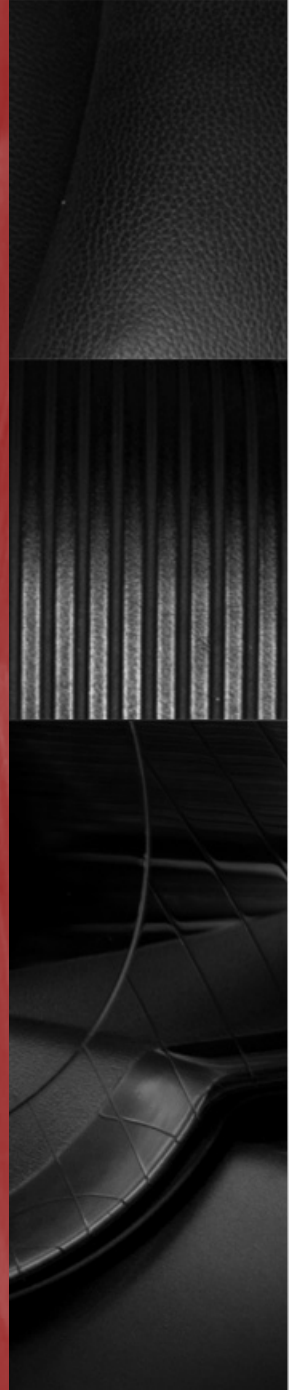


Bankruptcy, Discharge, and the Emergence of Debtor Rights in Eighteenth Century England

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Introduction

- 18th Century bracketed by the Glorious Revolution (1689) and the Financial Revolution at one end and the Industrial Revolution (1780ish) at the other.
- It is a century of enlightenment and economic growth whether measure by trade, output, range of commodities, agricultural productivity, scientific knowledge .
- This paper adds to our understanding of the operation of the Financial Revolution
 - focus on creditors and debtors and the rules pertaining to bankruptcy (subset of insolvent debtors)

Financial Revolution

- The Financial Revolution comprises a complex set of changes.
- There was an expansion of market activity; for example
 - Stock market
 - Lotteries
 - Government debt
- There were institutional and legal changes; for example
 - 1694 Bank of England
 - 1696 Licensed Brokers
 - 1704 Promissory Note Act
- There were changes in the treatment of bankruptcy, in particular
 - 4&5 Anne in 1706 which allowed for the possibility of discharge from bankruptcy prior to full repayment of all debts.
 - Prior to this, bankrupts could exit bankruptcy only upon full repayment of all debts.

Literature on English Bankruptcy

- Growing interest in bankruptcy historically - Safley (2000, 2009, 2014); Sgard (2006, 2014); Vause (2012); Hautcoeur (2010, 2013)
- For England, Jones (1979) gives an overview of the bankruptcy statutes to 1840.
- Hoppit (1987) *Risk and Failure in English Business 1700-1800*
 - Focus on failure as an antidote to literature on 18th century business success.
 - Uses bankruptcy to understand the extent of business failure and the fact of failure.
 - Examines distribution of bankruptcy by industry and geography.
- Hoppit's analysis all takes place within a given set of bankruptcy rules. Not interested in the rules per se.
- Harris (2000) *Industrializing English Law: Entrepreneurship and Business Organization, 1720-1844*.
 - Not interested in sole proprietorships or general partnerships.
- Focus here in on a particular rule change – 4&5 Anne - and its implications for sole proprietorships and general partnerships.

Outline

- Brief discussion of trade and credit relations and bankruptcy rules
- Brief discussion of the bankruptcy statutes
- Simple game theoretic model of debtor behavior
- Measure the extent of discharge
- Case studies of bankruptcy outcomes
- Conclusions

Trade and Credit Conflict

- Domestic and international trade has a long history.
- Equally long is the history of disputes over settlement, repayment, or lack of repayment and the rules or institutions developed to reduce, mitigate or arbitrate disputes.
- Solutions range across
 - violence
 - Family and Kin networks
 - Church courts
 - Local courts
 - Medieval law merchant in the Fairs of Champagne (Milgrom, North and Weingast, 1990)
 - Community Responsibility System (Greif, 2006)
 - Debtors' Prison
 - State

Bankruptcy

- Bankruptcy denotes insolvency or failure: an inability to repay one's debts – insolvent debtor
- Bankruptcy has a precise legal definition and process – it is a state sponsored re-organization of the original contract between the creditor(s) and the debtor in the event that the debtor cannot fulfill the terms of that contract.
- The rules set by the state determine
 - in an immediate sense the end of a relationship between the creditor and debtor
 - in a longer term sense determine the willingness to lend or invest, borrow and take on risk.

Bankruptcy Rules - General

- What do the Rules do?
 - Solve a potential collective action problem
 - White (2007:1016) writes that bankruptcy represents “a collective framework for simultaneously resolving all debts when debtors’ assets are less valuable than their liabilities.”
 - determine the size and division of assets among creditors
 - Hart (1990) argues that procedures should try to maximize the proceeds paid to creditors in the minimum amount of time.
 - Not all parties can be satisfied; so need to determine who gets what.
 - determine penalties assessed on bankrupts
 - determine how debtors can exit the legal state of bankruptcy
- There is a tension, however, in that the more creditor friendly are the rules (or the more punitive):
 - The greater incentive for debtors to hide assets;
 - The less the maintenance of entrepreneurial skills in the economy or perhaps even the taking on of risk
 - Provision of fewer second chances.

Bankruptcy Rules - General

- Bankruptcy rules today differ substantially from country to country.
- Some countries have very severe rules and others less so.
- *The Economist* (28 July 2012) in a discussion on (the lack of) entrepreneurship in some parts of Europe, focused on bankruptcy. In particular, it documented time from end of liquidation to exit from bankruptcy for personal bankruptcy:
 - United States – less than one year
 - Britain – just over twelve months
 - Germany – six years
 - France – nine years
 - Ireland – automatic discharge only after 12 years (2011) and must be in bankruptcy for five years

Malfeasance Vs Misfortune

- Differences in treatment of the bankrupt today stems from a long standing debate on the causes of bankruptcy: malfeasance versus misfortune
 - malfeasance – the ‘politick bankrupt’ intent on stealing other men’s money
 - misfortune- bankrupt only as a result of misfortune outside of one’s control
- Defoe (1706) divided bankrupts into the ‘Honest, the hardly Honest, and the Down-right Knave’
- Preamble to 34&35 Henry VIII (1543) states the case for malfeasance:
 - Where diverse 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 wiles and pleasures consume the substance obtained by credit of other men, for their own pleasures and delicate living, against all reason quiet and good conscience...

Some Views on 18th Century Bankruptcy Rules

- Jones (1979) sees the bankruptcy statutes as “mundane attempts to establish new rules within the limited field of debt. They were commonplace and practical measures intended to provide solutions to a selection of immediate problems.”
- Adam Smith wrote that bankruptcy was “perhaps the greatest and most humiliating calamity which can befall an innocent man. The greater part of men, therefore, are sufficiently careful to avoid it. Some, indeed, do not avoid it; as some do not avoid the gallows.”
- Blackstone saw bankruptcy statutes as “capital alterations of our legal polity” which were “highly convenient to that character ... of a great commercial people.”

Eighteenth Century Change

- Prior to 1706, all bankrupts seen as malfeasant.
 - Rules left bankrupts with no assets.
- 4&5 Anne (1706) allows, for the first time, the possibility that bankruptcy due to *unavoidable misfortune*.
 - Shift away from the purely punitive; shift from as malfeasant to misfortunate: written as an addendum to the law.
- Statute *potentially* allowed bankrupts to exit the legal state of bankruptcy prior to full repayment of all debts.
- 4&5 Anne gave creditors the opportunity *voluntarily* to relinquish a property right – the stream of future repayments.
- We ask why creditors would be willing to give any rights to bankrupts - those rights come from the debt due to the creditor?
- We ask to what extent creditors actually granted a discharge to their debtors?

Statutes relating to bankruptcy in England

- Rules, procedures and rights relating to bankruptcy in early modern England are set out in a series of statutes
 - 34 & 35 Henry VIII c 4 (1543)
 - 13 Elizabeth I c 7 (1572)
 - 1 James I c 15 (1603)
 - 21 James I c 19 (1624)
 - 4 & 5 Anne 1 c 4 (1706)
 - 6 Anne I c 6 ... (1708)

Procedures and Rules

- The procedure for bankruptcy is set out in 34&35 Henry VIII (1543).
- Process is initiated by a letter by any single creditor to Lord Chancellor, Keeper of the Great Seal, Lord Treasurer (amended under Elizabeth to Lord Chancellor) who **must** create a commission of bankruptcy.
- Commission is given the power to **search, seize and sell** all assets.
 - Notice called five times and posted on door of residence
- Assets divided on the **same pro-rated** basis among creditors.
- Creditors **retained right to collect remaining debts** from bankrupt or his/her estate.
- **No exit** from bankruptcy prior to repayment of all debts and a penalty if hide assets.
- Cannot self-declare bankruptcy.
- No differentiation between personal and partnership bankruptcy.
 - No bankruptcy procedures for limited liability, joint-stock companies.

Procedures and Rules

- Law amended under Elizabeth (1572) and James I (1603, 1624).
- Amendments relate to:
 - occupation
 - gender – men and women
 - size of the debt
 - nationality
 - mechanics of procedure

Procedures and Rules

- Under 13 Elizabeth statutes now applied only to those **who made their living by ‘buying and selling’**.
 - “Merchant or other person using or exercising the trade of Merchandise way of bargaining exchanging rechange barter Chevisance [making of contracts] or otherwise, in gross or by retain, of seeking his or her trade of living by buying or selling”
- Under 21 James, this was expanded to those who **had the use of other men’s money**:
 - those “that shall use the trade or profession of a **scrivener**, receiving other men’s money or estates in his trust or custody”
- 21 James also mandated that the debt owing must be **£100** more and made the statute available to citizens and **non-citizens**.

Eh.Net – How Much is That?

- **£100 0s 0d** in 1624 is worth in 2015
- **£16,840.00** using real price.
- **£609,000.000** using income value.

4&5 Anne I

- Fundamental shift in that the language in the body of the statute uses language such as “**unavoidable misfortune**”
 - Acknowledges for the first time in the statutes that insolvency can occur without ill intent
- Bankrupt could be awarded a certificate of discharge and an allowance of 5% of value of estate up to a maximum of £200
 - Decision made by the Commissioners – creditors excluded
- Certificate of Discharge provided an exit from bankruptcy prior to full payment of all debts and legal protection from creditors (at the time of bankruptcy) in the future.
- Increased the penalty for those in found to behave fraudulently – death penalty – changes the threat point for non-compliance
 - “he she or they the said bankrupt in the case of any default or wilful omission therein ... and being thereof lawfully convicted ... shall suffer as a felon without benefit of clergy”
- Notices on the place of residence and now in **London Gazette** on three separate occasions
 - specifying time and location of all bankruptcy-related meetings

6 Anne I – Housekeeping Act

- **Eligibility** for Certificate of Discharge requires four fifths of creditors by number and value must agree
- Allows creditors have a say about assignee(s) who will handle the case
- Creditors must pay a **bond of £200** which will be lost if bankruptcy not proven
- Changes the financial limits for creditors to £100 debt if one creditor, £150 if two creditors and £200 debts if three or more creditors
- Made debts of farmers, graziers, drovers and receivers general of taxes ineligible under the statute

New versus old statutes

New statute changes the rules regarding outcomes:

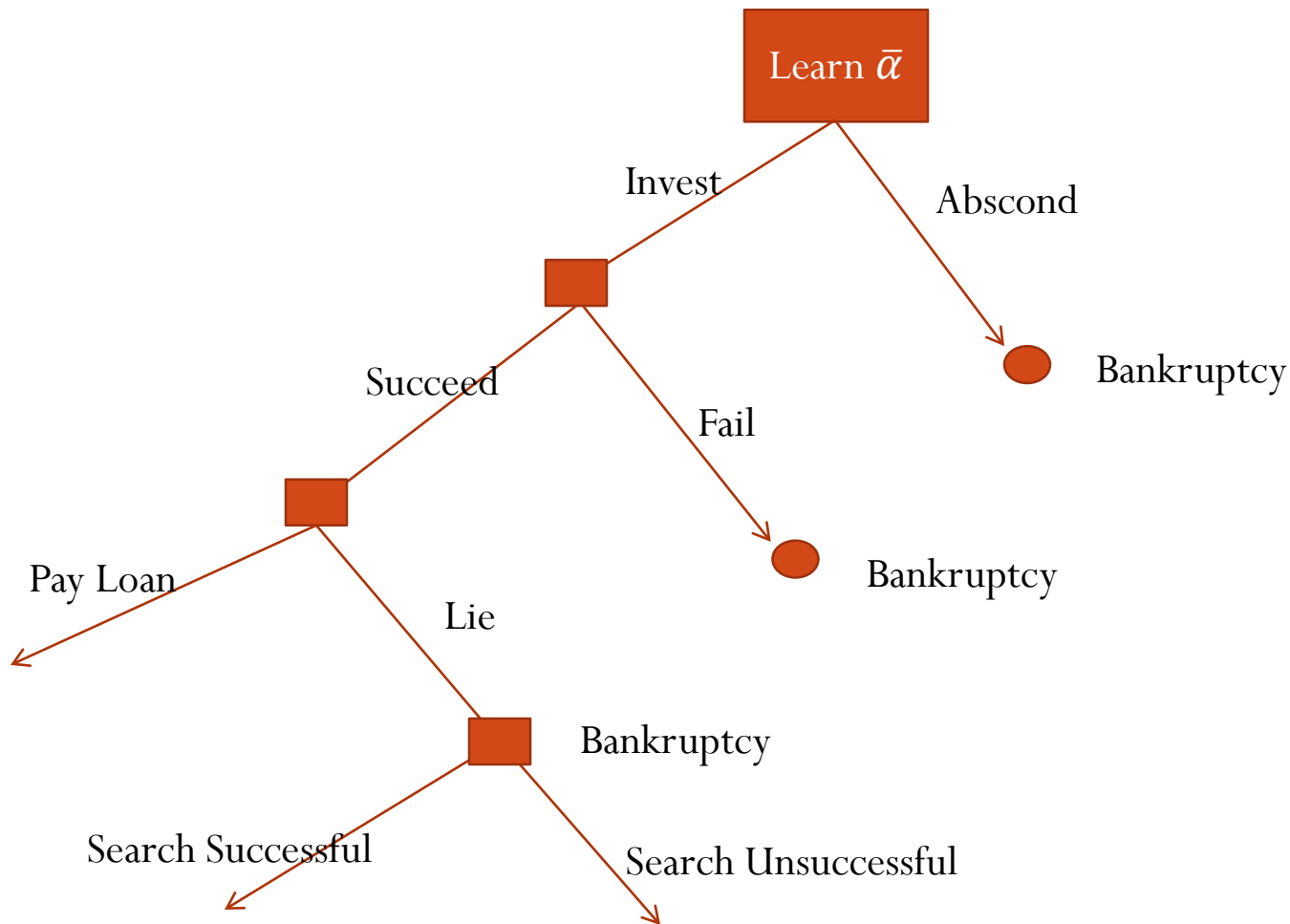
- Provides possibility of a discharge from bankruptcy prior to full repayment
 - Possibility of an allowance
 - Increases the penalty associated with non-compliance
-
- First we ask, using a very simple game theory model, how these changes affect borrower behaviour.

 - Second we examine empirically the extent to which bankrupts received discharges prior to repayment of all debts or the extent to which creditors would forego part of their debts owing.

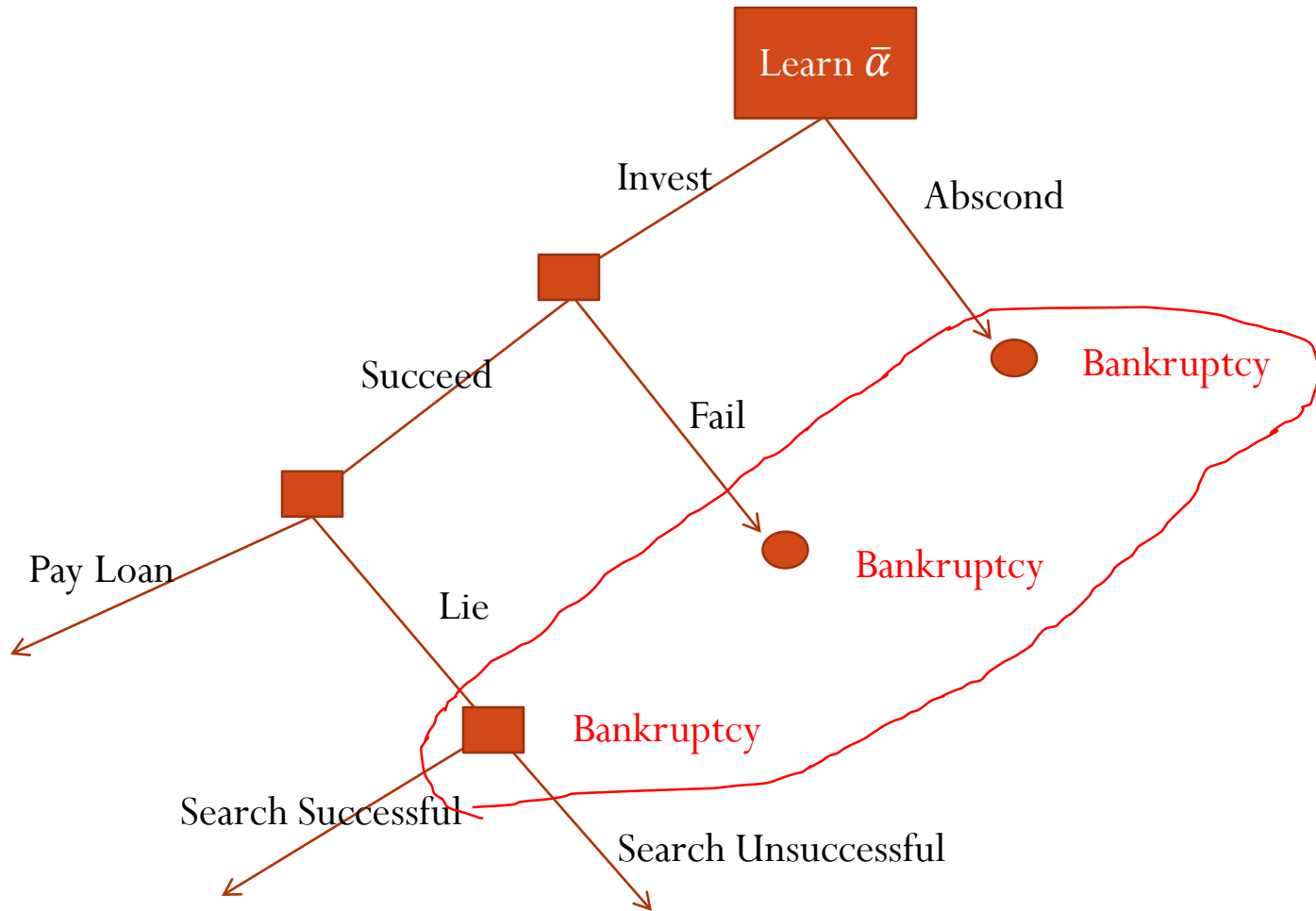
Model

- Consider a simple model with a single risk neutral borrower and a single risk neutral creditor.
- Borrower has project requiring $I=1$ in investment funds and creditor has $M>1$ to lend.
- Interest rate is given and borrower agrees to repay $(1 + r)$ at some defined date. Cannot give money back.
- Borrower has some continuation payment C reflecting his/her future earnings after the end of the contract.
- Only when loan accepted does s/he learn own α (potential return on investment) where α is binary: $\alpha = 0$ or $\alpha = \bar{\alpha}$ (unproductive or productive type).
- If invest gets one of two outcomes – success or failure each with probability $1/2$.
- If $(1 + r)$ not repaid, a writ of bankruptcy declared.
- Once a writ of bankruptcy declared, commissioners search and will find assets with probability η and fail to uncover assets $(1-\eta)$.

Game Tree - *Borrowed Funds*



Game Tree



Payoffs

- Expected payoff to investing is:
 - $\frac{1}{2} (\bar{\alpha} + C - (1 + r) + 1/2(C - (1 + r)))$
- The expected payoff to truth telling is: $(\bar{\alpha} + C - (1 + r))$
- The expected payoff to lying is:
 - $(1 - \eta)(\bar{\alpha} + C) + \eta(\bar{\alpha} + C - (1 + r) - \delta) = (\bar{\alpha} + C) - \eta(1 + r + \delta)$
- The borrower tells truth about successful investment if:
 - $\bar{\alpha} - (1 + r) + C \geq (\bar{\alpha} + C) - \eta(1 + r + \delta)$
- Tell truth about successful investment if: $\eta \geq \frac{1+r}{1+r+\delta}$
- Not surprisingly truth-telling depends on the probability of successful search and the size of the penalty:
 - As the probability of successful search increases, the borrower is less likely to lie and hide assets.
 - As the penalty increases the borrower is less likely to lie and hide assets.

Decision to invest

- Authorities do not see α .
- Borrower can claim to have invested and failed. Probability of being caught is also η .
- The payoff from investing is:
 - $\frac{1}{2} \max[\bar{\alpha} - (1 + r) + C, (\bar{\alpha} + C) - \eta(1 + r + \delta)] + \frac{1}{2}(C - (1 + r))$
- The return from not investing is
 - $\eta(C - (1 + r) - \delta) + (1 - \eta)C = C - \eta(1 + r + \delta)$

The borrower will invest if: $\frac{\bar{\alpha}}{2} - (1 + r) + \eta(1 + r + \delta) \geq 0$

If the borrower is productive type and then $\eta \geq \frac{1+r}{1+r+\delta}$ is sufficient for the borrower to make the investment and tell truth if successful.

Take Loan

- Can search and penalty parameters deter socially efficient investments?
- Probability of successful investment is $\frac{1}{4}$ (probability of $\alpha = \bar{\alpha}$ times probability of successful outcome).
- Investments are *socially* optimal ex ante if: $\frac{\bar{\alpha}}{4} \geq (1 + r)$
- Assume investor is truthful if productive, a borrower will only take out loan (*private* cut off) if outcomes is $\frac{\bar{\alpha}}{4} \geq \frac{1+r}{2} + \frac{\eta(1+r+\delta)}{2}$
- The social and private cut offs are the same if $\eta \geq \frac{1+r}{1+r+\delta}$ hold with strict equality. If η and/or δ are higher such that this holds as an inequality, some socially efficient investments are not made.
- Search success and penalties affect investment decision.

Anne Statute

- The Anne statutes changed the rules regarding bankruptcy.
- It changed the penalties in both a carrot and stick sense.
 - Being caught acting seriously fraudulently increased the chances that one might be hanged.
 - Being caught lying also meant losing the discharge and the allowance.
- However, if a discharge never granted, then the law would have no effect and the older rules apply: no exit without full repayment.
- An empirical question is whether a discharge was ever granted.

Current Views

- Internal National Archives documentation: “creditors frequently withheld consent until they had been paid what they considered a reasonable proportion of their debts and many, it is said, refused for spite or because they thought bankrupts had acted fraudulently.” (PRO B Glossary of Terms)
- Harris says that discharge was ‘rare’
- Hoppitt never mentions discharge.

Why Issue a Certificate?

- Creditors had the choice of using the old or the new statutes. On the face of it, they should prefer the old statute and thus not issue certificates of conformity or only rarely.
- We offer three possible reasons why this might not be so:
 - A. The simple model suggests that the combination of a larger pay off due to reduced incentive to lie versus the smaller initial payout combined with small future stream improves payout overall for creditors under the new statute.
 - B. With many creditors, there is a potential free rider problem where one creditor searches out future income but has to share it with others. So not incur the transactions costs at all.
 - C. In a repeated game a creditor may want to be known as 'moderate' not 'grasping' creditor to get repeat business.

Certificates of Conformity and Discharge

- Two sets of ledger books on the issuance of certificates of conformity in the eighteenth century have survived.
- The first covers a period just after the Anne statute, from September 1710 to April 1714; the second ledger covers the years 1733-1751. Here we use the 1710-1714 Ledger which documents activity shortly after the change in the legal structure.
- The Ledger books for 1710-1714 provide:
 - Names of the commissioners
 - Name of the bankrupt (hence gender)
 - Occupation
 - Location
 - Date
 - Names of the creditors who sign off (at least four-fifths)

30th Sept
1710

Philip Tullie Maurice Kellet & Thomas London being
the Major part of the Com^{rs} authorized by a Comicon of
Bankrupt awarded ag^t John Tonison of London Linen
Draper the 11th Day of February last past have this Day
certified to the R^{ts} Hon^{ble} the Lords Com^{rs} for the Custody
of the Great Seal of Great Britain that the said John
Tonison had in all respects conform'd himself to the sev^l
Acts of Parliam^t made concerning Bankrupts And also
that the sev^l Persons whose names are subscribed being
full four parts in five in number and value of the Com^{rs}
of the s^d John Tonison consented to and subscribed the
said Certificate

Wm Toone
Sam^l Knosshaw
Wm Buddet
J. Ward
Rich. Bridgman for
Self & C^o
Nath. Jones
Tho. Dodd
John Grandy
Hony Gardner
John Foot
for self & Wholpoale
Gabriel Glover
For John Enavol & self
Rob^t Concut
For Alkin Windham & self
Edw^d Dodd
Lawon & Stockdale
Isiah de Coalpergen
Abraham Gaicteon

For Rich^d Cook & self
John Spillet
For Nath. Rowham & self
Nath Garland
Wm Sedgwick for my Ma^{rs}
Law. de La Chambre
Noah de la fountain
For my self & Tho Baynton
Rob^t Shaw
Jn^o Snowell 1710
Jn^o Wood for partner &
self
For John Smith & self
Hony Rowater
John Goddard
Joseph Golden
for self & Partner
John Cook
Jm. Gibson
W^m Knight

11 Oct 1710

Wittness
Will Naylor

28th Oct 1710

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27^o March 1711. Confirmed by the Hon. the Lords

14^o Febr 1710 Maurice Rollott Benjaⁿ Whitte & Henry Bindysh the
major part of the Com^y in a Com of Bank^{ts} ag^t
Georg: Godfrey of Bromby in the County of Middle
Chapman dat: d the first day of Decemb^r last past
did this day certify to the Right Hon^{ble} the Lord King
of the great Seal of Great Brittain: That the sd Georg
Godfrey had in all thing conform'd himself to the
said acts made: concerning Bank^{ts} and that the
Ord^{rs} whose names are subscrib'd are full four parts
in five: in number & ~~five~~ value: of the Ord^{rs} of the
said Georg Godfrey who sought relief under the
said Commission

The mark **F** of
James Hodgson
The: Hornbuck^t
The mark: **B** of
James Butterworth
John Hackw:le

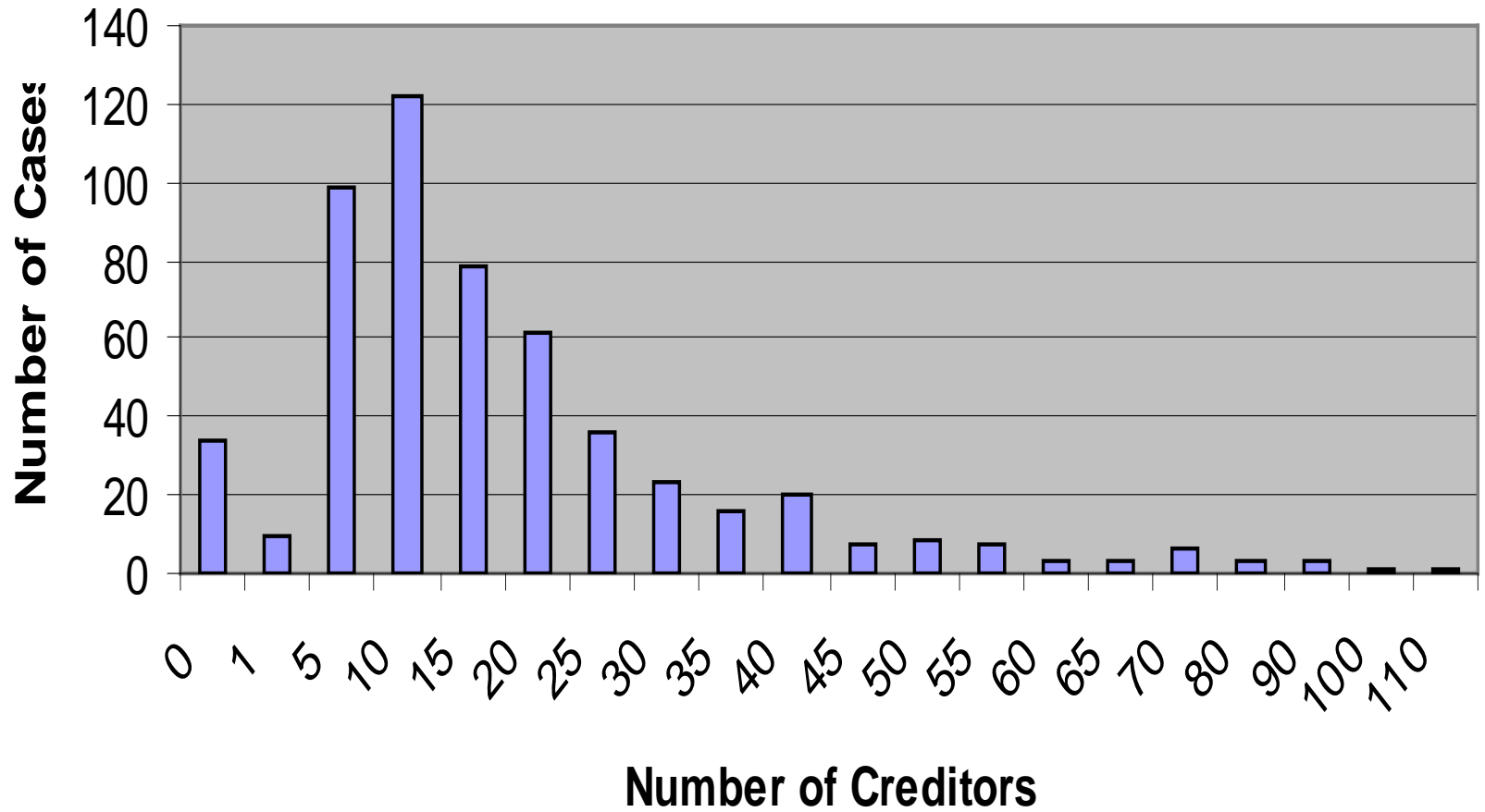
Andrew Osborn:
John Lambert
Sampson Burrows
John Howard
Andrew Haslett
John Pryor

The mark **X**
Rich^d Millar
John Hill
The mark
Franc: Stevens
Jam: Sparrow

Debtors and Creditors

- What the ledger shows is an intricate web of debt and credit.
- There are 8,424 creditors listed over the 549 certificates.
- An average of 16 creditors per bankrupt.
- 121 creditors were unable to sign.
- The distribution is very skewed. There are 25 cases with 1 creditor and 19 cases with sixty or more creditors, and two cases with more than 100.
- 7% of creditors were women. For half the entries there were no female creditors, but then rose with the absolute number of creditors. Close to 10% women if more than one woman creditor.

Number of Cases by Numbers of Creditors



Occupations

- There are 427 different occupations listed: for example apothecary, ropemaker, pawnbroker, chapman, butcher, carpenter, draper, fruiterer, habedasher, mercer, linendraper, salter, scrivener, merchant, goldsmith.
- One must remember that every bankrupt had to have a debt over £200 if more than two creditors
- One quarter of discharges to goldsmiths, merchants, scriveners, factors.
- Debt owing might differ across the occupations: Sir Stephan Evance, a goldsmith banker, reputedly owed over £100,000 when declared bankrupt

Networks of credit - Family

- We ask how often the surname of the bankrupt appeared in the list of creditors. Obviously only look at the paternal line.
- The same last name appears in 159 cases out of 549 – 28% cases.
- This is not surprising as most would probably borrow from family who are still an important source of loanable funds today.
- What is interesting is that we see family surname even when there are very few creditors:
 - John Perry – two creditors and one is William Perry
 - Jasper Whitter – seven creditors and two are Trisham Whitter and Trisham Whitter, jun.
- When moral suasion does not work, the formal structure provides support to the informal.

Networks of credit - Business

- We ask how did the bankruptcy of one merchant affect another.
- When declared bankrupt, any loans outstanding to others become part of the estate and are called in. How does this affect other merchants?
- We ask to what extent do we find the bankrupt by first and last name as a creditor in other bankruptcies in this particular group?
- Overall we find the bankrupt as creditor in 121 other cases, or one in five.
- Common names obviously turn up – John Smith occurs in fourteen other bankruptcies and so pushes up the number – but most occur in only one other case.

Networks of credit - Business

- Less common names – John Tenison or Joseph Pereira are probably the same person.
- The case of John Tenison had 28 creditors.
 - He is listed as a creditor for bankrupts Alexander Reed and James Reed (late of Dublin) copartners: “Nathaniel Newnham and Richard Cocke assignees to a commission of Bankrupcy against John Tenison.”
- Joseph Pereira who was part of the Sephardic community in London had 19 creditors listed. This same name turns up in the list of creditors in two other cases: “Francisco Soares alias Solomon de Chaves and Manuel Corea Pinto” and Leon Caracosa.
- Of Pereira’s own creditors ten of nineteen had Sephardic names. Again one might think the close network would ensure repayment – but here again the formal structure is being used.

Payouts

- In two cases, the ledger gives actual payout amounts.
- In both cases, the bankrupts lived in Bristol.
- Thomas Collett, Distiller - pay out £545:03:00 over 8 named creditors
 - If 8/- in £ - owed £1362
- James Hartum, Merchant – pay out £1158:16:03 (£2900:0:0) over 17 named creditors
 - Could have owed £2900:0:0

Payout by James Hartum and Thomas Collett

- 361:00:00 Cornel Serjean
 - 230:10:00 Mary Knight
 - 90:14:00 Francis Pinnell
 - 68:02:11 Benjamin Turner
 - 66:02:02 Francis Whitchurch
 - 50:00:00 Mary Fisher
 - 50:00:00 William England
 - 43:17:03 John Froman
 - 31:00:00 Benjamin Paget
 - 27:08:03 John Cullett
 - 14:00:00 Thomas Cadwallader
 - 13:06:04 Arthur Plomer
 - 4:08:06 Daniel Hoch
 - 4:07:06 Elizabeth Arnald
 - 4:05:00 John Shettleworth
 - 4:08:06 Daniel Hoch
 - 1:14:04 John Berrow
 - **Total 1158:16:03 (2900:00:00)**
- 121:13:00 Francis Freeman
 - 118:00:00 Thomas Cole
 - 75:00:00 Philip Tailer
 - 57:00:00 Stephen Richardson
 - 54:10:00 Edward Freeman
 - 50:00:00 William Williams
 - 44:00:00 Manaseth Whitehead
 - 25:00:00 Henry Pyne
 - **Total 545:03:00 (1362:00:00)**

Extent of Discharge

- From Sept 1710 to June 1713, there are 549 certificate entries
 - 12 per month with some variation
 - 160 per year
- There are also 34 entries where the creditors have declined to sign and the case noted as sent for further adjudication – a percentage of these received a discharge.
- Then there are those cases that did not reach the conformity stage.
- The rate of discharge depends very much on the accounting of the number of bankruptcies.
- Bankruptcies are both a flow and a stock.

- The change in the law applied not only to those who would become bankrupt after 1706 but also to those already declared bankrupt.
- A counting of the contemporaneous data (1710-1714) for bankruptcy writs issued from the Bankruptcy Docket Books shows roughly 250 writs of bankruptcy issued per year.
- By this measure 65% of those entering bankruptcy are discharged.

Extent of Discharge

- Using the Bankruptcy Writ Docket Books, Hoppit (1987) provides the most comprehensive accounting of the number of bankruptcies from 1688 to 1800
- 1688-1705 **992** bankruptcies – 55% received discharge
- 1706 **500** bankruptcies
- 1706-1710 **1500** bankruptcies – 36% discharge rate
- 1688-1714 – **2500** bankruptcies – 21% discharge rate

Rate of Discharge

- The rate of discharge in the immediate aftermath of the law lies somewhere between 21% and 65% depending on the denominator.
- We also look at the discharge rate for the 1730 to 1750. By this time the backlog of bankruptcies would have declined.
- Using Hoppit's data and the data from the second conformity ledger gives a rate of roughly 50%.
- Thus half of all bankrupts exited bankruptcy prior to full repayment of all debts.
- Of the other half, some proportion will have been found to have acted fraudulently; some lost money due to gambling; some just have bankruptcy held up in the system (death of agents)
- So these rates can be considered lower bound estimates on discharge

Case Studies: 2nd chances

- **Daniel Defoe** - He was declared a bankrupt in 1692 for owing £17000 (ODNB). Seems to have been a spectacularly unsuccessful businessman. Tried to get a discharge in 1706 from the commissioners. But this too unsuccessful as he was in Scotland. Never tried in subsequent years. Perhaps his writings were too financially successful.
- **Sir Stephan Evance**, a goldsmith banker and a major lender to the Crown. As a result of his own business dealings, he was declared bankrupt in 1712 reputedly owing over £100,000. He hanged himself in the home of Sir Caesar Child, in March 1712. Sir Caesar Child was both a creditor and a relative.

Capital Punishment – Richard Towne

- Richard Towne was hanged in December 1712
- Not hanged for being a bankrupt – could be hung for being egregiously non-compliant.
- Determination made by the Courts - Old Bailey
- Richard Towne of London, Tallow Chandler , was indicted for Felony, upon the late Statute against fraudulent Concealment by Bankrupts . It was **plainly proved that he had contracted Debts**; that a Statute was thereupon taken out, and that he did **send away his Goods, place, Writings, and Books of Account, to Holland**; and that he himself; together with one Norris, who assisted him in the Concealment, **were shipped on board a Lacquer-Boat**, where being Sea-sick, and going to ease his Stomach over the side of the Ship, **Eight hundred Guineas (which he had in two Bags in his Breast**, between his Coat and Waistcoat) fell over Board; and the Boat being forced on Shoar by the Weather, he was taken by Mr. Hudson, who had a Warrant from the Commissioners of Bankrupt, and upon search found twenty Guineas, and between five and six Pounds in Silver, and three Gold Rings upon his Finger.....**The Court, after a long and patient Hearing, directed the Jury, and they brought him in guilty of the Felony**

Case Studies

- **Johanna Cock**, broker/dealer in Bank of England & East India Company stocks. Declared bankrupt in December 1720. In April 1722, a further notice appeared in the Gazette stating that ... the Commissioners believed that “several persons had proved larger Debts upon Bills of exchange indorsed than were really due to them, and other have since their proving their Debts received a considerable part thereof from other persons; that **equal justice** may be done to all the said Bankrupt’s Creditors, and a **speedy Distribution** may be made, all creditors were requested to turn up at the specified place to reprove their debts”. A certificate of conformity was posted in Gazette in May 1723. Johanna never returned to business.

Case Studies

- **Thomas Griggs** was born in 1701 and, according to Burley (1958), was probably apprenticed in the worsted industry sometime in the next decade. He began his career as a yarn-dealer but account books relating to his operation suggest that his capital resources and scale of operations were too small. He was declared a bankrupt somewhere around 1720. Using money he subsequently received from an uncle, he opened a grocer shop and six years later went back into the textile trade. This time he was very successful. At the time of his death in 1760, he left an estate of £8,000.

Conclusions

- Rules regarding bankruptcy matter.
- The changes in the bankruptcy statutes at the beginning of the 18th century had the potential to increase the rate of investment and the retention of entrepreneurial talent in the economy.
- The changes under Anne put in place more severe penalties for debtor fraud but also provide the first potential rights for bankrupts.
- Discharge was a right granted by the creditors not a property right of the bankrupts. Yet creditors were willing to grant a discharge.
- Found that discharge was granted to at least half of bankrupts.
- Obviously the benefit to the creditors outweighed the property right to full repayment.

Conclusions

- Changes in bankruptcy statute encourages more truthful revelation of assets – increases the payout to the creditors.
- Change had the potential to increase the level of investment in the economy.
- Change underpinned the security of property rights for the creditors but also provided an exit for those who suffered misfortune.
- Helps us understand another component of the increasing growth rate in the eighteenth century.