James's behaviour was much criticised by those involved with him.¹⁰³⁴ His commission was held at the Bush Tavern in Corn Street, Bristol.

John Kempster the younger (c. 1761–1802) was a corn dealer and lived in South Marston in the parish of Highworth, Wiltshire. He married Elizabeth Lewis on 10 March 1790. He became a bankrupt in February 1797.¹⁰³⁵ The proceedings of his commission did not go smoothly and by September 1797 Kempster was 'in Custody for not making satisfactory Answers to certain Questions touching his Estate and Effects' at his hypothetical last examination.¹⁰³⁶ He was held in Fisherton Anger gaol near Salisbury for some

¹⁰²⁹ Ibid.

¹⁰³⁰ BRO, 39461, Lewin's Mead Unitarian Meeting 1718–1985.

¹⁰³¹ BRO, 44352/2/1/8, Papers re Joshua James: dwelling-house sale notice and conditions of sale, 6 July 1789.

¹⁰³² *Gloucester Journal*, 1 October 1798, issue 3997, p. 1.

¹⁰³³ LG, 16 August 1808, issue 16172, p. 1135.

¹⁰³⁴ BRO, 44352/2/1/14/2, Papers re William James.

¹⁰³⁵ LG, 28 February 1797, issue 13988, p. 225.

¹⁰³⁶ LG, 16 September 1797, issue 14046, p. 904.

two years before being brought back before the commissioners in November 1799. By early 1800 Kempster was ill.¹⁰³⁷ His death followed two years later. His commission was held at the King and Queen Inn in Highworth.

David Kennedy was a linen draper in Marlborough, Wiltshire. He married Sarah Marrant on 19 January 1746. He became a bankrupt in late 1751 or beginning of 1752. In contrast to the two earlier cases above for which largely only formal bankruptcy commission records survive, this case is supported, not by commission records, but by private correspondence between Kennedy and his creditors, or between his creditors. Kennedy had several creditors in London, and their spokesperson and interlocutor with Kennedy was a John Stabler, probably John Stabler Esq. ‘an eminent wholesale linen-draper in Watling Street’.¹⁰³⁸ Kennedy’s principal creditor in Wiltshire, was Robert Cooper of New Sarum, another linen draper.¹⁰³⁹ His commission was held at the Mitre Tavern in New Sarum (Salisbury).

John Latham (1769–1822) was a brewer, spirit merchant and public house owner in Romsey, Hampshire. He was the son of the medical doctor, naturalist and “renowned” ornithologist Dr John Latham (1740–1837).¹⁰⁴⁰ Because of numerous writings about the learned father, we know more about his bankrupt son. Latham’s wife’s name was Althea, and they had six children one of whom was also named John. He moved to Romsey in the 1790s and bought a brewery and followed with a string of purchases of local public houses. He occupied various local offices including those of magistrate, overseer of the poor and mayor of Romsey.

¹⁰³⁷ WRO, 1033/194, Papers re John Kempster’s bankruptcy: James Crowdy to John Kempster, 14 February 1800.

¹⁰³⁸ *Gentleman’s Magazine* (London, 1788), 58, Part 1, p. 182, ‘Obituary of considerable Persons; with Biographical Anecdotes’; James Peller Malcolm, *Londonium Redivivum or an Ancient History and Modern Description of LONDON*, 2 vols (1803), II, p. 92.

¹⁰³⁹ WRO, 492/280, Bankruptcy of David Kennedy.

¹⁰⁴⁰ Biographical information on the Lathams can be found in Yolanda Foote, ‘Latham, John (1740–1837)’, *ODNB* (Oxford, 2004); Christine E. Jackson, Ann Datta and R. I. Vane-Wright, ‘Dr John Latham, F.L.S., and his Daughter Ann’, *Newsletter and Proceedings of the Linnean Society of London*, 29 (2013), 15–30; David Thelwell, ‘The Forgotten Ornithologist’, *Romsey & District Society News Sheet*, issue 111 (2012), 8–10. NB Foote, in the *ODNB*, has the bankruptcy in 1819 when it was 1817, and has Latham the brewer’s year of death in 1843 when it was 1822. I am grateful to local historian Barbara Burbridge for providing me with her article on the bankruptcy which contained additional local and historical background: Burbridge, ‘Latham Bankruptcy’, pp. 21–32 (“renowned” is Burbridge’s adjective).

Dr Latham also moved to Romsey when he retired in 1796. He had raised money by selling his valuable library and museum of specimens.¹⁰⁴¹ He soon found himself financing his son's business ventures. To finance the enterprise Latham relied heavily on debt financed by mortgages and loans, with his wealthy father lending him £7–8,000. The ornithologist took on a liability that may have exceeded £15,000. Latham acquired as many as nineteen public houses. Jackson, Datta and Vane-Wright describe Latham as having 'poor business acumen'. Over the years Dr. Latham kept his son afloat with financing from various sources. The father lost much of his fortune in propping up John, whose sister also saw her share of the family trust exhausted. The sacrifices were to no avail as Latham was unable to avoid bankruptcy.¹⁰⁴² His failure was made known in Hampshire on 1 December 1817.¹⁰⁴³ Only in September of the same year he had been elected magistrate for Romsey for the ensuing year.¹⁰⁴⁴ Now he had debts of £18,307, although according to Burbridge these debts may have ascended to £30,000.¹⁰⁴⁵ His commission was held at the White Horse Inn in Romsey.

During the proceedings of Latham's bankruptcy many of Latham's unsound financial practices emerged, especially those connected with his father. Unusually Latham appears to have been granted his certificate within two months of the bankruptcy.¹⁰⁴⁶ This was not, however, an indicator of a clean ending and fresh start for Latham. Latham took his own life five years later in October 1822.¹⁰⁴⁷ Already by 1819 as a result of the losses Dr Latham had sustained, he had to sell his large house in Romsey and went to live with his daughter in Winchester. Whatever may have been the stress on Dr Latham, unlike his son, he lived to 97.

Havilland Le Mesurier (1758–1806) was born in Guernsey the fifth son of John Le Mesurier (1717–1793) the hereditary governor of Alderney. In the 1770s he joined the family merchant house which profited from privateering during the

¹⁰⁴¹ Foote, 'Latham, John', *ODNB* (Oxford, 2004).

¹⁰⁴² Jackson, Datta, Vane-Wright, 'Dr John Latham', pp. 16–17.

¹⁰⁴³ *Salisbury and Winchester Journal*, 1 December 1817, issue 4209, p. 1.

¹⁰⁴⁴ *Ibid.*, 29 September 1817, issue 4200, p. 4.

¹⁰⁴⁵ Thelwell, 'Forgotten Ornithologist', p. 9; Burbridge, 'Latham Bankruptcy', pp. 21–32.

¹⁰⁴⁶ *LG*, 17 January 1818, issue 17323, p. 140.

¹⁰⁴⁷ *Morning Post*, 25 October 1822, issue 16103, p. 3.

American War of Independence. He married Elizabeth Dobrée in 1782 and went on to establish himself as a member of the Channel Islands community of merchants in London.¹⁰⁴⁸ Commercial problems when war broke out with France in 1793, were the main cause of his bankruptcy. He recovered quickly from his bankruptcy by finding, with the help of Henry Addington, Viscount Sidmouth, a commissariat commission in the army, soon becoming deputy commissary-general. After 1795 it seems he became a successful merchant and privateer-owner in partnership with his brother Paul based Austin Friars in the City of London.¹⁰⁴⁹

His *ODNB* entry, although mentioning business difficulties, does not actually state that he became a bankrupt. In fact, as a bankrupt, Le Mesurier did not leave a great archival imprint behind him, but his brief correspondence with Addington in 1793 gives insight into a bankrupt's fall, and then strategy for survival and recovery. His commission was held at London Guildhall.

Thomas Lodge lived in the Hampshire village of Dogmersfield in the 1770s having followed his father, also Thomas, into the local brewing trade. Lodge the elder had also managed the estate of Sir Henry Paulet St John of Dogmersfield Park, and Lodge the younger 'succeeded his Father as Steward and Agent to Sir Henry Paulet St John in the Management of his Estates... paying all Bills'.¹⁰⁵⁰ This position for Thomas created opportunities that would later lead to his demise and he was made bankrupt in 1775.¹⁰⁵¹ His commission was held at the Bush Inn in Farnham, Surrey.

Richard Muilman (later Richard Muilman Trench Chiswell (1735–1797), was a merchant banker and antiquary. His father Peter Muilman and his uncle Henry Muilman were Dutch merchants operating from London. He inherited a fortune of £120,000 from his mother's brother Richard Chiswell along with Debden Hall in Essex. In 1773 he became known as Richard Muilman Trench Chiswell. In 1790 he inherited £350,000 from his father. That same year he

¹⁰⁴⁸ Meyer, 'Le Mesurier'.

¹⁰⁴⁹ *Ibid.*

¹⁰⁵⁰ HRO, 15M50/1216/35, Paulet St John's Case: from Broome for the opinion of James Mansfield, June 1776, p. 1.

¹⁰⁵¹ *LG*, 18 February 1775, issue 11537, p. 3.

was elected MP for Aldborough, Yorkshire. As an MP and investment agent for Mrs Warren Hastings he militated in Parliament against the delays and costs of Warren Hastings' trial. He was also active in other parliamentary business.¹⁰⁵² He preoccupied himself with parliament, antiquarianism, travels and estate projects such as engaging Henry Holland to rebuild Debden Hall in 1795.¹⁰⁵³ Thus he would seem to have left the management of the house of Richard Muilman & Co. largely in the hands of his business partner Henry Nantes (biography below) with tragic consequences when the merchant house failed with debts in excess of £450,000. Richard Muilman Trench Chiswell then shot himself on 3 February 1797 at Debden Hall.¹⁰⁵⁴ Muilman/Chiswell's *ODNB* dwells on his philanthropic, antiquarian and travel interests whilst no mention is made of the Muilman & Co.'s interests in the Atlantic slave trade and plantation ownership (see details under Henry Nantes, below). Not surprisingly Muilman/Chiswell voted against the abolition of the slave trade on 15 March 1796.¹⁰⁵⁵

Henry Nantes (1764–1836) was born Wilhelm Heinrich Nantes to a family of Bremen merchants who subsequently established an office in London.¹⁰⁵⁶ He was sent to London at the age of ten and when his father died soon after, he was adopted by his uncle, Daniel Nantes, who was already established as a merchant in London.¹⁰⁵⁷ In London Nantes was educated by Dr Palmer,¹⁰⁵⁸ a non-conformist divine. Nantes was also in the habit of attending the Dutch

¹⁰⁵² Winifred Stokes, 'Muilman Trench Chiswell, Richard (c. 1735–97)', in R. G. Thorne (ed.), *The History of Parliament: The House of Commons 1790–1820* (1986).

¹⁰⁵³ John H. Appleby, 'Chiswell, Richard Muilman Trench (1735–1797)', *ODNB* (Oxford, 2004).

¹⁰⁵⁴ *Ibid.*

¹⁰⁵⁵ Stokes, 'Muilman Trench Chiswell, Richard', in Thorne (ed.), *History of Parliament*.

¹⁰⁵⁶ Much of what is known about merchant of German origin Henry Nantes is the result of research undertaken by Margrit Schulte Beerbühl, see Schulte Beerbühl, 'Risk of Bankruptcy among German Merchants', in Gratzner and Stiefel (eds), *History of Insolvency and Bankruptcy*, p. 79; Schulte Beerbühl, *Deutsche Kaufleute in London/German Merchants in London*, pp. 112, 175, 203, 252–53, 368–83, 430; Schulte Beerbühl, *Forgotten Majority*, pp. 37, 76 fn.82, 79 fn.150, 114–15, 122 fn.62, 210–24, 242 fn.242.

¹⁰⁵⁷ See Schulte Beerbühl, *The Forgotten Majority*, pp. 213, and p. 241 fn.239 for the merchant activities of Daniel Nantes (e.g. Russia Company). He was also in the partnership of Edmund Boehm & Co., see *LG*, 29 December 1804, issue 15767, p. 7); 'A "history" of the Nantes family' (mid-nineteenth century notebook), private collection of Robert Nantes. Some of the information about Henry Nantes's early life comes from this short manuscript document. The account is part of a small collection of papers that is notable for its complete omission of any reference to Henry Nantes's bankruptcy or his involvement in the eighteenth-century Atlantic slave trade.

¹⁰⁵⁸ Possibly Samuel Palmer (1741–1813) the independent minister and memorialist, see Alexander Gordon (revised by S. J. Skedd), 'Palmer, Samuel (1741–1813)', *ODNB* (Oxford, 2004).

Reform Church in Austin Friars. He was naturalised British in 1789.¹⁰⁵⁹ In the early 1790s various publications list Nantes as residing in Broad Street.¹⁰⁶⁰ In 1793 in Battersea he married Marianne Voguell, daughter of German merchant Henry Voguell.¹⁰⁶¹ Later in the decade Nantes's address is given as both 5 Warnford Court, Throgmorton Street, and Battersea.¹⁰⁶² In Battersea he owned Sherwood Lodge, a riverside villa (also known as Sherwood House).¹⁰⁶³

Nantes became the partner Richard Muilman Trench Chiswell (biography above) in the firm of Richard Muilman & Co.¹⁰⁶⁴ Richard Muilman was much preoccupied with his activities as Member of Parliament for Aldborough (1790–97), his antiquarian interests and with his estate in Essex, and so the management of the merchant house was left to Nantes. By the late eighteenth century Muilman and Nantes were running a global trading operation and 'owned property and had assets on the islands of San Domingo and Grenada, on Long Island, and in South American Demerara, Berbece [Berbice], and Buenos Aires'. They traded in sugar, coffee and wheat, as well as trading with the East Indies, North and South America, and the Dutch East India Company.¹⁰⁶⁵ Their operations included ownership of slave ships and plantations.¹⁰⁶⁶ The provenance of the capital with which Muilman & Co. built up its trade seems to have come principally from the Dutch family; it is unclear whether Nantes brought any capital of his own to the enterprise, but Schulte

¹⁰⁵⁹ An Act for Naturalizing Henry Nantes', 24 June 1789, in *Journal of the House of Lords Volume 38, 1787–1790*, 21–30 June 1789 (London, 1767–1830), 459–83, p. 466, *British History Online* <<http://www.british-history.ac.uk/lords-jrnl/vol38/pp459-483>> [accessed 29 October 2020].

¹⁰⁶⁰ He joined an anti-sedition committee for the ward of Broad Street in December 1792 (*The Observer*, 23 December 1792, p. 1), and appears residing in Broad Street in *A List of the Members of the Philanthropic Society* (London, 1793). In 1794 Nantes was still listed with his abode at 46 Old Broad Street along with Richard Muilman: 'Nantes Henry, Mercht., 46, Old Broad-str. Muilman Richard & Co., Merchts., 46, Old Broad-str.', in *Kent's Directory for the Year 1794* (London, 1794); Muilman Richard & Co. are also listed in [Roger Wakefield], *Wakefield's Merchant and Tradesman's General Directory for London* (London, 1794), p. 219.

¹⁰⁶¹ *Gentleman's Magazine* (London, 1793), 63, Part 2, p. 859.

¹⁰⁶² *Boyle's City Companion to the Court Guide for the Year 1798* (London, 1798), p. 98. NB Nantes was already bankrupt by the time this was published.

¹⁰⁶³ 'Battersea Bridge Road to York Road', in English Heritage, *Survey of London* (draft), 2013, pp. 39–41 <https://www.ucl.ac.uk/bartlett/architecture/sites/bartlett/files/50.02_battersea_bridge_to_york_road.pdf> [accessed 29 October 2020].

¹⁰⁶⁴ Appleby, 'Chiswell, Richard Muilman Trench'; Stokes, 'Muilman Trench Chiswell, Richard', in Thorne (ed.), *History of Parliament*.

¹⁰⁶⁵ Schulte Beerbühl, *The Forgotten Majority*, pp. 213–14. Berbice is a region along the Berbice river in present day Guyana.

¹⁰⁶⁶ John R. Davis, Stefan Manz and Margrit Schulte Beerbühl, *Transnational Networks: German Migrants in the British Empire, 1670–1914* (Leiden, 2012), p. 49.

Beerbühl believes that he was likely to have done so.¹⁰⁶⁷ Failed speculations caused the house to break in February 1797 leaving debts of over £450,000 owed to 753 creditors.¹⁰⁶⁸

Richard Muilman Trench Chiswell took his own life whilst Nantes answered to the bankruptcy commission for the causes of the failure and the substantial losses sustained. Sherwood House was sold in the summer of 1797.¹⁰⁶⁹

Marianne Nantes died in February 1800 in Battersea.¹⁰⁷⁰ Nantes removed to the Isle of Man where he lived for a decade and where he would marry on a further two occasions (October 1800, June 1810).¹⁰⁷¹ By the second decade of the nineteenth century Nantes had returned to trade on a more modest scale based near Bideford in North Devon.¹⁰⁷² However, it is unclear whether Nantes ever received his certificate, and the liquidation of his bankrupt estate continued until at least the 1860s, long after his death in 1836.¹⁰⁷³

Joseph George Pedley (bap. 3 May 1757), ‘a Native of *Bristol*’, started out in his father’s brewing and baking trade in Bristol’s King Street. In 1779 he began making preparations to move into the distilling business. However, this operation proved to be more a cover for fraudulently obtaining goods on credit which were sold at a discount for cash, the latter being subsequently secreted. He then set fire to his own premises to cover his tracks, following which he contrived to be made a bankrupt.¹⁰⁷⁴ His suspicious creditors imprisoned him in Bristol’s Newgate from where he escaped, but was subsequently recaptured in Newcastle and the affair was widely reported in the national press.¹⁰⁷⁵ His escape from Newgate inspired Robert Southey to list the event as one of ‘the

¹⁰⁶⁷ This question is addressed by Schulte Beerbühl in *Forgotten Majority*, p. 213.

¹⁰⁶⁸ Schulte Beerbühl, *Forgotten Majority*, pp. 213–14 describe the high-risk activities which Nantes engaged in. Appleby and Schulte Beerbühl give an exact figure of £457,510.

¹⁰⁶⁹ *Gentleman’s Magazine* (London, 1797), 67, Part 1, p. 247.

¹⁰⁷⁰ *True Briton* (1793), 22 February 1800, issue 2238, p. 1.

¹⁰⁷¹ Manx National Heritage, Manx Museum and National Trust, ‘iMuseum’, see search results for ‘Nantes’ <<https://www.imuseum.im/search/all/search?term=Nantes>> [accessed 3 November 2020].

¹⁰⁷² The school in Tiverton, Devon, to which Henry Nantes sent one of his sons in the 1820s records Nantes as ‘Mr. Henry Nantes, merchant, Bideford’, see Fisher (ed.), *Register of Blundell’s School*, no. in register 1924.

¹⁰⁷³ *LG*, 25 June 1861, issue 22523, p. 2646. H. H. Stansfield, an official assignee with an office at 10 Basinghall Street, invited creditors to receive a dividend of 2¹/₅d.

¹⁰⁷⁴ Anon., *Creditors of Joseph George Pedley*, pp. 11–16.

¹⁰⁷⁵ *Leeds Intelligencer*, 10 April 1781, issue 1405, p. 3.

remarkables of Bristol'.¹⁰⁷⁶ Pedley went on to spend periods in both the Fleet and King's Bench prisons having been committed and discharged several times. After sixteen and a half years in the King's Bench in 1797 he petitioned parliament for his release under an Insolvent Debtors Bill.

Thomas Pyott (c.1738–1804) differs from most of the bankrupts in this study in that he did not, in the end, become a bankrupt. However, he was constantly on the brink of it. Pyott was, in his own words, 'bred up to the profession of a Merchant' in Hull. After having been apprenticed in the timber trade, he carried on the business of wine merchant exporting to the Caribbean and North America.¹⁰⁷⁷ In 1760 he married his first cousin Anne, daughter of Charles Pyott of Canterbury, and granddaughter of Sir Richard Sandys of Northborne Court, Kent.¹⁰⁷⁸ Pyott was also related to the Burdett family of Bramcote, his mother being the sister of Sir Robert Burdett. With his widowed mother he had a somewhat estranged relationship after she remarried and became Mrs Delabene.

His 'fortune' was 'a third share in the north Brewhouse in Hull', and he also accumulated capital from other sources. He tells us that in setting up home in Hull he took a house in the high street. He furnished it and procured 'Plate, China...a Post Chaise and Horses, all of which cost £1,000, and then contemplated to what use to put his capital. Alert to the 'danger and hazard' caused by the then state of war that existed, as well as 'the many misfortunes Foreign Trade was liable to' he thought it prudent to choose a trade that depended on 'home consumption'. He chose the wine trade believing that it was the only business in which his 'Relations could give me the least assistance'. He commenced at Christmas 1760.¹⁰⁷⁹ Bankruptcy was his

¹⁰⁷⁶ Robert Southey to Joseph Cottle, 16 December 1804, in Carol Bolton and Tim Fulford (eds), *The Collected Letters of Robert Southey: Part Three 1804–1809*, letter 1003 < https://romantic-circles.org/editions/southey_letters/Part_Three/index.html > [accessed 17.04.2019]

¹⁰⁷⁷ SHL, MS 122, Pyott, pp. 4–5, 70. Unless otherwise referenced, biographical information on Pyott is taken from his own manuscript.

¹⁰⁷⁸ Catalogue entry for Robert Thomas Pyott collection at William L. Clements Library, University of Michigan; *The Law Journal 1828: Reports of Cases in the Courts of Chancery, King's Bench, and Common Pleas 1827–1828* (London, 1828), VI, pp. 67–80; Edward Hasted, *The History and Topographical Survey of the County of Kent*, 12 vols (Canterbury, 1800), IX, pp. 589–90.

¹⁰⁷⁹ SHL, MS 122, Pyott, pp. 4–5, 70.

constant fear, and he only narrowly escaped it. When he got into difficulties he clung to the belief and expectation that well-connected 'friends' would rescue him.

Although some of his trade correspondence is held by the William L. Clements Library, the collection used for this study is held at Senate House Library, London (Archives and Manuscripts) in one bound volume. The papers and autobiographical memoirs cover the years 1763 to 1786 and were 'compiled for circulation amongst family and friends'.¹⁰⁸⁰

Anne Scott (d. 1795) a widow, and her son **Isaac** (b. 1737) were trading as merchants and dry-salters in Cousin Lane, Upper Thames Street, London in the 1760s when financial problems hit. Because Ann and her family believed that they had been wrongly made bankrupts and that they had been cheated by the assignees of their estate, Anne published a pamphlet which set out the alleged wrong-doing and sought to defend their reputation. The account of their bankruptcy is mostly supported by this single printed source rather than archival records. Anne's other sons were George and Daniel, and although they were not made bankrupts they were deeply involved in the defence of the family's interests. Anne also had two daughters about whom, in contrast to her sons, we learn little from the pamphlet.¹⁰⁸¹

The business they ran was, according to Anne, 'upon a very reputable Footing'.¹⁰⁸² However, in 1765 according to Anne, their house was misled in a business deal and deprived of an expected profit. This gave rise to litigation, during which considerable damage was done publicly to the credit of the Scott household. It emerged that a letter had been written which alleged their 'Connections were very bad' and they would 'soon be inevitably ruin'd'.¹⁰⁸³ The Scotts won the suit, plus a further one for defamation caused by the letter, but their house still failed. The cause of failure, according to Anne, was the

¹⁰⁸⁰ *Ibid.*, p. 4.

¹⁰⁸¹ Scott, *Case of Anne and Isaac Scott*, p. 22.

¹⁰⁸² *Ibid.*, p. 2.

¹⁰⁸³ *Ibid.*, p. 4. The author of the letter was, it was alleged, Miles Nightingale, a member of a family that had until the 1760s been in partnership with the Scotts, see A. H. John, 'Miles Nightingale-Drysalter: A Study in Eighteenth-Century Trade', *EcHR*, n.s., 18, *Essays in Economic History Presented to Professor M. M. Postan* (1965), 152–63, p. 154. John's article also gives a good account of the trade of drysalter.

irreparable damage done to her credit and the practical consequences that ensued: they could not get bills discounted and they could only buy goods with endorsed notes or cash. Add to this bad luck, the 'Failure of a House abroad', and Messrs. Scott's demise was inevitable. Anne's son Isaac, who had managed the firm and who saw that the house could not meet its liabilities, fled to Cassell in French Flanders on 27 March 1767. Soon after he was arrested and held at the suit of various English creditors.¹⁰⁸⁴ From this point there began a saga of imprisonment, coercion, and attempted extradition. The Scott version maintained that, despite pressure, Isaac would not agree to prefer one creditor over another.¹⁰⁸⁵

At this stage it does not appear that Isaac Scott was a bankrupt. In his early correspondence with principal creditors (published in the pamphlet) there was talk of 'a handsome Composition'.¹⁰⁸⁶ The creditors' agents, who were confining Scott in Cassell, continued unsuccessfully to persuade him to return to England, meanwhile a commission had been taken out against him. Not unlike David Kennedy, Scott found himself addressed by principal creditors acting as de facto spokesmen for 'the generality of the Creditors'.¹⁰⁸⁷ Another creditor, James Clark, sought to apprise Scott of the fact that the first commission issued against him had already been superseded, whilst another against him and his mother was in train.¹⁰⁸⁸ Mrs Scott had been prevailed upon by the creditors to 'commit a *voluntary Act of Bankruptcy*' (my italics). There ensued a very bitter correspondence between bankrupts and assignees.

The fact that the Scotts wished to tell their own story in detail means that we are provided with a wealth of contextual and explanatory information, not usually available with most cases. The language found in the pamphlet is considerably more hyperbolic than that which I have typically encountered in manuscript form, and at times it would seem to bear more in common with an eighteenth-century novel than an account of an insolvency dispute; yet in parts it does descend into legalese suggesting the involvement of lawyers in its authorship.

¹⁰⁸⁴ Scott, *Case of Anne and Isaac Scott*, pp. 6–7.

¹⁰⁸⁵ *Ibid.*, pp. 7–8.

¹⁰⁸⁶ Edward Hague to Isaac Scott, n.d. April 1767, in Scott, *Case of Anne and Isaac Scott*, p. 14.

¹⁰⁸⁷ James Clark to Isaac Scott, 21 April 1767, in Scott, *Case of Anne and Isaac Scott*, p. 16.

¹⁰⁸⁸ *Ibid.*, p. 18.

However, these bankrupts were not creations of fiction; they appear as bankrupts in the *London Gazette*, and a dispute about their assets was heard before Lord Mansfield at the Guildhall in 1768. Clearly aspects of the case were exemplary for the legal profession as the case is cited in several late eighteenth-century and early nineteenth-century legal texts. Isaac's arrest on the continent also provoked a flurry of bilateral engagements over issues of extradition. Regardless of the financial and legal complexities of the case this case is significant as it is one of the few examples of bankruptcy in which we hear the voice of a bankrupt, or a member of their family, at length speaking of their experience. The principal source (the printed pamphlet) sits very differently when placed alongside the conventional progress of a bankruptcy as documented in commission records. In the absence of surviving commission records, the pamphlet still leaves many lacunae as basic information about structure and proceedings is missing, and key stages are omitted.

John Slade (b. 1793), originally from Wiltshire, became a maltster, brewer, and common carrier in Sherborne, Dorset, in the 1820s. He first set up in partnership with his brother Thomas Slade. They bought malting and brewing premises for £1,300. It is not clear where this money came from, but a family source is probable. John and Thomas Slade were equal partners, but the partnership did not last long with John buying Thomas out the next year. Slade may then have tried to manage without family financial support. He borrowed £2,000 secured against the premises and plant from Robert Davy, 'Gentleman' of Ringwood, which he probably used to buy out Thomas. He soon began to experience financial difficulties. He had borrowed too much, had got involved with horse breeding and racing, and had not paid what he owed the Excise. Finally, in 1830 when his sister took out an execution against him, he sought the protection of a bankruptcy commission as his only way to avoid inevitable imprisonment. However, he did not surrender to the commission and was thought to have left the country. His commission was held at the Antelope Inn in Sherborne.¹⁰⁸⁹

¹⁰⁸⁹ Robert Nantes, *John Slade of Sherborne, Maltster and Bankrupt: Financial Ruin in Early Nineteenth-Century Dorset*, 2nd edn (Sherborne, 2017).

Edmund Townsend was first bankrupted in 1793 while a wine and brandy merchant in Chepstow, Monmouthshire.¹⁰⁹⁰ Then after trading as a wine and cider merchant in Covent Garden in London he was again bankrupted in 1805 by, he claimed, the malicious actions of others.¹⁰⁹¹ Following his 1805 bankruptcy he managed to get his assignees removed and recommenced his trade in Covent Garden in 1808.¹⁰⁹² However, matters did not go well as the following year he was being held in the King's Bench and was seeking his release under the act for the relief of insolvent debtors.¹⁰⁹³ It is unclear whether he was ever discharged as a bankrupt, but the proceedings in his 1805 bankruptcy dragged on until at least 1824.¹⁰⁹⁴

From around 1811 he was involved in long bitter disputes with the assignees of his estate over the financial position he had been left in personally. Over the years he sought attention for his predicament through publishing pamphlets, petitioning, and writing letters to the press about the sufferings of his family and the injustices done to him. In February 1818 Sir Samuel Romilly presented one of Townsend's petitions to parliament on the bankrupt laws.¹⁰⁹⁵ Townsend also endeavoured to provide 'advice and services to Merchants, Manufacturers or Traders, whose affairs may be in any manner deranged', which he advertised at the Antigallican Coffee House, Threadneedle Street.¹⁰⁹⁶ In 1822 he published *A View of the Injurious Effects of the Present Bankrupt System*.¹⁰⁹⁷ In March 1825 Townsend was still petitioning parliament about the injustices of the bankrupt laws.¹⁰⁹⁸ The following year his daughter Elizabeth, who he had much sought to protect during the years of privation and who had long been ill, died aged twenty-two in Somer's Town 'in a consumption and great distress'.¹⁰⁹⁹

¹⁰⁹⁰ *Gloucester Journal*, 13 May 1793, issue 3715, p. 2.

¹⁰⁹¹ B&NESRO, 0253, Edmund Townsend, bankrupt: Townsend, 'Case of Extraordinary Oppression'.

¹⁰⁹² *Gloucester Journal*, 15 February 1808, issue 4482, p. 2, 'Court of Chancery—*Ex parte* Townsend'; *Hereford Journal*, 27 July 1808, issue 1988, p. 3.

¹⁰⁹³ LG, 26 August 1809, issue 16292, Insolvent Debtors: 'Prisoners in the KING's BENCH Prison...First Notice', pp. 1377–78.

¹⁰⁹⁴ LG, 16 November 1824, issue 18080, p. 1897.

¹⁰⁹⁵ *The Examiner*, 1 March 1818, issue 531, p. 135.

¹⁰⁹⁶ B&NESRO, 0253, Edmund Townsend, bankrupt: handbill offering services, n.d.

¹⁰⁹⁷ Edmund Townsend, *A View of the Injurious Effects of the Present Bankrupt System in Regard to Property and Public Morals: with Remarks on the Lord Chancellor's Late Bills*, 2nd edn (London, 1822).

¹⁰⁹⁸ *Morning Advertiser*, 31 March 1825, issue 10532, p. 2.

¹⁰⁹⁹ *Public Ledger and Daily Advertiser*, 28 March 1826, issue 20261, p. 4.

William Everhard Marcus Von Doornik, ‘commonly called Baron Von Doornik’, was a soap manufacturer with a royal patent. He styled himself as a ground-breaking inventor and discoverer of new washing products.¹¹⁰⁰ He claimed to have invented a type of soap ‘whereby linens, &c. may be as effectually cleansed with Sea or Hard Water ... as ... with Soft Water’.¹¹⁰¹ It was also blessed with the virtue that ‘it never chaps the hands, but renders the skin soft and delicate’.¹¹⁰² He was, however, also indicted for having ‘literally stunk out the inhabitants of Whitechapel Fields, East London, ‘by boiling bones, – the putrid carcasses of dead horses, – stinking horns and hoofs, – and thus assembling a compound of all villainous smells’.¹¹⁰³ Between 1803 and 1810 Von Doornik would appear to have had several financial problems including being bankrupted at least twice.

Joseph Wakeford (b. c.1791), **William Wakeford** (b. c.1797) and **Robert Wakeford** (b. c.1799) took over the running of The Old Andover Bank in Andover, Hampshire, after the death of their father **William Steele Wakeford** (1753–1819). By the late eighteenth century, the banking business was well established, although William Steele Wakeford still continued to trade as a linen and woollen draper. He was also an agent for Sun Fire Insurance and involved in financing canal building. Success meant that in 1801 he bought ‘the extensive manor of East Tytherley from Lord Rolle’ which included a park and fine house.¹¹⁰⁴ Joseph and William were taken into the partnership in the years 1811 and 1813 respectively. William Steele’s youngest son Robert became a partner in 1817. Meanwhile, financial difficulties had been developing and attempts had been made to sell the East Tytherley estate in 1816. After William Steele’s death the Old Andover Bank was ‘in the hands of three young men ... who lacked the experience to cope with the economic difficulties of post-war England’.¹¹⁰⁵ Financial difficulties continued and the East Tytherley estate was finally sold in 1821. Proceeds from the sale took until 1823 to come through, which enabled them to meet the demands of their London agents but not to meet other accumulating liabilities. The bank staggered on for another couple

¹¹⁰⁰ *Morning Chronicle*, 8 January 1805, issue 11120, p. 3.

¹¹⁰¹ *Ipswich Journal*, 22 November 1806, issue 3837, p. 4.

¹¹⁰² *Jackson's Oxford Journal*, 7 October 1809, issue 2945, p. 2.

¹¹⁰³ Anon., *Enchiridion Clericum, or The Preacher's Guide* (London, 1812), pp. 125–26.

¹¹⁰⁴ Coldicott, ‘Andover Old Bank’, p. 20.

¹¹⁰⁵ *Ibid.*, p. 22.

of years, but by 1826 their London agents would no longer tolerate the state of Wakefords' account with them or honour their notes.¹¹⁰⁶ The bank closed its doors and in March 1826 the brothers became bankrupts. Their commission was held at the Star and Garter Inn in Andover.

¹¹⁰⁶ Ibid., p. 24.

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