Thomas G. W. Telfer, ***Ruin and Redemption: The Struggle for a Canadian Bankruptcy Law, 1867-1919.*** Toronto: University of Toronto Press for The Osgoode Society for Canadian Legal History. 2014. xviii + 297pp., figures, tables, illustrations, notes, bibliography, index. Cloth; ISBN 978-0-8020-9343-1, Cdn $77.00.

There's a burgeoning literature that American cultural historian Michael Sandage has dubbed 'failure studies' – studies of personal ruin, financial crisis, and compromised masculinity that serve as anxious foils to celebrations of economic mobility and business success. More recently there's 'fraud studies' – studies of forgers, smugglers, con-men, and assorted other cheats whose practices were far from marginal to market societies. The line between success and failure was thin; the line between entrepreneurship and fraud blurry. Insolvency straddles these fields, both of which lie at the intersection of histories of business and capitalism, culture, and the law. Canada isn't well represented in either, but Thomas Telfer's study of the vicissitudes of federal bankruptcy law from the *Insolvent Act* of 1869 to the *Bankruptcy Act* of 1919 bids Canadian business historians to join the conversation.

Bankruptcy is a legal process defined by three key elements: the remaining assets of debtors who cannot meet their obligations are realized and distributed among their creditors on a proportional basis; assignments to give preference to favoured creditors (often family or friends) at the expense of the rest are prohibited along with other acts deemed irresponsible or dishonest; and a discharge from liability for the outstanding debt is given in return for faithful compliance with the process. As Telfer's book amply demonstrates, bankruptcy law raised difficult questions. How was insolvency to be understood? When should we insist that promises be kept and when was it appropriate to forgive? What were the ethics and economic effects of particular business practices and the appropriate balance of power between debtors and different types of creditors? What was the role of the federal and provincial state in regulating contractual relations and winding up the affairs of those who'd failed at those relationships?

Only from 1919 did Canada have a uniform, stable, and 'modern' bankruptcy regime. Essentially Telfer asks what took so long. After all, England had such a regime from 1705, albeit one much criticized and frequently revised. The *British North America Act* gave jurisdiction over bankruptcy to the federal government. The *Insolvent Act* followed two years later. A more creditor-friendly version passed in 1875, but further amendments did not staunch opposition until one of many repeal efforts succeeded in 1880. Despite the introduction of twenty bills that would have seen a return of federal regulation before 1903, federal bankruptcy legislation was delayed for almost four decades. In the meantime, provinces attempted to fill the void, enacting various measures to distribute assets on a *pro rata* basis and bar fraudulent preferences, but with no possibility of a discharge.

Essentially Telfer insists that any explanation for the prolonged void must include a mix of ideas, institutions, and interests. By 1919, the idea of a discharge had moved from being morally contentious to an unremarkable commercial necessity. Institutions such as federalism and the courts mattered too. The former allowed Ottawa to avoid legislating at all while the latter undermined support for its two earlier efforts by deciding cases in ways that seemed at odds with both commercial morality and the principles of the policy. Finally, interests came to the fore as when farmers opposed bankruptcy that was initially limited to traders or when creditors' interests

were expressed in organized groups such as Boards of Trade and later the Canadian Credit Men's Trust Association that drafted and lobbied for the 1919 Act.

Parceling key factors into three boxes works against a more fluid exposition or an emphasis on the interaction among them. An address to accounting students distinguished between creditors' "own immediate interests, or what they think to be their immediate interest" (165). As Telfer shows, the Dominion Board of Trade was divided on how to amend or abolish bankruptcy law in the 1870s, and much of the debate he canvasses in parliament and specialized commercial and legal periodicals as 'ideas' was an attempt to understand what those interests were and how best to achieve them. It's a bit of a stretch to call this "public discourse" (57, 127), but the occasional reference to political cartoons, novels, and newspapers suggests the promise of a more widely-cast intellectual and cultural history. Nevertheless, there's no denying creditors the role of protagonist.

Telfer uncovers the countervailing role of debtors and actual legal practice in the records of numerous Ontario County Courts. Debtors sought to use or evade the law to arrange their own affairs to advantage: they absconded; colluded with spouses, friends, and favoured creditors; and kept misleading records of their transactions or no records at all. New provisions designed to thwart one stratagem created opportunities for another. To suggest that those facing bankruptcy "overlooked" or "ignored" (42, 44) its principles reflects Telfer's sense that those principles were obvious and good, but doesn't seem to do justice to what many of them were trying to do or how they might have understood their behaviour. Telfer's impatience with those who delayed the realization of bankruptcy extends to the courts which "overlooked" or failed to "uphold" its principles (42, 33). However, distinguishing fraud from shrewdness or from earnest attempts to recover from a temporary embarrassment was difficult work. Devising robust legal mechanisms to ferret out fraud was no easier; something the fraught experiments in colonial insolvency law prior to 1869 reveal. Courts had other principles to uphold too such as freedom of contract and the desire to facilitate mercantile transactions. None of this made them "pro-debtor" (73).

So long as bankruptcy was primarily concerned with individuals and made ethical evaluations of their choices, it was concerned with intent and commercial principle as much as the effect of those choices on the size of what remained to disperse to creditors or economic efficiency more broadly; god as well as mammon. That's what makes the history of federal bankruptcy legislation Telfer tells more interesting and less linear than it might appear. It's a history of "ruin and redemption," but also failure and fraud.

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